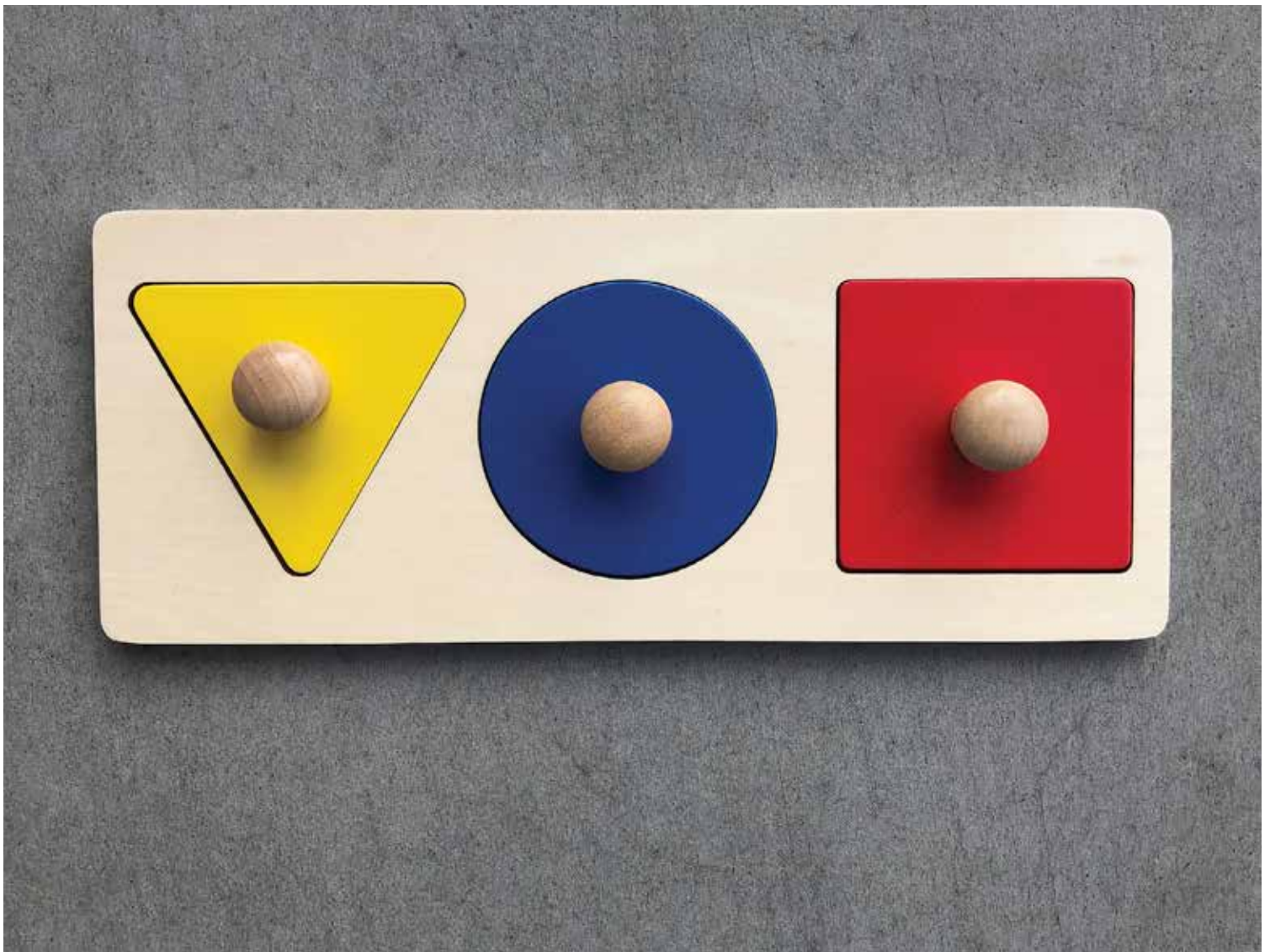


# THE Minnesota News



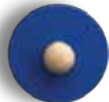
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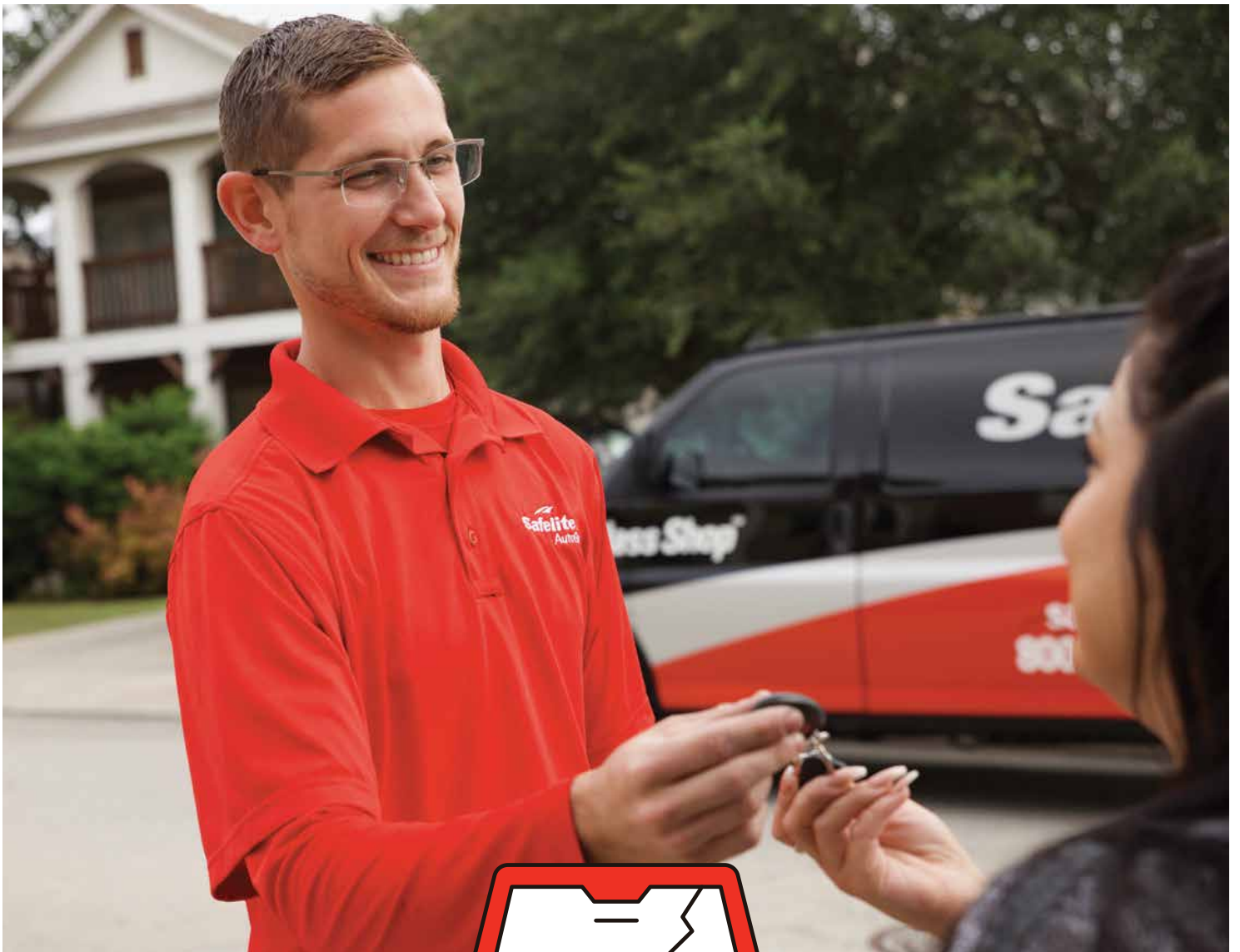


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As another summer is quickly coming to an end, I hope you all had the opportunity to spend time with friends and family, got to do some travelling or were able to enjoy some of the many entertainment and recreational options that Minnesota has to offer.

Now we have fall sports getting started and soon kids will be back at school and families will be back to a more "normal" routine. That usually leads to the same kind of refocusing in business. September is the time when we move back to a more regular work routine and it's a good time to make sure that sales goals are on track and business budgets are meeting projections. Likewise, your clients are probably doing the same thing, so it is important to connect or reconnect to make sure their insurance program is up-to-date with any changes that may have occurred in their personal lives or businesses since the start of the year.

The current insurance market certainly has not been an easy course to navigate with premiums increasing and carrier appetites becoming more limited. It's more important than ever to make sure we are helping clients understand the reasons for the current market conditions and helping explain to them the things they can do in response. To assist with that process, there was a [Hard Market Toolkit](#) that was created by the IIABA and Trusted Choice and recently distributed to all member agents. It provides a lot of tools to help agencies and their customers through these challenges.

The Big I MN board has been busy this summer and we recently held a board meeting in July to discuss our mission/purpose for the association. It was a productive conversation as we tried to capture all the benefits and services the Big I MN currently offers independent agents, as well as products and services we will need to provide in the future. We came up with the following mission statement: *The mission of the Big I Minnesota is to provide its independent agent members with professional development tools and business resources to aid in their success while advocating to provide a favorable marketplace and climate that allows them to serve their customers with integrity and high ethical standards.*

