Weekly Law Resume

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Edited by David Blinn and Mark Hazelwood

WEEKLY LAW RESUME™
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Coverage - Intentional Acts Exclusion - Fire Policy

Century-National Ins. Co. v. Jesus Garcia, et al.
California Supreme Court (February 17, 2011)

When used in the context of a policy with multiple insureds, exclusions from coverage for the acts of "an" or "any" insured, as opposed to "the" insured are typically held under California law to apply collectively, so that if one insured has committed acts for which coverage is excluded, the exclusion applies to all insureds with respect to the same occurrence. The Supreme Court announced an exception to this ruling last year in Minkler v. Safeco Insurance Co. of America (WEEKLY LAW RESUME JUNE 24, 2010) where a severability clause gives the innocent insured the right to recover under the policy. In this case, the Supreme Court considered the situation where the exclusions for the intentional or wrongful acts of "an" or "any" insured were part of a fire insurance policy.

Jesus Garcia, Sr. and his wife Theodora suffered substantial damage to their home when their adult son set fire to his bedroom. At the time of the fire, the home was covered under a homeowner's policy issued by Century-National Insurance Company. Mr. Garcia was the named insured and his wife and adult son living in the house also qualified as insureds.

The Garcias filed an insurance claim for the fire damage, which Century-National investigated and denied. Century-National then filed a complaint seeking a declaration that it had no duty to pay for the Garcia's loss because the insurance policy contained clauses excluding coverage for the intentional act or criminal conduct of "any insured."

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The Garcias filed a cross-complaint for breach of contract and breach of the implied covenant of good faith and fair dealing and for reformation. Century-National demurred to the cross-complaint, claiming that since the Garcias' son intentionally started the fire, coverage was barred under the intentional acts exclusion in the policy. The trial court agreed, holding that the intentional acts of the Garcias' son fit the exclusion for intentional/criminal acts by "any insured," and held that this was in keeping with Insurance Code Section 533, which expressly set forth California's public policy of denying coverage for willful wrongs. The Garcias appealed and the Court of Appeal affirmed. The Garcias appealed again.

The California Supreme Court reversed, holding that the Garcias as innocent insureds had the right to recover, despite the exclusionary language to the contrary in the Century-National policy. The Court based its decision on Insurance Code Section 2070, which states that all fire policies shall be written with the standard form, as spelled out in Section 2071, unless coverage with respect to the peril of fire, when viewed in its entirety, is substantially equivalent to or more favorable to the insured than that contained in the standard form.

The Supreme Court noted that the standard form contains no express exclusion for losses caused by intentional acts. However, Insurance Code Section 533 provides an implied exclusionary clause that is read into all policies. That section states that "an insurer is not liable for a loss caused by the willful act of the insured." Courts have routinely held that exclusions based on acts of "the insured" are to be construed as not barring coverage for innocent insureds. Hence, the standard form fire coverage would typically exclude coverage only as against the insured who committed the wrongful or intentional act, not innocent insureds. The Court was persuaded that this was the correct interpretation of the exclusions under Insurance Code Section 533 and under the standard form, noting several other references in the standard form to acts of "the insured," rather than "an" or "any" insured.

The Court reasoned that since the Century-National policy sought to exclude coverage against all insureds for the intentional or wrongful act of "an" or "any" insured, it did not provide coverage at least as favorable to the insureds as the coverage provided in the standard form.

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The Court held that to the extent the Century-National policy sought to exclude coverage for innocent insured it was thus invalid. The judgment of the Court of Appeal was reversed and the case was remanded to trial for proceedings consistent with this ruling.

COMMENT

In a footnote, the Supreme Court indicated that its ruling was limited to fire insurance policies, and that it was not ruling on any other exclusions that relied on the acts of "an" or "any" insured. However, the Court's ruling here will no doubt expand the move away from the former trend of courts to apply exclusions collectively where they refer to the acts of "an" insured or "any" insured.

For a copy of the complete decision see:

HTTP://WWW.COURTINFO.CA.GOV/OPINIONS/DOCUMENTS/S179252.PDF

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