

# HOW TO DRAFT A PROPER *STOWERS* DEMAND AND SUBMIT A *STOWERS* CASE TO THE JURY

Presented by:

Jamie R. Carsey  
Thompson Coe  
LLP  
Houston

J. James Cooper  
Reed Smith  
Houston

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## The Elements of a *Stowers* Demand

- ▣ The amount sought against the insured must be within the scope of coverage;
- ▣ The amount demanded must be within the insured's policy limit; and
- ▣ The terms of the demand must be such that an ordinary and prudent insurer would accept it, considering the likelihood and degree of the insured's potential exposure to an excess judgment. *American Physicians Ins. Exch. v. Garcia*, 876 S.W.2d 842 (Tex. 1994)
  
- ▣ Additionally, the terms must constitute a complete and full release of all claims and liens by the claimant making the demand.

## Stowerizing An Insurer With An Eroding Policy

- ▣ Policy Limit is \$500,000 – limits eroded by defense costs
- ▣ Settlement demand states:
  - ▣ *“The purpose of this letter is to grant the above-named defendant an opportunity to resolve this dispute with the plaintiffs in this case for \$150,000.”*



## Is This a Good *Stowers* Demand?

- A. Yes
- B. No
- C. Depends on the amount of the remaining limits



## Stowerizing An Insurer With An Eroding Policy

- ▣ *“Our clients offer a full, final and complete release of their claims against [your client], in exchange for a payment of the lesser of \$1 million or the remaining policy limits of [your client]’s applicable insurance policy.”*



## Is This a Better *Stowers* Demand?

- A. Yes
- B. No



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