

THOUGHT LEADERSHIP

News

DRIVER EXCLUSION PRECLUDES COVERAGE FOR LOSS PAYEE

Newsbrief

03 JUL 2013

Last Wednesday, the El Paso Court of Appeals held that a driver exclusion endorsement also precluded coverage for the loss payee for damage to the vehicle when the excluded driver was involved in an auto accident. In *Stadium Auto, Inc. v. Loya Insurance Company*, 2013 WL 3214618 (Tex. App. – El Paso, June 26, 2013), the named insured, Olga Salazar, purchased a vehicle from Stadium Auto and also financed the vehicle with Stadium. The insured purchased an auto policy from Loya Insurance covering damage to the vehicle and added Stadium as a loss payee. But the policy was also endorsed with a named driver exclusion, precluding any coverage for the vehicle while a Junior Sanchez was driving. Mr. Sanchez took the vehicle without permission and was involved in an auto accident; Loya denied coverage and the trial court granted summary judgment in Loya's favor. This appeal followed.

Stadium asserted that the loss payable clause provided coverage to the loss payee, despite the named driver exclusion. They also argued that they should be afforded coverage based on the alleged "theft" of the vehicle, but the court determined that this argument was not asserted at the trial court level and was therefore waived. Addressing whether the driver exclusion also precluded coverage for the loss payee, the court found that under the unambiguous language of the driver exclusion endorsement, when an excluded driver drives there is no coverage under the policy for the driver or the loss payee. Accordingly, summary judgment in favor of Loya Insurance was affirmed.