

SC Litigation Update

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New Supreme Court Decision on Punitive Damages in UIM Cases

GEICO v. Poole

The Supreme Court answered the following question certified from the USDC – whether SC requires that punitive damages be apportioned pro rata between those sustained for BI and PD under an automobile insurance policy – in the negative.

The insured's daughter and son-in-law (the Pooles) were critically injured in a collision with a drunk driver. The at-fault driver's insurer paid its policy limits. The Pooles then sought to recover under their own UIM policy with GEICO, which had a split limits policy of \$100k for BI and \$50k for PD. Although GEICO tendered the \$100k limit for each of the Pooles, it argued that the PD limit was not at play, as their property loss amounted to only \$1,250. The SC Supreme Court disagreed arguing that "while actual damages may be traceable directly to bodily injury and property damage, punitive damages are not so easily divisible." Because UIM coverage applies to "damages" (Section 38-77-160) and damages are defined to include both actual and punitive damages (Section 38-77-30(4)), the statute cannot be read to require allocation of punitive damages..

For questions regarding these changes, please contact one of MGC's South Carolina litigation [attorneys](#).

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