

Coverage within
the Ivy Walls

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It is important to understand the nuances that may come into play regarding coverage and exclusions in these cases.

Select Insurance Issues Involving College Students

Tortious acts by or against college students can raise “some of the usual suspects” of insurance coverage issues, but with certain twists. This article describes a few of the issues that can arise and have arisen when

insurers have been asked to defend or indemnify a college student in a lawsuit brought against him or her.

In these cases, an initial question is, who is a covered insured? For example, under a fraternity’s commercial general liability (CGL) policy, a fraternity member might not be considered an insured if his behavior was outside of his duties to the fraternity, and hazing and drinking usually are outside of such “duties,” but he might be considered an insured under a membership endorsement if his conduct was related to fraternity activities. In addition, college students, even when they are away from home, are sometimes deemed residents of their parents’ houses, and thus insured under their parents’ homeowner policies.

Once the potential insureds covered by a policy have been identified, the next series of questions involve determining whether the particular claims against college students are covered. This analysis includes

questions of whether (1) the plaintiff has asserted claims for bodily injury; (2) the alleged injury or damage was expected or intended by the insured; (3) the policy has an alcohol exclusion; or (4) a hazing/molestation exclusion applies.

Regarding the first issue, most plaintiffs allege bodily conduct, injuries or death against an insured, thereby asserting a claim for bodily injury.

As to the second issue, expected or intended injuries, a lawyer representing an insurer should determine what constitutes an intentional injury under applicable law; whether a specific intent to injure can be presumed from a student’s conduct; and whether an intentional act exclusion applies to both the student and those who may be vicariously liable for his or her actions.

With regard to the third issue, some courts have applied alcohol exclusions to deny coverage, even in the face of general



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law that favors insureds when applying exclusions.

Finally, molestation exclusions can come into play, but an analysis potentially can become quite involved if these exclusions use the phrase “care, custody or control” to describe the injured person to whom the exclusion applies. Although there is case law that has found children to be in a

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school’s “care, custody or control,” it is less clear whether the relationship between an adult student and a college or university would fall into that category.

Who Is an Insured?

Commercial General Liability Policies

A typical CGL policy has a section specifying who is an insured, which describes the insureds other than the named insured (*i.e.*, the person or entity to whom the policy is issued). *See, generally*, 20 Eric Mills Holmes & John Alan Appleman, *Holmes’ Appleman on Insurance (Appleman)* §129.2 (2d ed. 2000 & Supp. 2008). An “additional parties insured” endorsement can make coverage of an additional insured contingent on whether the claim against him is related to the scope of duties that he performed on behalf of the named insured. On the other hand, some liability policies have member endorsements that include as additional insureds members of the named insured fraternity, even when they are not conducting duties for the named insured. The interplay of these two types of provisions is illustrated in *Amica Mut. Ins. Co. v. St. Paul Fire & Marine Life Ins. Co.*, 2003 U.S. Dist. LEXIS 9061 (N.D. Tex. 2003).

In *Amica*, a student died after participating in a “rigged drinking contest.” *Id.* at *2.

His survivors sued the fraternity and various active chapter members and pledges. The fraternity’s policy included an “additional persons insured” endorsement and a “club members” endorsement, the latter of which specifically applied to “member candidates,” as well as fraternity members. *Id.* at *5. The court noted that the scope of coverage for “club members” was greater than the scope for “additional persons insured,” because the latter provision required that the conduct at issue be limited to the scope of duties of the fraternity’s members. *Id.* at 6 n.3. In contrast, the “club members” endorsement covered fraternity activities. *Id.* The court observed that the allegations in the case showed that the claims were for fraternity activities, even if the actors were not functioning as part of their duties with the fraternity. *Id.* The court also found that under the “club members” endorsement, which did not define the terms “member” and “member candidates,” pledges were covered as “members.” *Id.*

As a result, although an “additional parties insured” provision might not provide coverage for an individual if his tortious conduct was not within his duties to a fraternity, he may be covered under a “club members” endorsement.

