

Insurer Needn't Defend Motel In Sex-Trafficking Suit

By **Ethan Beberness**

Law360 (September 9, 2021, 7:49 PM EDT) -- Nautilus Insurance Co. is not obligated to defend a suburban Philadelphia motel from two suits alleging it failed to prevent the sex trafficking of two minors, a Pennsylvania federal judge ruled Thursday.

U.S. District Judge Cynthia M. Rufe agreed with the insurer's argument that the sex-trafficking claims fell under an assault-and-battery exclusion in motel owner Motel Management Services Inc.'s general commercial liability policy.

Judge Rufe ruled that the assault-and-battery exclusion extends to claims of negligent hiring and supervision, as well as to claims seeking damages for emotional distress, in cases in which the insurer can prove the insured's alleged negligence was directly tied to the injuries the underlying plaintiffs say they sustained.

In deciding whether the motel, which operates as Neshaminy Inn, should manage and pay for its own defense against the claims, Judge Rufe determined that the motel's hiring and supervision practices likely led to the injuries alleged by the underlying plaintiffs.

The two trafficking victims stated in their complaints that they were "visibly treated in an aggressive manner" and that the rooms in which they were kept "contained used condoms and condom wrappers and the room frequently smelled of marijuana" — two factors the minors said should have tipped off motel staff as to what was occurring in those rooms.

"Due to [the motel's] failure to hire, train, manage, supervise and/or control" its employees, the motel and its owners "acted outrageously and in reckless disregard for the health and welfare of" the minors, they said in their underlying complaints.

Affirming the insurer's argument for the motel's negligence, Judge Rufe said the allegations brought by the minors "are clearly assaults and/or batteries" caused by the negligence of the motel, its owners and its staff, freeing Nautilus from any obligation to defend the motel.

Motel Management had argued that "not all sexual trafficking victimization is based on violence or threats of violence" that fit the definition of assault as used in the exclusion, and that the motel should therefore be allowed to seek coverage for the underlying claims.

Judge Rufe rejected this argument, citing a nonprecedential Third Circuit ruling and another case from the Eastern District of Pennsylvania involving the same motel, insurer and policy, and determined that the alleged sex trafficking experienced by the minors fit the definition of assault and battery in the motel's policy.

Two minors, identified as G.D. and N.Z., filed the underlying suits in the Philadelphia County Court of Common Pleas in August 2020. The plaintiffs brought claims of negligence and violation of Pennsylvania's human trafficking statute against Motel Management and a slew of other motels in Pennsylvania and New Jersey.

The underlying complaints allege the minors were forced to ingest crack cocaine and heroin and were repeatedly sexually assaulted, after both minors met the accused trafficker through a dating app. The trafficker allegedly used drugs and alcohol to exploit the two minors "before he eventually recruited, enticed, solicited, harbored and/or transported" them to engage in commercial sex acts at Neshaminy Inn, as well as at several other locations.

"We will continue our pursuit of justice and holding hotel operators accountable for permitting the open and obvious sexual exploitation of young girls and women on their properties for which they are legally obligated to protect against as business owners," said attorney Emily B. Marks, who represents the minors in the underlying suits.

Counsel for Nautilus said they would not comment on the case until after the appeal period.

Counsel for Motel Management Services Inc. and its owners did not respond to requests for comment on Thursday.

Nautilus Insurance was represented by Justin K. Fortescue, Marianne Bradley and Anthony L. Miscioscia of White and Williams LLP.

Motel Management Services Inc. and its owners were represented by Glenn F. Rosenblum and Jeffrey R. Lerman of Montgomery McCracken Walker & Rhoads LLP.

G.D. and N.Z. were represented by Emily B. Marks and Nadeem A. Bezar of Kline & Specter PC.

The case is Nautilus Insurance Co. v. Motel Management Services Inc. dba Neshaminy Inn et al., case number 2:20-cv-01607, in the U.S. District Court for the Eastern District of Pennsylvania.

--Editing by Nicole Bleier.

All Content © 2003-2021, Portfolio Media, Inc.