

California Appellate Court Rules That Property Policy Does Not Cover Losses Arising From Purchase Of Counterfeit Wine

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A California appellate court ruled that a policyholder was not entitled to coverage under a valuable possessions policy for losses incurred as a result of the purchase of counterfeit wine, finding no loss to property. *Doyle v. Fireman's Fund Ins. Co.*, 2018 WL 1177929 (Cal. Ct. App. Mar. 7, 2018).

Doyle purchased consecutive valuable possessions policies from Fireman's Fund to insure his rare wine collection. During the policy period, Doyle purchased nearly \$18 million worth of purportedly vintage wine that he later discovered to be counterfeit. When Doyle sought reimbursement for losses arising from the counterfeit wine purchase under the policies, Fireman's Fund denied the claim on the ground that it did not present a covered loss under the policies. A California trial court agreed and sustained Fireman's Fund's demurrer. The appellate court affirmed.

The policy covered "direct and accidental loss or damage to covered property." The court concluded that there was no damage to covered property because there was no physical or other harm to the wine. The court explained: "When Doyle purchased the wine . . . it was counterfeit. The wine remained counterfeit (and essentially worthless) throughout the entire coverage period of the policy." The court concluded that the only loss was to Doyle's finances and investment, which is not a covered peril under a property policy.

The court rejected Doyle's assertion that his losses were covered because the policy (1) was not expressly limited to "physical" damages; and (2) did not list fraud as an exclusion. The court explained that the fundamental nature of property insurance is to protect against harm to property, not financial loss, and that the absence of a fraud exclusion is irrelevant because Doyle failed to establish an initial grant of coverage in the first place.

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