Homeowner Policies

The issue of who is an insured can arise when a student, as an alleged tortfeasor, seeks protection under his or her parents’ homeowner insurance based on an argument that he or she is covered under the policy as a resident of the house. *See generally*, Stephen Pitcher, *Resident of Household of Named Insured*, 13 Am. Jur. Proof of Facts §3.5 (2004). Most courts have found that the relevant inquiry is factual. *See, e.g.*, *Waller v. Auto-Owners Ins. Co.*, 26 P.3d 845 (Or. Ct. App. 2001); *Farmers Auto. Ins. Ass’n v. Williams*, 746 N.E.2d 1279 (Ill. App. Ct. 2001); *Kradjian v. American Manufacturers Mutual Ins. Co.*, 615 N.Y.S.2d 129 (N.Y. App. Div. 1994). As part of such an inquiry, some courts have rejected the argument that the policy phrase “residents of his household” means only those actually dwelling in or occupying the physical premises named in a policy. *Montgomery v. Hawkeye Security Ins. Co.*, 217 N.W.2d 449, 459 (Mich. Ct. App. 1974).

Courts have described the relevant factors to be considered with a college student.

For instance, in *Estate of Gilmore v. Nationwide Ins. Co.*, 2004 Mich. App. LEXIS 106 (Mich. Ct. App. 2004), the court observed:

Among the relevant factors are the following: (1) the subjective or declared intent of the person of remaining, either permanently or for an indefinite or unlimited length of time, in the place he contends is his ‘domicile’ or ‘household’; (2) the formality or informality of the relationship between the person and the members of the household; (3) whether the place where the person lives is in the same house, within the same curtilage or upon the same premises; (4) the existence of another place of lodging by the person alleging ‘residence’ or ‘domicile’ in the household.

Other relevant indicia of domicile include such factors as whether the claimant continues to use his parents’ home as his mailing address, whether he maintains some possessions with his parents, whether he uses his parents’ address on his driver’s license or other documents, whether a room is maintained for the claimant at the parents’ home, and whether the claimant is dependent upon the parents for support.

Id. at *16–17 (citation omitted). Various factual settings, however, have led to various results. For instance, in *Strouss v. Fireman’s Fund Ins. Co.*, 2005 U.S. Dist. LEXIS 18560 (E.D. Pa. 2005), the court found that the term “resident” was unambiguous and construed it as someone’s “factual place of abode.” *Id.* at *8–9. It further noted that a college student can have more than one “residence.” *Id.* at *10. Based on the facts of the case, the court concluded that the student was a resident of his parents’ house. *Id.* at 10–13. In contrast, in *Government Employees Ins. Co. v. Troisi*, 671 N.Y.S.2d 111 (N.Y. App. Div. 1998), the court found that the college student was not a resident of her father’s Manhattan apartment:

It is undisputed that after her parents’ divorce [the student’s] mother was awarded custody of [the student], and that she lived with her mother and attended high school in Manhasset, where her mother lived. The fact that after graduation from high school she irregularly visited her father’s apartment, occasionally sleeping in his living

room overnight, and also kept a few incidental items of clothing there, is insufficient to raise a factual question as to whether or not she was a resident in her father's household. Under such circumstances, she cannot be considered a resident of her father's household, a status which would have entitled her to coverage under the terms of the policies.

Id. at 112.

Other courts have found the relevant term, "resident," ambiguous. In *Crossett v. St. Louis Fire and Marine Ins. Co.*, 269 So. 2d 869 (Ala. 1972), the son of the named insured allegedly injured a classmate while they were engaged in an altercation in a dormitory at Auburn University. The classmate filed suit for personal injuries. The court found that the term "residents" in the homeowner policy was ambiguous and that construction should favor the insured, which was that he was a resident of his parents' house. *Id.* at 874.

As these cases demonstrate, when the term "resident" is not deemed ambiguous, it is important to marshal facts regarding the student and his or her relationship to the parents' residence.

Is the Claim Covered?

Once the insureds are identified, several coverage issues dealing with the claim can arise. These issues typically cluster around whether (1) the plaintiff has asserted claims for bodily injury; (2) the insured intended or expected the injury or damage; (3) an alcohol exclusion applies; or (4) a hazing/molestation exclusion applies.

Bodily Injury

Policies generally provide coverage for bodily injury. However, bodily injury may or may not include "mental anguish" if unaccompanied by a physical injury or contact. *See, e.g., Allstate Ins. Co. v. Tozer*, 392 F.3d 950, 954 (7th Cir. 2004); *Am. Fire & Cas. Co. v. BCORP Canterbury at Riverwalk, LLC*, 2008 U.S. App. LEXIS 12449 (10th Cir. 2008). At least one case involving college students has considered whether coverage existed if the alleged victim had experienced mental anguish that was unaccompanied by bodily injury. In *Sentry Claims Service v. Botwick*, 2004 Conn. Super. LEXIS 1521 (Conn. Super. Ct. 2004), one student sued another student alleging that the other

student "intentionally and maliciously" subjected her to a pattern of abuse for the purpose of causing her to suffer emotional distress. *Id.* at *2. The court found that although the plaintiff had alleged in great detail the conduct that caused her emotional distress, her complaint did not include allegations of physical harm, and thus it was not covered under the policy. *Id.* at *12. This type of case seems unusual, as most plaintiffs typically allege some sort of physical contact, injury or death.

