

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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