

No coverage for doc who brandished gun at clinic

By Peter Vieth

A pain management physician who showed up with a gun outside his former Albemarle County office does not have insurance coverage for two tort actions filed by colleagues allegedly traumatized by the incident, a judge has ruled.

The colleagues are seeking millions in damages claiming the gun incident was the culmination of threatening behavior after an unsuccessful intervention prompted by the doctor's alleged alcohol use.

The homeowners and umbrella insurance carriers for [name] Lander asked for a declaration that they did not owe coverage for the claims. U.S. District Judge Norman K. Moon agreed with the insurer that Lander's allegedly intentional conduct did not constitute an "occurrence" covered under the insurance policies.

Moon's opinion is *Travelers Home & Marine Ins. Co. v. Lander* (VLW 019-3-515).

Intervention

As related in court documents, Lander's undoing began with suspicions that he was drinking at work. He was a partner with Dr. Rasheed Siddiqui at Charlottesville Pain Management Center. Siddiqui and office manager Sherri Johnson said they found empty canned cocktails in the office dumpster in 2014.

The beverages, sold at convenience stores, contain 8-10% alcohol, according to lawsuits filed by Siddiqui and Johnson. Believing Lander was impaired, Siddiqui filed a complaint with the Board of Medicine. He also contacted three treatment centers, all of which recommended an intervention, the suits say.

With the help of three other physicians and an attorney, Siddiqui performed an intervention on Lander on Oct. 12, 2014, the suits said. Lander apparently did not take it well. He refused inpatient treatment, cleared out his office and told Siddiqui he could not work with him again, the complaints say.

In July of 2015, Lander sued Siddiqui in Albemarle County Circuit Court claiming Siddiqui had plotted to remove Lander from the practice.

In following months, Lander reportedly was spotted driving on the cul-de-sac where Siddiqui lived. He was seen taking photographs of the front and back of the clinic office, the suits say. On one occasion, Lander allegedly "attempted to bully Siddiqui" into settling the pending lawsuit.

'Aborted attack'

Lander's behavior escalated to a new level on Nov. 21, 2016, the complaints allege.



JOHN MUMFORD

He bought a 9mm Glock pistol with 200 rounds of ammunition and drove to Nelson County to practice shooting the weapon, the suits say. All the while, he was consuming alcohol and prescription medication, the suits contend.

He drove to a convenience store near the clinic office and bought two canned cocktails, the suits say. He then allegedly shot out the glass in his pickup truck while attempting to load the pistol.

With a screwdriver cocktail in the cupholder and bullets scattered over the passenger seat, Lander parked just outside Siddiqui's office window, the suits say. He allegedly brandished the gun, causing someone in the parking lot to rush into the clinic office to tell the staff to lock the door.

Lander never got to the door. He tumbled out of the pickup truck, landing on the ground with the gun in his hand, the suits alleged. Bystanders reportedly kept Lander on the ground until he was taken to a hospital. He tested positive for barbiturates and had a blood alcohol concentration of 0.235%, the lawsuits said.

The Board of Medicine suspended Lander's license on Jan. 25, 2017. On Aug. 29 of that year, Lander pled guilty to three felonies and two misdemeanors, including shooting a firearm within 1,000 feet of a school. He was sentenced to one year and 11 months in prison.

In the meantime, Siddiqui and Johnson took a gun safety class. They now have a bulletproof door, bulletproof glass and surveillance cameras at their office, they claim. Siddiqui says he lost 25 pounds and has difficulty sleeping and concentrating. Johnson says she sees a psychiatrist for acute stress disorder and other ailments.

Represented by T. Vaden Warren of Charlottesville, Siddiqui and Johnson sued in August of last year. Their lawsuits each demand \$2.4 million in compensatory damages and \$350,000 in punitive damages.

No coverage

Lander tendered the Siddiqui and Johnson lawsuits to Travelers for defense and indemnification under Lander's homeowners and umbrella policies. Travelers is defending Lander against the underlying lawsuits under a reservation of rights, Moon said in his opinion.

The insurers – represented by John Mumford Jr. of Richmond – moved for summary

judgment. Lander – represented by Donald R. Morin and Marc A. Peritz of Charlottesville – sought to cast the tort claims in terms of negligent conduct.

The allegations "paint a picture of a despondent person who was not in possession of his faculties, who discharged a firearm in his vehicle at a location completely separate from Siddiqui and Johnson's location, and did nothing directed at Siddiqui or Johnson when he arrived at CPMC," Landers' attorneys said.

"He stumbled out of his vehicle and fell down. Regardless of whether Siddiqui and Johnson interpreted his conduct in a particular way, there is no factual allegation in the Underlying Actions supporting an argument that Lander intended to do anything that caused injury to Siddiqui or Johnson," the Landers brief said.

Moon rejected that view.

"Because the Court concludes that the underlying incident does not constitute an 'occurrence' under either the homeowners or umbrella policy, Travelers owes no duty to defend Lander irrespective of the policies' exclusions or treatment of the 'bodily injuries' alleged," Moon wrote. "The underlying suits plainly allege almost solely intentional conduct," Moon said.

Lander's falling to the ground as he exited his vehicle may have been accidental, the judge said, but "this hardly obviates the long string of intentional conduct allegedly culminating in Siddiqui's and Johnson's injuries."

"It is clear from the complaints that Siddiqui and Johnson allege to have been harmed not by Lander merely falling as he exited his vehicle, but by Lander intentionally driving to their practice, gun in hand, after months of alarming behavior directed toward them," Moon said.

"A single unintentional act in a linear series of overt conduct does not trigger a duty to defend," he concluded.

Nor did it matter that Lander may not have intended to put Siddiqui and Johnson in fear of injury.

"The relevant inquiry here is whether or not Lander's actions were intended, not the results that flowed from them," Moon wrote.

Moon said his ruling based on the definition of "occurrence" made it unnecessary to address other arguments advanced by the insurers.

Mumford declined to comment. Morin and Warren did not respond to requests for comment.

The Siddiqui and Johnson lawsuits are set for a four-day trial beginning Feb. 24.