

## Opinions for the week of May 16 - May 20, 2016

### **Hartford Casualty Insurance Co v. Karlin, Fleisher & Falkenberg** No. 15-3417

Argued April 19, 2016 — Decided May 16, 2016

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 14 C 2883 — **John Robert Blakey**, *Judge*.  
Before BAUER, POSNER, and FLAUM, *Circuit Judges*.

POSNER, *Circuit Judge*. Ronald G. Fleisher, a lawyer, had worked for two affiliated law firms that together with their principals (some of whom appear from their names to be relatives of his, though he was not one of the principals) are the defendants in this litigation and in the state court litigation from which it arises. In March 2013 Fleisher had filed a written demand with the defendants claiming that when he retired, in 2011, he had accrued more than 90 weeks of unused vacation time and more than 322 days of unused sick leave, and that the firms and their principals were contractually required, and also required by the Illinois Wage Payment and Collection Act, 825 ILCS 115/1 *et seq.*, to pay him for those accruals at the same rate of pay for the vacation time, and at 75 percent of the rate for the unused sick time, that he'd been receiving on the eve of his retirement. He estimated that he was owed about \$950,000 for the accruals. He wasn't paid, and in August 2013, five months after making his demand, he sued in a state court in Illinois, claiming that the defendants had "in breach of their employment agreement" failed to pay him "the compensation owed to him for his unused but accrued sick and vacation time under the parties' agreement."... What is true is that Hartford should not have taken seven months to respond to the defendants' request for coverage, but a delay in such a response can't create coverage when there clearly was no duty to defend. *Employers Ins. of Wausau v. Ehlco Liquidating Trust*, 708 N.E.2d 1122, 1135 (Ill. 1999); *Lyerla v. AMCO Ins. Co.*, 536 F.3d 684, 692–93 (7th Cir. 2008) (Illinois law). The defendants should have realized from the outset that their breach of their contractual obligation to Ronald Fleisher was not covered by their insurance policy. The delay was not a valid ground for estopping Hartford to deny coverage or a duty to defend. AFFIRMED

### **Gilliland, Michael W. v. Fifth Third Mortgage Company** No. 15-3271

Submitted May 13, 2016 — Decided May 16, 2016

Case Type: Bankruptcy from District Court

Southern District of Indiana, Indianapolis Division. No. 1:14-cv-02054-SEB-DKL — **Sarah Evans Barker**, *Judge*.

Before MICHAEL S. KANNE, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

#### **ORDER**

Michael Gilliland lost his home in Liberty, Indiana, after defaulting on his mortgage loan from Fifth Third Mortgage Company. In July 2013 an Indiana state trial court entered a judgment of foreclosure, which the state appellate court affirmed in March 2014. A sheriff's sale of the property was scheduled for August 2014, but just days before Gilliland filed for bankruptcy under Chapter 13. He also filed two related adversary proceedings seeking removal of the foreclosure case from state court to the bankruptcy court and claiming that Fifth Third and its attorneys had committed state-law torts. Both Fifth Third and the bankruptcy trustee moved to dismiss the Chapter 13 case on the grounds that Gilliland had no regular income and could not maintain proposed plan payments. See 11 U.S.C. § 109(e). The day before a scheduled hearing on these motions, Gilliland filed a motion asking the district court to withdraw its reference to the bankruptcy court. Without acknowledging Gilliland's motion, the bankruptcy court granted the motions to dismiss the Chapter 13 case and two days later dismissed the adversary proceedings. Gilliland then moved for relief from judgment, arguing that the bankruptcy court should not have ruled on the bank's and trustee's motions while his own motion to withdraw reference was pending. The bankruptcy court denied Gilliland's postjudgment motion, and the district court affirmed the dismissal of the bankruptcy case and adversary proceedings... AFFIRMED.

**Richard M. Smego v. Dr. Jacqueline Mitchell** No. 15-1629

Submitted May 13, 2016 — Decided May 16, 2016

Case Type: Civil

Central District of Illinois. No. 08-3142 — **Sue E. Myerscough**, *Judge*.

