

## Third Circuit Affirms - Assault and Battery Exclusion Bars Coverage For Sex-Trafficking Claims

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In a non-precedential opinion, the Third Circuit, applying Pennsylvania's four-corners duty to defend rule, held that a liability policy's "all assault or battery" exclusion unambiguously applied to bar coverage for sex-trafficking claims brought against the insured motel. The Court concluded that "the underlying allegations of modern-day slavery – facilitated by forced drug use, violent criminal aggression, physical injuries, and a climate of fear and anxiety – eliminate any possibility that the women voluntarily and intelligently agreed to the conditions of their own trafficking."

In discussing the policy's assault and battery exclusion, while the Court noted the policy at issue did not define the terms "assault" or "battery", the Court nonetheless held that they "are legal terms of art that receive their well-defined meanings under Pennsylvania law." The Court concluded that "[a]n 'assault' involves intentionally placing another person in 'imminent apprehension of a harmful or offensive bodily contact'" and that "the term 'battery' refers to 'a harmful or offensive contact with the person of another' absent the other's consent."

Applying that construction, the Court held that the assault-or-battery exclusion unambiguously applied to the underlying sex trafficking claims. The Court reasoned that:

Each victim alleged that their traffickers treated them in an aggressive or violent manner and made them feel a sense of fear and anxiety while being trafficked. Selling the women for sex under these circumstances qualified as assault because it placed them in imminent apprehension of a harmful or offensive bodily contact. Similarly, the allegations in each of the complaints suffice for battery: by using force and drugs to compel the women's participation in the sex trade, the traffickers subjected the women to harmful or offensive bodily contact without their consent.

In reaching that conclusion, the Court also rejected the insured's argument that sex trafficking may occur without violence, and thus allegations of sex trafficking alone do not establish an assault or battery. The Court emphasized that Pennsylvania's "four-corners rule does not involve an abstract elemental comparison akin to the categorical approach; instead, it assesses whether the particular factual allegations in a specific case fall within the precise terms of an insurance policy." Because the claimants alleged injuries caused by an assault or battery in each of their pleadings, the carrier had no duty to defend.