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Court finds no duty to defend defamation claim

By Samuel H. Ruby

An appellate court in Los Angeles has certified for publication an opinion finding no duty under a homeowner's policy to defend claims for defamation and intentional infliction of emotional distress. Stellar v. State Farm General Ins. Co., --- Cal. Rptr. 3d --- (2007).

In a complex family spat, Richard Stellar sued his brother, Philip, over the aftermath of the sale of their mother's home. Philip fought back with a cross-complaint against Richard and Richard's son over allegedly defamatory oral statements, email, and Internet postings. Philip alleged humiliation and severe emotional distress with physical symptoms.

Richard and his son tendered the defense of the cross-complaint to State Farm. State Farm denied coverage on the grounds that the alleged statements were not accidental and thus did not qualify as an "occurrence." Although the cross-complaint arguably alleged bodily injury, the lack of an "occurrence" precluded any duty to defend. State Farm won a summary judgment, and in a concise opinion, the Court of Appeal affirmed.