

Ninth Circuit Predicts That California Supreme Court Would Hold That Intentional Acts Cannot Be “Accidents” Regardless Of Insured’s Reasonable Subjective Beliefs

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The Ninth Circuit predicted that the California Supreme Court would rule that a policyholder’s intentional act cannot be considered an “accident” for coverage purposes, regardless of the policyholder’s subjective reasonable beliefs. *Crown Tree Serv. v. Atain Specialty Ins. Co.*, 2018 WL 1042673 (9th Cir. Feb. 26, 2018).

The coverage dispute arose when a policyholder was sued for removing trees that he mistakenly believed were on his property. A California federal district court had ruled that his insurer need not defend the suit because the policyholder’s conduct was intentional and thus did not give rise to an insured “occurrence.” The Ninth Circuit affirmed. Acknowledging the inconsistency of California appellate case law in this context, the Ninth Circuit predicted that “the California Supreme Court would hold that an insured’s subjective belief – no matter how reasonable – cannot transform an intentional act into accidental conduct.” The court further held that the unclear status of case law on this issue did not give rise to a “potential for coverage” obligating the insurer to defend.

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