

California Court Refuses To Enforce Wrap-Up Exclusion Where Coverage Isn't Duplicative

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A California federal district court declined to enforce a wrap-up exclusion in a subcontractor's liability policy, reasoning that the purpose of the exclusion—to avoid duplicative coverage—was not a concern because the subcontractor was not covered by the general contractor's wrap up policy. *Employers Mutual Casualty Co. v. Fast Wrap Reno One, LLC*, 2019 WL 480542 (N.D. Cal. Feb. 7, 2019).

The coverage action arose out of a construction project that resulted in water-related damage to a building. The general contractor sued the subcontractor, alleging breach of contract and negligence, among other claims. Employers, the subcontractor's insurer, sought a declaration that it had no duty to defend the suit. Employers relied on a wrap-up exclusion that provided that "[t]his insurance does not apply to 'bodily injury' or 'property damage' arising out of either your ongoing operations or operations included with the 'product-completed operations hazard' . . . as a consolidated (wrap-up) insurance program has been provided by the prime contractor."

The court denied Employers' summary judgment motion, deeming the exclusion inapplicable. The court explained that although the general contractor had, in fact, secured wrap-up coverage from a separate insurer, the subcontractor was "not enrolled in the wrap-up policy and its work was not included in its coverage." The court therefore held that "the terms of the [] exclusion, intended to avoid duplicative coverage, do not apply in this circumstance."

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