

Covered Events

Spring
2000



The Newsletter of the Insurance Law Committee

Landlord/ Tenant

No Reasonable Expectation of Coverage for Lead Paint Claims (DC)

Landlords will find it more difficult to find coverage for lead paint claims in Washington, D.C. after a recent Court of Appeals decision. In *Redmond v. State Farm Insurance Company*, the D.C. Court of Appeals considered whether a landlord was entitled to coverage for lead paint claims by tenants of the apartment building which he owned. The policies, which were purchased through an agent for State Farm, contained a standard exclusion for "bodily injury arising out of the ingestion or inhalation of paint containing lead or lead compounds." The landlord argued that he assumed the "all risks" policy covered "everything" and offered several theories upon which the Court should find that he was entitled to coverage despite the lead exclusion. In rejecting those arguments, the Court found that the policy embraced the intent of both parties. Thus, the trial court properly found that there was no coverage under the policy as a matter of law and the insurer was entitled to summary judgment.

The Court found that the doctrine of reasonable expectations was inapplicable, noting that "[t]he terms of the [insurance] policy, so long as they are clear and unambiguous, express the contract between the parties and will be enforced by the courts unless they violate a statute or public policy." Thus, the landlord was not entitled to coverage under estoppel.

The Court also found that the doctrine of reformation would not save the landlord from application of the exclusion. A policy of insurance may be reformed to express the true intent of the parties where a mistake or neglect on the part of the agent leads to contrary results. The Court found, however, that neither the agent nor the landlord intended the policy to provide coverage for lead claims. In fact, the two never discussed coverage for lead claims, although the record showed that each of the parties was aware that liability policies contained exclusions for lead. Further, there was no longstanding or ongoing relationship between the agent and the insured from which one could infer a mutual understanding regarding coverage under the policy. Because there was no coverage under the policy as a matter of law, State Farm did not breach its contract with the insured.

STEVEN E. LEDER

JULIE A. FURST

Niles, Barton & Wilmer
Baltimore, Maryland