

PERSONAL INJURY | WRONGFUL DEATH | INSURANCE DISPUTES / BAD FAITH | ESTATE & TRUST LITIGATION

## NOW ACCEPTING CASE REFERRALS

The law firm of Wittmer | Linehan is accepting referrals of cases in the areas of personal injury, wrongful death, insurance disputes, workers' compensation, and trust and estate litigation. We promise to work hard to earn and preserve your trust in referring cases to our firm, providing prompt, diligent, and aggressive representation.

### HERE ARE 4 GOOD REASONS WHY YOU CAN BE CONFIDENT WHEN REFERRING CASES TO OUR FIRM:

1. We are a local firm. Our practice and our families are part of the fabric of the Sarasota community. Locally referred clients will receive the most attentive, personalized service.
2. Our firm understands insurance coverage issues. We can make sure all available insurance coverages are located.
3. We are passionate about obtaining the maximum recovery for our clients, and will try the case to a jury if necessary to obtain the best results.
4. Recoveries in excess of available insurance coverage generate greater recoveries for our clients and larger referral fees to referring attorneys.



The hiring of an attorney is an important decision that should not be based solely on advertisements. Before you decide, ask us to send you free written information about our qualifications and experience.

## EXCESS AND UMBRELLA INSURANCE: A WISE CHOICE FOR ALL DRIVERS



**Remember Martha? You may recall from the summer issue of the *Sarasota Litigator Journal* how our fictional protagonist was injured in an accident with an uninsured motorist. Although her insurance policy included \$10,000 of uninsured/underinsured motorist (UM/UIM) coverage, Martha found that the costs from property damages and the injuries she sustained in the accident far surpassed the benefits she had purchased, so she considered bringing lawsuits against both her insurance company and that of the at-fault driver.**

Auto accidents frequently result in lawsuits. In the hands of dedicated and competent attorneys, a suit can result in millions of dollars worth of recovered damages – just look to the Wittmer |

Linehan website for examples. Now, let's turn the tables on Martha. What if she had caused the accident? Florida's Financial Responsibility Law states that any person at fault in a crash

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### WITTMER | LINEHAN EXPERIENCE COUNTS RESULTS MATTER

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[www.sarasotalitigator.com](http://www.sarasotalitigator.com)

## EXCESS AND UMBRELLA INSURANCE: A WISE CHOICE FOR ALL DRIVERS

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resulting in bodily injury and property damage to others must have the required minimum of liability coverage. At Wittmer | Linehan, we see many cases in which damages from an accident far exceed liability insurance limits and the at-fault party's ability to pay out-of-pocket. What's Martha to do in order to protect her assets?

When combined with primary liability insurance, excess insurance and umbrella coverage address two of the biggest concerns people have when buying an insurance policy: how much coverage they need to protect themselves against unforeseeable losses versus the cost of sufficient protection. When the limits of primary liability insurance are exhausted, excess insurance and umbrella coverage provide a failsafe.

Excess and umbrella coverage are commonly confused as the same insurance, but there is a key difference between the two. It has to do with how the policies interact with your primary liability insurance, which is the first "layer" of protection against what could be a financially devastating claim.

If an underlying liability policy is exhausted, excess insurance increases the amount of insurance available to cover a loss. When triggered, excess coverage comes into play as either a "stand-alone" policy, which carries its own conditions, definitions and exclusions; or as a "follow-form" policy, which takes on the conditions of the underlying policy.

Like excess insurance, umbrella coverage covers losses that exceed the limits of one's primary liability policy. However, where excess insurance can only meet conditions stipulated in the primary policy, umbrella coverage can "drop down," or cover risks not listed in the primary policy. Since it is able to act as your primary policy where needed, umbrella insurance automatically broadens the scope of your coverage, hence its name. Umbrella insurance's flexible coverage can be applied to risks apart from auto-related liabilities as well. For example, if you own both auto and homeowners

insurance, an umbrella policy will extend the liability limits of both those policies in the amount of extra coverage you purchased. Umbrella policies are generally sold in increments of \$1 million. That may sound high, but remember that these days, it's not uncommon to need that level of protection if suit is brought against you. While your primary insurer should notify you if a loss potentially affects your limits, it's not your primary insurer's responsibility to alert your umbrella or excess insurers. Therefore, giving notice of both a loss and exhausted primary liability rests squarely on the shoulders of the insured, and the insured must do so in the policy's stipulated time limits.

As mentioned earlier, one of the biggest questions people wrestle with about insurance is, "How much is enough?" The amount of coverage that's sufficient to protect you, your family, property and assets is a personal decision. Take into consideration the value of what you want to protect with excess or umbrella coverage, and what its future value may be. You should also think about people in your household who would benefit from the extra protection of excess or umbrella insurance.

*At Wittmer | Linehan, it's our goal to help you understand how important it is for Florida drivers to obtain their own financial protection through insurance. If you have questions or concerns about getting properly insured, don't hesitate to give our office a call for a free consultation.*

## CASE REVIEW

### W | L OBTAIN ONE OF SARASOTA'S LARGEST INJURY SETTLEMENTS



On March 16, 2012, Dustin McConnell was sitting on the edge of the curb alongside US-41 at the intersection of Shamrock Boulevard. Michael McGurer was driving a 2006 GMC truck owned by Asplundh Tree Expert Company. As Mr. McGurer approached the intersection, traffic came to a stop in front of him. Mr. McGurer failed to see that the vehicles had stopped. To avoid a collision, Mr. McGurer swerved his truck to the right then veered back to the left, causing his truck to overturn onto its right side and land on top of Dustin.

The driver of the Asplundh truck claimed the brakes did not work and, therefore, he was unable to avoid the accident. Thankfully, we were retained early in the case and were able to prove that just prior to the accident, the truck brake lights were never lit and neither the driver nor passengers, all Asplundh employees, ever complained to the investigating FHP trooper about brake failure! Finally, during our investigation, we were able to prove that the truck had a split brake system, which would have provided the vehicle with braking capability during this accident.

As a result of the accident, Dustin was left with numerous and extensive orthopedic injuries consisting of fractures of both superior and both inferior pubic rami, pelvic ring fractures, a right subtrochanteric femur fracture, a left intertrochanteric femur fracture and a bilateral pelvic fracture. Dustin had to undergo over 14 surgical procedures. After two years, Dustin had recovered from his orthopedic injuries but was left suffering from a chronic pain syndrome. As a result of this syndrome, Dustin will require lifetime medication to provide him with relief from his pain.

After we broke down any idea that brake failure was the cause of this accident, Asplundh faced the prospect that a Sarasota jury would render a large verdict against them. The company agreed to settle this claim for Four Million Two Hundred Thousand Dollars (**\$4,200,000.00**). We appreciate the opportunity to represent such a fine young man and hope that you, your family, friends or clients will consider allowing us to represent them in times of need. Your case results matter.