I feel this mission accurately and concisely meets this objective and provides clear direction for the board members as we plan for the future and communicate with member agents. To make sure we build off the momentum from the meeting and the development of this mission statement, each board member selected an area of particular interest to them to make sure we can apply this mission to achieve the results we would like to see for agents and the industry.

As always, Robyn Rowen our Big I MN Lobbyist continues to do great work in supporting the association by conducting interviews with the Department of Commerce on issues such as carrier filings and having discussions on how to enforce the recent changes for "storm chaser" deterrence. The Big I MN Legislative Committee will work on recommendations for upcoming legislation regarding cannabis and the insurance recommendations/requirements around selling for businesses set to open in August 2024.

I am proud to be surrounded by such a great team of board members who are very skilled insurance professionals and work hard to serve all our agent members. They are very generous with their time and resources to help the insurance industry and all agent members continue on a path to success.





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## Big I MN – Mission Statement

For many businesses, including Big I Minnesota, there are times of transition and transformation. Taking time between our daily tasks and duties to reflect and confirm that we are clear on our purpose and direction can be extremely valuable and necessary. Your board of directors and association leadership took time this summer to make sure that we are truly serving our independent agency members in the best possible way. Of course, this is always a moving target with changing times, and continued evaluation will be in our future as well. We are proud to announce a new Mission Statement at the Big I Minnesota:

*The mission of Big I Minnesota is to provide its members with professional development tools and business resources to aid in their success while advocating to provide a favorable marketplace and climate that allows them to serve their customers with integrity and high ethical standards.*

Clarifying our “why” we exist has been very empowering and we are excited to move forward with purpose to our work for independent agents.

