

Coverage for Dummies: Top 10

Continued from page 14



9. No coverage owed to an insured whose hand became stuck in a sliding glass patio door during an altercation. Insured shot the glass only in an effort to free his hand (insured's version) and the bullet ricocheted, hitting a woman inside the house in her

chest. *Shelter Mutual Insurance Company v. Wheat*, 2008 U.S. App. LEXIS 193 (10th Cir.) (coverage precluded because the injury was not caused by an accident).

10. Defense owed to a karaoke singer, under a homeowners policy, for injuries caused by an ice cream scoop that flew out of her hand while dancing and waving it (at least that's the singer's version of the incident). *Nationwide Mutual Fire Insurance Company v. Kim*, 2008 Ga. App. LEXIS 1241 (defense owed because of the negligence allegations – which the court acknowledged were suspicious).

The sad thing is that there will surely not be any problem finding ten cases, just like these, for the 2009 edition of this commentary.

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The Ten Most Significant Insurance Coverage Decisions of 2008

(listed in order that they were decided)

By Randy Maniloff



D. Jere' Webb v. Gittlen – Supreme Court of Arizona put the heat on insurance agent's, making their E&O policies insurance of last resort. Supreme Court of Florida raised the temperature as well.

Elacqua v. Physicians' Reciprocal Insurers – New York Appellate Division: Tough medicine for insurer that failed to address an insured's right to independent counsel. If the decision made it there, it can make it anywhere.

Auto-Owners Insurance Company v. Pozzi Window Company – Supreme Court of Florida was a pane for general contractors seeking coverage under the "subcontractor exception" to the "your work" exclusion.

Metropolitan Life Insurance Company v. Glenn – United States Supreme Court found dual-role ERISA claims administrators/insurers are presumed to have a conflict of interest, but left the impact of such a conflict "painfully opaque." [Case summary prepared by Elizabeth Venditta, Chair of the White and Williams Life, Health, Disability and ERISA Practice Group.

Allstate Insurance Company v. Wagner-Ellsworth – Supreme Court of Hannah Montana gave emotional injury a second identity -- bodily injury. District of Columbia Court of Appeals did the same.

Indian Harbor Insurance Company v. Valley Forge Insurance Group – Fifth Circuit: Valley Forge demonstrated how insurers can save a lot of Washingtons on additional insured claims.

Ulico Casualty Company v. Allied Pilots Association – You can't create coverage by cliché. Supreme Court of Texas explained what the common refrain about waiver and estoppel really means.

Don's Building Supply, Inc. v. OneBeacon Insurance Company – Supreme Court of Texas shot down the manifestation trigger for construction defect claims.

Collins Holding Corporation v. Wausau Underwriters Insurance Company – Supreme Court of South Carolina provided a simple solution to the duty to defend conundrum for faux-negligence causes of action.

Whole Enchilada, Inc. v. Travelers Property Casualty Company – Pennsylvania District Court took a bite out of FACTA litigation.