Before MICHAEL S. KANNE, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

#### **ORDER**

This case is before us for the second time. Richard Smego, a civil detainee at Rushville Treatment and Detention Facility in Illinois, sued the facility's dentist, Dr. Jacqueline Mitchell, claiming that she was deliberately indifferent to his need for dental care, in violation of the Fourteenth Amendment. See 42 U.S.C. § 1983. Previously we overturned the grant of summary judgment for Mitchell and remanded for trial. *Smego v. Mitchell*, 723 F.3d 752 (7th Cir. 2013). On remand a jury found in favor of Mitchell, and though Smego argues that defense counsel had prejudiced the jury through improper questioning and argument, he did not seek a mistrial or, in most instances, even object to the perceived errors. Smego thus failed to preserve his appellate claims, and on that basis we affirm the judgment.

**Hyson USA Inc. v. Hyson 2U, Ltd.** No. 14-3261

Argued September 10, 2015 — Decided May 16, 2016

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 14 C 4320 — **Milton I. Shadur**, *Judge*.

Before FLAUM, RIPPLE, and SYKES, *Circuit Judges*.

SYKES, *Circuit Judge*. This is a trademark dispute between two food-distribution companies named Hyson. Hyson USA, Inc., is owned by Leonid Tansky and formerly employed Karolis Kaminskas as a manager. In early 2012 Hyson USA experienced a serious financial setback and suspended its operations. In a role reversal, Tansky then went to work for Kaminskas at his newly formed company Hyson 2U, Ltd. That company operated in much the same way as Hyson USA. About 17 months later, Tansky was fired. This suit is his response. Tansky and his company, Hyson USA, accuse Hyson 2U and Kaminskas of trademark infringement. See 15 U.S.C. §§ 1114 *et seq.* Hyson 2U moved to dismiss for failure to state a claim, see FED. R. CIV. P. 12(b)(6), arguing that the complaint affirmatively established the defense of acquiescence. That defense estops recovery if the trademark owner, by his words or conduct, manifested his consent to the defendant's use of the mark. The district court granted the motion and dismissed the case. We reverse. The district judge jumped the gun in dismissing the case at the pleading stage. Acquiescence is a fact-intensive equitable defense that is rarely capable of resolution on a motion to dismiss under Rule 12(b)(6).

**Joseph Mburu Njeri v. Loretta E. Lynch** No. 15-3623

Case Type: Agency

Submitted May 13, 2016\* Decided May 17, 2016

Before MICHAEL S. KANNE, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

Board of Immigration Appeals. No. A205-373-344

#### **ORDER**

Joseph Njeri, a 32-year-old citizen of Kenya, petitions for review of the denial of his application for protection under the Convention Against Torture, see 8 C.F.R. § 1208.16(c), and alternatively, of the Board of Immigration Appeal's failure to address his request for voluntary departure. We agree with the Board that Njeri is removable and has not established eligibility

for relief, but the Board overlooked his request for voluntary departure, so we remand the case for the limited purpose of considering that issue.

**USA v. Cardell Brown** No. 15-3496

Submitted May 13, 2016 — Decided May 17, 2016

Case Type: Criminal

Southern District of Illinois. No. 3:11-CR-30186-DRH-1 — **David R. Herndon**, *Judge*.

Before KANNE, SYKES, and HAMILTON, *Circuit Judges*.

HAMILTON, *Circuit Judge*. In 2012 Cardell Brown pled guilty to failing to register as a sex offender, see 18 U.S.C. § 2250(a), and was sentenced to 18 months in prison followed by 60 months of supervised release. Within months of being released from prison, Brown was arrested by Illinois authorities for violating the state's sex-offender registration law, 730 ILCS 150/3(a). He pled guilty and was sentenced to 18 months in state prison. Brown's federal probation officer then petitioned the district court to revoke his supervised release, see 18 U.S.C. § 3583(e)(3), citing Brown's state case and his failure to submit timely supervision reports on five occasions. Brown admitted the allegations. The district court revoked his supervised release, ordered him to serve an additional 12 months in prison (consecutive to his new state sentence) and imposed a 10-year term of supervised release. Brown filed a notice of appeal, but his appointed attorney asserts that the appeal is frivolous and seeks to withdraw under *Anders v. California*, 386 U.S. 738 (1967)... Counsel's motion to withdraw is GRANTED, and the appeal is DISMISSED.

