Published on *The National Law Review* https://natlawreview.com

Fore! Golf Sponsor's Claims Against Insurance Agency on Hole-in-One Insurance Dismissed

Article By:

Larry P. Schiffer

Prize sponsors often procure insurance policies to reimburse them for prize payouts. Generally, those policies are pretty specific about the criteria that allows for the reimbursement. Hole-in-one insurance is particularly popular. In a recent case a policyholder sought relief against its insurance agent on various theories after it lost its coverage battle because of an unambiguous warranty of the length of the hole in its application.

In *Old White Charities, Inc. v. Bankers Insurance, LLC*, No. 18-1914 (4th Cir. Jan. 21, 2020) (Per Curiam, Unpublished), the policyholder, a host and sponsor of a hole-in-one prize, sued its insurance broker after the policyholder lost a coverage suit brought by the hole-in-one insurer. The policy had a warranty that unambiguously provided the hole-in-one had to take place on the 18th hole, which had to be at least 150 yards. Two hole-in-ones were hit during the tournament from a distance of 137 yards.

The policyholder sued the insurance agent for negligence, reasonable expectations and fraud. The district court granted summary judgment to the insurance agent on all three claims. The circuit court affirmed.

In rejecting the negligence count, the court held that the district court correctly

Prize sponsors often procure insurance policies to reimburse them for prize payouts. Generally, those policies are pretty specific about the criteria that allows for the reimbursement. Hole-in-one insurance is particularly popular. In a recent case a policyholder sought relief against its insurance agent on various theories after it lost its coverage battle because of an unambiguous warranty of the length of the hole in its application.

In *Old White Charities, Inc. v. Bankers Insurance, LLC*, No. 18-1914 (4th Cir. Jan. 21, 2020) (Per Curiam, Unpublished), the policyholder, a host and sponsor of a hole-in-one prize, sued its insurance broker after the policyholder lost a coverage suit brought by the hole-in-one insurer. The policy had a warranty that unambiguously provided the hole-in-one had to take place on the 18th hole, which had to be at least 150 yards. Two hole-in-ones were hit during the tournament from a distance of 137 yards.

The policyholder sued the insurance agent for negligence, reasonable expectations and fraud. The district court granted summary judgment to the insurance agent on all three claims. The circuit court affirmed.

In rejecting the negligence count, the court held that the district court correctly determined that the policyholder failed to establish the elements of duty and proximate causation. As to reasonable expectations, the court noted that it only applied when the terms of the insurance policy are ambiguous. Here, said the court, the distance warranty in the application was clear and unambiguous and nothing in the addendum to the application negated the distance warranty. "Because the contract was clear and unambiguous regarding the distance requirement of 150 yards, [the policyholder] failed as a matter of law to establish an objectively reasonable belief that a hole-in-one would be covered by the policy even if the hole was less than 150 yards in length." That took care of the reasonable expectations claim.

Finally, as to the claims for fraud or misrepresentation, the court agreed with the district court that the policyholder failed to establish a claim for fraud or misrepresentation.

We have blogged on a number of decisions recently where the unambiguous provisions of the policy clearly precluded coverage. While this is not quite a coverage case, the same principle applies. Courts will construe clear and unambiguous language according to its plain meaning in the context of the insurance policy. Here, the policyholder warranted that the hole would be at least 150 yards in length and it turned out not to be. The unfortunate thing for the policyholder was that the addendum to the application expressly stated that the policyholder had no knowledge of or control over the length of the hole on any given day of the tournament because the PGA determined the placement of the tee boxes and the pins. Nevertheless, the policyholder warranted that for any hole-in-one to be covered by the policy the hole had to be longer than the 137 yards it was on the day of the holes-in-one. Not only do you have to read your policy, but you clearly have to read the application you sign.

determined that the policyholder failed to establish the elements of duty and proximate causation. As to reasonable expectations, the court noted that it only applied when the terms of the insurance policy are ambiguous. Here, said the court, the distance warranty in the application was clear and unambiguous and nothing in the addendum to the application negated the distance warranty. "Because the contract was clear and unambiguous regarding the distance requirement of 150 yards, [the policyholder] failed as a matter of law to establish an objectively reasonable belief that a hole-in-one would be covered by the policy even if the hole was less than 150 yards in length." That took care of the reasonable expectations claim.

Finally, as to the claims for fraud or misrepresentation, the court agreed with the district court that the policyholder failed to establish a claim for fraud or misrepresentation.

We have blogged on a number of decisions recently where the unambiguous provisions of the policy clearly precluded coverage. While this is not quite a coverage case, the same principle applies. Courts will construe clear and unambiguous language according to its plain meaning in the context of the insurance policy. Here, the policyholder warranted that the hole would be at least 150 yards in length and it turned out not to be. The unfortunate thing for the policyholder was that the addendum to the application expressly stated that the policyholder had no knowledge of or control over the length of the hole on any given day of the tournament because the PGA determined the placement of the tee boxes and the pins. Nevertheless, the policyholder warranted that for any hole-in-one to be covered by the policy the hole had to be longer than the 137 yards it was on the day of the holes-in-one. Not only do you have to read your policy, but you clearly have to read the application you sign.

National Law Review, Volume X, Number 22