

No Coverage for Improper Hair Coloring Procedure under Beauticians' Professional Liability Policy

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A federal district court, applying Pennsylvania law, has held that no coverage exists under a beauticians' professional liability policy for claims arising out of an allegedly improper hair coloring procedure performed by an unlicensed beautician because two exclusions barred coverage. *Baal Corp., Inc. v. Connecticut Indemnity Co.*, No. 00-571, 2001 U.S. Dist. LEXIS 11727 (E.D. Pa. Aug. 13, 2001).

A beauty parlor patron brought suit against a salon and one of its employees, claiming damages arising out of an allegedly improper hair coloring procedure performed on her hair. The salon sought coverage under its beauticians' professional liability policy. At the time of the incident, however, the beautician who performed the procedure was unlicensed in Pennsylvania, having failed to pay the fee required to keep his Pennsylvania cosmetology license registration current. The insurer denied coverage, contending that two exclusions in the policy barred coverage. First, the insurer asserted the applicability of an exclusion barring coverage for "bodily injury" or "property damage" arising out of beauty salon services "[r]endered in whole or in part by any unlicensed operator, if license is required..." In the alternative, the insurer alleged that an exclusion for "bodily injury" or "property damage" arising out of beauty salon services "rendered or preparations, products, apparatus or equipment used in violation of any law, rule or regulation of any Federal, State, Municipal or other local government" barred coverage.

The federal district court first held that the exclusion barring coverage for claims arising out of acts performed by unlicensed parties precluded coverage, reasoning that the plain meaning of the word "licensed" in the policy included a state required license to practice cosmetology. In so holding, the court rejected the policyholder's argument that the exclusion was inapplicable because the beautician was "licensed but unregistered," reasoning that this reading was contrary to the plain meaning of the word "licensed." In addition, it held that the second exclusion for beauty salon services rendered in violation of any law, rule or regulation also barred coverage. The policyholder had conceded that the beautician had failed to pay the appropriate fees required by state law, and accordingly that services provided by the beautician were rendered in violation of Pennsylvania law.