

STOWERS, SORIANO, AND
DEALING WITH POLICY LIMITS

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By

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PREFACE

My interest and the subsequent papers I have authored on the topic of *Stowers* emanate from the numerous so-called *Stowers* letters I have reviewed over the years which almost, without exception, *are not* valid *Stowers* demands. An invalid and non-compliant *Stowers* demand sent only after obtaining an excess verdict can certainly spoil the great result obtained, not counting having to disclose to the soon-to-be unhappy client that collection is going to be a real problem because the defendant is judgment proof and an insurance company is the only means of recovering a judgment. All that hard work may be for naught and a legal malpractice claim can be looming despite the great verdict.

A *Stowers* demand is not something to wing or slap together. Horseshoes and hand grenades will not work; in other words, substantial compliance will not satisfy *Stowers*' requirements. Precision is essential.

This paper is intended to inform and simplify *Stowers* and emphasize precision. Every case is different, there are no *Stowers* forms and what you say in your so-called *Stowers* letter matters.

If you work hard to obtain a large verdict in excess of policy limits and intend on holding the insurer accountable, then you owe it to your client and yourself to read and understand *Stowers*, whether it is this paper, another resource, or your own independent research. Your client and you deserve a meaningful opportunity to collect a verdict in excess of policy limits, but only if you have made a valid and enforceable *Stowers* offer.

MISCONCEPTION AND MISANALYSIS

Inquiry: The defendant has not responded to my *Stowers* demand. What can I do?

Response: Are you sure your demand was a proper *Stowers* demand?

Inquiry: Yes it is a *Stowers* demand. Why are they not responding?

...

Inquiry: I obtained a verdict in excess of limits. How do I make the insurance company pay?

Response: Did you make a *Stowers* demand?

Inquiry: Yes, I am sure I made a *Stowers* demand.

In my experience, chances are the demand letter sent is not a valid and enforceable *Stowers* demand.

Stowers, unfortunately, conjures up much misinformation and misconceptions. Most view *Stowers* as simply making a liability insurer pay more than the insured's policy limits as a result of writing what one may believe is a *Stowers* letter. Some mistakenly believe that *Stowers* means the plaintiff – the judgment creditor – can go directly against the liability insurer to collect any excess amount over policy limits. (Wrong). Others think big damages in excess of policy limits automatically translates into *Stowers*. (Wrong again). Others tragically discount issues of coverage and other necessary *Stowers* elements, focusing solely on the importance of making a demand for “limits.” (Equally and dangerously wrong).

But just what is *Stowers*? What are the essentials for making a valid *Stowers* demand? How do you write a valid and enforceable *Stowers* letter/demand? What are the defenses to *Stowers*? Can you just borrow a form from someone and plug in the names and the policy limits and say this is a *Stowers* letter? (Please no).

Among other things, this paper and presentation is to: assist you in composing a valid and enforceable *Stowers* letter; avoid many of the errors that negate a valid *Stowers* demand;

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