

 **IRMI Insurance Case Finder****Property Owner Not Covered for Guest's Intentional Shooting**

Farm Bureau Mut. Ins. Co. v. Cook, 414 P.3d 1194 (Idaho 2018)

By [Judith Aronson](#)

Summary

This case originated from an intentional shooting at a campground. Michael Chisholm shot Joseph Stanczak during an altercation on property owned by the Cooks.

Chisholm shot Stanczak twice with a .45 caliber handgun, then left the scene. Authorities later apprehended Chisholm and charged him with Aggravated Battery and Use of a Deadly Weapon in Commission of a Felony. Chisholm entered an Alford plea, by which he pleaded guilty without admitting guilt as to all the elements of the crimes. He was sentenced to prison.

Stanczak asserted claims against Chisholm, the Cooks, and Farm Bureau for injuries stemming from the shooting.

The landowners, the Cooks, had a liability insurance through Farm Bureau. Farm Bureau determined it had no duty to defend or indemnify the Cooks because the intentional shooting was not an "occurrence."

Relevant Policy Language

The Policy includes the following relevant definitions: Occurrence means an accident, including continuous or repeated exposure to the same harmful conditions, which results in unexpected bodily injury or property damage during the policy period. All bodily injury and property damage resulting from a common cause will be considered the result of one occurrence.

Analysis

The Cooks contend that coverage exists under the Policy since the determination of whether an event was an "occurrence" (defined as an accident) should be viewed from the standpoint of the insured. They claim that Chisholm shooting Stanczak-while intentional from Chisholm's point of view-was an accident from theirs, and thus is a covered "occurrence" under the Policy. Farm Bureau asserts that the injuries upon which Stanczak's claims were based flowed directly from the intentional shooting, and thus cannot be an "occurrence" under the Policy.

"[S]ome courts still take the position that an accident or occurrence must be viewed from the insured's standpoint." However, "numerous courts have viewed the issue of whether an event constitutes an accident or occurrence not from the standpoint of the insured but by looking at the nature of the injury-causing event." Thus, under the "nature of the event" approach, negligence claims "against an insured that directly arise out of the intentional act of a third party are not covered because the underlying causative act is not covered."

The policy language at issue requires an "occurrence" to be an accident. In Idaho, "[a]n accident is an unexpected event which is the result of unintentional conduct or an intentional act which results in

unexpected consequences." While the Cooks claim that this incident falls precisely in line with the definition of an accident from their perspective-the shooting was an unexpected event resulting from their purported negligence-Idaho law demands a contrary interpretation.

Idaho courts follow a "nature of the event" state and not a "standpoint of the insured" state. There is no perspective from which a reasonable person could possibly view Stanczak's injuries as resulting from anything other than an assault in this case. An intentional shooting caused the injuries, and thus the shooting was not an "occurrence" under Idaho law. Moreover, the court rejected the Cooks' argument that the prior Idaho precedents should be overturned.

Conclusion

The court found that the intentional shooting was not an occurrence under the liability policy.

Author's Note

This case involves the question of how the intentional acts of a non-insured party impact coverage. The underlying suit arose when an individual living in a cabin in a campground shot a camper. The injured camper sued both the campground owner and the shooter. The allegations against the campground owner included premises liability and negligent supervision. The policy of the owner defined "occurrence" as "an accident, including continuous or repeated exposure to the same harmful conditions, which results in unexpected bodily injury or property damage during the policy period."

The insurer for the campground owner filed a declaratory judgment action for a declaration that it had no duty to defend or indemnify the campground owner. The injured camper urged the court to determine the existence of an accident from the viewpoint of the insured and that the shooting was not intentional from the standpoint of the campground owner.

The Idaho Supreme Court held that an intentional shooting was not an "occurrence" under the insuring clause of a property insurance contract. The court noted a divergence of opinions on the subject and grouped cases into two theories with opposite results for coverage: those that look at the "nature of the event" versus those that look at the "standpoint of the insured." Looking at Idaho precedent, the court found that Idaho was a "nature of the event" state and, citing to similar rulings in several other jurisdictions, declined to overturn its precedent on public policy grounds.

The court stated that "an accident is an unexpected event which is the result of unintentional conduct or an intentional act which results in unexpected consequences." It held that the injury was caused by the shooting, which was not an occurrence. It held that the insurer had no duty to defend or indemnify the campground owner.

The significance of the ruling is that it will continue to be difficult for policyholders to invoke coverage for claims of negligent supervision of perpetrators who intentionally injure others.