

'Clear and unambiguous' exclusions: Cameron Soule v Woodward Design + Build LLC

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In an interesting recent case highlighting the importance of clear policy wordings, the Louisiana Court of Appeal found that an exclusion 'clearly and unambiguously' precluded coverage for work that was to be insured under a Wrap-up Policy.

The case

In Soule v Woodward, the Court had to decide whether a "Wrap Up" exclusion in a subcontractor's general liability policy applied even where the subcontractor was not actually enrolled into the wrap up insurance programme.

Woodward was a contractor on a construction project pursuant to a contract which required it to obtain wrap up coverage, which Woodward did. Woodward then subcontracted some of the works to Eagle Access LLC (Eagle). Under the terms of the subcontract, Woodward agreed to insure the project under a Contractor's Controlled Insurance Programme (a form of wrap up) which would provide general liability cover for the project. However, in order for Eagle to be covered under the wrap up it was required to specifically enrol onto it. However, rather than enrol onto the wrap up, Eagle instead obtained its own general liability insurance cover through TBIC.

As is common, the policy with TBIC included a wrap up exclusion (the Exclusion) which excluded:

"all locations where you perform or have performed work that is or was to be insured under a [wrap-up policy]." [our emphasis]

An injury arose, which resulted in a claim against Eagle in relation to which it sought an indemnity under its policy with TBIC (the Louisiana Supreme Court having already ruled that Eagle was not insured under the wrap up, as it had not enrolled).

In the present case, the Court had to consider whether the Exclusion only applied if Eagle had actually enrolled onto the wrap up. The Court concluded that the Exclusion did not require Eagle to actually enrol. The language of the Exclusion was deemed to be clear in stating that work that 'was to be' insured under a wrap up is excluded, regardless of whether it enrolled or not.

Consideration for insurers

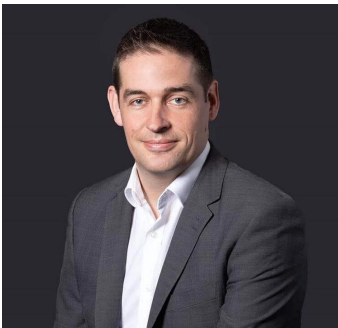
This case serves yet another useful reminder that courts in most jurisdictions will give effect to the words of a policy where they are clearly drafted.

In this case, there was a public interest in the case being covered, but the Court was nevertheless satisfied that the words 'clearly and unambiguously' excluded the claim, and that it was bound to give effect to that clear meaning.

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