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Plain Meaning Can Be a Bear

The Fairfax, Virginia Circuit Court recently reminded us all of how strictly the Virginia courts will read an insurance policy or contract. In Dent v. Allstate Indemnity Co., the court looked at a homeowners policy and whether coverage existed for a flooded basement. The key language was found in the Virginia Water Damage endorsement and its exclusions. Essentially, the decision came down to whether water that became backed up in a well, though never entered a drain was a "flood" or damage due to a "backed up" drain. If the water damage was due to the drain being backed up (i. e. water entered and then didn't drain)- homeowner wins. If the damage was due to flood (i. e. water never entered the drain)- homeowner loses.

Because the homeowners had to stipulate that the water never entered the drain, the Fairfax court denied coverage for the water damage. The court reasoned that the plain meaning exclusionary language in the insurance policy required this result because the damage was due to surface water and not water that backed up through the drain.

This is yet another instance of the contract controlling the analysis. While the result may seem a bit silly in light of the fact that the clogged drain was the reason for the water damage to the Dent's property, the plain meaning of the policy supports the result. Frankly, for every decision that looks to be at odds with common sense relating to contractual or insurance language, many more make sense. In short, knowing that the Virginia courts will enforce contracts as written gives certainty to construction and business transactions. Just make sure that you work with an experienced construction attorney to assure that your contracts say what they need to say to protect you.

Image via Wikipedia

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