

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF HAMPTON )  
 )  
 James Williams, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Bitco General Insurance Corporation and )  
 Seckinger Forest Products, Inc., )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 C/A #2025-CP-25-00032

**RECEIVED**  
**Aug 28 2025**  
 SC Court of Appeals

**ORDER DENYING DEFENDANTS’  
 MOTIONS FOR SUMMARY  
 JUDGMENT AND GRANTING  
 PLAINTIFF’S MOTION FOR  
 SUMMARY JUDGMENT**

This matter came before the court on June 9, 2025, on the parties’ cross-motions for summary judgment. Lawrence M. Hunter, Esquire, argued on behalf of Defendant Bitco; Erin D. Dean, Esquire, argued on behalf of Defendant Seckinger; and Laine B. Gooding, Esquire, argued on behalf of Plaintiff.

**Factual and Procedural Background**

This declaratory judgment action involves a UIM reformation issue and arises from a collision that occurred on July 23, 2024, when James Williams (“Williams”) was operating a tractor-trailer rig owned by Seckinger Forest Products (“Seckinger”) and was involved in a wreck caused by Tonya Leidy. At the time of the wreck, Williams was employed by Seckinger and was acting within the scope and course of his employment. The tractor-trailer rig operated by Williams was insured by Bitco General Insurance Corporation (“Bitco”) under a motor vehicle insurance policy (“the Policy”), policy number CAP 37349843, naming Seckinger as the named insured and providing bodily injury liability coverage in the amount of \$1,000,000.00.

After collecting the liability coverage from Leidy's policy,<sup>1</sup> Williams submitted an underinsured motorist claim to Bitco. The declarations page of the Policy purports to provide only \$75,000 in underinsured motorist coverage:

### EXHIBIT B Page 2

#### BUSINESS AUTO COVERAGE FORM DECLARATIONS (Continued) Part 2

POLICY NUMBER: CAP 3 734 984

**ITEM TWO - SCHEDULE OF COVERAGES AND COVERED AUTOS**

This Policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those "autos" shown as covered "autos." "Autos" are shown as covered "autos" for a particular coverage by the entry of one or more of the symbols from the COVERED AUTOS section of the Business Auto Coverage Form next to the name of the coverage.

COVERAGES	COVERED AUTOS	LIMIT OR DEDUCTIBLE	PREMIUM
<b>Liability</b>	7,8,9	\$1,000,000	\$ [REDACTED]
<b>Personal Injury (P.I.P.)</b> <small>(or equivalent no-fault cov.)</small>		Separately Stated in Each P.I.P. Endorsement Minus Deductible	
<b>Added P.I.P.</b> <small>(or equivalent added no-fault cov.)</small>		Separately Stated in each Added P.I.P. Endorsement	
<b>Property Protection Ins.</b> <small>(P.P.I.) (Michigan Only)</small>		Separately Stated in the P.P.I. Endorsement Minus Deductible For Each Accident	
<b>Auto Medical Payments</b>			
<b>Medical Expense &amp; Income Loss Benefits (Virginia Only)</b>		Separately Stated in the Medical Expense & Income Loss Benefits Endorsement	
<b>Uninsured Motorists (UM)</b>	2	\$ 75,000	\$ [REDACTED]
<b>Underinsured Motorists</b> <small>(when not included in UM Cov.)</small>	2	\$ 75,000	\$ [REDACTED]
<b>PHYSICAL DAMAGE*</b>			
<b>Comprehensive Coverage ^</b>	7	Deductible For Each Covered Auto For Loss Caused By Theft Or Mischief Or Vandalism (Ded 1) OR SEE SCHEDULE Deductible For All Perils For Each Covered Auto (Ded 2)	\$ [REDACTED]
<b>Specified Causes Of Loss Coverage ^</b>		Deductible For Each Covered Auto For Loss Caused By Theft Or Mischief Or Vandalism (Ded 1) OR Deductible For All Perils For Each Covered Auto (Ded 2)	
<b>Collision Coverage</b>	7	SEE SCHEDULE Deductible For Each Covered Auto	\$ [REDACTED]
<b>Towing and Labor</b>		for each disablement of a private passenger auto, light or medium truck	
		Premium for Endorsements	\$ [REDACTED]
		State Charges	
		Estimated Deposit Premium	\$ [REDACTED]
		This Policy May Be Subject To Final Audit.	

