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BLOGS

Insurance

Wisconsin Federal Court Holds Franchisees' General Liability Insurance Policy Does Not Cover Defense of Suit Seeking Injunctive Relief

In connection with a lawsuit by a franchisor against former franchisees for injunctive relief, a federal court in Wisconsin granted a motion by the former franchisees' insurer seeking a declaration that the former franchisees were not entitled to coverage because their policy only covered suits for damages. *Paul Davis Restoration, Inc. v. Everett*, 2014 U.S. Dist. LEXIS 172227 (E.D. Wis. Dec. 12, 2014). The franchisor, Paul Davis Restoration, initiated the suit against former franchise owners, the Everetts, and their businesses, to enjoin them from disseminating misleading radio advertisements. The Everetts attempted to bring in West Bend Mutual Insurance Company to defend the action under a general liability insurance policy. West Bend denied coverage to the Everetts and sought a declaration that it did not have a duty to defend the Everetts because the policy only covered suits for damages, whereas the franchisor's suit sought injunctive relief only. The Everetts argued that the suit also sought damages.

The court agreed that the action was for injunctive relief, not damages. Because there was no dispute that the policy only covered claims for damages, the court held West Bend had no duty to defend the Everetts. In support of its holding, the court noted that the complaint was titled "Complaint for Injunctive Relief" and that, notwithstanding a reference in the complaint to a damages provision in the Lanham Act and allegations that the franchisor would suffer pecuniary losses in the absence of injunctive relief, the prayer for relief sought only injunctive relief and attorneys' fees.

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