

## BUS ACCIDENT PASSENGER INJURIES

*Recently, a school bus operated by an NDIRF member school district was involved in a serious accident resulting in injuries to three student passengers. The bus was driven by a school district employee but was owned by a private business that sells and leases school buses. This particular vehicle was loaned to the school district pending arrival of a new school bus that, although on order and due to have been delivered, was not yet on hand. The delay was a result of problems with the bus manufacturer.*

The purpose of this article is to discuss which parties, under North Dakota law, are initially obligated to pay for medical bills incurred by the student bus passengers as a result of the accident.

The concept of statutory “no-fault” auto insurance benefits was developed and implemented in most states a generation ago, in the mid – 1970’s, to provide a swift means of compensation for certain losses incurred due to an auto accident. Presently, North Dakota is a no-fault state, meaning that specifically identified benefits and payment priorities are established by law.

The no-fault statutes provide for auto insurance coverage of medical expenses and wage loss. Typically, no-fault limits in an auto insurance policy total \$30,000 for all benefits. Wage loss payments are limited to \$150 per week. Higher limits than the statutory minimum may be purchased if desired.

It should be noted that no-fault coverage benefits cannot be stacked. This means, for purposes of our example, that the \$30,000 no-fault coverage provided under a family auto insurance policy cannot be added (stacked) to the \$30,000 coverage provided by the bus owner auto insurer to total \$60,000 in benefits. Under North Dakota law, only one no-fault policy is obligated to pay.

No-fault payments are made without regard for which party may have been most responsible in causing the accident. No-fault payments also have absolutely nothing to do with liability claims for non-economic loss (e.g. pain and suffering) - they simply provide a means for immediate payment of medical bills and wage loss prior to determining liability for the accident. Liability for auto accidents is often disputed, so a system of payment without regard to liability ensures prompt payment for medical expenses while the parties and insurers work out their differences.

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**INSIDE ...**

**Financial Insights  
From the CEO  
Firestone Tires**

In the accident referenced above, the students potentially might be covered for no-fault benefits by:

- their own family auto insurance company
- the auto insurer for the owner of the bus
- the school district's auto insurance carrier (NDIRF)

North Dakota no-fault law is codified under Chapter 26.1-41 of the North Dakota Century Code. A section of this law defines the priority order establishing which insurance company pays when there are one or more insurance companies who potentially will provide no-fault coverage. Typically, injured bus passengers must first look to their own family auto insurer to provide coverage. If there is no family auto coverage, the insurance company of the owner of the bus will provide no-fault benefits. In the unlikely event there is no coverage under the family or bus owner auto policies, the school district coverage

would be next in line (assuming the school district purchased no-fault coverage for non-owned vehicles).

An auto insurer that pays no-fault benefits has a right of recovery against the auto insurer of a party ultimately found to be responsible for an accident (this right is commonly referred to as subrogation) for any amounts it paid prior to a final determination of liability.

In the accident situation described here, the normal and understandable response of the parents of student bus passengers is to submit medical expense invoices to the school district. To correct any misunderstanding of the parents, the NDIRF immediately and by letter advised the parents of North Dakota's no-fault law and how it works. Our experience has shown that, once people understand that their auto insurer has a right of recovery against the party eventually found to be responsible, they have little problem with the concept of submitting medical invoices to their own insurance company. ■

## RISK SERVICES

### Risk Services Member / Agent Meetings

We will be holding meetings to inform and update our members and agents about NDIRF's coverage and loss control programs and issues. The meetings will run from 9:00 AM to 3:00 PM with coffee being served at 8:30 AM, lunch on us. Meeting dates and locations are:

- November 10<sup>th</sup> – Bismarck, Doublewood Best Western
- November 11<sup>th</sup> – Minot, International Inn
- November 18<sup>th</sup> – Grand Forks, Holiday Inn
- November 19<sup>th</sup> – Fargo, Best Western Kelly Inn

If you did not receive a registration form in the mail, or accidentally threw it away, contact Doug Griffin in our office to register. The NDIRF will be applying to the North Dakota Insurance Department for continuing education hours. We expect to be approved for a minimum of 4 hours.

