

Diebold, Incorporated v. Continental Casualty Company

Year: 2009

Court: U.S. Court of Appeals, 3rd Circuit

Case Number: 10-3184

The discovery provision at issue in this litigation is precisely the type of specific provision intended to avoid ambiguity and, therefore, uncertainty. The trial court lost sight of the provision's intent and ignored the language in the policy by attributing discovery to something other than the group of people specifically identified in the specific policy provision. The trial court's ruling ignores the drafting history and intent of the specific discovery provision and is inconsistent with New Jersey law in that the trial court interpreted a policy provision in a way that eliminated coverage as opposed to an interpretation that would find coverage.

UP's brief was written pro bono by Michael Conley of Anderson, Kill & Olick (NYC)