

January 9, 2006

In Scottsdale Insurance Company v. Wohlsol, Inc., (Nov. 7, 2005), the U.S. District Court granted summary judgment to Scottsdale holding that Minn. Stat. § 340A.409 does not directly apply to Scottsdale, a liquor liability insurance carrier, but regulates liquor license applicants. The court went on to hold that even if Minn. Stat. § 340A.409 did apply Scottsdale, the insurer, was not in violation because liquor license applicants choosing to satisfy their financial responsibility requirements with insurance only need to obtain an insurance policy with a minimum limit of \$100,000 which Scottsdale satisfied.

The suit arose after Wohlsol allegedly provided alcoholic beverages to Dustin Hesse who was then involved in a single car accident in which Michael Johnson, Hesse's passenger, was killed. The Johnsons commenced a wrongful death/dram shop lawsuit against Wohlsol. Wohlsol was insured under Scottsdale's liquor liability policy which provides for liability limits as follows: \$100,000 for an "Each Common Cause Limit" and \$300,000 for an "Aggregate Limit."

The dispute arose because the Johnsons and Wohlsol contended that Minn. Stat. § 340A.409 applied to Scottsdale requiring insurance companies to issue bar owners policies with a minimum limit of \$210,000. They arrived at this figure by arguing that the statute requires a "stacked" or "cumulative" total minimum, or the adding together of \$100,000 for bodily injury, \$10,000 for property damage, and \$100,000 for loss of means of support.

Scottsdale believed that its liability was limited to the \$100,000 "Each Common Cause Limit" while the Johnsons and Wohlsol contended that Scottsdale was liable up to the \$300,000 "Aggregate Limit." The language of the policy stated Scottsdale would pay at most \$300,000 for all "injury" resulting from the service of alcoholic beverages, except that \$100,000 was the most that Scottsdale would pay for all "injury" resulting from the sale of alcohol to any one person.

The Court held that Minn. Stat. § 340A.409 did not apply to Scottsdale because the purpose of the statute is to condition the grant of a liquor license to applicants who can satisfy certain financial responsibility requirements. It does not speak directly to insurance companies. However, even if the statute did apply, Scottsdale would have been in compliance. The Court reached this conclusion by looking at the third clause of the statute which states that to fulfill the statutory requirements licensees may deposit \$100,000 in cash or securities with the commissioner of finance. Because of this option, to interpret the statute otherwise would require licensees seeking to fulfill their obligation through an insurance carrier to supply \$210,000 of coverage while those depositing money would only need to provide \$100,000. Such an incongruous result could not have been intended by legislature. Further support of this interpretation was found through the department charged with administering it, in this case the Department of Public Safety, which is given deference. The Department informs liquor license

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applicants that they must acquire insurance with a minimum limit of \$100,000 which is in accord with the Court's interpretation.

Therefore, Minn. Stat. § 340A.409 does not apply to insurance companies and only requires a minimum insurance policy of \$100,000.