

Claims Notes: April 2024



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PENNSYLVANIA

Standalone Emotional Distress Claim Not Covered Where “Bodily Injury” Definition Required Physical Harm

Some jurisdictions consider the ISO-form “bodily injury” definition to be ambiguous as to whether emotional distress requires physical harm to be bodily injury. Many insurers have amended bodily injury to expressly require a physical component. Under this amendment, standalone emotional distress claims are outside coverage. The Pennsylvania Supreme Court enforced an amended bodily injury definition as clear and unambiguous to deny coverage for a standalone emotional distress claim. *Decision.*

ILLINOIS

Illinois Joins Majority of Jurisdictions by Ruling Faulty Workmanship is an “Occurrence”

The Illinois Supreme Court clarified Illinois insurance law by ruling that faulty workmanship is an “occurrence.” The justices reasoned that the construction defects and resulting damage had not been “intended, anticipated, or expected” from the insured’s perspective. Therefore, both the defects and resultant damage are an occurrence. The Supreme Court remanded to determine whether the business risk exclusions preclude coverage. *Decision.*

SOUTH DAKOTA

South Dakota Rejects Limiting Pollution Exclusions to Traditional Environmental Pollution

Many jurisdictions restrict the application of the pollution exclusion to traditional environmental pollution. The South Dakota Supreme Court, again, expressly rejected such arguments. The insured, a farmer, dumped contaminated wheat in its cooperative’s bin. This damaged the cooperative’s stored wheat. There was no soil contamination, only damage to grain. The South Dakota Supreme Court doubled down on an earlier decision from 2000 that pollution exclusions are given broad effect and not restricted to traditional environmental claims. *Decision.*

ALASKA

Aircraft Exclusion Precluded Coverage for Injury Arising Out of “Aircraft Parts”

The insured disassembled his prop plane for maintenance. His fiancé sustained an injury while helping him move the disassembled plane. Homeowners insurer denied coverage based on its aircraft exclusion, which precluded claims arising out of the ownership, operation, or use of aircraft. The claimant challenged the denial, contending that airplane parts caused her injury. The Alaska Supreme Court ruled that the exclusion applied because the claim arose out of the insured’s ownership of the plane. *Decision.*

MICHIGAN

Uninsured Motorists Safety Net Does Not Apply to Accidents Outside Michigan

Michigan created the Michigan Assigned Claims Plan (MACP) to provide no-fault benefits to Michigan residents otherwise not covered. In 2019, Michigan’s legislature amended the enabling legislation. Whether intended or not, the amendments restricted MACP benefits to accidents inside

Michigan. The claimant crashed his car in Ohio and applied for no-fault benefits through MACP. The Michigan Court of Appeals carefully parsed the statute and concluded that the MACP does not apply to accidents outside Michigan. It further noted that the legislature can amend the law if it intended otherwise. *Decision.*