\* See ITEM FOUR for hired or borrowed "autos".

^ A maximum deductible may also apply. Refer to Coverage Form for details.

**ITEM THREE - SCHEDULE OF COVERED AUTOS YOU OWN**

SEE ATTACHED AUTO SCHEDULE

**ITEM FOUR - SCHEDULE OF HIRED OR BORROWED COVERED AUTO COVERAGE AND PREMIUMS**

Covered Autos Liability Coverage - Cost Of Hire Rating Basis For Autos NOT Used In Your Motor Carrier Operations (Other Than Mobile Or Farm Equipment)			
Covered Autos Liability Coverage	State	Estimated Annual Cost Of Hire For All States	Premium
<b>Primary Coverage</b>			
<b>Excess Coverage</b>	SC	\$ 400,000	\$ [REDACTED]
<b>Total Hired Auto Premium</b>			\$ [REDACTED]

For "autos" NOT used in your motor carrier operations, cost of hire means the total amount you incur for the hire of "autos" you don't own (not including "autos" you borrow or rent from your partners or "employees" or their family members). Cost of hire does not include charges for services performed by motor carriers of property or passengers.

AP-0003 (10/21) Part 2

<sup>1</sup> It is undisputed that Leidy's vehicle was underinsured, with minimum liability limits of \$25,000/\$50,000/\$25,000 provided by Progressive. Progressive has tendered its \$25,000 policy limit to Plaintiff in exchange for a covenant not to execute.

See, Exhibit B, Page 2, attached to Bitco's Motion for Summary Judgment. At Williams' request, Bitco provided a copy of the purported UIM offer/rejection, the relevant portion of which reads:

### EXHIBIT A Page 4



DocuSign Envelope ID: 4F8D0F9C-EF7E-44F8-B1E0-6D3CD1AABA90

PLEASE SIGN AND DATE IN THE INDICATED SPACE BELOW.  
PLEASE DETACH AND RETURN.

Named Insured:  
SECKINGER FOREST PRODUCTS, INC.

Policy # CAP 3 734 984

Offer of Optional Underinsured Motorist Coverage

Minimum uninsured motorist coverage limits of \$75,000 Combined Single Limit are automatically provided by your insurance policy. If you select optional underinsured motorist coverage, an additional premium will be charged. The schedule below indicates the premium charges for minimum and increased limits:

a. Individual Named Insureds and Married Couples

(1) Single Limits

Private Passenger Autos (premium per auto)

Limit	1	2	3-4	5-9	10-30	>30
75,000	\$ 45.	\$ 66.	\$ 85.	\$109.	\$140.	\$158.
250,000	84.	107.	125.	145.	169.	183.
500,000	107.	128.	145.	161.	184.	200.
1,000,000	128.	148.	161.	176.	201.	217.

Other Than Private Passenger Autos (premium per auto)

Limit	1	2	3-4	5-9	10-30	>30
75,000	\$ 30.	\$ 44.	\$ 56.	\$ 71.	\$ 92.	\$103.
250,000	55.	70.	82.	95.	110.	120.
500,000	70.	84.	95.	106.	121.	130.
1,000,000	84.	97.	106.	115.	131.	142.

b. Other Than Individual Named Insureds and Married Couples

Limit	Private Passenger Autos	Other Than Private Passenger Autos (Prem. Per Auto)
75,000	\$ 43.	\$ 28.
250,000	82.	53.
500,000	105.	68.
1,000,000	126.	82.

Do you wish to purchase additional uninsured motorist coverage? Yes \_\_\_\_\_ No

If your answer is "no", you must sign here:  Kenneth Seckinger

If your answer is "yes", specify the limits you desire. These limits cannot exceed your automobile insurance liability limits.