Expected or Intended Injuries

Whether an insured's act is intentional can be relevant to whether it is deemed an "occurrence," which is commonly defined in a CGL policy to include an accident. *See, e.g., Allstate Ins. Co. v. Blount*, 491 F.3d 903 (8th Cir. 2007); *Park Univ. Enters. v. Am. Cas. Co.*, 442 F.3d 1239 (10th Cir. 2006). However, since the cases involving claims against college students tend to focus on whether the nature of the conduct triggers exclusions for an expected or intended injury, so too will this article. Related questions to examine include whether (1) a college student must intend to cause the actual injury that took place; (2) a specific intent to injure can be presumed; and (3) whether an intentional act exclusion applies to those who may be vicariously liable for a student's actions.

Intended Injury

Applicable law can differ on whether an insured must act with intent to cause the specific injury for an intentional or expected bodily injury exclusion to apply, or whether it is sufficient that he or she intended or expected to cause an injury that was related, though less severe than what actually occurred. *See, e.g., 16 Appleman* §118.2 (2d ed. 2000 & Supp. 2008) (discussing various jurisdictional approaches). This is reflected in case law involving injury and damage caused by college students.

For example, in *Amica*, a fraternity pledge died in his apartment after participating earlier that day in a rigged drinking contest during which he was stripped of his clothes, bound with duct tape, and dropped on the fraternity house lawn. *Amica*, LEXIS 9061, at *2. Applying Texas law, the court noted that an injury is not an accident if the acts that produced it were voluntary and intentional, and if the resulting inju-

ries were a "natural and probable result" of the acts. *Id.* It found that the allegations in the action included several claims of negligence that would fall outside of the scope of voluntary and intentional actions, and that "the extreme results here cannot be said the natural and probable result of [the tortfeasor's] conduct as alleged...." *Id.* Accordingly, the court concluded that the pleading

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stated a claim for a covered accident, and a claim for injuries fell outside of the scope of the intentional bodily injury exclusion. *Id.*

In contrast, the Seventh Circuit has applied an intentional damage exclusion when the insured acted intentionally, and he expected to cause damage, even though the actual damage was more extreme than what he professed to have expected. In *Nationwide Ins. v. Board of Trustees of the University of Illinois*, 116 F.3d 1154 (7th Cir. 1997), a university sued several students who set fire to the AstroTurf in a football stadium. *Id.* at 1155. The homeowner policy that covered one student excluded liability for property damage "which is expected or intended by the insured." *Id.* Although the insured argued that he and his friends did not intend for the AstroTurf to burn, the court did not buy the argument:

The undisputed (and inescapable) fact is that [the insured] did intend to damage the AstroTurf. Whether he meant to actually scorch the AstroTurf (to "brand" it, as the University alleges in its complaint) or merely to leave a layer of soot on the turf that could be cleaned away later as if he had used a giant washable Crayola marker, common sense tells us that his purpose was to damage the field nonetheless.

Id. at 1157. It concluded that the insurer did not owe the insured a defense for his “little escapade.” *Id.* at 1158. Thus, even though the insured maintained that he did not intend to cause the specific damage, the exclusion applied because he did intend some damage.

Can Intent to Injure Be Presumed?

As with allegations involving sexual as-

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saults in other situations, courts often grapple with whether a specific intent to injure can be inferred from certain acts by college students as a matter of law. *See, e.g., Am. Nat’l Gen. Ins. Co. v. Jackson*, 203 F. Supp. 2d 674, 684 (S.D. Miss. 2001) (citing federal and state courts that have inferred an intent to harm from sexual misconduct); *see also State Farm Fire & Cas. Co. v. Brooks*, 43 F. Supp. 2d 695 (E.D. Tex. 1998); *Sidney Frank Importing Co. v. Farmington Cas. Co.*, 1999 U.S. Dist. LEXIS 3956 (S.D.N.Y. 1999).