## Hard Market Tool Kit

If you haven't seen it already, the Independent Insurance Agents & Brokers (IIABA) and Trusted Choice have put out a [Hard Market Tool Kit](#). In this ever-changing environment, we are here to help support your efforts to work through the hard market, communicate effectively with your customers, as well as your partner carriers. Resources included in the tool kit include:

1. Overview of Market Conditions
2. Expert Advice for Surviving a Hard Market from Savvy Independent Agents
3. Talking Points for Clients
4. Client Email Templates
5. Frequently Asked Questions from Clients
6. A General Communication Timeline to Keep Your Agency on Track
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## Power in Partners Visits

Our annual visits to our top-level company partners will be happening this Fall. Again, in these times, it is even more important to keep these lines of communication open to work with our carrier partners to weather the tough times. Big I Minnesota is able to present many of the benefits that you receive with your membership with the support of the carriers and vendors participating in the Power in Partners program. Remember to thank them for their support and restate the fact that we are all in this together.

---

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April 18th & 19th, 2023  
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May 16th & 17th, 2023  
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June 6th & 7th, 2023  
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September 27th & 28th, 2023  
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October 11th & 12th, 2023  
Ruble Graduate Seminar  
(Classroom)  
Western National Insurance Group  
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November 15th & 16th, 2023  
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Grinnell, IA

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



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Our mission and our core values focus on cultivating trusted relationships with our customers and putting relationships at the center of all we do, so we can protect and restore people's dreams.

That's good business and part of why we've been voted an Iowa Top Workplace by our employees every year since the award began.

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The last few years have been difficult ones for the insurance industry with record weather-related losses, inflation, and other market pressures.

But at Grinnell Mutual we're taking proactive steps to ensure our continued financial stability, as affirmed with a 2023 AM Best Rating of 'A' (Excellent). We remain committed to both our property-casualty lines and reinsurance markets, and to supporting our independent agents and mutual members.

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# Think Outside the Box? Crush the Box!

*The Secrets of Visionary Thinkers:  
2 Simple Steps to Crushing  
Subconscious Assumptions*

**By Susan Robertson**

When we think about famous visionary thinkers, we subconsciously assume that they have some magic characteristic that the rest of don't have or can't achieve. But in reality, the only magic they have is an intuitive understanding of how to avoid some very common creative thinking blocks. One of those blocks is the Curse of Knowledge, a cognitive bias, or mental shortcut, that all humans share.

## **Stuck Inside the Box: The Curse of Knowledge**

You've probably heard the term "Thinking outside the box." And you've probably, at some point in your career, been asked the think outside the box. But without any understanding of why the box is there or how it was created, it's hard to know how to break out of it. The reality is that we each create our own "box", through this Curse of Knowledge.

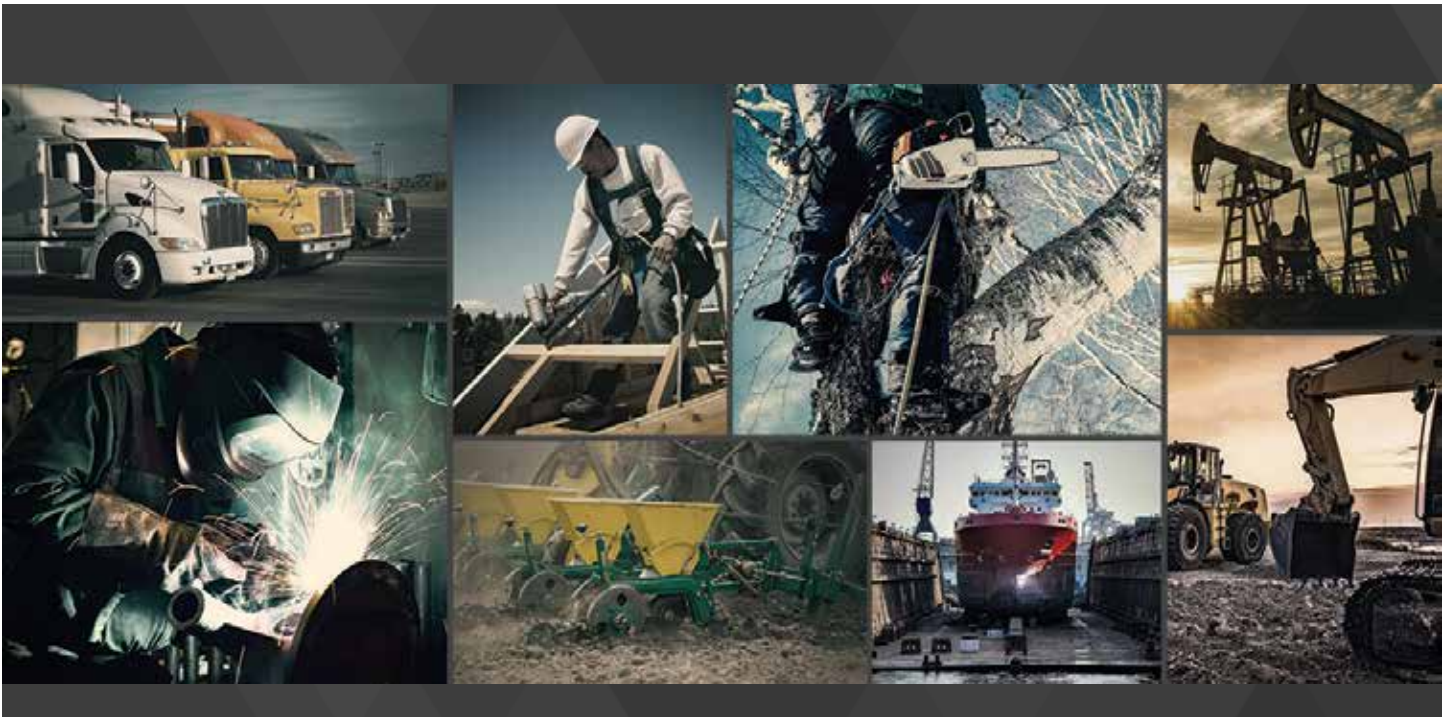
To understand this concept, imagine for a moment that your task is to think of new ideas for salad dressing. Try to come up with a few in your mind right now - don't skip ahead!

