



Alerts

Commonsense Prevails; Intentional Attack is not an Insured Accident

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Insights for Insurers

In a significant and likely influential decision, the Delaware Supreme Court recently reversed a lower court decision and held that the insured's intent—not that of the victim—controls whether or not bodily injury is an "accident" under a homeowners policy, even where the insured did not anticipate the full extent of the victim's injury.

In *USAA Casualty Insurance Company v. Carr*, No. 273,2019 (Del. 2020) (applying Delaware law), teenager Trinity Carr ("Carr") sought coverage under her mother's homeowners policy for claims arising out of the death of Carr's high school classmate. Carr, along with several other classmates, attacked Amy Joyner-Francis in a high school bathroom following a disagreement over social media posts. At the time, neither the victim nor her attackers knew the victim suffered from a congenital heart defect and pulmonary hypertension. It was determined that the emotional and physical stress of the assault, coupled with the victim's compromised physical condition, caused the victim's heart failure and death during the attack. The victim's estate and parents sued Carr, and Carr demanded coverage under her mother's homeowners insurance policy.

Relevant Policy Provisions

The policy defined an Occurrence as "an accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results . . . in . . . bodily injury; or property damage." The policy also excluded coverage for bodily injury "which is reasonably expected or intended by an insured even if the resulting bodily injury . . . is of a different kind, quality[,] or degree than initially expected or intended."

The Court's Analysis

The central dispute between USAA and Carr concerned the meaning of the word "accident." Although both sides agreed that the term incorporates some degree of unforeseeability, they disagreed as to *what* must be unforeseeable and from *whose* perspective. USAA argued that because Carr intended the attack, it was not an accident, even though the victim's death was unexpected. Carr argued that the victim's expectation controlled, and because the victim did not expect or foresee her death, the death must be an accident under the policy.

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Carr's argument missed the mark, the court ruled, because it went to the nature or extent of the injury, while coverage under the policy depends on whether the events that caused the injury were accidental. The court held that whether an incident is an "accident" in the context of homeowners' insurance policies must be determined from the viewpoint of the insured. "To hold otherwise" the court explained, "would be to distort the ordinary meaning of the word 'accident' and subvert the well-established common law principle that an insured should not be allowed to profit, by way of indemnity, from the consequences of his own wrongdoing in a context where no announced Delaware public policy applies." (internal quotations removed)

Applying that test to the facts of the case, the court concluded that the fight resulting in the victim's death was not an accident, in light of evidence that Carr was the aggressor and intended to "get" the victim.

The court also held that even if the death was not caused by an accident, the policy's intentional acts exclusion would bar coverage. The court rejected the lower court's conclusion that the exclusion was "ambiguous at best, and utterly confusing at worst." Concluding that the lower court's interpretation of the exclusion would impermissibly render the exclusion inoperative, the court stated, "Although the [exclusion] might have been drafted more clearly, the intent of the [exclusion] is clear: USAA sought to exclude coverage where the insured intended to cause bodily injury, even if the resulting injury was more or less serious or of a different kind than expected."

Carr's intention to cause some injury was enough to trigger the exclusion. "That the resulting injury was not initially expected or intended is irrelevant; indeed, just such a situation is exactly what the [exclusion] is meant to exclude."

Takeaway Thoughts

The court's commonsense interpretation of the policy comports with the fundamental doctrine that insurance coverage is not triggered by an insured's knowingly harmful intentional acts. The court rightly looked to the ordinary, everyday meaning of the term "accident" and determined it did not apply to the Carr's premediated and intentional assault.