

RECORDING A TELEPHONE CONVERSATION OFFERING UNDERINSURED MOTORIST COVERAGE DOES NOT SATISFY “IN WRITING” OFFER REQUIREMENT

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Progressive Casualty Inc. Co. v. Ruiz
Ct. Appeals, Div. One, May 20, 2010

Authored by the [JSH Appellate Team](#)

Thompson called Progressive's 1-800 number to purchase a \$1 million auto insurance policy for his company, Giant Electric Corporation. During the conversation, Progressive's agent discussed uninsured/ underinsured (UM/UIM) coverage with Thompson, and Thompson elected to buy \$100,000 of UM/UIM – less than the \$1 million liability limits he bought. Progressive electronically recorded the conversation.

Later, a passenger in a Giant utility van was killed in an accident caused by an uninsured motorist. Progressive filed a dec action against the deceased's estate, Giant, and the Giant utility van driver, arguing that the UM/UIM limits were \$100,000 per claim, \$300,000 aggregate. Progressive and the estate filed cross-motions for summary judgment on whether Progressive provided the statutorily-required “written offer” of UM/UIM coverage. If it did not, \$1,000,000 of UIM coverage would be imputed into the policy as a matter of law. The trial court granted summary judgment in favor of the estate.

The court of appeals affirmed. The plain meaning of the words “written notice” in A.R.S. § 20-259.01(B) require that the offer be communicated in writing. A written recodation of an oral notice is not an offer “in writing.” Thus, \$1 million of UIM coverage was imputed into the policy.