

Does The Insurer Have A Duty To Defend Its Insured

Reported Case:	<i>Meadows v. Meloche Monnex Insurance Brokers Inc.</i>
Citation:	2010 ONCA 394
The Court:	Ontario Court of Appeal
Judgment Rendered:	June 2, 2010
At Issue:	Whether insurer had a duty to defend its insured.
Factual Summary:	<p>Meadows was a defendant in an action brought by Skidmore. Skidmore's claim related to injuries stemming from a physical altercation.</p> <p>Meadows took the position that Skidmore's claim against him came within the terms of coverage of a homeowners's policy purchased from the insurer and that insurer had a duty to defend him. The insurer took the position the policy did not cover intentional acts such as those alleged by Skidmore and refused to provide a defence to the action. Meadows claimed he had acted in self-defence and self defence was not an "intended act" within the meaning of the policy. Meadows sought a declaration that the insurer owed him a duty to defend the Skidmore action.</p>
Disposition Lower Court:	The Ontario Superior Court determined that the insurer owed Meadows a duty to defend.
On Appeal:	<p>The Appeal Court set aside the application judge's decision and allowed the appeal. Although negligence was alleged, the Court found the true nature of the claim was assault and battery, an intentional tort. The coverage granted was to pay "compensatory damages because of unintentional bodily injury".</p> <p>The Appeal Court concluded: "The practical result is that if the plaintiff in the action succeeds, he will have shown it to be an assault. This is an intentional act and is excluded from coverage. If the plaintiff does not succeed in the action, there is nothing to indemnify and, therefore, no insured claim."</p>