

# Premises liability – the importance of clear terms

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The U.S. District Court for the Northern District of Georgia has ruled that Colony Insurance Co. is not liable to indemnify an Atlanta grocery store due to a clear policy exclusion, after a man was shot and killed outside the store in 2019.

## The case

In August 2019, Ja'Marcus Holloway was fatally shot outside a Food World store in Atlanta, Georgia. Mr Holloway's wife, Stephanie Plummer, brought a claim against the store's operator, Henry Properties for negligence and premises liability. Henry Properties notified its insurer, Colony, which filed a motion for a declaration that the liability was excluded under the policy.

Ms Plummer argued that the exclusions were ambiguous and unconscionable as the owners of Henry Properties do not speak English.

## The decision

The policy contained exclusions the court described as “unambiguous”.

The relevant clauses excluded injuries:

“caused directly or indirectly, by you, any insured, any person, any entity or by any means whatsoever”; and injuries that arise,

“caused directly or indirectly out of the possession, ownership, maintenance, use of or threatened use of a lethal weapon, including but not limited to firearms by any person.”

Regarding Ms Plummer's second point, the Court explained that under Georgia law “Parties to a contract are presumed to have read their provisions and to have understood the contents.”

## Key considerations

This case emphasises the importance of clear policy terms and an insurer's responsibility to insureds who may not understand their policy. This judgment is the latest in a slew of high value premises liability suits in the US involving patrons and businesses in high- crime areas.

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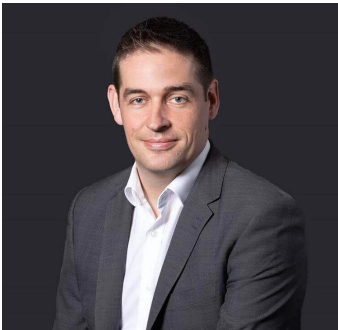
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