

Texas Supreme Court Reinforces the Eight-Corners Rule, Or Does It?

In *Richards v. State Farm Lloyds*, ___ S.W.3d ___ (Slip.Op. Mar. 20, 2020), the Texas Supreme Court answered a certified question posed by the Fifth Circuit Court of Appeals; namely, whether the absence of a clause requiring a carrier to defend claims that are “groundless, false or fraudulent” means that the “eight-corners” rule does not apply when determining the existence of a duty to defend. The Texas Supreme Court held that the eight-corners rule applies regardless of whether the underlying policy obligates a carrier to defend claims that are groundless, false or fraudulent.

A Tragic Accident Leads to Litigation

Ten-year-old Jayden Meals died in an ATV accident while under the supervision of his paternal grandparents Janet and Melvin Richards. Jayden’s mother filed suit against the Richards, alleging that they negligently failed to instruct or supervise Jayden in his operation of the ATV. The underlying petition, however, contained no allegations regarding where the fatality occurred and no allegations regarding the custody relationship between Jayden and his paternal grandparents.

State Farm Lloyds provided a homeowner’s policy to the Richards. It agreed to defend the Richards under a reservation of rights and separately initiated a declaratory judgment proceeding in federal court.

The Coverage Dispute

State Farm Lloyds argued that it had no duty indemnify the Richards for liability associated with Jayden’s accident and, therefore, no duty to defend the lawsuit filed by Jayden’s mother. Importantly, the State Farm Lloyds policy contained or omitted certain language:

1. The policy stated that State Farm Lloyds would defend the Richards against any claim “to which this insurance applies.” The policy did not include language stating that it would defend the Richards against claims that were “groundless, false or fraudulent;”
2. The policy provided coverage for accidents that occurred on the insured premises, but not away from the insured premises; and
3. The policy named as additional insureds family members who resided at the insured premises.

On motion for summary judgment, State Farm Lloyds produced evidence in the form of a police report and an order on parent-child relations. This evidence established that Jayden’s accident occurred away from the insured premises. Further, this evidence established that the Richards had custody of Jayden.

The district court granted State Farm Lloyds’ summary judgment motion. The district court reasoned that it could review the extrinsic evidence presented by State Farm Lloyds as the eight-corners rule did not apply due to the absence of language obligating State Farm Lloyds to defend lawsuits that were groundless, false or fraudulent.

The Texas Supreme Court Answers Certified Questions from the Fifth Circuit

On appeal, the Fifth Circuit asked the Texas Supreme Court whether the absence of a groundless, false or fraudulent clause negates the application of the eight-corners rule.



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The Texas Supreme Court stated that parties can contract around the eight-corners rule, but ruled that State Farm Lloyds' policy failed to do so. Further, Texas has never held or suggested that the eight-corners rule is contingent on the presence of a groundless-claims clause. Instead, the court surveyed prior case law and commentary and found that Texas courts have routinely applied the eight-corners rule for decades, without regard to whether the policy contained a groundless-claims clause. The court cited to numerous cases applying the eight-corners rule in the absence of such language.

The Texas Supreme Court stated that the eight-corners rule exists to determine whether or not a policy might apply to a claim, and therefore whether a duty to defend exists. Here, State Farm Lloyds agreed to defend the policyholders if "a claim is made or a suit is brought against an insured for damages because of bodily injury ... to which this coverage applies." To determine whether such a "claim" has been "made" or a "suit" has been "brought," courts naturally look first to the claims made, to the suit brought. If the claim is "for damages because of bodily injury ... to which coverage applies," the duty to defend is implicated. The eight-corners rule merely acknowledges that, under many common duty-to-defend clauses, only the petition and the policy are relevant to the initial inquiry into whether the petition's claim fits within the policy's coverage. This is how Texas courts have long interpreted contractual duties to defend. Making the duty to defend and the duty to indemnify coextensive would negate long-standing case law holding that the duty to defend is broader than the duty to indemnify.

The court acknowledged that insurance companies are able to contract around the -corners rule if they wish to do so, and stated that if any entity was both aware of the eight-corners rule and capable of drafting such a provision, it would be an entity such as State Farm Lloyds. Consequently, the court held that omission of the "groundless, false or fraudulent" language does not, by implication, negate the application of the eight-corners rule.

The Unanswered Question

The Texas Supreme Court limited its review of the case to the narrow certified question presented. The court recognized that federal district courts have considered extrinsic evidence bearing on the duty to defend when (as stated in the Fifth Circuit's opinion) (1) "it is initially impossible to discern whether coverage is potentially implicated" and (2) "the extrinsic evidence goes solely to a fundamental issue of coverage which does not overlap with the merits of or engage the truth or falsity of any facts alleged in the underlying case."¹ Further, the court acknowledged that several Texas Courts of Appeal have adopted the Fifth Circuit's approach or something similar and acknowledged the widespread use of this exception. However, the certified question from the Fifth Circuit did not request the court to address this alternate rationale for consideration of extrinsic evidence. Therefore, the court took pains to emphasize that the instant opinion should not be read as a comment on the validity, or lack thereof, of such an argument. Consequently, the Texas Supreme Court explicitly left open the question of whether extrinsic evidence could be used to defeat coverage in other circumstances.

¹ *Richards*, 784 F. App'x at 251 (citing *Northfield Ins. Co.*, 363 F.3d at 531).