

COMMERCIAL GENERAL LIABILITY POLICY DOES NOT COVER CLAIMS ARISING OUT OF CRIMINAL ACTS

March 23, 2010 | Law Alerts, News

Wilshire Insurance Company v. S.A.
Ct. Appeals, Div. One, March 23, 2010

Authored by the [JSH Appellate Team](#)

The insured pled guilty to assaulting a 15-year-old. The minor sued the insured for false imprisonment, but Wilshire, his insurance company, denied coverage. Thereafter, the victim settled with the insured and accepted an assignment of his bad-faith claim against Wilshire. Wilshire then filed this decision arguing that its policy did not cover the victim's claims. The victim argued that her claims fell within Wilshire's coverage for "personal and advertising injury liability." That clause covered "personal and advertising injury" caused by an offense arising out of your business and defined "personal or advertising injury" to include injury arising out of false arrest, detention or imprisonment. But the policy also excluded "personal and advertising injury" arising out of a criminal act committed by the insured. The victim argued that even though the policy generally excluded coverage for damages "arising out of a criminal act," that exclusion was trumped by the policy's specific grant of coverage for injury "arising out of . . . false arrest, detention or imprisonment."

The trial court entered summary judgment for Wilshire and the victim appealed. The court of appeals affirmed, reasoning that insurance contracts must be construed consistent with the public policy that forbids contracts indemnifying a person against loss resulting from his own willful wrongdoing. The court could not agree with the victim that the policy favoring compensation of crime victims overrides this policy, even when the crimes were as horrific as the insured's in this case. The court finally reiterated that the victim's claim for breach of good faith and fair dealing did not survive the trial court's ruling that the policy did not cover the victim's damages.