

Brian Leighton (Garages) Ltd v Allianz – guidance on the meaning of ‘proximate cause’

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The English court's recent decision in [Brian Leighton \(Garages\) Ltd v Allianz](#) provides helpful guidance as to the meaning of ‘caused by’ in the context of a commonly used policy exclusion.

Facts of the case

The Claimant, Brian Leighton Garages Limited (BLG) had a property damage and business interruption policy with the Defendant, Allianz. BLG suffered a fuel leak, which in turn resulted in its business being closed. The leak itself was caused by a sharp object puncturing a fuel line being punctured.

The property damage policy was an ‘all risks’ policy, which excluded:

‘Damage caused by pollution or contamination, but [Insurers] will pay for Damage to the Property Insured not otherwise excluded, caused by

(a) pollution or contamination which itself results from a Specified Event

(b) any Specified Event which itself results from pollution or contamination’.

It was agreed between the parties that no ‘Specified Event’ (as defined in the policy) had occurred. The arguments of the parties can be summarised as follows:

1. BLG argued that the cause of the damage was the sharp object rupturing the fuel line, with the pollution or contamination being the actual damage.
2. Allianz argued that pollution or contamination was the cause of the damage.

On a Summary Judgment application, the High Court at first instance agreed with Allianz’s position and held that the exclusion applied. BLG appealed.

The appeal judgment

By a 2:1 majority, the Court of Appeal held that in order for the exclusion to apply, pollution or contamination must be the ‘proximate cause’ of the damage. However, in this case, the Court held that the sharp object rupturing the fuel line was the proximate cause of the damage (which itself took the form of pollution or contamination). In reaching this decision the Court affirmed that ‘caused by’ absent anything else essentially means ‘proximately caused by’.

Considerations for insurers

Insurers should take extra care when considering the causal connectors used for exclusion (and other) clauses to ensure their wordings meet their underwriting intentions. This case may have been decided differently if different causal language had been used.

A more in-depth account of this case by Browne Jacobson can be read [here](#).

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