

Presented By

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Inadequate Limits

- **Stowers** is a method for removing the limits of the policy and opening up the sources of recovery
- **Soriano** allows the insured to sue the carrier for an **unreasonable** settlement of one of multiple claims
 - Enlarges the sources of recovery by in effect returning the amount of the unreasonable settlement to the limits.
 - Unwinding lost settlement opportunities in the process



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Section 5 – Limits of Liability

1. The Limit of Liability for this coverage shown on the declarations page is the most we will pay under this Part B. This limit applies, regardless of the number or amount of claims, claimants, autos covered, persons insured, lawsuits filed, autos involved in the accident, premiums paid or policies issued.
2. The Limit of Liability shown on the declarations page for “each person” is the most we will pay for all damages due to bodily injury sustained by one person. This includes the total of all claims made for bodily injury by or on behalf of a single person, and all claims of others derived from such bodily injury, including, but not limited to, emotional or mental anguish or distress resulting from the bodily injury of another. This also includes any claims for loss of consortium, loss of companionship, society or comfort, loss of services or wrongful death.
3. Subject to the “each person” limit, the Limit of Liability shown on the declarations page for “each accident” is the most we will pay for all damages due to bodily injury sustained by two or more persons arising from any one accident.

C. Limit Of Insurance

Regardless of the number of covered “autos”, “insureds”, premiums paid, claims made or vehicles involved in the “accident”, the most we will pay for the total of all damages and “covered pollution cost or expense” combined, **resulting from any one “accident”** is the Limit of Insurance for Liability Coverage shown in the Declarations.

All “bodily injury”, “property damage” and “covered pollution cost or expense” resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one “accident”.

- **Representing multiple claimants with inadequate limits**
 - Personal auto
 - All derivative claims are subject to the same “per person” limit
 - Must find a method for allocation
 - Commercial auto
 - All derivative and other claims are fighting for the same pot – an aggregate is the only expander
- **The fight to be first**
 - Texas is generally a first come, first serve state
 - Make *Stowers* demand too early, may be unreasonable
 - Make it too late, somebody else may take the money.

- **Multiple injuries/fatalities with different families**
- **Separate counsel representing various groups**
 - White truck group
 - Family sedan group
- **Plaintiffs decide early on not to fight to see who can grab all the money**
- **Work together and agree to divide whatever recoveries among the various parties**
- **Concern** – If purportedly settled plaintiffs still have a stake in claims of other plaintiffs, then is this in the nature of some form of Mary Carter agreement?

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2020 Car Crash Seminar session

"*Stowers and Soriano: Is There Power in Numbers?*"