\_\_\_\_\_ I select \_\_\_\_\_ single limit



*See*, Exhibit A, Page 4, attached to Bitco's Motion for Summary Judgment. Plaintiff advised Bitco that the form was deficient, did not represent a meaningful offer of UIM coverage, and that the Policy must be reformed up to the limits of liability coverage. Bitco refused and maintained that the Policy provides only \$75,000 in UIM coverage.

Williams then filed this declaratory judgment action seeking a declaration that the Policy must be reformed to provide underinsured motorist coverage in the amount of \$1,000,000.00 on the grounds that Bitco failed to make a meaningful offer of underinsured motorist coverage.<sup>2</sup> Bitco filed a motion for summary judgment relying on the affidavit testimony of Jeanne Seckinger, treasurer/co-owner of Seckinger Forest Products, and Donald E. Watts, Jr., the insurance agent for Seckinger Forest Products. *See*, Affidavit of Jeanne Seckinger, attached to Bitco's Motion for Summary Judgment as Exhibit A; Affidavit of Donald E. Watts, Jr., attached to Bitco's Motion for Summary Judgment without an identifying exhibit letter. In the affidavits, because the form obviously does not satisfy the statutory requirements for a meaningful offer, both Jeanne Seckinger and Watts claim that Jeanne Seckinger is a sophisticated purchaser of insurance who knew her options and made an informed decision to decline any additional uninsured/underinsured coverage. Seckinger filed its own motion for summary judgment, seeking the same relief requested by Bitco. Williams, based on the failures of the offer and relying on the UIM offer/rejection form as well as the affidavits filed by Bitco, filed a cross-motion for summary judgment. For the reasons that follow, the court declares that Bitco failed to make a meaningful offer of underinsured motorist

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<sup>2</sup> Bitco tendered \$75,000 in UIM coverage to James Williams without prejudice to his right to seek reformation of the Policy and to collect additional UIM coverage if the Policy is reformed.

coverage and orders that the Policy be reformed to provide underinsured motorist coverage up to the limits of liability coverage of \$1,000,000.00 provided by the Policy.

### **Standard**

“Summary judgment is appropriate when there is no genuine issue of material fact such that the moving party must prevail as a matter of law.” *Grinnell Corp. v. Wood*, 389 S.C. 350, 698 S.E.2d 796 (2010); Rule 56(c), SCRCP. When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party. *Id.* Summary judgment is appropriate only when the evidence shows that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Thomas v. Waters*, 315 S.C. 524, 445 S.E.2d 659 (Ct.App. 1994). Another formulation of the same standard is that summary judgment is only appropriate when plain, palpable and indisputable facts exist on which reasonable minds cannot differ. *Williams v. Chesterfield Lumber Co.*, 267 S.C. 607, 230 S.E.2d 447 (1976). Further, in ruling on a motion for summary judgment, the court must construe all ambiguities, conclusions, and inferences arising from the evidence against the moving party. *Jernigan v. King*, 312 S.C. 331, 440 S.E.2d 379 (Ct. App. 1993)

### **Analysis**

Under South Carolina law, an automobile insurance policy is required to provide uninsured motorist (UM) coverage equal to the mandatory minimum liability coverage required by statute, i.e. \$25,000/\$50,000/\$25,000. If an insured purchases higher liability limits than the mandatory minimum required by statute, an insurer must offer the insured **additional** UM coverage up to the insured’s liability limits. S.C. Code Ann. § 38-77-160. Conversely, underinsured motorist (UIM) coverage is completely optional. However, an insurer is required to offer, at the option of the

insured, UIM coverage up to the limits of the insured’s liability limits. *Id.* Because UIM is completely optional, the offer must clearly communicate that the insured has the option to reject UIM coverage in its entirety. *See*, S.C. Code Ann. § 38-77-160 Further, the insurer’s offer of both UM and UIM coverage must be “meaningful.” *See*, *Floyd v. Nationwide Mut. Ins. Co.*, 367 S.C. 253, 626 S.E.2d 6 (2005). If the insurer’s offer of additional UM and optional UIM coverage is not meaningful, the policy must be reformed to provide UM and UIM coverage in the amount of the insured’s liability limits. In *Floyd*, the court explained that “[t]he purpose of requiring automobile insurers to make a meaningful offer of additional UM or UIM coverage ‘is for insureds to know their options and to make an informed decision as to which amount of coverage will best suit their needs.’” *Id.* (other citations omitted). In *State Farm Mut. Auto. Ins. Co. v. Wannamaker*, the court crafted a four-part test to determine whether an offer of UM and UIM is meaningful.

