

## Covered: Halloween Special

Podcast | Bracewell Covered

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On this special Halloween episode of Bracewell Covered, hosts [Vince Morgan](#) and Claire Cahoon look at some of the spookiest cases involving insurance law.

### **Robinson v. Liberty Mut. Ins. Co.**

A couple buys a house, a normal house, like the start of a horror movie. The family moves into this beautiful house; it's lovely. They've got all their boxes; they're unpacking stuff. They've done the inspections, and everything is fine. They didn't think anything was wrong, but from the cracks of the corners of the house start crawling out an infestation of brown recluse spiders. There're spiders everywhere, and if you put your hand in the wrong place you would get bit. That seems like a pretty dangerous peril that a homeowner's policy would cover. But what would your guess be about whether or not the insurance company thought that this was a covered loss under the policy? The insurance company said "no," and the court agreed. Apparently brown recluse spiders are both vermin and insects.

### **Certain Underwriters at Lloyd's London v. Creagh**

This case involves the landlord in an apartment building. The landlord was knocking on doors checking in on people. One tenant hadn't paid his rent for a while. The landlord knocks on the door, and there's no response. The landlord opens the door and finds the tenant dead. He's collapsed over the toilet in the bathroom, and he'd been dead for two weeks. Bodily fluids had seeped into the bathroom floor and had contaminated the first floor bathroom directly below. Biological material was also found in the kitchen and bedroom of the apartment, and a powerful thiol odor pervaded the unit. The insurance company relied on one exclusion for microorganisms and another one for seepage and or pollution and or contamination exclusion. The court did not cover the claim on both grounds.

### **Related People**

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**W. World Ins. Co. v. Markel Am. Ins. Co.**

This is a Tenth Circuit case. It's one of our least favorite kind of lawsuits which is insurer versus insurer. We'll forgive it for now because it's very on point here. The opinion was written by now Supreme Court Justice Gorsuch. He opens with the following: "Haunted houses may be full of ghosts, goblins and guillotines, but it's their more prosaic features that pose the real danger." An individual was working the ticket booth at a haunted house, and he fell down an elevator shaft in a haunted house. In this case, the Tenth Circuit was interpreting Oklahoma law. What they did to help the policy holder was to apply the reasonable expectations doctrine. The policy holder won this one.

**Columbus-America Discovery Group v. Atlantic Mut. Ins. Co.**

The SS Central America sunk in a hurricane in 1857. At the time everyone was freaked out about it because they called it the Ship of Gold because it was filled with Gold Rush prospectors. The ship sunk with at least 10 tons of gold on it. One of the reasons they knew that there were 10 tons of gold is because it was insured. There were many insurers or insurance companies that would have preferred that the ship did not sink into the ocean, but alas it did. Flash forward to the late 1990s. A group called the Discovery Group, led by the now infamous Tommy Thompson, took a crew to find the boat. They pulled up tons and tons of treasure. But now we were estimating after the fact, now that they've kind of looked at it and really know how much is down there, that they only excavated 5 percent of the ship. There could be a lot more, but even what Thompson found was worth around \$50 million in today's money. The insurance companies hear about Tommy and his group finding all this gold and they decided that they thought it was theirs. At this point, though, are the insurance companies the same company? No. No one who worked there is alive. They've all been merged and broken apart. Interestingly, the reason they spent so much time in court is because Thompson and his group accused the insurance companies of deliberately destroying the policies and a bunch of the original claim documents. They had some proof, but the court found that there was insufficient evidence to say that it was deliberate. In the end, the court allowed the treasure hunters to keep at least 90 percent of what they found.

Have questions about insurance law contact [Vince Morgan](#).

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