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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 IDS PROPERTY AND CASUALTY
9 INSURANCE COMPANY,

10 Plaintiff,

11 v.

12 CHARLES H. FELLOWS,

Defendant.

C15-2031 TSZ

ORDER

13 THIS MATTER comes before the Court on supplemental briefing concerning
14 whether WAC 284-20-010(3)(c) renders void the “intentional act of an insured”
15 exclusion in the insurance policy at issue because it can be construed to bar coverage for
16 an “innocent” co-insured. Having reviewed the parties’ supplemental briefs, docket
17 nos. 160 and 162, and the authorities cited therein, the Court enters the following Order.

18 **Discussion**

19 The insurance policy at issue contains the following exclusion:

20 We will not pay for loss or damage caused by any of the following
21 excluded events Intentional loss, meaning any loss arising out of any
22 act an **insured person** commits or conspired to commit with the intent to
23 cause a loss. In the event of such a loss, no **insured person** is entitled to
coverage, even **insured persons** who did not commit or conspire to commit
the act causing the loss.

1 However, this exclusion will not apply to deny an **insured person’s** claim
2 for an otherwise covered property loss under this policy if such a loss is
3 caused by an act of domestic violence by another **insured person** under
4 this policy and the **insured person** claiming the property loss:

- 5 a) did not cooperate in or contribute to the creation of the loss; and
- 6 b) cooperates in any investigation relating to the loss.

7 Ex. 1 to Compl. (docket no. 1-1 at 17-18).

8 Defendant Charles H. Fellows contends that this “intentional act of an insured”
9 exclusion violates WAC 284-20-010, which articulates an intent “to permit
10 understandable plain language policies and package policies without diminishing any
11 rights an insured would have under the 1943 New York Standard Fire Insurance Policy.”

12 WAC 284-20-010(3)(c). According to Fellows, the 1943 New York Standard Fire
13 Insurance Policy affords coverage to an insured even when a co-insured has intentionally
14 caused the loss at issue. Fellows has cited to twelve decisions of courts in other
15 jurisdictions, which the Court has carefully studied, but he has provided no Washington
16 authority in support of his position.

17 In contrast, plaintiff IDS Property and Casualty Insurance Company cites to a
18 Washington statute that explicitly allows basic contracts of fire insurance, commonly
19 known as standard form fire policies, to “exclude coverage for losses caused by
20 intentional or fraudulent acts of **any** insured.” RCW 48.18.550(3) (emphasis added);
21 see also RCW 48.18.120(1). This statute contains the proviso, however, that such
22 “intentional act of an insured” exclusions may not apply to deny an insured’s otherwise-
23 covered property loss if (i) the property loss is caused by an act of domestic abuse by
another insured under the policy, (ii) the insured seeking coverage complies with certain
reporting and cooperation requirements, and (iii) the insured seeking coverage did not

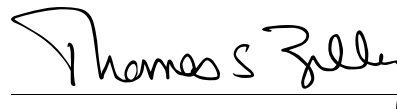
1 contribute to the creation of the property loss. RCW 48.18.550(3). The insurance policy
2 at issue in this matter contains the requisite domestic abuse or domestic violence
3 exception to the “intentional act of an insured” exclusion, and it is in full compliance with
4 Washington law. *See Allstate Ins. Co. v. Raynor*, 93 Wn. App. 484, 498-500, 969 P.2d
5 510, 975 P.2d 517, 980 P.2d 765 (1999) (observing that “Washington courts have
6 interpreted an exclusionary clause based upon the acts of ‘an insured’ as precluding
7 coverage for an innocent insured where coverage for the acts of another culpable insured
8 is excluded under the policy” and declining to hold that such exclusions violate public
9 policy), *aff’d*, 143 Wn.2d 469, 21 P.3d 707 (2001).

10 **Conclusion**

11 For the foregoing reasons, the Court concludes that WAC 284-20-010(3)(c) does
12 not render void the “intentional act of an insured” exclusion in the insurance policy at
13 issue.

14 IT IS SO ORDERED.

15 Dated this 23rd day of March, 2017.

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18 Thomas S. Zilly
19 United States District Judge
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