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INSURANCE LAW BLOG

October 5, 2023

Illinois Court Assesses Factual Nature of Term “Reside” in Determining Duty to Defend

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In *State Farm Fire & Cas. Co. v. Guevara*, 2023 IL App (1st) 221425-U, P2, the Illinois First District Court of Appeals addressed an insurance carrier’s duty to defend under a homeowners insurance policy. The underlying suit stemmed from an alleged injury suffered at a residence located in Berwyn, Illinois and owned by named insured Luz Melina Guevara, a defendant in the suit. After Guevara tendered the suit, State Farm filed a complaint for declaratory judgment seeking a declaration that it had no duty to defend or indemnify Guevara because Guevara did not “reside” at the insured premises.

The policy defined the "insured location" as the "residence premises," and residence premises was defined as "the one, two, three or four-family dwelling, other structures, and grounds or that part of any other building; where you reside and which is shown in the Declarations." In response to the underlying lawsuit, Guevara had filed an answer and affirmative defenses in which Guevara denied the allegation that "At all relevant times, [Guevara] resided in Berwyn, Cook County, Illinois." Guevara admitted that she owned the Berwyn property but denied that she "resided in, maintained and controlled the property". The declaratory judgment complaint alleged (among other things) that, based on admissions by Guevara in her answer, the Berwyn residence was not an "insured location" under the State Farm policy. State Farm moved for summary judgment at the trial court level on this ground and summary judgment was granted in State Farm’s favor. An appeal ensued wherein the parties disagreed as to whether there is a genuine issue of material fact that, under the language of the policy, State Farm had no duty to defend because the Berwyn property was not an "insured location" because she did not "reside" there.

The Appellate Court began its analysis by determining that coverage was predicated on two separate policy requirements: (1) the named insured must reside at the insured premises; and (2) the premises must be listed in the declarations. Correspondingly, because the policy's declarations listed Guevara as the named insured and the Berwyn property as the insured location, the question of coverage turned on whether Guevara “resided” at the Berwyn residence.

Guevara's policy did not define "reside," so the Appellate Court found that it must be given its plain, ordinary, and popular meaning. The Court began by looking to the dictionary definition which defined "reside" as "to dwell permanently or for a considerable time." The Court further noted that Illinois courts interpreting the term "reside," as used in homeowners' policies, have also found that the term consists of two components: some sort of physical presence and an intent to remain or return. State Farm argued that Guevara, in her answers and affirmative defenses, judicially admitted that she did not “reside” at the Berwyn property. Guevara, however, took the position that these statements were not judicial admissions, as her statements were not clear and not unequivocal statements of fact. The Court of Appeals agreed with Guevara.

Per the Appellate Court, a judicial admission is a deliberate, clear, unequivocal statement by a party concerning a concrete fact within that party's knowledge. Looking at Guevara's responses as a whole, the Appellate Court acknowledged that it was at least arguable that Guevara judicially admitted that she did not live at the Berwyn property. However, her responses were not clear and unequivocal statements that she did not "reside" at the Berwyn property, that she had no physical presence there, or that she had no intent to return to the property. Rather, Guevara's responses were silent as to whether she continued to have a physical presence or intended to return to the property, other than her admission that she still owned the property which, if anything, evidences a possible intent to return to the property. Therefore, the Appellate Court found that Guevara's answers to the complaint were not clear and not unequivocal judicial admissions that she did not "reside" at the Berwyn property. Summary judgment in favor of State Farm on the basis that the Berwyn property was not an "insured location" was therefore deemed improper.