



UTAH COURT OF APPEALS RELIES ON WIKIPEDIA TO DETERMINE COMMON MEANING OF TERM USED IN INSURANCE POLICY EXCLUSION

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In *Fire Insurance Exchange v. Oltmanns*, 2012 UT App 230 (2012), the court determined the term “jet ski” as used in an exclusion in a homeowner’s policy was ambiguous, based in part on a Wikipedia definition of the term.

The Oltmanns’ claim for coverage under their homeowner’s liability insurance policy arose as a result of an accident in which the insured and a friend were operating a Honda F-12 AquaTrax personal watercraft on a lake in southern Utah. The Oltmanns tendered the defense of a suit filed against them to their insurer, Fire Insurance Exchange. Fire Insurance Exchange denied coverage based on an exclusion for bodily injury that “result[ed] from the ownership, maintenance, use, loading or unloading of: ... jet skis.”

Fire Insurance Exchange argued that the F-12 AquaTrax was a jet ski, which is “merely a synonym for personal watercraft,” and, therefore, the exclusion applied. The Oltmanns argued that the exclusion did not apply because Jet Ski is a registered trademark for a particular model of watercraft not involved in the accident. The court held that the exclusion was ambiguous and inapplicable. Much more notable than this holding, however, is the way the court reached its decision.

The court relied in large part on Wikipedia’s definition of the term jet ski to determine that the exclusionary provision was ambiguous. Wikipedia defined jet ski as a specific brand name of personal watercraft, and went on to state that jet ski is “often mistakenly used when referring to WaveRunners,” and other types of watercraft. Using this definition, the court found that Fire Insurance Exchange was imprecise in using the term jet ski in the exclusion: the term could refer to either a limited or broader category of personal watercraft which may or may not include the AquaTrax.

The court then spent a substantial part of its opinion justifying its reliance on Wikipedia (along with an entire concurring

opinion devoted solely to the credibility of Wikipedia). Citing Judge Posner’s statement that “Wikipedia is a terrific resource ... partly because it is so convenient, it often has been updated recently and it is very accurate,” the court noted that “where an understanding of the vernacular or colloquial is key to the resolution of a case, Judge Posner is correct that Wikipedia is tough to beat.”

The concurring opinion goes on to provide further support and justification for the court’s reliance on Wikipedia, stating generally that Wikipedia has been cited in hundreds of American judicial opinions. Noting that some courts approve of Wikipedia and others condemn it, the concurring opinion stated that in limited situations, such as getting a sense of a term’s common usage in an insurance policy, Wikipedia is unquestionably very useful: “the evolving nature of Wikipedia ‘makes it a good source for definitions of new slang terms, for popular culture references, and for jargon and lingo including computer and technology terms’ ... [w]hatever its shortcoming in other contexts, for this task, an open-source encyclopedia with many editors and millions of readers seems just the ticket.”

Although the Utah court’s substantial focus on justifying its reference to and reliance on Wikipedia signals that the website has not yet reached common acceptance, the court’s characterization of Wikipedia and ultimate reliance on it indicates that this relatively new reference source is not to be ignored.

To discuss any questions you may have regarding the issues discussed in this alert, or how they may apply to your particular circumstances, please contact:

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