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California Court Clarifies Intentional Conduct Exclusion in Insurance Policy Litigation

On October 7, 2025, California's Fourth Circuit Court of Appeal issued a significant ruling in the matter of *State Farm Fire and Casualty Company v. Diblin*, 114 Cal.App.4th 1245; 337 Cal.Rptr.3d 688 (2025). The decision clarifies the meaning of "occurrence" in the context of gender-based violence and other intentional acts when negligence claims are also at issue.

Factual Background

Curtis Diblin and Monee Gagliardo were housemates sharing a house in San Diego County when Diblin brutally attacked Gagliardo by striking her in the head repeatedly with a rubber mallet. She sustained severe injuries as a result of the attack. Diblin eventually pled guilty to assault with the intent to commit a sexual crime and admitted to causing her great bodily injury. The criminal charges included dangerous weapons enhancements.

Thereafter, Gagliardo sued Diblin civilly in San Diego County for seven causes of action, including negligence, sexual assault, sexual battery, gender violence (Civ. Code, § 52.4), violation of the Ralph Civil Rights Act of 1976 (Civ. Code, § 51.7), violation of the Tom Bane Civil Rights Act (Civ. Code, § 52.1), and sexual harassment. Each of the of actions were based on the *same conduct*, that he "batter[ed] and sexually assault[ed]" her, and that he "came up behind her, without provocation, and began bludgeoning her in the back of the head with a hardened rubber mallet." *Id.* at 692.

Diblin tendered the complaint to his homeowners insurance carrier, State Farm Fire and Casualty Company. A defense was provided under a reservation of rights.

State Farm's homeowners policy provided personal liability coverage to Diblin, which included the following (*Id.*):

If a claim is made or a suit is brought against an insured for damages because of bodily injury or property damage to which this coverage applies, caused by an occurrence, we will:

- pay up to our limit of liability for the damages for which the insured is legally liable; and*
- provide a defense at our expense by counsel of our choice. We may make any investigation and settle any claim or suit that we decide is appropriate. Our obligation to defend any claim or suit ends when the amount we pay for damages, to effect settlement or satisfy a judgment resulting from the occurrence, equals our limit of liability.*

The policy defines an “occurrence” as follows:

DEFINITIONS

7. ‘occurrence’, when used in Section II of this policy, means an accident, including exposure to conditions, which first results in: “a. bodily injury; or “b. property damage;

The State Farm policy, as does virtually every homeowners insurance policy, excludes coverage for intentionally caused damages or injuries including:

a. bodily injury or property damage:

(1) which is either expected or intended by the insured; or

(2) which is the result of willful and malicious acts of the insured.

Lower Court Proceedings

The trial court provided the jury with instructions related to the gender violence cause of action, along with instructions related to negligence. The jury found in Gagliardo’s favor on two theories of liability: (1) they found that Diblin had in fact committed an act of gender violence; and (2) that he acted negligently, causing her harm. The jury awarded Gagliardo \$2.5 million in compensatory damages,

and found that Diblin acted with malice and oppression, warranting an award of punitive damages (which Gagliardo later waived).

Although State Farm continued to defend Diblin under a reservation of rights, *before* the jury verdict was reduced to a judgment, State Farm filed a declaratory relief action against both Diblin and Gagliardo regarding its obligations to pay any civil judgment awarded against Diblin. Diblin and Gagliardo settled the underlying case, and as part of the settlement, Diblin assigned his bad faith rights against State Farm to her. A year later, Gagliardo filed a cross-complaint to the declaratory relief action against State Farm for bad faith.

In a bench trial, the trial court determined that “Diblin’s liability in the underlying action did not arise from an ‘occurrence’ as is required for coverage under the Policy and also found in the alternative that *even if coverage under the coverage provision were assumed*, the Policy’s exclusion for damages caused by willful or intentional conduct and/or Insurance Code section 533 *eliminated the possibility of indemnification* for the damages awarded in the underlying action. (emphasis added)” *Id.* at 696.

Judgment was entered in favor of State Farm as to the complaint and cross-complaint. Diblin and Gagliardo of course appealed.

Appellate Decision

The appellants, Diblin and Gagliardo, argued on appeal that the jury’s finding of negligence *mandated* finding liability coverage. But the California Court of Appeal disagreed. On appeal, Diblin even went so far as to argue that “the trial court ‘simply misread the jury’s verdict’ in the underlying action when it concluded that the jury’s punitive damages findings meant it had found Diblin acted with intent when he attacked Gagliardo.” *Id.* at 696.