In *State Farm Fire & Casualty Co. v. Ezrin*, 764 F. Supp. 153 (N.D. Cal. 1991), a seventeen-year-old high school student became intoxicated at a fraternity party. After leaving, she encountered two university students, who offered to help her get home. They took her to their fraternity house where they allegedly sexually assaulted and battered her. The relevant homeowner policy had an exclusion for “bodily injury or property damage which is expected or intended by an insured.” *Id.* at 154. State law, by statute, provided a similar exclusion: “An insurer is not liable for a loss caused by the willful act of the insured; but [the insurer] is not exonerated by the negligence of the insured, or of the insured’s agents or others.” *Id.* The court concluded that it was not “necessary to analyze the

subjective intent of the insured where the act is itself wrongful. Consequently, to prevail, [the insurer] must show that [the fraternity member] intentionally committed a wrongful act.” *Id.* at 156. The court concluded that the act of nonconsensual sexual assault was wrongful so that coverage was unavailable as a matter of law. *Id.*

On the other hand, the court in *Aetna Life and Casualty Co. v. Barthelemy*, 33 F.3d 189 (3d Cir. 1994), reached a different conclusion. A female student alleged that she was harmed by a student as a result of his having sexual relations with her while both were intoxicated in his dormitory room. With perhaps an eye toward coverage, when the student sued, her attorney asserted in each count that the insured did not “expect or intend that his conduct would cause the specific injuries that were suffered by Plaintiff as a result of his conduct.” *Id.* at 190–91. The Third Circuit denied coverage based on an intentional harm exclusion. The court reviewed Pennsylvania law, and found that a battery count was excluded from coverage, because, by definition, the tort required proof of an intent to cause harmful or offensive contact. Yet, the court held that the allegations of sexual misconduct were not excluded. It refused to deviate from the general liability rule by inferring an intent to cause harm from the defendant’s actions because to do so would “push[] the envelope too far.” *Id.* at 192. It distinguished the situation from sexual contact with a child, “which is a uniquely harmful act calling for the narrowly applied inferred intent rule.” *Id.*

Intentional Injury and Vicarious Liability

At least one court has addressed whether an intentional act exclusion applied to both the student and those who might have been vicariously liable for his actions. In *Strouss v. Fireman’s Fund Ins. Co.*, 2005 U.S. Dist. LEXIS 2639 (E.D. Pa. 2005), a student home from college found a gun in his parents’ garage and shot another person. The victim brought suit against the student’s father. The policy excluded from coverage “bodily injury which is expected or intended by one or more ‘insureds.’” *Id.* at *4. It also had a severability clause that stated that the insurance policy “applie[d] separately to each insured.” *Id.* At issue was whether bodily injury expected and

intended by one insured, the son, barred coverage for another insured, the father, who did not expect or intend the injury. The court noted that:

[I]t is well-settled that an intentional injury exclusion, applicable only to “the insured,” permits an innocent (or negligent) insured to recover losses caused by bodily injury intended by a co-insured. It is equally well-settled that where an intentional injury exclusion applies by its terms to “any insured” or, as in this case, “one or more insured,” an innocent insured is precluded from recovering losses related to contractually proscribed conduct by a co-insured.

Id. at *12–13 (citations omitted). It concluded that the presence of a severability clause did not alter the father’s inability to recover, based on a state court decision that the “language of the exclusion prescribed joint obligations for the policy’s insureds, regardless of whether each named insured was defined as a ‘separate insured’ pursuant to the policy’s severability clause.” *Id.* at *15. The court held that the obligations in the intentional injury exclusion were joint, rather than several, and applied the exclusion to bar coverage. *Id.*

Thus, depending on the language of a policy, an expected or intended injury caused by one insured may deprive other insureds of coverage as well.

Alcohol Exclusions

Not surprisingly, policies issued to fraternities often have alcohol exclusions and, in some recent cases, courts have shown willingness to enforce these exclusions, even though the law applicable to exclusions can favor finding coverage for an insured. For example, in *Liberty Corp. Capital, Ltd. v. Nu Zeta Chapter of Lambda Chi Alpha Fraternity*, 2007 U.S. Dist. LEXIS 10291 (M.D. Ga. 2007), a fraternity member was fatally injured falling out of a pickup truck while inebriated. The parents of the student later sued the fraternity chapter. The fraternity’s insurer relied on its policy exclusion to deny coverage: “No Duty to Defend, nor any insurance coverage afforded by this policy, shall apply to any claim arising out of or in any way resulting from any ‘Violation’ of ‘Fraternity Alcohol Policy.’” *Id.* at *8. According to the policy, a violation occurred only when either “the

executive board of the National Fraternity Organization” or “legal authority” determined that “some breaking, infraction, or breach of the Alcohol Policy occurred.” *Id.* at *9. Although the executive board had not determined that a violation occurred, the court found that as a legal authority, it could make the requisite determination as a matter of law in a declaratory judgment action regarding coverage. *Id.* The court concluded that a violation of the alcohol policy had occurred, observing that, “[m]andating coverage in this case would, in effect, result in the subsidization of underage drinking, and would, thus directly counter the rationale for adding the exclusion in the first place.” *Id.* at *11–12.

