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2. Our firm understands insurance coverage issues. We can make sure all available insurance coverages are located.
3. We are passionate about obtaining the maximum recovery for our clients, and will try the case to a jury if necessary to obtain the best results.
4. Recoveries in excess of available insurance coverage generate greater recoveries for our clients and larger referral fees to referring attorneys.

The hiring of an attorney is an important decision that should not be based solely on advertisements. Before you decide, ask us to send you free written information about our qualifications and experience.

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# SARASOTA LITIGATOR Journal

Published by the Law Office of Wittmer | Linehan, PLLC

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## Motorcyclists should establish financial responsibility, purchase robust insurance coverage

Operating cost savings should be used to provide protection from personal liability



Motorcyclists love the feeling of freedom and exhilaration when cruising Florida's highways and roads. In addition, motorcycles are less expensive to buy than their four-wheeled cousins and cost less to operate than a car. However, compared with a car, a motorcycle is a dangerous way to travel. Riders involved in motorcycle accidents frequently suffer serious injuries or death. In 2010, 383 motorcyclists were killed in accidents in Florida. The federal government estimates that per mile traveled, the number of deaths on motorcycles is about 37 times the number in cars.

Adding insult to injury, Florida does not require medical payment insurance on motorcycle riders so paying for medical care after a serious accident can be difficult, if not financially devastating.

"Take some of the cost savings from your vehicle purchase and lower operating costs to protect yourself and to provide robust insurance coverage," says Steven T. Wittmer, senior partner at Wittmer | Linehan. "Without

sufficient insurance coverage, medical bills alone could lead to financial ruin."

"On the other hand, if you or a loved one have suffered serious injury or death in a motorcycle accident due to another's negligence or wrongdoing, you may be eligible to recover your losses and damages," Wittmer says. "Greg Linehan and I can help you file a motorcycle accident claim or lawsuit that seeks just compensation."

### Establishing Financial Responsibility

Any two-wheeled vehicle with an engine displacement of more than 50 cc is considered a motorcycle in Florida, and the owner must register it. Proof of financial responsibility is not required to register a motorcycle. But, establishing financial responsibility ensures that operator/owners are financially protected if they are involved in an accident. The most common way to establish financial responsibility is to purchase liability insurance coverage from an insurance carrier licensed to do business in Florida. If the motorcycle is financed through a bank loan, the lender probably will require insurance coverage for theft and/or damage to the bike.

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## Financial responsibility

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As a guideline for purchasing insurance, motorcycle owners should use Florida's minimum liability coverage requirements for private passenger vehicles as outlined in the state Financial Responsibility Law:

- \$10,000 for one person in bodily injury liability
- \$20,000 for two or more people in bodily injury liability
- \$10,000 per crash in property damage liability
- \$30,000 in combined single limits

It is important to remember that these are the minimum limits of insurance and that Wittmer | Linehan recommends that you purchase higher bodily and property damage liability limits as well as uninsured motorist and collision coverage.

Although Florida's no-fault insurance system (medical expense coverage) requires automobile and truck owners to obtain Personal Injury Protection (PIP) coverage, PIP is generally not available for any vehicle with fewer than four wheels. Furthermore, coverage for damage to property or injuries to third parties is not required for motorcycle owners. But, if a motorcycle owner is found to be at fault in an accident, he or she no doubt will face a lawsuit that could threaten their personal assets.

Bike owners counting on medical coverage through a major medical provider should review their policies. Some policies contain exclusions for injuries caused by "dangerous activities," such as driving a motorcycle.

In 2000, the Florida Legislature repealed the law that required motorcyclists to wear helmets. Motorcyclists who are 21 and older and have a minimum of \$10,000 coverage in medical insurance don't have to wear helmets while riding in Florida. However, for a rider or passenger who suffers a severe head injury in a motorcycle accident, \$10,000 would not even begin to cover the cost of their medical care.

### Liability, Collision and Comprehensive Insurance

Liability insurance covers bodily injury and property damage that the motorcycle operator/owner may cause to other people involved in an accident. It doesn't cover the motorcycle operator/owner or his/her motorcycle. Collision insurance covers damage to your motorcycle if the owner collides with another vehicle or object. Insurers would pay for damages, minus any policy deductible. It usually covers the book value of the motorcycle before the crash. Damages caused by fire, theft or vandalism can be covered by comprehensive insurance. Again, the insurer would pay for damages, minus the deductible, based on the vehicle's book value. Most comprehensive and collision coverages will only cover the factory parts. Optional

accessories such as chrome parts; custom paint jobs, trailers or sidecars require additional coverage.