*Prior registration is required to ensure an adequate number of meals will be available.*

# RISK SERVICES

Risk Services continued from page 2

## Firestone Steeltex (R4S, R4SH & A/T) Tire Series

A number of our members have received a letter from a California law firm, Lisoni & Lisoni, about the safety of these tires which are often used on ambulances, pickup trucks (fire truck applications), motorhomes and commercial trucks. Lisoni & Lisoni is “handling a nationwide class action lawsuit” involving these tires.

The Department of Transportation, National Highway Traffic Safety Administration, has issued a Denial of The Tire Defect Petition which was submitted by Lisoni & Lisoni. The denial can be found on the web at:

[www.nhtsa.dot.gov/cars/rulings/Tire/FEDREGNOTICE.html](http://www.nhtsa.dot.gov/cars/rulings/Tire/FEDREGNOTICE.html).

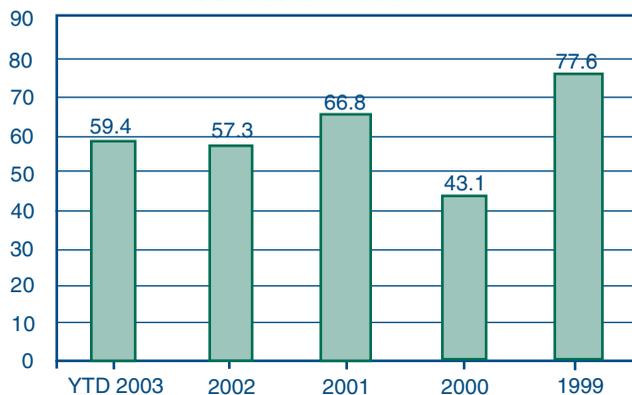
The denial basically states that these tires exhibit no greater frequency of failure than other tires. We suggest the information provided on the website be reviewed prior to making a decision on replacing any Firestone Steeltex tires that are currently installed on your vehicles.

**This is provided for informational purposes. The NDIRF takes no position on the safety of these tires.**

For questions on the Member/Agent meetings, contact Doug Griffin or Ross Warner. For questions on the Firestone tires, contact Ross Warner. ■

## FINANCIAL INSIGHTS

### OPERATING RATIO



The operating ratio shown above is the sum of NDIRF's loss and expense ratio less the investment income ratio. The operating ratio is a measure of NDIRF's profitability and is the principal determinant of the Fund's financial solvency and stability. A ratio less than 100% means that a company is profitable. As the graph shows, NDIRF's operations have been financially very successful which has allowed the Fund to make a substantial conferment of benefits to its members each year. ■

## FROM THE CEO

The lead article in this issue of the Participator discusses the concept and one possible application of mandatory no-fault auto insurance in North Dakota.

It may be interesting for all of us to note as a sidebar that the North Dakota State Legislature's Interim Transportation Committee will be studying the state no-fault, underinsured and uninsured motorist statutes in the 2003-2004 interim. A number of other states have re-examined these laws in recent years and at least several have decided to abolish them (this was briefly “on the table” in North Dakota during the past legislative session).

Why? As it turns out, no-fault benefits have largely failed to stem the tide of lawsuits over auto accidents. Abuse of no-fault benefits by policyholders has also got insurers and legislators taking a hard look at the continuing viability of the no-fault concept. We will observe with interest the interim study of this matter. ■

## FIVE WAYS TO CLARIFY YOUR BUSINESS WRITING

There are no greater opportunities for miscommunication than through the written word. So when you're writing memos or e-mail, take extra care and observe some of these ways you can clarify your writing.

-  Let readers know it's in their best interest to read on. Answer the question: "What's in it for them?"
-  Be conversational. Write as if the readers were sitting across from you. How would you hope they'd respond?
-  Anticipate and answer questions and objections. Make your meaning clear to eliminate any twisting or misinterpreting of your words. Specify your reasons until it's difficult to find holes in what you've written.

## Mark Your CALENDAR

### October-November

31-1: ND School Board Association  
Annual Convention  
Ramkota, Bismarck

### December

11: NDIRF Board of Directors Meeting  
NDIRF offices, Bismarck

-  Work in a reference to previous discussion on the matter. Of course, when applicable.
-  Try to use "you" and "your" rather than "I" and "my." This lets the readers know you have them in mind. Be sure not to sound insincere.

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