

# ENDORSEMENT

Short Style of Cause: KROGER et al v. Nadler et al File No. 94 18-2347

Date	Counsel	
JUN 19 2019	Gatensby, A (Intervener)	March 6, 2019 Ricchetti's appointed a litigation administrator <sup>for the super party</sup> <sub>for counsel</sub>
	Knox, J PI	for the litigation administrator for the Defendants takes no position on the
	Emple, C (Intervener)	motion brought by the non-party, United Insurance Company
	Telder IR (Def)	seeking leave to intervene as a defendant in this action in accordance with Rule 13.01
		The Plaintiff's oppose the motion on the basis that the insurer should not be permitted to participate in the action where it is clear that its position is adverse in interest to the insureds.
		In this respect, counsel for the Plaintiff's relies on <u>Waterloo Ins. Co. v. Zumbigg</u>

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JUN 19 2019	Gatersby A (Intervenor)	taking an adverse position to the insureds
	Knox, J (Pl)	Here the actual cause of the Plaintiff's claim for property damage caused by an explosion at the home of the insureds. Both individuals were killed in the explosion.
	Empke, C (Intervenor)	The Plaintiff's claim against the estates of the deceased <del>is</del> <sup>is</sup> based on <del>the</del> negligence, and, in the alternative, intentional act of one or both insureds.
	Tilden, R (Def)	Intact Insurance takes the position that it was an intentional act.
		Section 132 of the Insurance Act will leave Intact Insurance bound by whatever finding of liability is made in this action. I am satisfied that Intact

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JUN 19 2019	Gatersby, A Emple, C (Intervenor)	The recent Court of Appeal cases relied on by the Plaintiffs, especially <u>Mallory v. Wakeman &amp; the</u>
	Knox, J (PI)	<u>2015 ONCA 71</u> , refusing to grant intervenor status, does not assist the
	Tilden, R (Def)	Plaintiffs as it was precisely - at paragraph [36] of that decision -
		because the insurer had not satisfied the court it would be
		adversely affected by the judgment that it was found that the
		test for intervention was not met.
		I find that Intact has taken proper steps in this case given that its position is potentially adverse to the insureds. Undeposited