**Samaron Corp. v. United of Omaha Life Insurance** No. 15-3446

Argued April 1, 2016 — Decided May 17, 2016

Case Type: Civil

Northern District of Indiana, South Bend Division. No. 3:12-CV-397 — **Rudy Lozano**, *Judge*.

Before POSNER, EASTERBROOK, and WILLIAMS, *Circuit Judges*.

EASTERBROOK, *Circuit Judge*. In 2003 Troyer Products (formally Samaron Corp.), a closely held corporation, purchased a policy of insurance on the life of Ron Clark, then its President. Dave Buck, its COO, was the beneficiary. Clark, who approved the transaction, thought that the death benefit of \$1 million would enable Buck to buy out his stock, so that the money would end up in the hands of Clark's family while Buck would come to control the company. United of Omaha Life Insurance Company initially wrote the policy that way, but it was soon amended so that the death benefit would go to Troyer. (One side says that United's underwriting department insisted on this change, the other that tax considerations dominated; the reason does not matter now.) Troyer did not undertake by contract to turn the death benefit over to Buck, but both Buck and Ron Clark's wife Darlene recall that this was the plan... From beginning to end, Troyer's brief rests on the assertions that Holtz was misled by United and did not know that Troyer was the policy's beneficiary. That approach commits the legal error of confusing Holtz with Troyer; the corporation's knowledge, not Holtz's, is what matters. And it commits the factual error of ignoring what happened at the board meeting, where Buck made sure that everyone present knew that Troyer was legally entitled to the proceeds. If this left Troyer the corporation, or Holtz personally, in a state of confusion, either could have had a lawyer investigate and clear things up. Instead the board elected to let the money go to Buck, and we have explained why the route it took to get there does not matter. AFFIRMED

**Brian Davis v. City of Milwaukee** No. 15-2978

Submitted May 13, 2016 — Decided May 17, 2016

Case Type: Civil

Eastern District of Wisconsin. No. 13-CV-982-JPS — **J.P. Stadtmueller**, *Judge*.

Before MICHAEL S. KANNE, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

**ORDER**

Stephen Chalstrom, a residential code-enforcement inspector, inspected the exterior of a vacant building owned by Brian Davis seven times between August 2012 and October 2013. During his visits to the structure, Chalstrom used walkways on the property, where he saw numerous housing-code violations. Davis sued Chalstrom (and other people, but they are not relevant on appeal) under 42 U.S.C. § 1983 for damages. He invoked the theory, among others, that Chalstrom violated his Fourth Amendment rights by inspecting the building's exterior without a warrant. The district court ruled that Chalstrom is entitled to qualified immunity. That ruling is correct, so we affirm.

**James Hicks v. Moses Stancil** No. 15-2348

Submitted May 13, 2016 — Decided May 17, 2016

Case Type: Prisoner

Central District of Illinois. No. 14-CV-1458 — **James E. Shadid**, *Chief Judge*.

Before MICHAEL S. KANNE, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

**ORDER**

While incarcerated at the Federal Correctional Institution in Pekin, Illinois, James Hicks petitioned for a writ of habeas corpus under 28 U.S.C. § 2241, arguing that a recent case from this court establishes that he is not an armed career criminal under 18 U.S.C. § 924(e). Reasoning that § 2241 is not available to Hicks, the district court dismissed the petition. On appeal the government expressly waives any argument that Hicks cannot use § 2241 and concedes that he is entitled to relief. We accordingly vacate the district court's judgment and remand for the district court to grant Hicks's petition for resentencing.

**USA v. Kris Koglin** No. 15-1946 & 15-1946

Argued October 2, 2015 — Decided Date May 17, 2016

Case Type: Criminal

Southern District of Indiana, Indianapolis Division. Nos. 1:12CR00141-009 & 1:12CR00204-001 — **Larry J. McKinney**, *Judge*.

Before POSNER, SYKES, and HAMILTON, *Circuit Judges*.

