

'Occurrence' Coverage Update

December 15, 2025

'Occurrence' – Second Circuit (Texas Law)

Granite State Ins. Co. v. Primary Arms, LLC

No. 24-2748-CV, -- F.4th --, 2025 WL 3533484 (2d Cir. Dec. 10, 2025)

The U.S. Court of Appeals for the Second Circuit, applying Texas law, held that there was no coverage for a lawsuit alleging the intentional marketing and sale of firearm parts that resulted in economic damages to the plaintiffs.

Primary Arms, LLC (Primary) sells and ships firearms and firearm components. Granite State Insurance Company and National Union Fire Insurance Company of Pittsburgh, Pa. (collectively the insurers) issued liability policies (policies) to Primary, covering certain damages caused by an occurrence, defined as an “accident.”

The state of New York, the city of Buffalo, and the city of Rochester filed lawsuits against Primary, alleging that its intentional marketing and sale of the firearm parts led to increased gun violence in their respective cities, which resulted in economic damages (underlying lawsuits). The insurers sought a declaration that they had no duty to defend or indemnify Primary with respect to the underlying lawsuits under the policies.

The trial court held that the policies do not cover the damages alleged in the underlying lawsuits against Primary, and thus, entered judgment in favor of the insurers. Primary appealed, and the appellate court affirmed the trial court's holding, reasoning that the underlying lawsuits do not allege an “accident” to trigger coverage under the policies.

In coming to its holding, the appellate court analyzed the meaning of the word “accident” under Texas law, which has defined the term to mean a “fortuitous, unexpected, and unintended event.” The appellate court recognized that under Texas law, an intentional act does not constitute an accident – or “occurrence” – where the insured intended the injury or where the resulting damage was the natural and expected result of the insured's actions.

Taking these principles into account, the appellate court held that the policies do not cover the underlying lawsuits because those lawsuits alleged that Primary intentionally sold and marketed the firearm parts. Therefore, there was no “occurrence.”

In addition, the appellate court reasoned that the resulting economic damage alleged in the underlying lawsuits was the “natural and expected result” of Primary's intentional act of selling and marketing firearm parts. As such, the appellate court held that the allegations in the underlying lawsuits do not

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allege an occurrence – or accident – so as to be afforded coverage under the policies and affirmed the trial court's ruling.

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