

Jarden LLC. v. Ace American Ins. Co. et. al.

Year: 2021

Court: Supreme Court of the State of Delaware

Case Number: No. 273, 2021

In its brief, UP weighs in on whether this appeal generally concerns the Appellant's entitlement to coverage under a directors and officers policy of insurance for consolidated shareholder appraisal actions resulting in a judgment against the Appellant, as well as litigation costs and fees. UP identifies important issues of insurance policy interpretation and jurisprudence that arose from the lower court's ruling that denied coverage provided by Jarden's director's and officer's liability insurance policies for losses resulting from four consolidated securities price appraisal lawsuits filed by stockholders against Jarden. The arguments to support UP's conclusion are as follows:

I. The Superior Court Failed to Properly Interpret the D&O Policy Language and Therefore Issued a Decision that the Insurance Industry Will Use a Precluding Coverage For Appraisal Actions as a Matter of Public Policy

II. The Appraisal Action Arose From a Series of "Interrelated Wrongful Acts" and is Therefore a Covered Claim

This brief was authored pro bono by Ethan W. Middlebrooks, Raymond A. Mascia, and William G. Passannante of Anderson Kill, Rebecca L. Butcher of Landis Rath & Cobb LLP, and Amy Bach, Executive Director of United Policyholders