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Business Pursuits Exclusion Alive and Well in Illinois

By Jennifer L. Smith

The Illinois Court of Appeals for the Third District recently found that an insurer had no duty to defend its insured based on a business pursuits exclusion. *Standard Mutual Insurance Company v. Mudron*, 358 Ill App 3d 535; 832 NE2d 269 (2005). The exclusion was contained within the insured's personal umbrella policy.

Patrick Mudron worked as an insurance broker for Brown & Brown, Inc. ("Brown") until he was fired in April of 2003. In August of 2003, Brown sued Mudron, alleging that after his termination he convinced one of Brown's employees to leave his employment and begin work with Mudron in a new firm. The two former employees allegedly took Brown's customer lists and other proprietary information with them, and solicited former Brown clients in violation of the servicing and soliciting restrictions contained in their employment agreements.

At the time the complaint was filed, Mudron was the named insured on a homeowner's insurance policy and a personal umbrella liability policy issued by Standard Mutual Insurance Company ("Standard Mutual"). Mudron tendered his defense of the Brown action to Standard Mutual, who declined to accept. Standard Mutual then filed a declaratory judgment action against both Mudron and Brown asking the court to determine that it had no duty to defend Mudron, based upon the "business pursuits" exclusion contained in Mudron's umbrella policy. The trial court granted Standard Mutual's motion for summary judgment on the pleadings. An appeal followed.

Mudron's insurance policy excludes coverage for the "business pursuits" of an insured. "Business" is

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Insurers will be pleased to know that the "business pursuits" exclusion is respected in Illinois. In this particular case, the Court of Appeals for the Third District upheld the exclusion in an insured's umbrella policy when he was sued by a former employer, based upon the terms of an employment contract.

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defined as “employment, trade, profession or occupation.” Based on this language, the Court of Appeals held that the Brown complaint arose out of Mudron’s employment relationship with Brown, and was based upon Mudron’s employment agreement. The court then held that because the suit wholly related to Mudron’s business pursuits, Standard Mutual did not have a duty to defend.

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We welcome your questions and comments.

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