Chances are, the ideas that came to your mind were incremental variations of existing flavors or ingredients. You may have thought of fruit-flavored dressing. Or spicy, chipotle dressing. Or perhaps dressing that's flavored like your favorite cocktail. Or your favorite dessert.

All really interesting ideas, IF you are only looking for ideas that don't change the current nature of salad dressing, nor the way it's currently manufactured, packaged, sold, or used. The task was to find NEW ideas for salad dressing. That challenge was not limited to simply new flavors, but your brain likely limited your thinking to mostly just new flavors.

Here's why incremental ideas tend to be the first, and sometimes the only, kind of ideas to emerge. All humans rely on past knowledge to subconsciously try to shortcut problem-solving. We instantly – and subconsciously – call on everything we know from the past to come up with

continued on page 17



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solutions for the new problem. While this ability to call on past learning is an incredibly useful trait in many situations (it's one of the reasons we're at the top of the food chain), when you're looking for new ideas and solutions, it actually becomes a significant barrier. It limits your thinking to nothing but slight variations of what already exists.

The minute you saw the words "salad dressing", your brain made a bunch of instantaneous assumptions that you're likely not aware of. Those assumptions were probably things like:

- Salad dressing comes in a bottle.
- It's liquid.
- It's stored in the refrigerator.
- It's used on lettuce.
- Salad is eaten from a bowl or plate.
- Salad is eaten with a fork.

Using the salad dressing challenge again, now assume one of the above "facts" does NOT have to be true. What ideas could you come up with then? You might think of ideas like:

- Salad dressing that you heat in the microwave (not cold).
- Dressing for fruit, or for meat (not used on lettuce).
- A powder whose full flavor is activated when it contacts the moisture of the lettuce (not liquid).
- Salad dressing in the form of a wrap, so you can eat the salad on the go (salad isn't served on a plate).
- Salad dressing in the form of an edible skewer (salad isn't eaten with a fork).

As you can see, the nature of the ideas that arise after crushing the imbedded assumptions is dramatically different from the ideas that came before. That's because your brain is no longer limiting your creativity with artificial guardrails that may not actually exist and that you weren't even consciously aware of.

Interestingly, the more expertise you have in an area, the more of these limiting assumptions you have subconsciously imbedded in your thinking. So, as an expert in your field, you likely have MANY imbedded assumptions that you're not aware of, but that are likely impeding your creative thinking in a significant way.

## **The Cure: Assumption Crushing™ process:**

Fortunately, there is an antidote to the curse of knowledge. Assumption Crushing™ is a technique that involves consciously surfacing and challenging our hidden assumptions.

### **Assumption Crushing™ Step 1:**

Surface your subconscious assumptions by generating a long list of statements that start with things like:

- Well, in our business everyone knows...



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- Well, of course ...
- We could never...

Be sure to list some really obvious, superficial, or seemingly trivial “facts,” observations, processes, etc. Sometimes breaking the obvious ones can lead to the most innovative ideas. For example, the fact that salad dressing is liquid seems fairly trivial. But breaking that assumption led to some truly breakthrough ideas.

### **Assumption Crushing™ Step 2:**

Once you’ve come up with a long list, pick one that may not have to be true, and start to think of new ideas based on breaking that one. Then pick another and do it again. And again. You’ll amaze yourself with the innovative ideas you come up with.

Remember that the Curse of Knowledge is based on experience and expertise. Many people often assume that the best way to get new thinking, new ideas, and new solutions is to bring together a bunch of experts on the topic. But the reality is that all those experts will have a very similar set of subconscious mental frameworks. (They’ll all have essentially the same Curse of Knowledge.). A better way to generate new ideas is to invite a few experts, and then several other people with different experiences, knowledge, and perspectives. Those non-experts will help force the experts to confront and overcome their curse of knowledge.

The Curse of Knowledge is a formidable adversary that exists in our brains all the time and hinders our visionary potential. By embracing Assumption Crushing™, we can shatter the chains that confine our thinking and unlock the path to visionary breakthroughs.



#### **ABOUT THE AUTHOR:**

Susan Robertson empowers individuals, teams, and organizations to more nimbly adapt to change, by transforming thinking from “why we can’t” to “how might we?” She is a creative thinking expert with over 20 years of experience speaking and coaching in Fortune 500 companies. As an instructor on applied creativity at Harvard, Susan brings a scientific foundation to enhancing human creativity. To learn more, please go to: [SusanRobertsonSpeaker.com](http://SusanRobertsonSpeaker.com).



