

INSURANCE CASELAW ROUNDUP (3/18/09)

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The following is a summary of recent insurance-related opinions issued in California.

Reversal of Judgment in Favor of Insurer Based upon Pollution Exclusion: State of California v. Allstate Insurance Company, ___ Cal. ___ (Supreme Court, 3/9/09): Affirmed in part, reversed in part, judgment of Court of Appeal which reversed trial court's grant of insurers' motions for summary judgment based upon policy pollution exclusions. Action dealing with liability of State for remediation costs arising from chemical pollution overflow from State –designed and –operated hazardous waste disposal facility. (The opinion is [here](#).)

Insurer Held Liable for Underlying Judgment Even Though Insurer Had No Contractual Duty to Defend: Executive Risk Indemnity Inc. v. Jones, ___ Cal. App. 4th ___ (1st App. Dist, 2/20/09): Reversing trial court's judgment in favor of insurer. Held that “when an insurer (1) is duly notified of the underlying claim against its insured; and (2) is given a full opportunity to protect its interests, the resulting judgment – if obtained without fraud or collusion – is binding against the insurer in any later coverage litigation on the claim involving its insured” – even though the insurer issued an indemnity-only policy and had no contractual duty to defend the underlying action. (The opinion is [here](#).)

Members of LLC Were Not "Insureds," By Operation of Law, Since Property Held by Insured LLC Was Transferred by Grant Deed, Not Dissolution of LLC: Kwok v. Transnation Title Insurance Company, ___ Cal. App. 4th ___ (2nd App. Dist., 2/10/09): Affirming insurer's motion for summary judgment on ground that plaintiffs (who were the only members of the LLC who was designated as “insured” under CLTA Standard Coverage policy of Title Insurance) were not insureds and they did not become “insureds” “by operation of law” since insured house was given to member plaintiffs by grant deed prior to dissolution of the LLC. (“[C]overage did not continue because title to the property did not devolve to appellants as members of the LLC on dissolution of the LLC, but rather was transferred by deed from the named insured to appellants as trustees of their family trust, a totally separate legally entity.”)(The opinion is [here](#).)

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