

Insurance Business America: Judge rules that National Union had duty to defend in D&O case

A US District Court judge has ruled that an insurance company has a duty to defend a group of executives in a lawsuit, despite the company's claim that their directors and officers policy did not cover the matter.

Judge Gregory H. Woods ruled that National Union Fire Insurance Company was obligated to defend the executives of Aegis Defense Services in a lawsuit involving its parent company, Hestia. The plaintiffs – Timothy Spicer, Jeffrey Day and Mark Bullough – were both executives of Aegis and shareholders of Hestia.

The lawsuit stemmed from the sale of Hestia to GardaWorld Consulting (UK) Limited. When GardaWorld sued the Aegis executives for alleged misrepresentations made in connection with the deal, the Aegis execs demanded that National Union fund their defense costs – as required by their D&O policy.

However, the insurer denied coverage, arguing that the plaintiffs had acted in their capacity as shareholders of Hestia in the sale, rather than executives of Aegis.

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"We are very pleased with the decision," said Kenneth Frenchman, managing partner at Cohen Ziffer Frenchman & McKenna, the plaintiffs' law firm. "Judge Woods' recognition of the broad duty to defend

for directors and officers will hopefully encourage insurers to step up and defend these sorts of claims in the future instead of forcing policyholders to bring suit.

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