### Uninsured/Underinsured Motorist Insurance

We strongly recommend that motorcycle owners carry uninsured/under-insured motorist insurance. Remember: One-third of all drivers on the road in Florida are uninsured. In addition, most motorcyclists on Florida's roads are under-insured – a recipe for disaster. Insurance must be sufficient to cover more than the cost of repairing or replacing your motorcycle. Consider medical expenses, if injured, and lost wages, if the injuries render you unable to work for months or years. Uninsured/underinsured motorist coverage covers damages to you, your family, occupants and your property caused by an accident with an uninsured or under-insured driver. It can pay for medical treatment, lost wages and other damages.

### When Accidents Happen

If you become involved in a motorcycle accident, try to remain calm. Move out of the roadway if possible and contact local law enforcement. Seek immediate medical care for anyone who is injured. File a detailed police report of the accident and exchange contact and insurance information with the other party. Use your cell phone to take photos of the accident scene. Video the other driver and the vehicle. Video any marks on the road and, if possible, record the driver's comments.

An insurance company internal study reveals that, on average, insurance companies pay twice as much on claims filed by attorneys than claims filed by laypersons.

"Submitting an insurance claim on your own can be costly," Wittmer says. "There could be several salient claims to be made that the average person simply would not know about. Claims could include compensation for property damages, lost wages, past and future medical care, loss of income, pain and suffering, disfigurement, traumatic brain injuries, funeral costs, emotional trauma, mental anguish, grief and relationship losses.

In addition to negligence on the part of another driver, other people and entities may be culpable in causing an accident. Negligent acts include failure to properly maintain a road, poor lighting, obstruction of road signs, etc. If a defective motorcycle part is the cause of an accident, the manufacturer or repair shop also could be held liable.

An accident victim should not be reluctant to hire an attorney to submit an insurance claim or file a lawsuit because of the perceived legal fees he or she would incur. "Our fees are contingent upon our clients' awards or settlements," Wittmer says. "We are motivated to ensure that you receive as fair a settlement as possible. Take advantage of our expertise. You will save time, anxiety and money."

## CASE REVIEW

### Poorly maintained bank owned property proves perilous to bicyclist.

On September 18, 2009 Greg Ladner was on his way to visit a friend at a local restaurant on US 41. Mr. Ladner had visited the property at 5100 N. Tamiami Trail before, but had always used the entrance at US 41. This was the first time Greg entered the property using the side entrance to the parking lot on Mecca Drive.

Greg was riding a bicycle, and as he crossed over the paved surface connecting to the street, the pavement ended and he found himself traversing a poorly maintained gravel portion of the parking lot. Greg began slowing down but it was too late. Within seconds he reached an area that was littered with potholes, some of which exceeded 4 inches in depth. Greg's front tire hit one of the potholes and he was thrown from his bike.

As a result of the fall Greg sustained four fractures of the right leg and a posterior lip fracture of the right posterior tibia. Greg's injuries were so extensive, he ultimately required 6 separate surgical procedures. Greg's right ankle has been fused and he now faces a lifetime of limited mobility, increased pain and severe joint arthritis.

The owner of this property was Synovus Bank, who had foreclosed on the property nine months earlier. The property became a part of the bank's REO (Real Estate Owned) portfolio. The bank placed a professional property manager in charge of the property and listed it for sale. For one year prior to this incident, the property was leased to the restaurant Mr. Ladner was visiting. The Bank's property manager visited the property several times during the year to check on his tenant, but despite having full knowledge of the dangerous condition of the parking lot, he failed to repair, maintain or "rope off" the potholes.

In Florida a landowner owes two duties to an invitee. First, to use reasonable care in maintaining the premises in a reasonably safe condition, and second, to give the invitee warning of concealed perils that are known, or should be known, to the landowner but are unknown to the invitee. Furthermore, business owners have a duty to provide safe ingress and egress to their premises. This duty to keep the premises safe for patrons extends to all portions of the premises that are necessary or convenient for patrons to use in the normal course of business at that location. Unfortunately, injuries resulting from poorly maintained commercial properties have become common due to the high number of properties that have gone into foreclosure in the recent market downturn.

In this case the Defendant, Synovus Bank, breached their duty to Mr. Ladner by failing to maintain their property in a safe manner and failing to correct known unsafe conditions. Ultimately, we were able to resolve Mr. Ladner's claim for a significant six-figure settlement. If you, your family members or friends are hurt as a result of a poorly maintained property, please consider making a call to Wittmer | Linehan for assistance.

