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Another Texas Federal Court Applies *Northfield* Exception to “Eight Corners” Rule

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In the recent case of *Canal Insurance Co. v. Greenland Trucking, LLC*, No. 3:20-cv-2970-G, 2021 WL 462051 (N.D. Tex. Feb. 9, 2021), the U.S. District Court for the Northern District of Texas determined that an exception to the “eight corners” rule applied when the underlying lawsuit did not establish or allege a fundamental issue of coverage. The court looked outside the complaint to determine the underlying plaintiff’s employment status relevant to policy exclusions.

In the underlying lawsuit, the plaintiff alleged that he was a passenger in a car driven by either an employee of Greenland Trucking or someone “operating while under dispatch” from Greenland Trucking, which crashed and caused the plaintiff serious injury. The plaintiff sued Greenland Trucking under theories of *respondeat superior*, negligence, and gross negligence. The plaintiff did not, however, allege his role in the collision or his relationship to Greenland Trucking or any other defendant in the underlying lawsuit.

Canal Insurance issued a commercial auto policy to Greenland Trucking. Canal Insurance filed a declaratory judgment action seeking a finding that it owed no duty to defend or indemnify Greenland Trucking in the underlying lawsuit arguing that coverage was precluded by the employer’s liability exclusion and the fellow employee exclusion of the commercial auto policy. These exclusions preclude coverage for “bodily injury” to an “employee” of the insured.

Typically, Texas courts apply the “eight corners” rule in coverage disputes, which precludes insurers from disclaiming a defense obligation based on facts not alleged in the underlying pleadings. The plaintiff moved to dismiss Canal Insurance’s coverage action, arguing that the Texas “eight corners” rule “prohibits Canal from pursuing a claim based on facts that go beyond what is alleged in the underlying suit and contained in the underlying policy.” Some Texas federal courts have applied the *Northfield* exception to the eight corners rule when: (1) it is initially impossible to discern whether coverage is potentially implicated, and (2) the extrinsic evidence goes solely to a fundamental issue of coverage which does not overlap with the merits of or engage the truth or falsity of any facts alleged in the underlying case. The Texas Supreme Court has not yet formally recognized the *Northfield* exception. Canal Insurance’s disclaimer of a duty to defend hinged on evidence of the plaintiff’s employment status not alleged in the complaint to establish that exclusions applied. Canal argued that the *Northfield* exception to the eight corners rule applied such that the court should consider evidence extrinsic to the pleading in determining coverage for the underlying lawsuit.

The court first determined that the pleadings in the underlying lawsuit were not sufficient to conclude coverage under the policy. The court determined that the extrinsic evidence sought to be introduced – whether the plaintiff was an employee of Greenland Trucking, “goes to a fundamental issue of coverage which does not overlap with the merits of or engage the truth or falsity of any facts alleged in the underlying case.” According to the court, the question of whether plaintiff was a Greenland Trucking employee was completely unrelated to his claims against Greenland. The only possible overlap would be plaintiff’s claim of *respondeat superior* liability; however, the court pointed out that plaintiff’s complaint was “silent as to his own employment status with Greenland,” and thus “a declaration that [plaintiff] was an ‘employee’ could not test the truth or falsity of underlying allegations because no such allegations exist.”