SYKES, *Circuit Judge*. Kris Koglin appeals the district court's denial of his motion for a sentence reduction under 18 U.S.C. § 3582(c)(2) based on the retroactive 2014 amendment to the drug-quantity sentencing guideline. Because the amendment does not have the effect of lowering Koglin's guideline sentencing range, he is not eligible for a sentence reduction... AFFIRMED.

**USA v. Randy Johnson** No. 15-1366

Argued November 17, 2015 — Decided May 17, 2016

Case Type: Criminal

Eastern District of Wisconsin. No. 14-CR-25 — **Rudolph T. Randa**, *Judge*.

Before FLAUM, EASTERBROOK, and HAMILTON, *Circuit Judges*.

HAMILTON, *Circuit Judge*, dissenting.

EASTERBROOK, *Circuit Judge*. Police in Milwaukee saw a car stopped within 15 feet of a crosswalk, which is unlawful unless the car is "actually engaged in loading or unloading or in receiving or discharging passengers". Wis. Stat. §346.53(5). One police car drew up parallel to the stopped car, and another drew up behind. Shining lights through the car's windows

(it was after sunset), police saw a passenger in the back seat try to hide a firearm. Randy Johnson, the passenger, was prosecuted for possessing a weapon that, as a felon, he was forbidden to have. 18 U.S.C. §922(g)(1). After the district court denied his motion to suppress the gun, see 2014 U.S. Dist. LEXIS 135367 (E.D. Wis. Sep. 25, 2014), adopting 2014 U.S. Dist. LEXIS 135374 (E.D. Wis. Aug. 7, 2014), Johnson entered a conditional guilty plea and was sentenced to 46 months' imprisonment. His sole argument on appeal is that the district judge should have granted the motion to suppress... So although we agree with the district court that, given *Shields*, the police had at least reasonable suspicion to stop the parked car long enough to find out what was going on, we also conclude that the police would have discovered the same evidence without a seizure (because any officer was free to walk up to the parked car, which lacking a driver was not going anywhere), and that exclusion of evidence in a criminal prosecution would be the wrong remedy for the harmless steps of using extra cruisers and excessive lighting. AFFIRMED

**USA v. Shontay Dessart** No. 14-2686

Argued June 2, 2015 — Decided May 17, 2016

Case Type: Criminal

Eastern District of Wisconsin. No. 12-CR-85 — **William C. Griesbach**, *Chief Judge*.

Before POSNER, EASTERBROOK, and SYKES, *Circuit Judges*.

POSNER, *Circuit Judge, concurring*.

SYKES, *Circuit Judge*. From his home in tiny Reedsville, Wisconsin, Shontay Dessart manufactured and sold products containing the active chemical ingredients in numerous prescription drugs, offering them for sale online with the disclaimer “for research only” to evade the oversight of the U.S. Food and Drug Administration. He was convicted of violating the Food, Drug, and Cosmetic Act, 21 U.S.C. § 331, with the intent to defraud or mislead the agency, which converted his violations from strict-liability misdemeanors into specific-intent felonies, *id.* § 333(a)(2). On appeal Dessart contends that (1) the FDA’s investigator lied in procuring a search warrant and the warrant otherwise lacked probable cause; (2) the government’s evidence was insufficient to prove that he acted with deceptive intent; and (3) the district court erred in instructing the jury on the definition of “prescription drug.” Long story short: Dessart lied, the investigator didn’t, the warrant was backed by ample probable-cause, and there was no instructional error. We affirm.

**USA v. Robert A. Tate** No. 15-3227

Argued February 23, 2016 — Decided May 18, 2016

Case Type: Criminal

Southern District of Illinois. No. 4:14-cr-40073-JPG-1 — **J. Phil Gilbert**, *Judge*.

Before WOOD, *Chief Judge*, and SYKES and HAMILTON, *Circuit Judges*.

