

ILLINOIS FOUR CORNERS RULE INAPPLICABLE IN DECLARATORY JUDGMENT ACTIONS, SEVENTH CIRCUIT CONFIRMS

Walker Wilcox recently obtained a reversal in the Seventh Circuit on behalf of Landmark American Insurance Company. Reversing a decision by the United States District Court for the Northern District of Illinois, the Seventh Circuit held that Landmark is entitled to conduct discovery regarding whether a defendant to a lawsuit is an insured as defined by the Landmark policy. *Landmark American Ins. Co. v. Peter Hilger*, No. 15-2566, 2016.

Peter Hilger was named in two lawsuits alleging that he and several codefendants persuaded credit unions to fund loans by misrepresenting the value of life insurance policies offered as collateral. Landmark had issued a professional liability policy to an entity owned by one of Hilger's codefendants – O'M and Associates LLC ("O'MA"). Hilger was an employee of a different company called Allied Solutions, LLC, yet insisted that he was insured under the Landmark policy and thus entitled to a defense because he was an independent contractor of O'MA.

Landmark filed a declaratory judgment action, confident that discovery would show that Hilger was not acting as an independent contractor performing professional services for O'MA and thus not actually an insured under its policy. The District Court, in a misapplication of the four corners rule, granted Hilger's motion for judgment on the pleadings. The District Court limited its analysis to the underlying complaints alone and concluded that because they "paint an ambiguous picture" of Hilger's relationship with O'MA, it had to interpret the allegations in favor of coverage. Landmark was thus forbidden to search for the truth and forced to defend Hilger, who it believed to be a stranger to the policy.

The Seventh Circuit reversed:

Hilger thinks that the broad scope of an insurer's duty to defend means that in all duty to defend disputes, the court is limited to a review of the allegations of the underlying complaint. That's true when an insurer tries to deny coverage without seeking a declaratory judgment or defending under a reservation of rights.

But Landmark *did* seek a declaratory judgment, so that limitation doesn't apply here.

Because Landmark filed a declaratory judgment action, it may discover and present evidence beyond the underlying complaints, so long as it does not tend to determine an ultimate issue in the underlying action (which it did not in this case). The ruling provides insurers a measure of protection against having to automatically defend strangers to their policies based solely on the allegations in a complaint.



Landmark was represented by the WWM team of Eric Blanchard, Kevin Mikulaninec, Robert Conlon and William Bila.