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02/09/2023

Elements of Risk Management  
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The Builders Group  
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Insuring Commercial Casualty I  
(Webinar)

02/23/2023

Insuring Commercial Casualty II  
(Webinar)

03/07/2023

Other Personal Lines Solutions  
(Webinar)

03/23/2023

Insuring Personal Auto  
(Webinar)

04/11/2023

Insuring Personal Residential  
(Classroom)  
Big I MN  
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04/20/2023

Insuring Commercial Casualty I  
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04/25/2023

Life & Health Essentials  
(Webinar)

05/02/2023

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05/18/2023

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06/22/2023

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06/27/2023

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08/03/2023

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# E&O Q&A

## Agent's questions about Errors and Omissions, and how E&O losses can be prevented.

By Mary LaPorte, CPCU, CIC, LIC, CPIA

**Q:** I work in Personal Lines and we are starting to get questions from our customers about e-bikes. When I check with our carriers, I get a variety of mixed responses as to whether the homeowner's policy will cover them or not. Do you have any advice on handling coverage for these?

**Kris, Georgia**

**A:** Kris, this is really a "hot" topic right now. In case you haven't noticed, e-bikes (electric bikes) are everywhere! Only two to three years ago they were a novelty, but they have quickly become mainstream, and sales are skyrocketing.

E-bikes are simply bicycles with battery-powered electric motors which offer the rider an extra boost when needed, such as when going up a hill or if the rider is fatigued. They have become especially attractive to the senior crowd who can leverage the assistance to offset physical limitations. Your customers think of them as bicycles, and most would not even inquire about the need for coverage.

First, we need to look at the homeowners policy. When it comes to liability coverage, homeowners policies typically exclude "motor vehicles." Since it has a motor and carries people, it is a motor vehicle. Therefore, no liability coverage is provided under most homeowners policies. There is one class of e-bikes that is only "pedal assist," meaning that the motor does not kick in unless the rider is pedaling. In other words, it has no throttle. Some insurance experts argue that this is not technically a motor vehicle since it is incapable of operating without someone manually pedaling the bike. Although this may be an argument, it is one that you may lose when the carrier disagrees with that interpretation at the time of a loss. So, it is best to assume that coverage would not apply. Also, remember that those e-bikes with a throttle would likely be considered a motor vehicle under most policies.

ISO has modified the HO 24 13 – Incidental Low Power Recreational Motor Vehicle Liability Coverage endorsement so that, for an additional premium, it can now be used to add liability coverage for e-bikes that do not exceed 28 miles per hour on level ground. It is important that you familiarize yourself with your carrier's solutions for e-bikes. Some carriers are amending their policy to automatically provide liability coverage for e-bikes. I applaud their decision to do so, and I hope that this is a trend we see in the future. Meanwhile, agents need to be diligent to assure their customers are covered.

As you look for solutions, do not forget the physical damage (personal property) exposure. E-bikes range in price from \$1,000 to over \$8,000, and your customers may have more than one. Similar to liability, the homeowners policy may exclude coverage if it is considered a "motor vehicle." While some carriers are offering to write coverage for e-bikes under the personal auto policy, others are recommending recreational vehicle policies as a solution.

Failing to offer coverage could result in an uncovered loss for the insured and an E&O claim for the agency. Consider creating a plan to address this burgeoning exposure in three ways:

- Contact each carrier and evaluate the coverage solutions they offer.

continued on page 25



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- Discuss internally and educate employees about the exposure and coverage options available. Add a question to your exposure checklists or quote sheets (for both auto and homeowners) asking if customers own an e-bike.
- Educate your customers about the need for coverage. Include articles in your social media or newsletter blasts. Discuss with your customer when writing new business.

What a great opportunity for agents to provide value and that extra standard of care for their customers. E-bikes are here to stay, and a little preparation goes a long way.



Mary LaPorte is a consultant and educator with a strong background in Errors & Omissions loss prevention. Forward your E&O questions to [marylp@lpinsuranceconsult.com](mailto:marylp@lpinsuranceconsult.com)

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Auto-Owners Insurance Company, based in Lansing, Michigan, has been providing protection to its policyholders since 1916. Auto-Owners serves millions of policyholders with over 5.8 million policies in its 26-state marketing territory, providing a full line of property & casualty and life insurance products.

Auto-Owners entered Minnesota in 1945 and has been a strong presence in the state ever since. The company has an underwriting branch in Lake Elmo and claims offices in Lake Elmo, Rochester, St. Cloud and Willmar.

Auto-Owners also has eight marketing representatives and a marketing manager in Minnesota to service the 442 independent agencies that represent the company. The marketing representatives visit agents regularly and most

have backgrounds in either underwriting or claims, which enhances their marketing knowledge. Auto-Owners markets its products exclusively through independent agents.

Auto-Owners prides itself on its financial stability and its claims service. The company has been rated A++ (Superior) by AM Best every year since 1992, and has earned its highest rating every year since 1972. The Auto-Owners Life Insurance Company has been rated A+ (Superior) by A.M. Best every year since 1976. And for 20 consecutive years Auto-Owners has been listed among the Fortune 500, ranking 339 in 2022.

In regards to claims service, Auto-Owners consistently garners high rankings from consumer publications. In a national survey of independent agent performance and satisfaction released in 2021,

Auto-Owners ranked top overall for commercial lines and second for personal lines.

Auto-Owners was ranked the best commercial lines carrier in a national survey conducted by National Underwriter Property & Casualty magazine in 2018. The survey, which was distributed to the PIA's national membership, placed Auto-Owners first in six of 10 evaluation factors in determining the best carriers in the nation.

Auto-Owners received the 2017 Company Award of Excellence from the National Association of Professional Insurance Agents (PIA). "Auto-Owners is highly deserving of this, our association's highest company honor," PIA National President Gary Blackwell said. "For independent agents, Auto-Owners is a true partner."

