

February 21, 2020

New Jersey – Policy Exclusions Are To Be Read Separately And Not Cumulatively

BY: Copernicus T. Gaza

The New Jersey Appellate Division recently reinforced the longstanding rule of construction in that jurisdiction that exclusions to coverage are to be read independently of one another such that no ambiguity in one exclusion can exist by reference to another exclusion. The plaintiff held an auto liability policy issued by USAA. The liability coverage applied only to scheduled autos, of which the insured's pickup truck was the only one. The insured was sued by an underlying plaintiff who alleged that he was injured due to the insured's negligent operation a golf cart that the insured owned. The golf cart qualified as a "miscellaneous vehicle" as defined in the policy. The policy's exclusion B.1. applied to any vehicle, other than a covered auto, unless that vehicle is a "miscellaneous vehicle." The policy's exclusion B.2. applied to any vehicle, other than a covered auto, that is owned by the insured. USAA disclaimed coverage on the basis of exclusion B.2., as the golf cart constituted a vehicle owned by the insured that was not a covered auto.

The insured argued that the loss fell within the exception to exclusion B.1. and was therefore covered, arguing that the two exclusions render the policy ambiguous when read in reference to one another. The court disagreed, applying the longstanding rule set forth by the New Jersey Supreme Court in *Weedo v. Stone-E-Brick, Inc.*, 81 N.J. 233 (1979), in which that court held that exclusions are to be read *seriatim* (i.e. independently) in conjunction with the policy's insuring agreement. Under this rule of policy interpretation, if any one exclusion applies, there is no coverage notwithstanding that the loss may fall within an exception to another exclusion. Based upon *Tolotti*, it appears that the *Weedo* rule is alive and well in New Jersey. The loss clearly fell within the exception to exclusion B.1., yet the court easily applied exclusion B.2. to bar coverage for the claim.