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California Insurance Coverage Alert

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Insurer Has No Obligation To Defend Claims Of Assault And Battery Committed In Self Defense

California Supreme Court Holds That An Unreasonable Belief In The Need For Self-Defense Does Not Constitute An Accident

Insurers and insureds have long disputed whether claims of assault and battery committed in self defense are covered under occurrence-based liability policies in which "occurrence" is defined as an accident. On August 3, 2009, the California Supreme Court issued the highly anticipated Delgado[1] decision. The court held that an insured's unreasonable belief that he was acting in self-defense when committing assault and battery did not constitute an "accident," and the insurer therefore had no duty to defend.

Delgado arises out of an altercation between Jonathan Delgado and Craig Reid, in which Reid allegedly struck and kicked Delgado. Delgado sued Reid, alleging alternatively that Reid acted "in an unprovoked fashion and without any justification," and that he "unreasonably acted in self defense." Reid's insurer, Interinsurance Exchange of the Automobile Club of Southern California ("ASAC") declined to defend Reid on the grounds that assault and battery did not constitute an occurrence, i.e. an accident, under the policy. Delgado and Reid's settlement of the action included a stipulation that Reid's use of force resulted from a negligent belief he was acting in self-defense. Reid subsequently assigned his rights against ASAC to Delgado, who sued ASAC.

The subsequent trial and appellate court decisions illustrated the ongoing difference of opinion as to whether assault and battery is accidental. The trial court dismissed Delgado's action, finding the stipulated judgment "contrived" and remarking that it was "disingenuous at best" to characterize the assault and battery as an "accident." The Court of Appeal, however, reversed, holding that allegations of harmful acts done with an unreasonable belief in self-defense describe "*nonintentional* tortious conduct." The California Supreme Court granted review.

In a unanimous decision, the Supreme Court reversed the appellate judgment, holding that the insured's unreasonable belief in the need for self-defense does not turn the resulting intentional act of assault and battery into an accident. The court explained that the issue of an accident is not determined from the injured party's perspective, but instead is determined by the conduct of the insured. The court further explained that an insured's mistake of law or fact does not transform a knowing and purposeful harm into an accident.

The court rejected Delgado's reliance on Gray v. Zurich,[2] which involved coverage for assault and battery, noting that the policy at issue there did not require an accident. Furthermore, Gray and its progeny pertaining to coverage for self defense involved policy exclusions as opposed to a policy's coverage clause. Gray found that an unreasonable belief in the need for self-defense could remove the resulting act from the reach of the policy's intentional acts exclusion. It did not hold that such a belief would convert an intentional act into an unintentional one for purposes of coverage. A purposeful and intentional act, the Delgado court opined, remains exactly that, regardless of the reason or motivation for the act.

[1]Delgado v. Interinsurance Exchange of the Automobile Club of Southern California, Case No. S155129; 2009 Cal. LEXIS 7803 (August 3, 2009).
[2]Gray v. Zurich Insurance Company, 65 Cal.2d 263 (1966).

The court went on to reject Delgado's argument that the assault was accidental because it had been provoked, explaining that the determination of an accident begins with the insured's conduct and is not affected by events that preceded that conduct. An unreasonable belief in the need for self defense cannot turn the resulting intentional acts of assault and battery into an accident.

Delgado is a welcome ruling for insurers who have long questioned how an assault and battery, even if committed in self-defense, could be construed as an accident.

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