

I was sued for negligence and my homeowners insurance company has denied my claim saying the damage was caused by someone else's intentional act, what can I do?

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It is common for homeowners insurance policies to have exclusions for damage caused by an act "which is expected or intended by one or more 'insureds'" (intentional act). Insurance companies may say this exclusion applies to all people covered under the policy, even when more than one person covered under the policy is being sued, and even when some of them are being sued solely for negligence. A claim denial may lead to dismay, especially after you have been sued and you need to present a defense, rather quickly.

However, there may be hope. It may be found in the Severability of Insurance clause (hopefully) contained in your policy. This clause usually reads something like "[t]his insurance applies separately to each 'insured.'" What this has been interpreted to mean in Massachusetts is that each person covered under the policy must be considered separately. Worcester Mut. Ins. Co. v. Marnell, 398 Mass. 240 (1986); see also Lumberman's Mut. Cas. Co. v. Hanover Ins. Co., 38 Mass. App. Ct. 53 (1995). In other words, the policy must be construed as if each person insured under the policy had their own independent policy. So, if one person is being sued for negligence, then the damages claimed in the underlying suit must be considered to be allegedly caused by that person's negligence for insurance coverage purposes. That usually means there really is coverage under the policy for those accused of negligence in the underlying suit.

However, it is not advisable to take on an insurance company alone and interpretation of insurance policies can be tricky business. So, give a lawyer a call to see if there indeed may be coverage when your homeowners insurance company denies your claim.