

ADIR International, LLC v. STARR Indemnity and Liability Co.

Year: 2020

Court: United States Court of Appeals for the Ninth Circuit

Case Number: 19-56320

People and companies that buy insurance to protect themselves from the cost of being sued by others, including by governments (as is the case here), depend on that insurance to pay for their legal representation. Without that vital coverage, many insureds will have no meaningful access to the courts and no chance for justice. Read literally, California Insurance Code Section 533.5(b) purports to forbid any insurance policy from providing any defense against any claim where recovery of a fine, penalty, or restitution is sought by the California Attorney General, a district attorney, city prosecutor, or county counsel in a broad number of prescribed actions. In its brief, UP argues that section 533.5(b) of the California Insurance Code infringes on and abridges the right of insureds to obtain the insurance-funded defense for which they paid premiums and which they need to protect themselves and to obtain meaningful access to the courts. UP first argues that section 533.5(b) hinders exercise of the right to counsel and conflicts with the presumption of innocence and burden of proof. Next, UP argues that section 533.5(b) unconstitutionally interferes with the right of access to the court.

This brief was drafted pro bono by David L. Abney of Ahwatukee Legal Office, P.C.