Each factor must be met for an offer to meet the requirement of being meaningful:

- (1) the insurer’s notification process must be commercially reasonable, whether oral or in writing;
- (2) the insurer must specify the limits of optional coverage and not merely offer additional coverage in general terms;
- (3) the insurer must intelligibly advise the insured of the nature of the optional coverage; and
- (4) the insurer must be told that optional coverages are available for an additional premium.

291 S.C. 518, 354 S.E.2d 555 (1987). In response to *Wannamaker*, the legislature enacted S.C. Code Ann. § 38-77-350 which establishes minimum requirements for a form that insurers are required to use in offering UM and UIM coverages. Pursuant to § 38-77-350(A), an insurer’s form shall include:

- (1) A brief and concise explanation of the coverage;
- (2) A list of available limits and the range of premiums for the limits;

- (3) A space for the insured to mark whether the insured chooses to accept or reject the coverage and a space for the insured to select the limits of coverage he desires;
- (4) A space for the insured to sign the form which acknowledges that he has been offered the optional coverages;
- (5) The mailing address and telephone number of the Insurance Department which the applicant may contact if the applicant has any questions that the insurance agent is unable to answer.

*Id.* Section 38-77-350(B) provides that if the insurer's form complies with these minimum requirements and is properly executed by the insured, a conclusive presumption arises in favor of the insurer that the insured made a knowing waiver of the option to purchase UIM and additional UM coverages. However, an insurer's failure to comply with § 38-77-350 does not automatically require judicial reformation of the policy. Rather, even where the insurer is not entitled to a conclusive presumption that a meaningful offer was made because its form is deficient or improperly executed or a form was not presented at all, the insurer may still prove a meaningful offer by proving each of the four *Wannamaker* factors. The insurer has the burden of proving that a meaningful offer was made. *See, Ackerman v. Travelers Indem. Co.*, 318 S.C. 137, 456 S.E.2d 408 (Ct.App. 1995). Further, as for proof of the third *Wannamaker* factor, "[e]vidence of the insured's knowledge or level of sophistication is relevant and admissible when analyzing, under *Wannamaker*, whether an insurer intelligibly advised the insured of the nature of the optional UM or UIM coverage." *Grinnell Corp. v. Wood*, 389 S.C. 350, 698 S.E.2d 796 (2010)(other citations omitted). However, regardless of the insured's knowledge or level of sophistication, "a noncomplying offer has the legal effect of no offer at all." *Hanover Ins. Co. v. Horace Mann Ins. Co.*, 301 S.C. 55, 389 S.E.2d 657 (1990). Significantly, "a third party not privy to the contract may assert the lack of an adequate offer and [seek] reform[ation] of the contract to increase the

coverage.” *Ackerman* (citing *American Sec. Ins. Co. v. Howard*, 315 S.C. 47, 431 S.E.2d 604 (Ct.App. 1993)). In fact, even where the insured has consistently rejected UIM in the past and indicates she was only interested in purchasing mandatory liability coverage at the lowest premium cost and would have rejected the optional coverages even if the required information had been included in the offer, a third party may attack the adequacy of the offer and seek reformation of the policy. *See, American Sec. Ins. Co. v. Howard*, 315 S.C. 47, 431 S.E.2d 604 (Ct.App. 1993).

