

# United of Omaha claims policy wasn't valid

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LEXINGTON, N.C. -- A day after a judge ruled in favor of the late Dale Earnhardt's car owner in a trial pitting the racing team against an insurance company, the jury heard Tuesday from the insurance agent who sold the \$3.7 million policy.

Insurance agent Knox Hillman, of Concord, testified he was contacted by Bill Patterson, executive vice president of Richard Childress Racing, about obtaining more coverage on the driver.

"He indicated a new contract was coming and he needed some life insurance to secure certain requirements of the contract," Hillman said.

At Patterson's direction, Hillman said he obtained several proposals before narrowing them down to two, including one from defendant United of Omaha Insurance Co.

Hillman said he filled out the application and gave it to another insurance broker, John Gorsline, who was authorized to contract with United of Omaha. He said Patterson paid \$5,000 in January 2001 as part of an installment plan.

Richard Childress Racing, Earnhardt's employer, was required to carry \$7.2 million in insurance to cover the driver's base salary, according to a portion of Earnhardt's racing contract that was introduced as evidence in the trial.

The amount included \$3.7 million with insurer United of Omaha, which RCR claims cheated widow Teresa Earnhardt out of the payment after Earnhardt's death in a last-lap crash in the 2001 Daytona 500.

RCR took out the policy and is pursuing the matter on the family's behalf. Another insurer has already paid a \$3.5 million claim.

United of Omaha claims the policy was never valid for Earnhardt because he had not taken a required physical.

Under cross-examination by attorney John Morrow, Hillman said he never directly contacted United of Omaha during the application process. Instead, Gorsline, who was licensed to sell the insurer's products in North Carolina, made all the contacts, he said.

Hillman said the pair had worked together for several years and specialized in life insurance and other insurance products for members of the racing community, including Earnhardt and other drivers such as Rusty Wallace and Mark Martin.

On Monday, Superior Court Judge Kimberly Taylor ruled that Earnhardt's racing team won the lawsuit because the insurer failed to hand over key documents to RCR lawyers.

The only issue now before the jury now is whether United of Omaha should pay the \$3.7 million claim.

The jury also heard testimony Tuesday from two insurance industry veterans testifying for the defense. Both said the life insurance policy on Earnhardt didn't exist because of key omissions, especially the lack of a physical.

The judge said she already had decided that the insurance company was responsible for the policy.

Morrow has called the missing documents, which included e-mails and handwritten legal memos, smoking gun-type documents that hurt RCR's right to a fair trial.

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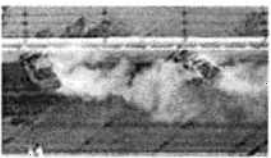
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