Office Depot, Inc. v. AIG Specialty Ins. Co.

Year: 2017
Court: U.S. Court of Appeals, 9th Circuit
Case Number: 17-55125

Insurance policies rarely, if ever, exclude coverage for negligent or reckless conduct. In fact, individual consumers and businesses purchase liability insurance for liabilities arising precisely from such conduct. In contrast, intentional acts undertaken with the intent to injure, are rarely insured. California courts look at whether the conduct is so reprehensible, that as a matter of public policy, it cannot be insured. An insured's negligent or reckless speech or conduct does not meet this high bar (and is thus uninsurable) merely because the speaker or actor, when acting recklessly, did so while intending to induce reliance on the insured's words or actions. UP reminded the Court that it must follow California Supreme Court precedent, which holds that statutory prohibitions on indemnification for fraud or negligent misrepresentation, do not apply to insurance. In addition, UP pointed out the Court's error in confusing the duty to defend with the duty to indemnify. See also: https://norcalrecord.com/stories/511308261-united-policyholders-weighs-in-on-insurance-dispute-between-office-depot-and-aig

UP's brief was authored pro bono by David B. Goodwin, Esq. and Elizabeth S. Pehrson, Esq. of Covington and Burling LLP

The information presented in this publication is for general informational purposes and is not a substitute for legal advice. If you have a specific legal issue or problem, United Policyholders recommends that you consult with an attorney. Guidance on hiring professional help can be found in the "Find Help" section of www.uphelp.org. United Policyholders does not sell insurance or certify, endorse or warrant any of the insurance products, vendors, or professionals identified on our website.
Source: https://uphelp.org/amicus-briefs/office-depot-inc-v-aig-specialty-ins-co/ Date: September 11, 2026