UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS

Acuity v. Marion Glass and Mirror, Inc.

Acuity · No. 3:25-CV-00562-NJR · Decided February 18, 2026

SUMMARY

The United States District Court for the Southern District of Illinois granted Acuity's motion for default judgment against Marion Glass and Mirror, Inc. in a declaratory-judgment action concerning insurance coverage for an underlying construction-related lawsuit. The court held that Acuity had no duty to defend or indemnify Marion Glass under the policy's Business Liability, Errors and Omissions, or Commercial Excess Liability provisions because the alleged property damage and wrongful acts predated the relevant coverage periods and the excess coverage was not triggered. The court directed the Clerk to enter judgment and close the case.

CASE DETAILS

COURT	United States District Court for the Southern District of Illinois
WRITING FOR THE COURT	Nancy J. Rosenstengel
JURISDICTION	United States District Court for the Southern District of Illinois
DECIDED	February 18, 2026
DOCKET	3:25-CV-00562-NJR
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for default judgment in a federal declaratory-judgment action concerning insurance coverage. The court granted the motion after the defendant failed to answer or otherwise defend.
STANDARD OF REVIEW	On a motion for default judgment, well-pleaded factual allegations, except those concerning damages, are accepted as true, but the court must determine whether those facts establish a legitimate cause of action and entitlement to the requested relief. Legal conclusions are not admitted by default.
PRECEDENTIAL VALUE	Nonprecedential district-court memorandum and order; precedential status not identified in the source.

TOPICS

declaratory relief insurance | duty to defend | duty to indemnify | default judgment | construction defects

PRACTICE AREAS

insurance | insurance coverage | civil procedure | construction law | commercial litigation

QUESTIONS PRESENTED

1. Whether Acuity was entitled to default judgment establishing that it owed no duty to defend or indemnify Marion Glass under the Business Liability coverage.
2. Whether Acuity was entitled to default judgment establishing that it owed no duty to defend or indemnify Marion Glass under the Contractors Errors and Omissions coverage.
3. Whether Acuity was entitled to default judgment establishing that it owed no duty to defend or indemnify Marion Glass under the Commercial Excess Liability coverage.
4. Whether the well-pleaded allegations and insurance policy provisions established Acuity's entitlement to declaratory relief despite Marion Glass's default.

HOLDINGS

1. Default judgment was appropriate because Marion Glass failed to plead or otherwise defend, and Acuity's well-pleaded factual allegations, together with the policy provisions, established entitlement to the requested declaratory relief.
2. Acuity owed no duty to defend or indemnify Marion Glass under the Business Liability coverage because the alleged property damage occurred before the policy period; alternatively, any continuing damage was discovered before the policy period and therefore fell outside the policy's known-loss condition.
3. Acuity owed no duty to defend or indemnify Marion Glass under the Contractors Errors and Omissions coverage because the alleged wrongful acts and resulting claims arose before the policy's December 30, 2020, retroactive date.
4. Acuity owed no duty to defend or indemnify Marion Glass under the Commercial Excess Liability coverage because that coverage applied only when scheduled underlying insurance also applied, and the Business Liability coverage did not apply to the alleged property damage.
5. Illinois law imposes a duty to defend when the facts alleged in the underlying complaint fall within or potentially within the policy's coverage, but that standard did not create a duty here because the allegations placed the claimed damage outside the relevant coverage provisions.

KEY QUOTATIONS

> *“Once the default is established, and thus liability, the plaintiff still must establish his entitlement to the relief he seeks.”* (Legal Standard)

> *“A court’s “primary objective is to ascertain and give effect to the intention of the parties, as expressed in the policy language.””* (Discussion)

> *“An insurer’s duty to defend is broader than its duty to indemnify.”* (Discussion)

FACTUAL BACKGROUND

Acuity issued Marion Glass a commercial insurance policy effective December 30, 2020, through December 30, 2021, including Business Liability, Contractors Errors and Omissions, and Commercial Excess Liability coverage. The underlying state-court litigation concerns alleged faulty construction work on the City of Marion's community recreational center, where construction was substantially completed in 2015 and damage allegedly began appearing in the summer or fall of 2015. Samron later filed a third-party complaint against Marion Glass for contractual indemnity and breach of contract, and Marion Glass tendered the defense and indemnity to Acuity in November 2024. Acuity denied the tender, and Marion Glass did not respond to this federal action.

PROCEDURAL HISTORY

Acuity filed this action on April 15, 2025, seeking a declaration that it owed no duty to defend or indemnify Marion Glass in an underlying Illinois state-court construction-defect lawsuit. Samron Midwest Contracting, Inc., another named defendant, was dismissed under Federal Rule of Civil Procedure 41(a). Marion Glass was served on June 25, 2025, failed to respond, and had its default entered by the Clerk on July 30, 2025. Acuity moved for default judgment, which the court granted and directed the Clerk to enter judgment and close the case.

DISPOSITION

other

CASES CITED

- VLM Food Trading Int'l, Inc. v. Illinois Trading Co., 811 F.3d 247, 255 (7th Cir. 2016)
- In re Catt, 368 F.3d 789, 793 (7th Cir. 2004)
- Arwa Chiropractic, P.C. v. Med-Care Diabetic & Med. Supplies, Inc., 961 F.3d 942, 948 (7th Cir. 2020)
- Hobbs v. Hartford Ins. Co. of the Midwest, 214 Ill. 2d 11, 17, 823 N.E.2d 561, 564 (2005)
- Old Guard Ins. Co. v. Riverway Prop. Mgmt., LLC, No. 23-01098, 2024 WL 4112781, at *4 (C.D. Ill. Sept. 6, 2024)
- American States Ins. Co. v. Koloms, 177 Ill. 2d 473, 479, 687 N.E.2d 72 (1997)
- Berkley Ins. Co. v. Caraway, No. 24-256, 2025 WL 3280220, at *5 (S.D. Ill. Nov. 25, 2025)
- Mkt. St. Bancshares, Inc. v. Fed. Ins. Co., 962 F.3d 947, 951-52 (7th Cir. 2020)
- Bartkowiak v. Underwriters at Lloyd's, London, 2015 IL App (1st) 133549, ¶ 20, 39 N.E.3d 176, 181 (Ill. App. Ct. 2015)
- Great Am. Ins. Co. v. State Farm Fire & Cas. Co., 104 F.4th 1011, 1018 (7th Cir. 2024)
- Outboard Marine Corp. v. Liberty Mut. Ins. Co., 154 Ill. 2d 90, 108, 607 N.E.2d 1204, 1212 (1992)

INSTRUCTIONS FOR AN AI ASSISTANT