

## **You Can't Buy a Box of Insurance . . .**

. . . no matter what that annoyingly “chipper” woman in the Progressive® advertisement says.

Insurance coverage (particularly commercial lines – all of the various insurance policies which cover business organizations) is not a standard commodity. To the contrary, commercial insurance policies are complex contracts comprised of declarations pages, coverage parts, covenants, conditions, exclusions, endorsements and schedules. It is not unusual for a commercial insurance policy for even a modestly sized business to be in excess of one hundred pages long.

The interpretation and application of the provisions of commercial insurance policies is the subject of millions of pages of articles, treatises and court decisions. Notwithstanding this, what the particular provisions of such policies mean is the subject of litigation in every legal jurisdiction, and will continue to be, as these complex legal documents change over time to address emerging risks and liability theories.

In addition, while many of us purchase our personal lines insurance policies (for our homes and automobiles) directly from insurance companies through their agents, commercial policies are typically purchased through insurance brokers. The distinction between an insurance agent and an insurance broker, and what that distinction means for the insured (or prospective insured) is a topic the thorough explanation of which would itself require a treatise. Suffice it to say that generally speaking the law does not permit the insured to rely on representations made by a broker regarding the coverage provided by a commercial lines policy to the same extent that the insured may rely on an agent's representations to bind the insurer.

In a nutshell, as opposed to the insured who is a “consumer” of a personal lines policy, an insured under a commercial lines policy is generally expected by the courts to have a more sophisticated understanding of the insurance contract. Given the high stakes involved (in terms of the potential economic impact of an uncovered loss or claim), large business organizations retain their own in-house risk management professionals to, among other things, understand and maintain the complex “web” of their insurance policies. It behooves smaller organizations, which generally do not have their own in-house risk management personnel, to consult with an outside insurance coverage expert periodically, particularly when considering changing insurers or policies.

When was the last time you actually read your insurance policies in their entirety? In my experience, most of my clients have never done so. That is not a criticism. Since insurance coverage is generally not their “business”, they hire me to do that, so that they can do what *is* their business. In fact, some of my clients are other attorneys whose law practice does not include insurance coverage analysis.

My smartest clients are the ones who know what they don't know.

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