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# The Relationship Between Insurance Agents and Brokers, Defense Counsel and Claims Handlers

By Sandy Goffstein

*This is an excerpt of a presentation by Sanford (Sandy) Goffstein, J.D. to E&O insurance professionals in May 2015 in St. Louis, Missouri. Mr. Goffstein has represented Missouri Swiss Re Corporate Solutions' insured insurance agents in errors and omissions matters for more than 30 years. A graduate of Washington University Law School, Mr. Goffstein, along with his partner, Lori R. Koch, and his law firm of Goffstein, Raskas, Pomerantz, Kraus & Sherman, LLC, are actively involved in protecting the interests of insurance agents in Missouri and southern Illinois.*

## How Defense Counsel Works with Your E&O Insurance Company's Claims Department

When it becomes necessary for defense counsel to become involved in an insurance agent's errors and omissions claim, from the time defense counsel is selected, there is an ongoing discussion between the claims handler, the defense counsel, and the agent regarding the issues of liability and damages. It is important to note that although the insurer selects the defense counsel, the attorney selected represents the agent and not the insurance carrier.

Defense counsel will provide the agent and claims handler an assessment of liability within a reasonable time after receiving the file. The assessment of liability will be based on:

1. The interview with the agent (for purposes of this outline "agent" refers to both agents and brokers) and any other employees or witnesses with knowledge of the events alleged in the lawsuit;
2. Documents reviewed by defense counsel;
3. The case law or statutes that may be pertinent to the case;
4. The venue where the case is pending;
5. The ability of the adverse attorney; and
6. The background of the plaintiff who has sued the agent.



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Defense counsel will also provide an analysis of plaintiff's damages based on a review of the documents received either directly from the plaintiff or obtained by subpoena from a third party. Defense counsel will also at the proper time advise the claims handler of the chances of a successful defense in percentages, as well as a dollar range of a potential verdict against the agent, if liability is determined against the agent.

This same information will also be discussed with the agent and the agent will be kept fully informed by defense counsel. If required by the court or if the parties and the claims handler agree to attempt to settle a case, the case will be sent to mediation. If the case will be mediated, the claims handler will discuss the mediation strategy with defense counsel prior to attending the mediation to determine the range of settlement; the agent may also be consulted with respect to mediation strategy.

If the case is not resolved at mediation and the case is set for trial, defense counsel will prepare a detailed report for the claims handler which outlines all the facts, legal issues, damages claimed by plaintiff and chances of successfully defending the case with a potential verdict range in the case. The claims handler and defense counsel work together for the benefit of the agent from the start to the completion of each lawsuit.

### **Why Just Any Lawyer Will Not Do**

The handling of an E&O case against an agent is very specialized. The parameters of the duties required of an agent are defined for the most part by case law, which changes rapidly as courts decide new cases. For example, new theories of the expanded duty of an agent may be imposed by developing case law. The attorney who has the responsibility of representing the agent must keep abreast of developments in the law and should also be familiar with the way an insurance risk is marketed, insurance proposals, certificates of insurance, endorsements to an insurance policy, and how to read an insurance policy. These are just a few examples of the information necessary to represent agents.

Sometimes an agent may have a friend, a relative, or their own corporate attorney who they would like to have represent them in an E&O case. Although they may be good attorneys in their field of law, they will not have the expertise of the defense counsel who spends the majority of his or her practice representing insurance agents and is knowledgeable about the insurance industry. The benefit of having an experienced professional liability lawyer representing the agent is that he can save much unnecessary time and expense, as he can quickly assess the liability issues.

Experienced defense counsel is better equipped to convince the other attorney and, if necessary, the court that the case against the agent has little or no merit and bring the matter to a close more quickly and in most cases obtain a more successful resolution.



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## **E&O Claims Examples**

### **Failure to Report a Potential Claim to the Carrier**

The client of an insurance agent received a letter from an attorney threatening to sue the client for poor work in a design for a concrete floor. The letter further advised the client to turn this matter over to his professional liability insurer. The client presented this letter to his insurance agent and advised the agent that his design was perfect, and the damage was caused by the company who poured the concrete. The client said he did nothing wrong. The agent then advised his client not to turn this claim in at that time but wait and see if he is eventually sued.

At renewal time in response to the routine question, "Are you aware of any facts that could lead to a claim or lawsuit," the agent put "No," and the client signed the application form. Both the agent and the client knew this information was incorrect.

After issuance of the new policy, the client was sued for professional negligence along with the company who poured the concrete. The suit was turned over to the client's insurance carrier who denied coverage for failure to advise them of the possible litigation or claim of which the client was aware. As a result, the agent's insurance carrier had to drop down and defend the client.

This problem could have been avoided if only the agent had advised his client to turn in this claim immediately after receiving the threatening letter from the attorney.

### **Trying to Help Your Client After a Loss Occurs Obtain Insurance Coverage Where None Existed**

This agent had a client who owned a fleet of cars. This client had historically been late in payment of premiums. At times, the agent advanced the payment of premium for the client until the agent finally advised the client, he would no longer advance premium payments.

The following scenario took place: On March 15, the client sent paperwork to the agent to add additional vehicles to the fleet policy. On April 4, the agent sent a letter to the client advising that he would not add these additional vehicles to the fleet policy until he has received the past due premium. The letter went on to state, "These vehicles are out on the street without insurance coverage." On May 4, as you would guess, one of the vehicles which the client had requested to be added to the fleet policy on March 15 was involved in a crash. The passenger sustained serious injuries with over \$600,000 in medical bills.

