Maplewood Partners v. Indian Harbor Ins. Co.

Year: 2015
Court: U.S. Court of Appeals, 11th Circuit
Case Number: 15-11953

The District Court set a dangerous precedent in regards to the discovery and use of documents protected by the attorney-client privilege and work product immunity in insurance coverage cases. If the decision is allowed to stand, communications between an insured and the attorney it hires to advise and represent it, including the attorney's mental impressions, will be subject to discovery and use against the insured by an insurer who has effectively denied coverage. The attorney-client privilege is the oldest of the privileges for confidential communications known to the common law. Under Florida law, the privilege is intended to encourage complete and candid communication between clients and their attorneys and recognizes that sound legal advice depends upon the lawyer's being fully informed by the client. Further, communications between a lawyer and a client are "confidential" and, barring exception, not subject to disclosure.An attorney may represent clients jointly, so long as the joint representation does not entail a conflict of interest and the clients request or agree to the joint representation. When an insurer denies coverage, asserts a defense to coverage, or issues a reservation of rights under an insurance policy, the interests of the insurer and insured are in direct conflict. Under such circumstances, both parties need their own counsel and an attorney generally may not represent both the insurer and the insured.

UP's brief was authored pro bono by Mark A. Boyle, Esq., and Molly A. Chafe, Esq. of Boyle Gentile and Leonard, P.A.

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