

G&G Oil Co. of Indiana v. Continental Western Insurance Co.

Year: 2020

Court: Indiana Supreme Court

Case Number: 19A-PL-1498

G&G Oil employees were locked out of their computers due to a ransomware attack. The hackers demanded payment for the passwords to decrypt G&G Oil's computers. G&G Oil had a commercial package insurance policy which included commercial crime coverage for "computer fraud" covering the loss of money or other property "resulting directly from the use of any computer to fraudulently cause a transfer of that property."

G&G Oil submitted a claim to its insurer, who denied the claim, forcing a lawsuit. The insurer contended that use of the terms "fraud" and "fraudulently" had to be understood as a technical legal term to mean the elements of the cause of action for fraud. In the lower courts, G&G Oil contended that its loss of money resulted directly from the hijacker's use of G&G Oil's computers as hostages. The hijacker was able to do this through its fraudulent representation in the spear-phishing email that the email was from a trusted source. G&G Oil also pointed to a common meaning of "fraud" or "fraudulently" as wrongdoing or unconscionable behavior.

In its brief, UP seeks transfer to the Indiana Supreme Court. UP reminds the Court that there are established special rules for interpreting insurance policies. Indiana rules of insurance policy construction require a finding that there was computer fraud here. UP further argues that the Court of Appeals relied on out-of-state cases inconsistent with Indiana rules of interpretation, that the plain language should be read in favor of coverage to include this event under Computer Fraud, and to not afford coverage would mean that Indiana policyholders receive less coverage than policyholders in other states.

This brief was drafted and submitted pro bono by Andrew J. Detherage and Scott N. Godes of Barnes &

Thornburg LLP

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