HAMILTON, *Circuit Judge*. In this appeal, we address two sentencing issues. First, defendant Robert A. Tate challenges the district court’s findings on the extent of his relevant conduct. Those findings were based on credibility determinations to which we give great deference, and we find no error. Second, we must also decide whether a conviction under an Illinois law that prohibits attempted procurement of anhydrous ammonia with intent that it be used to manufacture methamphetamine qualifies as a “controlled substance offense” under the Sentencing Guidelines’ career offender provision, U.S.S.G. § 4B1.1. Despite the conviction’s significant link to methamphetamine manufacture, careful parsing of the relevant Guideline provisions shows that a conviction under this particular statute does not actually qualify. The district court will be free to consider the nature of the conviction when it exercise its sentencing discretion on remand, but it will need to do so without treating this defendant as a career offender under the Guidelines.

**Andrew Waldrop v. Wexford Health Sources, Inc.** No. 15-2403

Case Type: Prisoner

Submitted May 13, 2016 — Decided May 18, 2016

Northern District of Illinois, Eastern Division. No. 12 C 6031 — **Edmond E. Chang**, *Judge*.

Before MICHAEL S. KANNE, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

**ORDER**

Andrew Waldrop, an Illinois inmate who has type I diabetes, challenges the grant of summary judgment against him in this action under 42 U.S.C. § 1983, in which he asserts that his Eighth and Fourteenth Amendment rights were violated when he received inadequate insulin from the medical staff at Stateville Correctional Center. We affirm in part and vacate and remand in part.

**USA v. Brian Wilkozek** No. 15-1537

Argued November 4, 2015 — Decided May 18, 2016

Case Type: Criminal

Northern District of Illinois, Eastern Division. No. 02 CR 576 — **Matthew F. Kennelly**, *Judge*.

Before KANNE, ROVNER, and SYKES, *Circuit Judges*.

SYKES, *Circuit Judge*. In 2003 Brian Wilkozek pleaded guilty to one count of mail fraud for his participation in a mortgage-fraud scheme. The scheme was straightforward. Wilkozek drafted phony mortgage applications for in-the-know buyers to purchase properties from an in-the-know realtor at artificially high prices. He then submitted these applications to mortgage lenders, who approved them and distributed the funds to the buyers. The buyers divvied the funds between all of the schemers and then walked away from the underwater properties. As Wilkozek expected, the original mortgage lenders quickly sold the mortgages to third-party lenders on the strength of the same phony applications. By the time the third-party lenders uncovered the scheme, all they could do was foreclose and sell the properties. They suffered losses of more than \$700,000... After Wilkozek was caught and pleaded guilty, he was ordered to pay restitution to the victims—namely, the third-party mortgage lenders. That restitution went unpaid, so the government asked the district judge to order Wilkozek's employer to turn over part of his wages. Wilkozek challenged the government's request via petition for *coram nobis*—an ancient writ used to collaterally attack a criminal judgment. Wilkozek claimed to have “new evidence” that proves the third-party lenders were not actually victims entitled to restitution. He also argued that the government miscalculated the amount of unpaid restitution. The judge disagreed on both fronts and entered the turnover order. We affirm. The judge properly refused to grant the writ. Misclassifying a lender as a victim is not a fundamental error remediable by *coram nobis*, and even if it were, Wilkozek has not come close to proving that a misclassification occurred here. And the government has corrected its mistake in calculating the unpaid restitution, so no further action is necessary.

**Tony Thomas v. Tarry Williams** No. 14-2610

Argued February 18, 2016 — Decided May 18, 2016

Case Type: Prisoner

Northern District of Illinois, Eastern Division. No. 07 CV 6443 — **Charles R. Norgle**, *Judge*.

Before WOOD, *Chief Judge*, and KANNE and SYKES, *Circuit Judges*.

KANNE, *Circuit Judge*. A jury convicted Tony Thomas of the 2001 murder of Khatim Shakir. In January 2005, after his conviction was final, Thomas received a letter from his trial attorney informing him that unidentified gang members told police that Thomas did not commit the murder, but rather, that the shooter was

a drug dealer named Robert Pinkston. In April 2005, Thomas filed a petition for post-conviction relief in state court arguing that he was actually innocent in light of the newly discovered evidence. After unsuccessfully pursuing that petition, Thomas filed a second petition in state court in 2007. This time

Thomas alleged that the government withheld evidence that the officer was told that Pinkston was the shooter in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). The state court held that the claim was defaulted because Thomas did not raise it in his first state post-conviction petition. Before us is Thomas's federal petition for a writ of habeas corpus, in which he re-raises the *Brady* claim. The district court denied relief on Thomas's *Brady* claim, holding that it was procedurally defaulted. Because we agree that Thomas's *Brady* claim is procedurally defaulted, we affirm the district court's denial of his petition.

