

Texas Broker Liability And Where It Is Expanding

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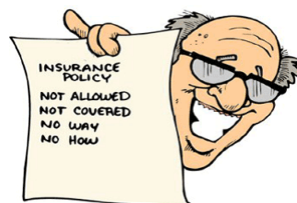
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Common Law Duties

General Common Law Duty

- In Texas, an insurance agent has a general common law duty to the client to
 - (1) use reasonable diligence to attempt to place the requested coverage and
 - (2) inform the client promptly if the agent is unable to do so

May v. United States Ass'n of America, 844 S.W.2d 666, 669 (Tex. 1992)



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Common Law Duties

Common Allegations of Breach

- Following the denial of a claim for an uninsured loss:
 - “My agent failed to acquire proper coverage.”
 - “My agent never told me that my policy excluded coverage for _____.”
 - “My agent knew that I needed that coverage.”
 - “I requested insurance that would provide ‘full coverage’ for my business.”



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Specific Coverage Not Requested

Moore v. Whitney-Vaky Ins. Agency, 966 S.W.2d 690, 692 (Tex. App.—San Antonio 1998, no pet.)

Facts:

- Plaintiff requested insurance on an apartment complex.
- Employee of plaintiff filed retaliatory discharge claim that was excluded under the policy.
- Plaintiff claimed agent should have disclosed that the policy did not cover the claim.

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Specific Coverage Not Requested (cont'd)

Moore v. Whitney-Vaky Ins. Agency

- Plaintiff admitted he *never requested a specific type of coverage*
- Agent provided a policy in accordance with his understanding of the plaintiff's expectations
- Agent never expressly represented that the policy would cover all lawsuits, instead, the plaintiff assumed that the policy covered "all liability that could occur"

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- The court determined the agent did not violate the common law duty to use reasonable diligence in attempting to place the requested insurance and inform the client promptly if unable to do so.

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