Nonetheless, the California Court of Appeal found that the trial court correctly concluded that Diblin acted *intentionally* when he injured Gagliardo, and *therefore* her injuries were *not the result of an “occurrence” as defined by the State Farm policy*. In fact, the appellate court held that the jury’s findings precluded a finding of coverage under the State Farm policy, noting that “the relevant

question for determining whether Gagliardo's injuries are covered under the Policy is whether those *injuries were the result of intentional conduct or whether they instead resulted from an 'accident.'* (emphasis added)" *Id.* at 698. The court looked at a number of variables, not the least of which was the fact the jury found Diblin acted with malice and oppression in injuring her. Therefore, his conduct had to be viewed as "deliberate and intentional." *Id.* The logical conclusion was that a deliberate and intentional act does not amount to an "accident."

The appellate court also determined that the jury's finding as to negligence was not "inconsistent with its finding on the gender violence cause of action." *Id.* at 700. Simply because Gagliardo's actions met the standards for negligence does not eliminate a finding of an *intentional* gender assault. Specifically, the trial court instructed the jury with respect to the negligence claim by providing the following:

'Negligence is the failure to use reasonable care to prevent harm to oneself or to others. A person can be negligent by acting or by failing to act. A person is negligent if he or she does something that a reasonably careful person would not do in the same situation or fails to do something that a reasonably careful person would do in the same situation. You must decide how a reasonable careful person would have acted in Curtis Diblin's situation.'

Id. at 694.

Hence, the "'failure to use reasonable care' standard is broad enough to include intentionally harmful conduct. In other words, under these instructions, a jury could conclude that a person who intentionally injures another person has *also* failed to use reasonable care to prevent injury to another. (emphasis added)" *Id.* at 700.

Further, Diblin and Gagliardo argued that even if the California Court of Appeal finds that Diblin's conduct was intentional, that the "concurrent independent cause" doctrine applies to the underlying facts. Again, the appellate court did not agree. As to the concurrent independent cause argument, the court concluded:

But even if we were to assume for the sake of argument that appellants were correct that the jury's verdict could be interpreted as reflecting that the jury found Diblin liable to Gagliardo based on two separate acts or omissions . . . , the concurrent independent causes rule does not apply because the purported noncovered and covered causes of the injury are not independent of each other. Appellants' argument is that the jury could have found Diblin liable on the gender violence cause of action based on his conduct of deliberately striking Gagliardo with a mallet, and that it also could have found him liable for negligence based on his failure to warn Gagliardo or his failure to seek additional medical care. . .

Id. at 703.

The Fourth District Court of Appeal found that Diblin's intentional conduct was not independent of his negligence. *Id.* at 704. Therefore, the injuries were not the result of an "accident" and therefore not a covered "occurrence." In short, the appeals court rejected the argument that the jury could have relied on two distinct sets of conduct when concluding that Diblin committed a negligent and intentional act.

Lastly, Gagliardo and Diblin asserted that the trial court should not have decided that California Insurance Code Section 533 applies to exclude coverage for the damages awarded action by Gagliardo against Diblin. They went so far as to argue that the trial court "should have empaneled a new jury for the specific purpose of determining whether Diblin acted with a 'preconceived design to injure,' which, appellants assert, is necessary to a finding that the risk at issue is excluded by the intentional conduct exclusion set out in the Policy or imposed by Insurance Code section 533." *Id.* at 697.

California Insurance Code Section 533 simply states that "[a]n insurer is not liable for a loss caused by the willful act of the insured; but he is not exonerated by the negligence of the insured, or of the insured's agents or others." Yet, the California Court of Appeal dismissed this proposition by concluding that that there was no reason for the jury to decide if Diblin possessed a "preconceived

design to injure” before an intentional act exclusion can bar coverage. The appeals court was quite clear in its finding:

As we have already determined, the jury’s verdict in the underlying case establishes that Gagliardo’s injuries were not the result of an ‘occurrence’ under the Policy’s coverage provision. Because the claim does not come within the coverage provision, there is no need to consider the express exclusion provision in Section II of the Policy or the exclusion implied in every policy by Insurance Code section 533.

Id. at 704.

In its holding, the court concluded that the injuries were not the result of a covered “occurrence.” The lower court’s rulings were affirmed, with costs awarded to State Farm. For more information and assistance as it relates to the topics covered above, please contact the author or any attorney with the firm’s [Insurance Coverage and Bad Faith Practice](#).

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