New Jersey Law Journal

Credit: Emir Memedovski

Who Should Pay? Insurer Wants No Part of $30M Sexual Abuse Settlement

Markel Insurance Co., which has around $8 million in coverage, could be liable for the entire $30 million agreed to in the consent judgment because it was

given a chance to tender its policy limits at the outset of the case but it was "just dismissive," John W. Baldante of Baldante & Rubenstein said.

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4 minute read

Insurance Litigation

By Charles Toutant

An insurance company has filed a declaratory judgment suit in a New Jersey federal court seeking a ruling that it doesn't have to pay a ballet school's $30 million sexual abuse settlement.

Markel Insurance Co. says it doesn't have to pay the settlement in the case of Petrov Ballet School of Waldwick, New Jersey, because its policy language disclaimed coverage for sexual abuse and molestation.

In 2021, five women sued the school, claiming that they were sexually abused by the school's creative director, Eugene Petrov, while talking ballet lessons as teenagers.

Now, besides Petrov Ballet and Petrov, the insurance company's suit names school director Karen Bosch Petrov, teacher Susan Sorota and the five alleged victims as defendants.

In September, the five women entered into a $30 million consent judgment against ballet school.

The judgment provides that the women cannot collect from the ballet school or its employees or agents, and will only seek recovery from Markel Insurance.

But Markel's suit cites policy language disclaiming "liability resulting from any actual, threatened, or alleged molestation, sexual misconduct or abuse of any type."

"This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured," the policy states.

In light of the policy language, "there is a real, substantial, and justiciable issue and controversy between the parties hereto with respect to the availability of liability coverage under the 2010-2019 primary and umbrella policies for the claims asserted in the underlying actions and the consent judgment," said the insuer's suit, by April T. Villaverde of Hinshaw & Culbertson in Edison, New Jersey.

Villaverde declined to comment.

An order for judgment in the women's underlying case includes a handwritten note from Bergen County Presiding Civil Judge John O’Dwyer, saying, "[t]he court makes no determination as to the reasonableness of the settlement.”

John W. Baldante of Baldante & Rubenstein in Haddonfield, New Jersey, represented the women in the underlying case. He disputes the insurance company's claim that it doesn't have to pay for the $30 million judgment. Baldante said he will team with insurance law firm Burns Bair of Madison, Wisconsin, to represent the defendants against Markel.

Baldante said the ballet school was covered by primary insurance policies and excess coverage policies for the years that the alleged abuse took place. He said the policy language for the primary policies

and for the excess policies were not the same. He also disputed the insurance company's interpretation about whether the policy disclaimers prohibit recovery for all conduct related to child sexual abuse.

"Our position is that the language attempting to disclaim coverage in the umbrella policies permits aspects of the claims that we registered against the Petrov Ballet School and that, in particular, employees other than the perpetrator himself, such as the ballet school's administrative director, who happened to have been the perpetrator's wife, and the various ballet school teachers had, under New Jersey law, a nondelegable duty to protect children from child sexual abuse, and that nondelegable duty was violated because they did not protect these children from child sexual abuse, and that is covered under the umbrella policies that were provided by Markel Insurance Co.," Baldante said.

Because Markel disclaimed coverage entirely and didn't provide a defense to the ballet school, the school and other defendants in the underlying case needed to negotiate a settlement that protected their own assets, Baldante said.

And now Markel, which has around $8 million in coverage, could be liable for the entire $30 million agreed to in the consent judgment because it was given a chance to tender its policy limits at the outset of the case but it was "just dismissive," Baldante claimed.

"It's interesting that Markel Insurance Co. was radio silent for three to four years of litigation and then within a month of the consent judgment has now filed this declaratory judgment action," Baldante said. "They really abandoned the ballet school when they had an opportunity to jump in and defend them."

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