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Minor's Alcohol-Related Death Foreseeable: No "Occurrence" Within the Meaning of a Homeowner's Policy Court of Appeals of Ohio

Insurance Law Update

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Court of Appeals of Ohio

In Sheely v. Sheely, 2012 WL 34451 (Ohio Ct. App. Jan. 9, 2012), the Court of Appeals of Ohio held that a 16-year-old girl's death caused by alcohol that had been provided by her father did not qualify as an "occurrence" within the meaning of a homeowner's policy, precluding coverage.

On May 13, 2007, Ivy Sheely died of alcohol-induced asphyxiation after she drank almost an entire bottle of vodka that she brought to a friend's party. Ivy's father, Dan Sheely, had purchased the vodka earlier that day, although accounts differed as to whether Dan purchased it specifically for Ivy or simply as part of his "house supply." Dan admitted that he generally permitted Ivy and her friends to drink alcohol in his house, but claimed he did not know that Ivy had taken the vodka to her friend's party the night that she died.

Ivy's mother and Dan's ex-wife, Tabatha, filed a wrongful death action against Dan. Dan accepted responsibility for Ivy's death, and entered into a consent judgment in the amount of $300,000. Tabatha then sued Dan's homeowner's insurer, Lightning Rod Mutual Insurance Company, seeking coverage for the consent judgment. The Lightning Rod policy provided coverage for "bodily injury" caused by an "occurrence." The policy defined "bodily injury" to include death, and "occurrence" to mean "an accident, including continuous or repeated exposure to substantially the same general conditions, which results, during the policy period

in ... bodily injury." Lightning Rod filed a summary judgment motion, arguing that Ivy's death did not qualify as an "occurrence." The trial court agreed, and Tabatha appealed.

The Court of Appeals of Ohio affirmed. The court determined that there was no genuine issue of material fact upon which reasonable minds could conclude that Ivy's death was an unexpected, unforeseeable event such that it was an "occurrence" under the Lightning Rod policy. The court noted that it was undisputed that Dan knowingly engaged in a "repeated pattern of conduct" of permitting Ivy and her friends to consume alcohol that he either purchased for them or otherwise made available to them. The court also observed that courts in other jurisdictions have held that "the unintended harm resulting from an adult furnishing alcohol to a minor is not an 'occurrence' covered by an insurance policy." Thus, the court held that Lightning Rod was entitled to judgment as a matter of law.

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