The claim was turned in to the client's insurance carrier and coverage was denied since that vehicle was not listed on the policy. The client asked the agent for his assistance in trying to get coverage for this uninsured vehicle, by having a policy backdated to the



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date insurance was requested. The agent, in trying to assist a long-time client, contacted the specialty broker through which he placed coverage and asked to have the insurance carrier backdate the policy to March 15, the date that the client first requested coverage for that vehicle.

In support of that request, the CSR for the agent sent the March 15 letter requesting to add additional vehicles to the fleet policy, including the one involved in the accident, but intentionally left out the agency's response sent April 4 wherein they advised the client that there would be no coverage without the payment of a premium. The insurance carrier not only refused to backdate the coverage to March 15, but they also pointed out that the agent sat on the request for coverage and stated they should turn this matter over to their professional liability carrier.

The client in this case sued the agent for failure to provide coverage for the vehicle listed in the March 15 letter. The client, again as you would guess, denied receiving the April 4 letter advising him that there would be no coverage until the premium was paid.

Fortunately, we were able to resolve this case with no payment by our agent or his insurance carrier, but the agency spent a lot of its valuable time in meetings with me and retrieving documents, as well as responding to voluminous interrogatories and requests for production of documents sent by his client's attorney. This was time that obviously would have been better spent on furthering his business and was caused primarily by the agent's actions after the loss trying to assist his client in obtaining coverage for the claim.

### **Aggressive Involvement for a Client in a Claim on an Insurance Policy**

An agent wrote a policy for insurance on a building that housed a bar and restaurant.

The coverage for both the building and its personal property totaled \$1,600,000. The agent placed the policy through a specialty broker who was responsible for putting the policy documents together. The policy provided a "mechanical breakdown" endorsement and showed \$1,600,000 in coverage. This mechanical breakdown coverage did not give the insured additional limits, but merely provided broader coverage. When putting the policies together, the specialty broker mistakenly showed the mechanical breakdown endorsement in the space marked "additional coverage." The previous policy had the endorsement in the same space as the limits of \$1,600,000.

The building had an extensive fire and burned to the ground—a total loss. The insured had a history of several fire losses, but there was no suspicion of arson. The fire report was unclear as to whether the fire originated due to a mechanical problem or some other cause. In fact, the cause would not have mattered in this case since the limits for the building and personal property were a total of \$1,600,000.

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The insurance carrier hired an independent adjuster, and the agent went to the site and met with the adjuster. This was not a necessity, but in this case, the agent wanted to show his client he was providing good service in helping the client with the claim. The site of the loss was over one hundred miles from the agent's office.

The client was complaining to the agent that the insurance company was too slow in making payments on the claim, and the client wanted to start to rebuild the business. The agent, on his own, came up with a plan to light a fire under the adjuster and the insurance carrier.

The agent wrote a poorly worded letter to the adjuster telling the adjuster that there was a strong possibility that the mechanical breakdown provided \$1,600,000 in additional limits and that therefore the total amount of coverage was \$3,200,000. The agent's client became impatient with the pace of his payments from the insurance carrier and filed suit against the insurance carrier, as well as the agent. Naturally, he sued the insurance carrier on the policy alleging he had \$3,200,000 in coverage.

He sued the agent for negligence, negligent misrepresentation, breach of contract, breach of fiduciary duty, fraud, and fraudulent misrepresentation alleging he requested \$3,200,000 in coverage, and the agent told him he provided that amount of coverage. Attached to the petition as an exhibit was the poorly worded letter the agent had written to the adjuster. Not only was the agent sued for \$3,200,000 in actual damages, but for punitive damages as well.

When I met with the agent, he advised me that he was aware that there was only \$1,600,000 in total limits, but he was simply trying to expedite the insurance payments to his client and that he had advised his client of the purpose of this letter prior to sending it to the adjuster. Unsurprisingly, the client denied that he ever had such a conversation with the agent and in fact testified in his deposition, that the agent had showed him how he could double his limits with very little additional premium.

Even with the poorly drafted letter the agent had written, I felt confident that I had several good defenses to the claim for the additional \$1,600,000. The insurance carrier was dismissed from the lawsuit and the case proceeded against the agent only.

Then the unexpected happened. The agent was arrested and pled guilty to a felony and was sentenced to several years in prison. The agent's deposition was taken twice in a federal penitentiary. As a result of the conviction of the agent, we were forced to settle this case. Lesson learned: The agent should never involve himself or herself in the claims process.

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## ADVOCACY

One of the most valuable assets of Big I MN membership is having a dedicated lobbyist in the state and multiple lobbyists on the national level. The Big I MN advocates for your independent agency survival. Our contracted lobbyist, Robyn Rowen, has built relationships with legislators and the Department of Commerce over the past 15 years so that we have an inside track to prevent bad legislation and help modernize systems.

## EVENTS & NETWORKING

**Annual EXPO** – The Big I MN's largest gathering of insurance industry professionals from agencies, carriers and vendors alike. Get together for education, awards, food, drink, and NETWORKING!

**Regional Golf Outings** – Several golf outings are held throughout the summer in the state. Enjoy the short MN summer with your industry partners and make those connections that are so important to your agency success.

**Emerging Leaders** – The gathering of young insurance professionals for networking, sharing their successes and challenges and growing in their professions throughout the year.