Here, Bitco’s form does not meet the requirements of S.C. Code Ann. § 38-77-350(A). The purported offer of UIM coverage is properly labeled, “Offer Optional Underinsured Motorist Coverage.” *See*, Exhibit A, page 4. The form then explains that “[m]inimum **uninsured** motorist coverage limits of \$75,000 Combined Single Limit are automatically provided by your insurance policy. If you select optional **underinsured** motorist coverage, an additional premium will be charged.” At the bottom, the form asks, “Do you wish to purchase **additional uninsured motorist coverage?**” Ms. Seckinger placed an X next to the option for “No” and then signed. *Id.* By its very terms, the form does not ever ask or address whether the insured wished to purchase UIM coverage or to reject UIM coverage in its entirety. Further, even if these are considered “typographical” errors as argued by Defendants, the form does not meet the requirements of § 38-77-350(A). Therefore, the form does not create a conclusive presumption, or any presumption at all for that matter, that the insurer made a meaningful offer.

The next question is whether Bitco and Seckinger have met their burden of proving a meaningful offer by establishing each of the four *Wannamaker* factors. In her affidavit, Ms. Seckinger repeatedly states her belief that minimum limits of \$75,000.00 in UIM coverage were required to be automatically included in her policy. In paragraph 9 of her affidavit, Ms. Seckinger

discusses page 4 of Exhibit A (which purports to be an offer of optional **UIM** coverage) and explains: “That form explained to me that minimum limits of \$75,000.00 were automatically provided by the policy, but that I had the option of purchasing additional limits including \$250,000.00, \$500,000.00, and \$1,000,000.00.” In paragraph 12 of her affidavit, she again discusses page 4 of Exhibit A: “Prior to this controversy, I do not recall noticing that the question did not match the title of the page, and I presumed that what I was signing was a **rejection of additional uninsured coverage** above the \$75,000 minimum **required by BITCO**. In paragraph 15 of her affidavit, Ms. Seckinger explains that “when our policy came up for renewal after this controversy, we maintained our previous decision and reaffirmed our decision to purchase the minimum **required** limits of \$75,000.00.” Contrary to supporting Bitco’s and Seckinger’s motions for summary judgment, her affidavit does not support the conclusion that she was a sophisticated purchaser but rather makes it clear that she believed at the time of signing the form, and still believes, that Seckinger was **required** to purchase minimum **UIM** limits of \$75,000.00. Even if she believes she is an experienced and sophisticated purchaser of insurance, her affidavit testimony confirms her misunderstanding of the law brought about by Bitco’s failure to properly explain UM and UIM coverage and to properly make a meaningful offer of UIM that necessarily requires the option to **reject** all UIM coverage.

Similarly, the affidavit of Donald Watts makes it clear that he did not explain to Ms. Seckinger that UIM coverage is optional and did not give her the option to reject UIM coverage. Rather, he dances around the issue by stating in paragraph 5 of his affidavit that he “discussed with them that one option they had was to reduce their uninsured and underinsured coverage to the minimum limits **that BITCO offered**, which was seventy-five thousand dollars.” In other words,

he suggests that BITCO is not required to give the insured the option to **reject** UIM coverage in its entirety as required by South Carolina law.

Further, both Ms. Seckinger and Mr. Watts have testified in their affidavits that they consider Ms. Seckinger to be an experienced and sophisticated purchaser of insurance. While evidence of the insured's knowledge and level of sophistication is relevant when analyzing whether an insurer intelligibly advised the insured of the nature of the optional UIM coverage, it is not conclusive evidence that a meaningful offer was made. Relying on *Grinnell Corp. v. Wood*, 389 S.C. 350, 698 S.E.2d 796 (2010), Bitco and Seckinger argue that the court should not reform the policy because Jeanne Seckinger was an experienced and sophisticated purchaser of insurance and has indicated that she purchased the coverage she desired. In *Grinnell*, an employee of Grinnell was injured in a wreck while driving Grinnell's vehicle. The employee filed a civil action against a known at-fault party and an unknown at-fault party, seeking both UIM and UM coverage under Grinnell's insurance policy. However, the policy in question did not provide any UIM coverage or additional UM coverage. Grinnell, a subsidiary of Tyco International, filed a declaratory judgment action seeking a declaration that it had successfully rejected UIM coverage and additional UM coverage. The employee, Grinnell, and the insurer filed cross motions for summary judgment. The court concluded that Grinnell and the insurer were not entitled to a conclusive presumption that a meaningful offer was made because the form did not meet the requirements of § 38-77-350(A) and the form was not properly executed by Mr. Goetz, Tyco's vice president of risk management, who procured the policy in question. Therefore, the burden fell on Grinnell and the insurer to prove that a meaningful offer of optional UIM and additional UM was made under *Wannamaker*. Grinnell and the insurer offered the testimony of Goetz to meet its burden. The

