

Definition of Personal Injury, Definition of Property Coverage Update

October 15, 2018

Florida law, Ohio Coverage Update

The e-POST

Definition of Personal Injury – M.D. of Florida (Florida Law)

St. Paul Fire & Marine Ins. Co. v. Rosen Millennium, Inc.

--- F.Supp.3d ---, 2018 WL 4732718 (M.D. Fla. Sept. 28, 2018)

The U.S. District Court for the Middle District of Florida ruled that an insurer had no duty to defend its insured for a third-party data breach affecting customers of a resort.

Plaintiff St. Paul Fire & Marine Insurance (St. Paul) issued two commercial general liability policies to Rosen Millennium, Inc. (Millennium), who provided data security services to Rosen Hotels & Resorts, Inc. (RHR). Millennium notified RHR of a data breach affecting the credit card information of RHR's customers, and RHR accused Millennium of negligence in the performance of its duties. Millennium submitted RHR's demand letter to St. Paul, seeking coverage for the same.

The district court, however, ruled that there was no coverage under the St. Paul policies because personal injury, in part, was defined as “[m]aking known to any person or organization covered material that violates a person's right of privacy.” The district court found this language requires the insured itself to have published the information. The district court held that since Millennium did not “mak[e] known” the information, there was no personal injury that would trigger a duty to defend under St. Paul policies.

Definition of Property – Ohio

Kimmelman v. Wayne Ins. Group

No. 18CV001041 (C.P. Sept. 25, 2018)

The Court of Common Pleas in Franklin County, Ohio ruled that BitCoin qualifies as property rather than money for insurance purposes.

Plaintiff James Kimmelman (Kimmelman) submitted a claim to the defendant Wayne Insurance Group (Wayne), reporting approximately \$16,000 in stolen BitCoin. Wayne investigated the claim and awarded Kimmelman \$200 after determining that BitCoin was “money” and governed by a sublimit within the insurance contract.

Kimmelman then filed an action for breach of contract and bad faith against Wayne. Wayne moved for judgment on the pleadings, arguing that its classification of BitCoin as “money” was proper such that there was no breach of contract or bad faith. In support of its argument, Wayne cited to various news articles and an Internal Revenue Service (IRS) document which states that BitCoin is “virtual currency.”

Examining the same document, the court noted that the IRS stated “[f]or federal tax purposes, virtual currency is treated as property.” Thus, the court held that BitCoin, “although termed ‘virtual currency,’ is recognized as property by the IRS and shall be recognized as such by this Court.” Accordingly, the court denied Wayne’s motion for judgment on the pleadings.

Plunkett Cooney's insurance coverage update, The e-Post, is published bi-monthly via email. To receive your copy when it is issued, simply email - subscribe@plunkettcooney.com. Please indicate in the email that you would like to be added to the marketing list for the e-POST.