

## Seeking Companionship and Coverage: No Duty to Defend Dating Service Against Fraud Claims

### *Insurance Law Update*

December 2011

By: [Jessika Moon](#)

#### ***Court of Appeals of Wisconsin***

In *State v. GE-Milwaukee, LLC*, 2011 WL 6032721 (Wis. App. Dec. 6, 2011), the Court of Appeals of Wisconsin held that an insurer had no duty to defend its insureds under a business insurance policy against consumer fraud allegations concerning the insured's dating service.

The Wisconsin Attorney General filed a lawsuit against GE-Milwaukee, doing business as Great Expectations, its owner and management company, alleging that the defendants carried out a pervasive scheme to deceive and defraud Wisconsin citizens in violation of numerous state consumer protection laws. The lawsuit alleged that the dating service's salespersons called potential customers to solicit subscriptions but, in the process, withheld information or made numerous misrepresentations concerning the dating service's cost, contract terms and conditions, and membership size.

Admiral Insurance Company, which issued a business insurance policy to the defendants, intervened in the lawsuit, alleging that it had no duty to defend based on an exclusion precluding coverage for "any claim arising out of, or contributed to by the dishonest, fraudulent, criminal or malicious act or omission, or arising out of willful violation of any penal statute or ordinance." The insured defendants contended that Wisconsin's consumer protection laws permitted imposition of liability for inadvertent or negligent acts as well as for volitional or intentional acts. Therefore, they contended, Admiral had a duty to defend because the insurance policy specifically provided coverage for sums the insured becomes legally obligated to pay as damages by reason of any negligent act or error or omission in rendering professional services.

The trial court entered a judgment declaring that the Admiral policy did not cover the consumer fraud allegations, and the Court of Appeals affirmed. The court held that the fraud exclusion in Admiral's policy barred coverage: "There is no doubt that the State's operative complaint – root and branch – alleges a dishonest and fraudulent dating-services scheme." Accordingly, the court ruled that all of the claims asserted against GE-Milwaukee either "ar[is]e out of" or were "contributed to" by dishonest or fraudulent acts.

## **Related Practices:**

[Insurance Practices](#)