**Specialty Programs:** MyNetwork Groups focused on cohorts with like positions such as owners, producers, women in leadership roles, etc. Executive Retreat programs are in the works for 2023.

The Big I MN and our Power in Partner members support local colleges and universities in their Risk Management and Sales programs. By involving our agency and carrier members, we can communicate and build awareness of the independent agency system and the unlimited possibilities for future entrepreneurs and leaders. Get involved by volunteering your time to connect with these groups.

## ADDITIONAL RESOURCES

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## Insurance Agency Radar – Detect Carrier Financial Ratings

The financial stability of insurance companies is a consideration often overlooked when agents and consumers analyze competitive quotes received. We have come to take it for granted. In Minnesota, carrier failures happen infrequently, impact a limited number of policyholders and replacement coverage in the past has been readily available. Even if there is a failure, there is always the Guaranty Fund, right?

United Property & Casualty Insurance Company became the fourteenth insolvency to impact Florida since the beginning of the pandemic. A.M. Best reduced the carrier rating to B (Fair) from B+(Good) in July of 2022. Hurricane Ian was the final blow from which the company could not recover. It was ordered into receivership on February 27, 2023, and coverage for the company's 146,000 policyholders ceased effective March 29, 2023. And while it is easy to dismiss Florida insolvencies to the fault of hurricanes, disastrous events are occurring in every state and now, Maui.

The National Association of Insurance Commissioners created the "INSURER RECEIVERSHIP MODEL ACT", which has been adopted in whole or in part by most states.

### What happens when an Admitted Carrier is Declared Insolvent?

- Policyholders and their agents are notified of the insolvency.
- Coverage for all policies ceases in 30 days.
- Policyholders may receive premium refunds, although not immediately.
- Claims against the company must be filed by the established deadline.
- Claim payments are paid by the state's Guaranty Fund and limited to \$300,000.
- Specific state insurance laws and rules may apply.

### When is an insurance company declared insolvent?

According to the National Association of Insurance Commissioners, insolvency occurs when the statutory liabilities exceed its statutory assets, or when an insurance company is unable to pay its debts as they become due in the usual course of business.





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## What impact does an insurer insolvency have at the agency level?

**Business with the carrier must be replaced.** Hopefully, if there are early warning signs the carrier is in financial distress, action is taken to try to replace the policyholder's coverage. Unfortunately, the rates of the stressed carrier are so attractive that insureds will typically decide to wait it out and see what happens, never believing the company will fail. The agent's ability to replace policies is dependent on the insurance marketplace at the time.

**Errors and Omissions policies often do not cover carrier insolvency.** If you are an agency owner reading this article, be sure to review your E & O policy for a firm understanding of your coverage. Suits stemming from placement of policies with a financially unsound carriers are typically addressed in one of three ways:

- No Coverage for insolvency, regardless of carrier status or carrier rating.
- No Coverage for carriers to which the Guaranty Fund does not apply (Excess and Surplus Lines Companies, self-insured and alternative risk placements).
- No Coverage if the carrier rating was less than A- or B+ at the time of placement. Placement includes ratings at each subsequent renewal.

Take the time to make an emergency response plan in case policies have been placed with a financially challenged carrier. The tumble in financial rating can happen very quickly, dwindling from an AM Best Rating of A or A- to insolvent in just a matter of months. Make it a practice to review the carrier's ratings before placement and disclosing it to policyholders when offering terms. Check multiple sources.

Agents and their customers have enjoyed a season of relaxed underwriting and streamlined policy issuance. That season has ended, not only in Minnesota but across the nation. As companies assess their ability to obtain reinsurance, struggle with inflation, and watch policyholder surplus dwindle, corrective actions are being implemented in the form of premium increases and underwriting. With some companies having complete moratoriums on new business, increased non-renewals and total risk classes removed from the appetite guide of every company, we now have underwriting on steroids! Perhaps agents are now experiencing the very reason our insurance ancestors found it acceptable to have cocktails with lunch.

## Resources for Agents

[2022 NAIC Property/Casualty Full Year Report](#)

[2022 NAIC Property/Casualty Carrier Market Share Report](#)

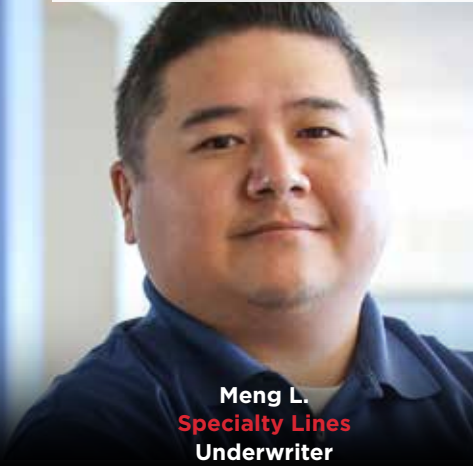
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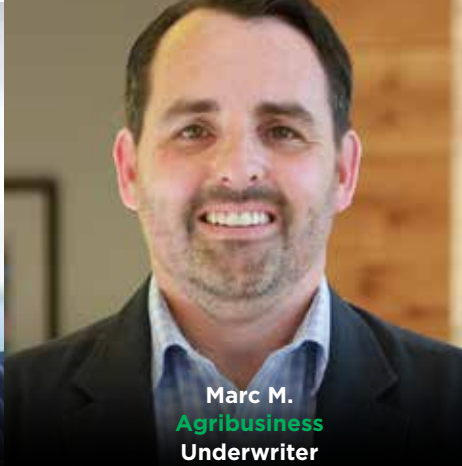
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