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Duty to Defend in Environmental Contamination Lawsuit Because “Sudden and Accidental” Exception to Chemical Discharge Exclusion Applied

The United States District Court for the Central District of California held that an insurer owed a duty to defend because the possibility existed that its release of a solvent fell within the “sudden and accidental” exception to the “chemical discharge” exclusion, which barred coverage for the release of irritants or contaminants into the environment.

Hollyway Cleaners & Laundry Company et al. v. Central National Ins. Co. of Omaha, Inc.

(United States District Court for the Central District of California, November 7, 2016)

Case No. 2:13-CV-07497-ODW(E)

2016 WL 6602544

CNI issued a CGL policy to Hollyway containing a “chemical discharge” exclusion, which barred coverage for the release of any irritants or contaminants unless the release was sudden and accidental. An underlying environmental contamination suit was filed against Hollyway alleging that Hollyway had negligently released a dry cleaning solvent resulting in contamination of surrounding soil and groundwater. After CNI refused to defend, Hollyway filed suit. The trial court granted Hollyway’s motion for partial summary judgment on the duty to defend issue because Hollyway had met its burden of establishing that the claim potentially fell within the “sudden and accidental” exception to the exclusion. The court concluded that the underlying complaint’s allegations of negligent handling of the solvent along with declarations suggesting that the release of the solvent, often in the form of “boil-overs,” was unintentional, were sufficient to show that the release was accidental. The court further concluded that reasonable minds could differ as to whether the boil-overs could be considered “sudden” for the purposes of the exclusion and therefore resolved the issue in favor of the insured.

To view the opinion, click [HERE](#).

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