court noted “[i]t is undisputed that Goetz was well educated and experienced in the areas of insurance and risk management” and that “Goetz considers himself to be a sophisticated purchaser with regard to insurance policies” having “procured twenty-two policies of insurance annually.” *Id.* Further, Goetz’ testimony showed that he “intended to decline optional UM and UIM.” *Id.* In other words, he knew and understood that UIM coverage was not required by law and he had the option to reject UIM coverage in its entirety; he also knew and understand that UM coverage above the statutorily required minimum limits was not required by law and he had the option to reject additional UM coverage. That is the factor that distinguishes *Grinnell* from the facts currently before this court. Even assuming there is evidence that Jeanne Seckinger was an experienced and sophisticated purchaser of insurance, that does not end the inquiry and does not result in any conclusive presumption that a meaningful offer was made. Rather, her own testimony, as corroborated by the testimony of her agent, proves that she did not understand and was not properly informed that she had the option of **rejecting** ALL UIM coverage. This lack of understanding matters and is significant in this court’s finding that Jeanne Seckinger is, in fact, not a sophisticated purchaser.<sup>3</sup> Because of this deficiency in both the explanation as well as the understanding, the offer does not meet the third *Wannamaker* factor that requires the insurer to “intelligibly advise the insured of the nature of the optional coverage.” 291 S.C. 518, 354 S.E.2d 555 (1987). The offer was therefore not meaningful. As the court in *Ackerman* held, a noncomplying offer has the effect of no offer at all. 318 S.C. 137, 456 S.E.2d 408 (Ct.App. 1995). Here, the offer, at best,

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<sup>3</sup> It is significant to note that \$1 million in UIM coverage on the vehicle involved in the wreck would have cost Seckinger approximately \$54 more than the premium it actually paid for \$75,000 in UIM coverage. *See*, Exhibit A, page 4. While her affidavit relies heavily on her rationale of saving the business money, this small monetary difference begs the question of how sophisticated a purchaser Jeanne Seckinger really is.

was noncomplying. Accordingly, it has the effect of no offer at all, and the policy must be reformed to include UIM coverage in the amount of Seckinger’s liability limits.

**CONCLUSION**

After a thorough review of the evidence, arguments, and case law presented by the parties and viewing the facts and all reasonable inferences therefrom in the light most favorable to the non-moving party on the cross-motions for summary judgment, the Court finds Bitco is not entitled to a conclusive presumption of a meaningful offer because its form fails to meet the requirements of S.C. Code Ann. § 38-77-350(A); further, Bitco failed to make a meaningful offer of UIM coverage under *Wannamaker* by failing to intelligibly advise Seckinger that UIM coverage is optional coverage that can be rejected in its entirety. Accordingly, the policy must be reformed to provide UIM coverage in the amount of the liability coverage provided by the policy.

**IT IS THEREFORE ORDERED** that Defendant Bitco’s Motion for Summary Judgment is denied; Defendant Seckinger’s Motion for Summary Judgment is denied; and Plaintiff’s Motion for Summary Judgment is granted.

**IT IS SO ORDERED!**

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The Honorable H. Steven DeBerry, IV  
Presiding Judge of the Fourteenth Judicial Circuit

\_\_\_\_\_, South Carolina

\_\_\_\_\_, 2025



Hampton Common Pleas

**Case Caption:** James Williams VS Bitco General Insurance Corporation , defendant,  
et al  
**Case Number:** 2025CP2500032  
**Type:** Order/Other

H. Steven DeBerry, IV

Circuit Court Judge 2771