

INSURERS NEED NOT HAVE A SPANISH LANGUAGE TO “MAKE AVAILABLE” UNINSURED AND UNDERINSURED COVERAGE

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Ballesteros v. Am. Standard Ins. Co. of Wis.
Arizona Supreme Court, January 20, 2011

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A.R.S. § 20-259.01 requires insurers to “make available” and offer “by written notice” uninsured and underinsured (UM/UIM) motorist coverage. This does not require translation of the offer into Spanish so that a Spanish speaker understands the terms of the offer, but rather “requires only that the insurer make an offer that, if accepted, would bind the insurer to provide the offered coverage.” The plain language of the statute does not require a Spanish form, whereas other statutes explicitly require Spanish translations. In addition, in 1997 the statute was amended to require forms in both Spanish and English, but in 1998 the requirement was removed, confirming that the legislature did not intend to impose a Spanish translation requirement.

In 1992, A.R.S. § 20-259.01 was amended to state that the selection or rejection of UM/UIM coverage on a “form approved by the director [of the Department of Insurance] shall be valid.” Because Ballesteros was offered UM/UIM coverage on a Department of Insurance-approved form, the insurer was held to have complied with the statute.