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Illinois Coverage Basics

State and Federal Courts in Illinois: Predicting Outcomes Under “Illinois Law” Depends Upon Where Your Case is Filed

What constitutes “the law of Illinois” depends greatly upon which court decides the issue. Part of the reason for this is that all judges are not equal. Their biases and levels of ability unavoidably affect their rulings. The structure and rules of decision followed by the state and federal courts in Illinois also greatly affect the law to be applied to a particular case. Six state courts of review and four federal courts in Illinois regularly publish decisions on Illinois coverage law. As such, it is impossible to accurately determine “the law of Illinois” that should apply to a case without considering where the case is filed.

Parallel Court Systems in Illinois

As in all other states, Illinois is served by its own independent state court system and a parallel federal court system. The jurisdiction of the two court systems overlaps. Thus, a choice may exist as to whether a coverage dispute should be presented to a state court or to a federal court.

In Illinois, the federal trial court is divided into three districts: Northern District, Central District and Southern District. The three federal districts are roughly equal in geographical territory but differ significantly in terms of the populations they serve. All appeals from judgments rendered by the federal district courts in Illinois are decided by the Seventh Circuit Court of Appeals, which is located in Chicago. There are now ten judges on the Seventh Circuit Court of Appeals, and appeals are normally decided by panels of three Court of Appeals judges.

In the state court system there are five intermediate appellate court districts. The First District Appellate Court has the largest case load of any of the districts and serves only Cook County. The First District decides as many appeals as all the other state appellate districts combined. The First District has 24 justices who are assigned to 6 separate Divisions. Each of the other state appellate districts has between seven and nine justices. State appellate court cases are normally decided by panels of three appellate court justices. The Illinois Supreme Court has the ultimate power of review over all appeals from the state courts. Cases in the Illinois Supreme Court are normally decided by the entire Court, which is comprised of seven Supreme Court Justices.

The five state appellate court districts, the Illinois Supreme Court, the Seventh Circuit Court of Appeals and the three federal district courts in Illinois all decide issues of Illinois coverage law, and the rulings of each of those courts are published and readily available online.

Which Court Determines the “Law of Illinois”?

Although ten courts in Illinois regularly decide and publish rulings on issues of Illinois coverage law, they are not all empowered to decide those issues independently. Rather, each court has an assigned role in determining what the “law of Illinois” is on any given question of law.

In diversity jurisdiction cases, the role of the federal courts is simply to apply the law of Illinois; not to decide coverage questions based on what they believe the law *should be*. If the law of Illinois has been clearly articulated by the Illinois state courts, the function of the federal courts is to give effect to that law, even if the federal courts may disagree with the law. The specific focus of the federal courts is to determine how the Illinois Supreme Court would decide an issue. If the Illinois Supreme Court has not decided an issue, then the federal courts must look to the opinions of the intermediate state appellate courts for guidance on how the Illinois Supreme Court would decide the issue. Absent special circumstances, if no Illinois Supreme Court opinion is on point, but there is intermediate state appellate court authority on point, the federal courts should accept the intermediate state appellate court authority as the law of Illinois.

Insurance coverage disputes filed in federal courts involve questions of state substantive law, not federal substantive law. As such, in insurance coverage cases, the role of the federal courts (including the Seventh Circuit Court of Appeals) is not to independently evaluate the merits of the coverage controversy, but to decide the case based upon the law provided by the state courts.

All state courts in Illinois are bound by the opinions of the Illinois Supreme Court. However, rulings of the federal courts (with the exception of the United States Supreme Court) are *not* binding on the courts of Illinois.

Within the Illinois state court system, if no Illinois Supreme Court opinion is available to determine an issue, the intermediate appellate courts are free to decide the issue independently based on what they think the law should be. This creates a potential that state appellate court districts may decide an issue differently and reach inconsistent results. Until the Illinois Supreme Court steps in to resolve such a conflict, the law in one appellate court district may be radically different from the law in another district. This, in turn, can have a dramatic impact on the trial courts in Illinois. In situations where there is no Illinois Supreme Court authority on point, a state trial court is bound to follow the law announced by the intermediate appellate court for the appellate district where that trial court is located. For example, a trial court in Cook County must follow the law announced by the First District Appellate Court, even if every other appellate district in the state disagrees with the First District.

These rules of decision can create great opportunity when courts in Illinois disagree on a given question of law. What constitutes the “law of Illinois” on any coverage issue depends upon which court is asked to answer the question. When coverage disputes are to be litigated, due consideration should always be given to potential differences of opinion among the courts.

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If you have questions or would like to discuss the implications of this report further, please feel free to contact James K. Horstman at Cray Huber Horstman Heil & VanAusdal LLC, 303 West Madison, Suite 2200, Chicago IL 60606; 312-332-8494; jkh@crayhuber.com.