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## **Nevada Supreme Court enforces unambiguous policy exclusions regardless of causal connection to the loss**

By Andrew B. Downs

*While some courts do not require a causal connection between the circumstances giving rise to a coverage exclusion and the resulting loss in order to apply the exclusion, others hold that it is against public policy to enforce an exclusion where the insured's actions do not contribute to the loss. In Griffin v. Old Republic Ins. Co., 133 P.3d 251 (Nev. 2006), Nevada's Supreme Court adopted the former approach.*

In *Griffin*, the plaintiff sustained severe personal injuries after a plane, piloted by the insured, crashed into the plaintiff's backyard. The plaintiff sued the insured in state court and the insurer filed a declaratory judgment action in the United States District Court for the District of Nevada. The insurer contended that it had no obligation to pay damages to the plaintiff or to the insured because the insurance policy expressly excluded coverage for an aircraft without an airworthiness certificate and that, at the time of the accident, the insured's certificate was not in full force and effect. The exclusion relied upon by the insurer precluded coverage when "the Airworthiness Certificate of the aircraft [was] not in full force and effect" or when "the aircraft [had] not been subjected to the appropriate airworthiness inspection(s) as required under current applicable Federal Air Regulations for the operations involved."

The federal district court ruled in favor of the insurer, and the Ninth Circuit Court of Appeals submitted the following certified question of law to Nevada's Supreme Court:

Under Nevada law, may an insurer deny coverage under an aviation insurance policy for failure to comply with an unambiguous requirement of the policy or is a causal connection between the insured's noncompliance and the accident required?

The Nevada Supreme Court held that insurers need not establish a causal connection between a safety-related aviation policy exclusion and the loss in order for the exclusion to apply so long as the exclusion is unambiguous, narrowly tailored, and essential to the risk undertaken by the insurer. The Supreme Court reasoned that the exclusion was void of any language requiring a causal connection and the policy unambiguously stated that an airworthiness certificate must be in full force and effect for coverage to apply. The Supreme Court further reasoned that an airworthiness certificate, which ensured that the aircraft was subjected to regular maintenance and annual inspections, was material to the acceptance of risk and essential to the hazard assumed by the insurer.