



Current Articles 2005 – October

Full Coverage

Many times a client may instruct the broker to obtain "Full Coverage" for his business. This request can cause the broker numerous problems. In effect (and as was given as evidence in one case that I was involved) the client said that he was too busy to discuss all the details of the insurance – just make sure that I am covered for anything that could happen to me! What the client is really saying is that he expects to be covered for everything!

Mr. Alan Bossin, from his book "The Duties of Insurance Agents and Brokers" spends many pages on this subject. This precedent originated with the Fine's Flowers case where the client requested "full coverage". One court's interpretation of full coverage is referred to as "covering all insurable risks likely to arise in connection with the properties and business in question". "Full Coverage" was defined as coverage against all foreseeable insurable risks of the plaintiff's business.

If a broker accepts instructions on a Full Coverage basis and there is an uninsured loss, the broker may find that he will be found negligent for both breach of his fiduciary duty to protect the client but also for breach of contract in not providing full coverage. When a request for "full coverage" is made, and the broker is aware **that the client is relying upon the broker's expertise to see that it is protected**, the courts will expect a higher standard of the broker in the performance of his duties.

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Other suggestions to overrule the "full coverage" aspect would be to:

- Elicit instructions **from the client**
- Obtain coverage specifically requested by the client
- Understand the client's instructions where ambiguous or unclear
- Be aware of the nature and extent of the client's reliance
- Understand the effect of providing the client with a written undertaking which should outline exactly what the broker is providing and soliciting further instructions from the client. "Tell me what you require"

We might expect that a request for full coverage is only applicable to commercial insurance. Not so! In a recent assignment an applicant for personal auto insurance requested "full coverage including replacement cost" (an incorrect reference to the OPCF 43 – Limited Waiver of Depreciation). One might interpret that, in relation to automobile insurance, full coverage would mean the mandatory coverages plus Collision, Comprehensive or All Perils. But what about the optional endorsements? I am not referring to those endorsements that correct the wording for

specific purposes such as Permission to Rent or Lease, Carrying Paying Passengers, etc. but to those endorsements that can enhance the coverage. One such endorsement and for a new vehicle would be the Limited Waiver of Depreciation. But what about the OPCF27 Legal Liability for Loss or Damage to Non Owned Vehicles or the OPCF 20 Transportation Replacement? In the case mentioned, the applicant specifically requested in her words the OPCF 43. However the policy was placed, because of the applicant's driving record, with a high risk market **that did not offer the OPCF43**. The broker did not make the client aware of the lack of the OPCF43 until after the vehicle had been stolen! The applicant's driving record would not have precluded coverage including the OPCF43 with other markets.

So the message is clear! Know what your client needs and expects of you and make him aware if coverage cannot be obtained as requested.

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