

## AUTOMOBILE LIABILITY INSURANCE CASE

The history of an insurance transaction can have a bearing on later litigation. In this case, for example, the agent's errors occurred more than ten years prior to the loss that resulted in this litigation.

Plaintiffs, who had an auto liability policy with Insurer A, decided to change to Insurer B through a new agent. The new agent dated the auto policy effective date ten days prior to the expiration of the Insurer A policy and provided lower limits of coverage than Insurer A's policy. The insureds were asked to sign the auto policy application in a perfunctory manner, and did so without noticing that the limits were lower in some respects than the expiring policy. Two years later the agent wrote an umbrella policy with a \$1 million limit. Years later plaintiffs' college age son was killed in an automobile accident with an underinsured driver. Plaintiffs were shocked to learn that the uninsured motorist (UM) coverage limit was only \$50,000 and that the umbrella liability policy did not apply.

Insurer B's agent maintained that he had done an 'apples-to-apples' comparison of Insurer A's expiring coverage when first writing the account. The case documents, however, suggested that when the agent wrote the Insurer B auto policy he selected a bodily injury limit of \$100,000 and an uninsured motorist limit of \$50,000, even though the respective limits were \$300,000 each with Insurer A. Later, when placing the umbrella liability policy, the agent did not inform the insured that the \$50,000 UM limit was insufficient as underlying insurance. The insureds testified that they understood the umbrella policy would apply to any UM claim. In his relationship with the insured, the agent also took the initiative to offer financial advice in addition to insurance recommendations.

My testimony on behalf of the plaintiff demonstrated that the agent's testimony was suspect for three reasons:

1. The lower bodily injury limit in Insurer B's policy vis-à-vis Insurer A's policy
2. The lower uninsured motorist limit in Insurer B's policy
3. The inception date of Insurer B's policy preceded the expiration of Insurer A's policy

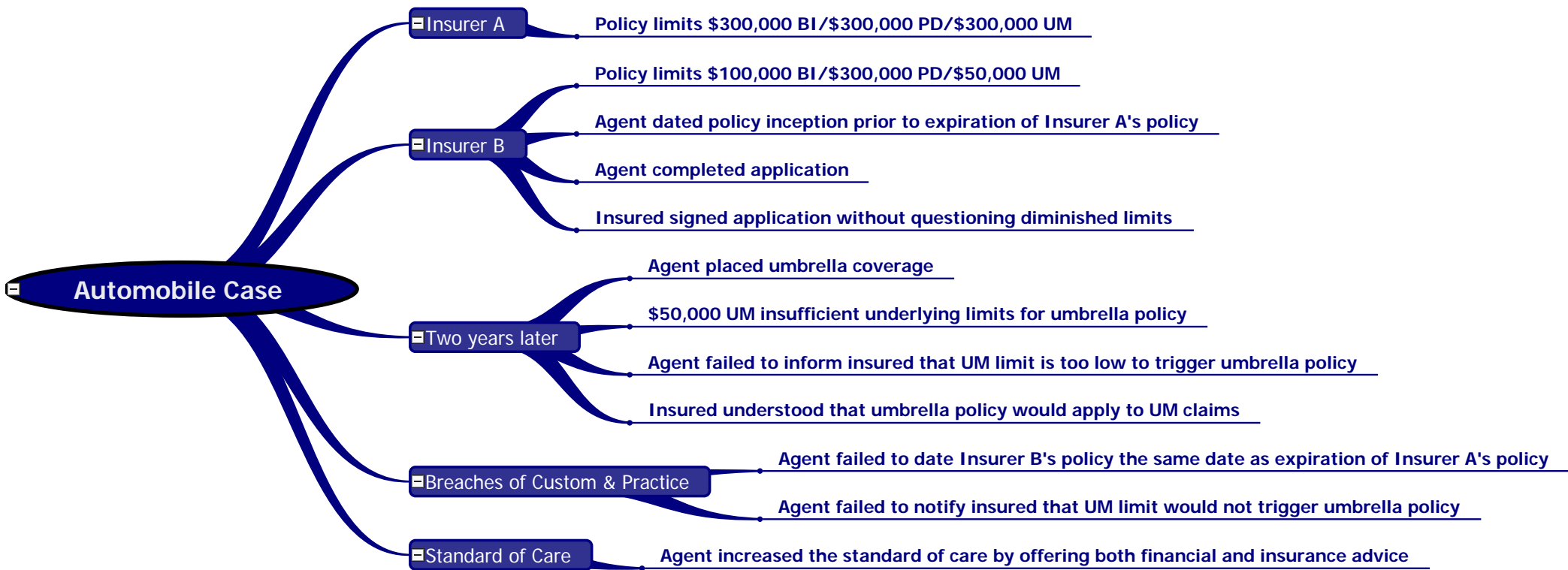
It is custom and practice to date a replacement policy the same date as the expiration of the preceding policy in order to avoid either a gap in coverage or duplicate premiums. Further, custom and practice would be to make certain that the limits of all primary coverages, including UM coverage, are sufficient as underlying for the umbrella liability policy.

I also testified that by providing financial advice in addition to insurance recommendations, the agent went beyond the ordinary level of service provided

by an insurance agent and created a higher standard of care. This increased the insurance agent's duty, and the insureds were entitled to rely upon this higher standard.

Although the insureds had signed an erroneous application, the jury evidently agreed with my position as they awarded plaintiffs a verdict of \$560,000.

The map associated with this case is an outline depicting certain aspects of the case and is not intended as a complete description of the facts or of my testimony.



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