

BAD FAITH BLOG

# Clearly Written Exclusion Defeats Contract and Bad Faith Claims

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Summary: “Use” is an easily understood word that includes both intentional and accidental actions such that any use of an illegal drug triggered the exclusion.

*Sonja Skinner v Guarantee Trust Life Insurance Company*, 2011 WL 1598787 (S.D. Ohio)

In this United States District Court case the plaintiff's husband died while insured under an accidental death and dismemberment insurance policy issued by defendant Guarantee. The dispute was whether the husband's death was excluded by a provision of the policy that excluded deaths resulting from taking narcotics, amphetamines or other stimulants without a prescription. The decedent died of methadone intoxication. He did not have a prescription for methadone but the wife did and the wife argued that her husband accidentally took the methadone pills in the middle of the night thinking it was his own prescription medication. The plaintiff contended that the exclusion of the use of methadone only included voluntary or intentional acts of consuming and did not include the accidental use of methadone.

Since the term “use” was not specifically defined in the policy, the court had to determine its plain and ordinary meaning. The plain meaning of the term meant the act of putting the narcotics into action which included all uses of methadone. Since it was not disputed that Mr. Skinner died as a result of methadone intoxication, his death was the result of the use of narcotics and therefore excluded. Defendant's motion for summary judgment was granted.

The court went on to consider the plaintiff's bad faith claim. Not surprisingly, under Ohio law a bad faith claim is dependent on showing that a plaintiff's claim was covered under the policy.

Clearly written exclusions in a policy coupled with an investigation that establishes facts that fall within the exclusion are an excellent way to defeat coverage and defeat the typical bad faith claim joined with the coverage claim.