Similarly, in *Illinois Union Ins. Co. v. University of Pennsylvania Chapter of Beta Theta Pi*, 1988 U.S. Dist. LEXIS 1957 (E.D. Pa. 1988), the court upheld a “no liquor” warranty, even after it had found the insurance contract ambiguous. In this case a student was injured while using a giant seesaw operated by a fraternity. Evidence was introduced at trial that fraternity members served beer in the vicinity of the seesaw and that the injured student had partaken of the beer prior to the accident. *Id.* In a declaratory judgment action, the jury accepted the argument that the fraternity violated the warranty against serving liquor. *Id.* at *5–6. Moving for judgment notwithstanding the verdict, the fraternity argued that beer is not liquor, or if the meaning of the word “liquor” was ambiguous, it should be construed against the insurer. *Id.* at *6. The court agreed that the relevant language was ambiguous. *Id.* at *9. However, the court stated that “the fact that an insurance contract is ambiguous does not mean that it must automatically be construed against the insurer if the intent of the parties clearly dictates otherwise.” *Id.* at *9–10. In this instance, the court noted, there was convincing evidence that the parties intended no alcoholic beverages of any kind would be served. *Id.* at *12. As a matter of law, it concluded that the intent of the parties governed the interpretation of ambiguous language and that the “no liquor” warranty applied to beer. *Id.* at *14–15.

Hazing, Sexual or Physical Abuse, or Molestation Exclusions

Some policies issued to universities or fra-

ternities have exclusions for hazing and/or sexual misconduct. *See, e.g., GuideOne Elite Ins. Co. v. Southern Nazarene University*, 2008 U.S. Dist. LEXIS 104628 (W.D. Okla. 2008) (in a case involving alleged sexual abuse of minors by a student at Southern Nazarene University, the policy had an exclusion entitled “Exclusion for All Sexual Misconduct”). Out of the context of colleges, courts have found these types of exclusions unambiguous and enforceable. *See, e.g., Community Action for Greater Middlesex County, Inc. v. American Alliance Ins. Co.*, 757 A.2d 1074, 1083 (Conn. 2000); *Jones v. Doe*, 673 So. 2d 1163 (La. Ct. App. 1996); *New World Frontier, Inc. v. Mt. Vernon Fire Ins. Co.*, 676 N.Y.S.2d 648 (N.Y. 1998); *Lincoln County District v. Doe*, 749 So. 2d 943 (Miss. 1999).

However, for a molestation exclusion to apply, its language sometimes requires that an injured person to have been in the “care, custody, or control” of the named insured. In many cases involving sexual assaults of one child by another in a school, the courts seem to assume, without discussion, that the minor child was in the “care, custody or control” of the school at the time of his or her alleged injury. *But see Children’s Aid Society v. Great American Ins. Co.*, 195 U.S. Dist. LEXIS 5591 (E.D. Pa. 1995) (defining and analyzing “care, custody, or control”). There are also some cases in which this exclusion was applied when the injured party was an adult. *See, e.g., Harper v. Darby Mountain Outfitters*, 2002 U.S. Dist. LEXIS 24492 (D. Wyo. 2002) (applying molestation exclusion without discussion of “care, custody, or control”).

Although research did not uncover a case applying the exclusion to college students, there are several potential ways students might be regarded as in a university’s care, custody, or control.

