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NEWS & EVENTS

December 19, 2025

Traub Lieberman Partners Lauren S. Curtis and Sarah A. Wilkins and Associate Veronica Guerra Win Motion for Summary Judgment

Related Attorneys: Lauren S. Curtis, Sarah Wilkins, Veronica Guerra

Traub Lieberman Partners Lauren S. Curtis and Sarah A. Wilkins and Associate Veronica Guerra recently won a motion for summary judgment in favor of an insurer in a matter brought before the United States District Court for the Southern District of Florida. In the underlying lawsuit, the insured, a property management company, was being sued in a wrongful death action arising from a shooting that occurred in the common area of a multi-family residential property managed by the insured. The insurer agreed to provide a defense to its insured in the wrongful death action, subject to a reservation of rights based on the policy's Conditional Coverage Endorsement, which contains various conditions the insured must meet in order for coverage to be triggered under the policy. One of those conditions requires the insured to ensure that a property owner's insurance policy must not contain any restrictions for assault and battery ("A&B") exposures, including a sublimit for A&B claims. In this case, the property owner's insurance policy did indeed contain a sublimit for A&B claims.

The insurer subsequently initiated its action for declaratory relief, seeking a declaration from the Court of no duty to defend or indemnify its insured for the wrongful death action. The insurer filed a motion for summary judgment, arguing that it was undisputed the insured failed to comply with the Conditional Coverage Endorsement based on the property owner's policy containing the A&B sublimit. The estate for the decedent opposed the motion and raised a multitude of arguments, including argument that because the wrongful death action was against the insured property management company and not the property owner, the Endorsement could not apply. The estate also argued that summary judgment would be premature because the underlying lawsuit was still ongoing, public policy weighed against application of the Endorsement, and the insurer had waived its ability to rely on the Endorsement. The Court found all of the estate's arguments to be unavailing and entered judgment in favor of the insurer. Specifically, the Court completely disregarded the estate's argument regarding who the underlying lawsuit was against, further holding that whether the underlying lawsuit was ongoing was not a bar to declaratory relief on coverage and no discovery in the underlying action would affect the undisputed facts which entitled the insurer to summary judgment. Namely, the undisputed facts that the insured failed to comply with its contractual obligations under the Endorsement. Moreover, the Court held that the estate had no evidence to support their waiver argument and the estate's public policy arguments were inapplicable to the case at hand. Ultimately, the Court ruled that insurer had no duty to defend or indemnify the insured in the underlying lawsuit.

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