

South Dakota Supreme Court Declines To Apply Concurrent Causation Doctrine (Insurance Law Alert)

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The Supreme Court of South Dakota refused to apply the concurrent causation doctrine and held that policyholders were not entitled to coverage based on a policy exclusion. *Nationwide Agribusiness Ins. Co. v. Fitch*, 2022 WL 2165952 (S.D. June 15, 2022).

The policyholders, a family of farmers and cattle ranchers, were sued by a nephew who sustained injuries while riding on a utility-terrain vehicle on their property. Nationwide initially defended under a reservation of rights, but then sought a declaration that it had no duty to defend or indemnify the underlying claims. The trial court granted Nationwide's summary judgment motion, ruling that a policy exclusion relating to recreational vehicles excluded coverage.

The Supreme Court of South Dakota affirmed, ruling that the lower court correctly refused to apply the concurrent causation doctrine. Under that doctrine, a court may find coverage, notwithstanding a valid exclusion, if a loss is also attributable to a covered peril. The underlying claimant argued that the doctrine applied because his injuries were the result of two independent causes—the use of the recreational vehicle (excluded) and the policyholders' negligence (covered). The court noted that it has not expressly accepted the doctrine, but held that even if it did, the doctrine would be inapplicable here because the concurrent events were not "distinct from each other," but rather, "inextricably intertwined." More specifically, the court explained that any alleged acts of negligence by the policyholders "are part and parcel" of their nephew's use of the vehicle and that the injuries could not have occurred without use of the excluded recreational vehicle.

Authors and Contacts

Bryce Friedman

Partner

bfriedman@stblaw.com

+1-212-455-2235

