

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Sacramento)

JEAN MARIE UHRICH,  
  
Plaintiff and Appellant,  
  
v.  
  
STATE FARM FIRE & CASUALTY COMPANY,  
  
Defendant and Respondent.

C036415  
Sup. Ct. No. 99AS01927  
  
**ORDER MODIFYING  
OPINION AND DENYING  
REHEARING  
NO CHANGE IN JUDGMENT**

APPEAL from a judgment of the Superior Court of Sacramento County, John R. Lewis, Judge. Affirmed.

Bien & Summers, E. Elizabeth Summers; Douglas E. Lord; Stoddard, Pfeiffer, Bergquist & Wood and Steven N.H. Wood for Plaintiff and Appellant.

Chapman, Popik & White, Susan M. Popik and Amy O'Keefe for Defendant and Respondent.

THE COURT:

It is ordered that the opinion filed herein on June 9, 2003, be modified as follows:

1. On page 21, insert the following language on line 3 of heading "4." after the words "nonmalicious torts." and before "We will consider":

But where allegations are "inseparably intertwined" with noncovered intentional conduct, there is no coverage. (*Jane D. v. Ordinary Mutual* (1995) 32 Cal.App.4th 643, 653)

["obtaining information about plaintiff during counseling and using this information and misusing counseling techniques to create transference and to control and induce plaintiff's behavior" deemed "'inseparably intertwined'" with sexual misconduct]; *Coit Drapery Cleaners, Inc.* (1993) 14 Cal.App.4th 1595, 1608 [if during "course of inseparably intentional sexual molestation or harassment of the victim, the wrongdoer so negligently behaved as to cause the victim additional physical or emotional harm, there is no duty to defend" even if conduct might otherwise have been covered]. Cf. *Horace Mann Ins. Co. v. Barbara B.* (1993) 4 Cal.4th 1076, 1085.)

2. At the end of the second full paragraph on page 13, add the following citation following "illusory coverage."

(See, e.g., *Safeco Ins. Co. v. Robert S.* (2001) 26 Cal.4th 758, 764 [rejecting construction of exclusion which "is so broad as to render the policy's liability coverage practically meaningless"].)

3. On page 30, delete the last sentence of the second full paragraph under heading "ii." beginning "She concedes" and replace it with the following sentence:

In a footnote, Uhrich states professional malpractice is a subject "which [State Farm's] policy admittedly does not cover," but purports to disavow this concession in the reply brief, asserting that the long passage of time since Lindseth had given her psychological treatment rendered the professional services exclusion inapplicable to her claims.

4. On page 36, add the following language as a new paragraph at the end of part III:

In her rehearing petition, reiterating a point made in a supplemental brief, Uhrich points to the absence of the word "loss" in the defense portion of Lindseth's policy and argues this means the duty to defend is not limited to accidents. But the promise was to defend claims "covered

by this policy," which incorporates the coverage definitions provided elsewhere. There was no specific promise to defend noncovered intentional conduct in this policy.

There is no change in the judgment.

The petition for rehearing is denied.

FOR THE COURT:

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SIMS, Acting P.J.

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NICHOLSON, J.

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MORRISON, J.