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Client Alert

Insurance Recovery

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Ambiguities Bite Back: Second Circuit Reaffirms Commitment to Construing Ambiguous Terms in Favor of Coverage

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The Second Circuit's recent decision affirming a $54.2 million recovery for CITGO signals the judiciary's renewed commitment to a bedrock principle of insurance law: Ambiguous policy language must be construed in favor of coverage. This rule of construction recognizes that insurance policies are risk-transfer products underwritten and sold by insurance companies – not ordinary commercial contracts. Accordingly, courts should not resort to extrinsic evidence in an effort to divine what an insurance company may have intended with respect to ambiguous policy language. Instead, as a rule, courts will automatically construe ambiguities in favor of the policyholder.

The Second Circuit Decision

After Hugo Chávez's death in 2017, Nicolás Maduro consolidated power in Venezuela and used security forces to raid buildings, arrest opponents, and violently suppress protests. In January 2019, the Venezuelan National Assembly and the United States both recognized Juan Guaidó as the rightful leader of Venezuela, and the United States imposed sanctions on the Maduro-controlled "Government of Venezuela." These sanctions prevented CITGO from remitting payment to a state-owned company for 1 million barrels of crude oil after title had already passed to CITGO. Following a lengthy ownership dispute, Maduro-controlled military vessels forced CITGO to return the cargo to the state-owned entity.

CITGO had insured the shipment under a marine cargo policy covering the risk of "seizure … arising from … insurrection." The insurers refused to cover the loss, arguing that the unrest in Venezuela was not an "insurrection" because – even though the United States had recognized Guaidó as the legitimate leader of the country – Maduro had maintained de facto control over Venezuela. The insurers also argued that Maduro's regime was not the proximate cause of the loss.

On summary judgment, the district court recognized that "insurrection" was an ambiguous term. The court applied the long-standing rule that ambiguity is resolved in favor of coverage, and CITGO was later awarded $54.2 million plus interest.

Why It Matters: Insurance Companies May Not Redefine Terms To Deny a Claim

The CITGO decision is important because it reflects a renewed commitment by courts to construe insurance policies in favor of coverage where the plain meaning is not clear. The court was not persuaded by the insurers' narrow reading of the insurrection coverage grant in order to deny the claim. Rather, the court correctly found that if the insurers had intended to grant coverage only where the illegitimate power maintained "de facto" control, they should have said so in the policy.

Policyholders facing adverse coverage positions predicated on an insurer's preferred reading of an ambiguous term should consult with coverage counsel. Insurance companies frequently engage their own counsel very early in the process on high-exposure claims, particularly if coverage turns on the interpretation of a policy term. Policyholders are well served to engage their own coverage counsel in the early stages, as such counsel can advance the proper interpretation in light of the well-established rules of insurance policy construction.

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