

**NEWS ALERT****INSURANCE RECOVERY GROUP****CT Supreme Court Issues Punitive Damages Ruling Favorable to Policyholders**

By Rachel Snow Kindseth and Marilyn B. Fagelson | December 18, 2017

In a decision to be officially released on December 19, 2017, the Connecticut Supreme Court broadened the circumstances in which policyholders may receive insurance coverage for punitive damage awards. The decision in Nationwide Mutual Ins. Co. v. Pasiak, SC 19618, rejected the argument that “in the absence of an express grant of coverage for punitive damages, it would violate public policy to construe a policy to indemnify a wrongdoer for punitive damages.” The Court held that, where an insurance policy expressly provides coverage for an intentional act, common-law punitive damages are properly included in such coverage.

The underlying case between the policyholder and the victim involved an unusual fact pattern. The victim was an employee of the policyholder’s business and worked in his home. A masked thief broke into the house and, when he encountered the victim, he threatened her life and tied her up. The policyholder arrived home and interrupted the robbery and engaged in a fight with the thief. During the altercation, the policyholder removed the thief’s mask and learned that the thief was actually a long-time friend. Then, they had a verbal exchange that involved accusations concerning a relationship with a certain female. When the victim was untied, she wanted to leave and report the incident to the police. The policyholder prevented her from leaving and brought her with him to the house of the female that was the subject of the verbal exchange. This was the basis for the false imprisonment claim for which compensatory and punitive damages were awarded to the victim in the underlying case.

The Court, holding that common-law punitive damages are properly included where coverage is afforded for false imprisonment, reasoned that punitive damages almost necessarily follow liability for intentional acts. Thus, when an insurer contracts to cover intentional acts, coverage for punitive damages is part of the bargain. The Court noted that “Common-law punitive damages under our law, which, unlike most jurisdictions, are limited to litigation costs, also help to make the injured plaintiff whole.” The Insurer was not arguing that it would violate public policy to indemnify the policyholder for compensatory damages awarded for the same intentional conduct.

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So, given the nature of punitive damages in Connecticut, there is no public policy against requiring indemnification of punitive damages for covered claims. The Court also rejected the Insurers contention that an earlier Connecticut Supreme Court case, Bodner v. United Services Automobile Assn., 222 Conn. 480 (1992), established that it was against public policy to construe a policy to indemnify a wrongdoer for punitive damages. It distinguished that case as focusing on policy considerations specific to uninsured motorist coverage.

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