

Bovis Kyle secures insurance coverage victory in the Georgia Court of Appeals

By June 14, 2018

On June 13, 2018, the Georgia Court of Appeals affirmed a declaratory judgment order issued by a Gwinnett County Superior Court judge. The victory was secured by partners Steve Kyle, Kim Jackson and Eric Ludwig. The Plaintiffs initiated a declaratory judgment action against the insurance company to secure insurance assets to satisfy a wrongful death liability action arising from a multi-fatality single vehicle accident when co-workers/brothers were killed while attending a conference in Florida. Due to the severity of the injuries, the full policy limits of a substantial commercial general liability policy were at stake. The firm represented the insurer.

The Bovis Kyle trio of attorneys was able to persuade the trial judge to grant its Motion for Summary Judgment finding no coverage existed under the Business Auto policy. The order was affirmed by the Georgia Court of Appeals completely adopting the insurer's arguments finding that the evidence supported the judgment and there was no reversible error of law in the order of the trial court.

The complex legal issues involved interpretation of insurance policy exclusions for Employer Liability, Fellow Employee, and Worker's Compensation. The decision is important to the insurance industry because the arguments applied coverage exclusions rarely litigated in Georgia law. The arguments revolved around principles of agency and application of the personal deviation rule inasmuch as the two brothers were consuming alcohol at Epcot on a Sunday prior to a trade show starting on the following Monday.