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Reply.Conn. claims court could put \$250K back in driver's pocket The Connecticut Supreme Court could be about to let an insurance company keep \$250,000 it says is due to it, in addition to \$7,500 the state says it's already recovered, from a Westport driver who totaled his Jeep Cherokee. By John TrippThe Associated Press WESTPORT, Conn. — The Connecticut Supreme Court could be about to let an insurance company keep \$250,000 it says is due to it, in addition to \$7,500 the state says it's already recovered, from a Westport driver who totaled his Jeep Cherokee. The high court agreed last month to hear the case of William Cone, a

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self-employed fitness trainer who allegedly struck his neighbor's Jeep with his \$90,000 ride. The court agreed to decide the question of whether a judgment, including interest and costs, can exceed the limits of liability on a policy. The question of whether the state is entitled to the money is not before the court, and if the ruling goes against the state, Cone's insurer and the state would settle the case. The insurer, Hartford Accident and Indemnity, is claiming it is entitled to the entire \$450,000 because Cone did not file a claim with his insurer within the policy limits. If the state prevails, the court would put Cone back in court, and then Hartford would be entitled to the "unused" part of the \$450,000 it claimed in its original lawsuit. Cone's lawyer, Louis Torsi, said Thursday he is not optimistic the court will decide in his client's favor. He said that if a ruling goes against him, he will file an appeal. Torsi said Cone never expected to get \$450,000. "I am totally surprised," he said. Torsi said he did not think the state would sue Cone until after Cone filed his own claim to see what was available to him. "They (the state) had him over a barrel," Torsi said of Cone. "He was caught between a rock and a hard place." Neither Cone's insurer nor the state made a decision on whether Cone would be paid after his Jeep was destroyed in the crash, but the insurer wants to be

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paid, according to a brief filed with the court. "The dispute between Cone and the state clearly amounts to an assessment of Cone's fault," the brief states. If that assessment is "in excess of the policy's per-person limit of liability, Cone is liable for the \$250,000 beyond the limits of the policy." The high court in June expressed interest in the case. "The issue of 'excess recovery' is apparently one of first impression in this state and it is one of some urgency as two judgments were rendered in the state trial court and no further appellate proceedings have been had," the court noted in its decision. "The issues presented in this appeal warrant our examination." The state has said Cone wasn't entitled to file a lawsuit against his insurer until he filed a claim, but Cone told the court he believed he was entitled to sue immediately. In fact, he told the court, he had done so in another case.

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