

Excessive Heat: Suit Against Nursing Home Not Covered By Insurance.

During a spring heat wave the administrator of the nursing home made the decision not to turn on the air conditioning. Four elderly residents died from the heat.

One of the deceased resident's daughters sued the nursing home and obtained a civil court judgment for \$275,000. She filed a second lawsuit against one of the nursing home's insurance companies to collect payment on the judgment.

The insurance company refused payment on the grounds the judgment in the underlying lawsuit was for professional liability and the insurance company did not cover the nursing home for professional liability.

The US Court of Appeals for the Eighth Circuit agreed with the insurance company that the decision of the nursing home administrator, a former nurse who was familiar with the health status and care needs of her patients, was an exercise professional judgment, and was not covered under the general liability policy the company had issued. **American Economy Ins. Co. v. Jackson**, __ F. 3d __, 2007 WL 464917 (8th Cir., February 14, 2007).