

## Favorable Summary Judgment For Injured Deputy

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However, according to the statute, this rejection requirement only applies to what are deemed to be “primary” policies.

In Deputy Doe’s case, his department’s insurance company took the position that the insurance coverage it had purchased was “excess” coverage, given the fact that they were self-insured up to the statutory \$100,000/\$200,000 cap. By arguing that the policy was not primary, the carrier took the position that it was not subject to the uninsured motorist coverage rejection procedures required by statute. Deputy Doe took the position that the department’s “self-insurance” was not insurance at all, and that the excess insurance coverage purchased by the department was actually the primary insurance policy available to Deputy Doe.

In response to the insurance company’s Motion for Summary Judgment, the court ruled that this policy at issue was indeed a “primary” insurance policy that was subject to the rejection requirements of the Florida statute. Since the carrier had never obtained an appropriate rejection form, the carrier was held responsible for providing excess uninsured motorist protection for Deputy Doe as a matter of law.

Attorneys Chris Searcy and Earl Denney, along with attorney Todd Middlebrooks of Ft. Lauderdale, represented Deputy Doe. In the end, Deputy Doe’s case was resolved for the full amount of his department’s excess coverage, plus an aggregate total of \$300,000 in the coverage provided by his personal insurance policy and the insurance policies carried by the other motorists involved. ■

# Curb Stop Causes Woman’s Fall In Parking Lot

Shirley DeVos is an energetic and creative woman. At 80 years of age, she paints and volunteers her time helping others. In 1997, during the holiday season, Ms. DeVos was shopping at the Delray Village Shops. Cars were parked three deep in some places while shoppers hurried into the stores for last minute holiday gifts.

Feeling lucky to have found an empty parking spot, Ms. DeVos parked her car and proceeded to walk between a pathway of cars to her favorite bagel shop. As she rounded the front of her parked car, her foot came in contact with an exposed piece of metal that protruded from a curb stop in disrepair. Ms. DeVos was caught off guard and fell to the ground. Her left elbow sustained the full force of her fall, shattering the bones.

Ms. DeVos was transported to Delray Beach Community Hospital where surgery was required to install hardware into her severely damaged elbow. After being released from the hospital and healing for quite some time, it was later determined by her doctors that a second surgery was required to remove the hardware from Ms. DeVos’s elbow. Throughout her care and treatment, Ms. DeVos endured great pain and discomfort and could no longer give of her time and talents.

Acting on the advice of family members, Ms. DeVos consulted with attorney Philip Stillman of Margate, Fla. He referred the case to attorney David Sales, who later sought the assistance of his colleague, attorney Ellen Brandt, in prosecuting the case.

The lawsuit filed against the premises where Ms. DeVos fell alleged that they had failed to properly maintain the busy parking lot. The defendants denied the allegations, but made a preliminary good faith payment to Ms. DeVos of \$5,000. During a follow-up deposition, Ms. DeVos’ honesty, sincerity, and the extent of her injuries became apparent to the defendants. At mediation, Ms. DeVos’ claims were settled for \$149,000. Ms. DeVos still has limited use of her left arm. She lives with pain on a daily basis, but is attempting to take up painting again and to resume the lifestyle she previously enjoyed. ■



**Shirley DeVos showing her injured arm.**