**Paula St. John, Yvonne Owusumensah, et al., & Bryan Sirota, v. Cach, LLC; Cavalry Portfolio Services, LLC; & Unifund CCR Partners, Inc.**

Nos. 14-2760, 14-3724 & 15-1101

Argued March 31, 2016 — Decided May 19, 2016

Case Type: Civil

Northern District of Illinois, Eastern Division. Nos. 14-cv-00733; 14-cv-03640; 14-cv-04903; 14-cv-04442; 14-cv-04402; 14-cv-03408 — **Amy J. St. Eve & Charles P. Kocoras**, *Judges*.

Before KANNE and MANION, *Circuit Judges*, and PEPPER, *District Judge*.

MANION, *Circuit Judge*. Section 1692e(5) of the Fair Debt Collection Practices Act ("FDCPA" or "the Act") prohibits debt collectors from threatening to take an action that they do not intend to take in the course of collecting a debt. 15 U.S.C. § 1692e(5). The question before us is whether this provision makes it unlawful for a debt collector to file a collection law-suit without intending to proceed to trial. We conclude it does not... AFFIRMED.

**USA v. Adam Hill** No. 15-3090

Case Type: Criminal

Submitted March 10, 2016 — Decided May 20, 2016

Southern District of Illinois. No. 14-CR-30207-NJR-1 — **Nancy J. Rosenstengel**, *Judge*.

Before DIANE P. WOOD, *Chief Judge*; RICHARD A. POSNER, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*.

**ORDER**

The defendant pleaded guilty to receiving child pornography, see 18 U.S.C. § 2252A(a)(2)(B), and was sentenced to 10 years in prison plus a fine and restitution and 5 years of supervised release. He filed a notice of appeal, but his lawyer asserts that the appeal is frivolous and seeks to withdraw. See *Anders v. California*, 386 U.S. 738, 744 (1967). We remanded the case to the district court for the limited purpose of determining whether the defendant knowingly and voluntarily waived any challenge to the conditions of his supervised release. See *United States v. Hill*, No. 15-3090, 2016 WL 1381248 (7th Cir. 2016). Counsel informs us that the district court subsequently held a hearing and found the waiver to be knowing and voluntary. Finding no other potentially meritorious issues, we conclude that the appeal is frivolous. Thus, we GRANT counsel's motion to withdraw and DISMISS the appeal.

**Altom Transport v. Westchester Fire Insurance Co. and Michael Stampley** Nos. 15-2279 & 15-2363

Argued February 17, 2016 — Decided May 20, 2016

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 14 C 9547 — **Sharon Johnson Coleman**, *Judge*.

Before WOOD, *Chief Judge*, and BAUER and WILLIAMS, *Circuit Judges*.

WOOD, *Chief Judge*. This is an insurance coverage dispute. Michael Stampley, a truck driver, sued Altom Transport, Inc., alleging that Altom had failed to pay him enough for driving his truck for it. Altom turned to its insurer, Westchester Fire Insurance Co., for coverage in the suit. Westchester denied coverage; Altom

handled its own defense; and the parties tried to settle the case. At that point, counsel for both Stampley and Altom tried to pull Westchester back into the case, by making settlement offers within the limits of the Westchester policy and seeking Westchester's approval. Westchester was having none of it, however, so Altom sued in state court for a declaratory judgment establishing that Westchester had a duty to defend, that it wrongfully had failed to do so, and that its handling of the matter had been unreasonable and vexatious. Westchester removed the insurance coverage dispute to federal court. Once there, it filed a motion to dismiss the coverage dispute for failure to state a claim. The district court granted that motion, and we affirm. Stampley's suit arises from his contract with Altom, and so it falls within a policy exclusion that Westchester is entitled to invoke.

Only the text of the opinions is used. No editorial comment is added. For back issues or to send a comment, please contact [Sonja Simpson](#).