First, a student might be regarded as in the care, custody or control of a college or university under the doctrine of in loco parentis. At one time in loco parentis created a special relationship between colleges/universities and students “that imposed a duty on the college to exercise control over student conduct and, reciprocally, gave the students certain rights of protection by the college.” *Bradshaw v. Rawlings*, 612 F.2d 135, 139 (3d Cir. 1979). However, the relationship between a uni-

versity and its students has gradually reapportioned the responsibility level from institutions to students, and a corresponding departure from the traditional in loco parentis relationship. Today, these institutions are more often viewed as educational rather than custodial. *See, e.g., Furek v. University of Delaware* 594 A.2d 506 (Del. 1991); *University of Denver v. Whitlock*, 744 P.2d 54 (Colo. 1987); *Beach v. University of Utah*, 726 P.2d 413 (Utah 1986); *Baldwin v. Zoradi*, 123 Cal. App. 3d 275, 291 (Cal. Ct. App. 1981). *But see Schieszler v. Ferrum College*, 236 F. Supp.2d 602 (W.D. Va. 2002) (citing *Seidman v. Fishburne-Hedgins Ed. Found.*, 724 F.2d 413, 418 (1984)) (suggesting that a college may stand in loco parentis to a minor student under certain circumstances). As a result, in loco parentis may have narrow application.

Similarly, a majority of courts have determined that no “special relationship” exists between a student and a higher education institution that would give rise to a duty to protect the student. *See Freeman v. Busch*, 349 F.3d 582 (8th Cir. 2003) (finding no relationship); *Bradshaw*, 612 F.2d 135 (same); *Coghlan v. Beta Theta Pi Fraternity*, 987 P.2d 300 (Idaho 1999) (same); *Whitlock*, 744 P.2d 54 (same); *Beach*, 726 P.2d 413 (same). Underlying the analysis in these cases is that a school could not have foreseen that a student was in danger. Therefore, in cases in which a court has found that the institution knew or should have known of the danger to its students, a special relationship might arise, and the institution may have a duty to aid or protect those students. *See Furek*, 594 A.2d 506; *Schieszler*, 236 F. Supp. 2d 602; *Mullins v. Pine Manor College*, 449 N.E.2d 331 (Mass. 1983).

Whether a student is in the care, custody or control of a college or university might also hinge on its role as a landlord to its students. A New York court has recognized that when a state university operates student housing, it is held to the same duty as a residential landlord in maintaining the physical security devices in its on-campus dormitory. *Miller v. State*, 467 N.E.2d 493, 508 (N.Y. 1984); *see also Daniels v. City of New York*, 2007 U.S. Dist. LEXIS 50918 (S.D.N.Y. 2007) (recognizing analysis in *Miller*). Additionally, the Kansas Supreme **College Students**, continued on page 81

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Court has held that a university furnishing housing to its students is analogous to a landlord-tenant relationship, and thus, universities are charged with the same duty as private landlords to exercise due care for their students' protection. *Nero v. Kansas State University*, 253 Kan. 567, 861 P.2d 768, 779 (Kan. 1993). Other jurisdictions have also applied the landowner-invitee analysis to determine whether a university has a duty to protect students from the criminal actions of third parties. See *Peterson v. San Francisco Community College Dist.*, 685 P.2d 1193 (Cal. 1984); *Furek*, 594 A.2d at 520–21; *Relyea v. State*, 385 So. 2d 1378 (Fla. Dist. Ct. App. 1980), disapproved on other grounds *Avallone v. Bd. of County Com'rs Citrus Cty.*, 493 So. 2d 1002 (Fla. 1986); *Setrin v. Glassboro State College*, 346 A.2d 102 (N.J. Super. Ct. 1975); *Brown v. N.C. Wesleyan College*, 309 S.E.2d 701 (N.C. Ct. App. 1983).

Conclusion

Claims involving college students raise some of the same insurance coverage issues that apply in other contexts, with some nuances. A fraternity member might not be an additional insured under some CGL policy provisions, but may be an insured under a club membership endorsement. The most common source of coverage for a college or university student is generally under his or her parents' homeowner policy, which poses interesting questions because of the somewhat dual nature of a college student's habitat—his or her parents' house and a dormitory.

If a case alleges physical injury or death, the claim would likely be "bodily injury," which typically is covered under both CGL and homeowner policies. Careful consideration should be given to whether an alleged injury was expected or intended by the student. To determine if exclusions apply,

when considering claims, discover whether applicable law requires that a student act with intent to cause the specific injury that occurred or just a related injury, or if a specific intent to injure can be presumed from a student's conduct when a claim involves sexual assault. Further, ascertain if applying an intentional act exclusion to a student's tortious conduct can deprive others of coverage under the same policy.

As far as other exclusions are concerned, some courts have shown willingness to enforce alcohol exclusions in fraternity policies to bar coverage, even when they are ambiguous. Sometimes molestation exclusions can also eliminate coverage, but if an exclusion uses the phrase "care, custody or control," this warrants additional analysis of the relationship between a student and a university. 