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IN BRIEF: Exclusion to accidental death policy applies to patient's self-treatment – 5th Circ

Barbara Grzincic

(Reuters) - An accidental-death insurance policy's exclusion for "medical or surgical treatment" applied to a woman with renal disease who inadvertently severed her catheter while cutting off an old bandage before a dialysis session, the 5th U.S. Circuit Court of Appeals held Tuesday.

The decision affirms summary judgment for National Union Fire Insurance Co of Pittsburgh and AIG Claims, represented by Thompson, Coe, Cousins & Irons, in an action that Boeing mechanic Luis Lebron filed in federal court in Houston after the ERISA plan administrators denied coverage for his wife's death.

The exclusion removed coverage for deaths caused "in whole or in part (by) medical or surgical treatment"; however, it never defined that term. Lebron's attorney at Interpleader Law argued that it is commonly understood "to encompass what a doctor or healthcare provider does to a patient, rather than covering what a patient does to herself."

Back in 1936, however, the 5th Circuit had held that the meaning "does not turn on who is providing the treatment," Tuesday's unpublished, per curiam opinion said. The panel relied on that precedent and the broad definition of "treatment" in Black's Law Dictionary, which includes "steps taken to affect a cure."

Barbara Lebron "would not have died from exsanguination had her illness not necessitated treatment via a catheter and bandages to keep the catheter intact," and the actions she took to change bandages before dialysis "thus amount to 'steps taken to affect a cure of her renal disease,'" the court held.

The case is Lebron v. National Union Fire Insurance Company of Pittsburgh, Pennsylvania and AIG Claims Inc., 5th U.S. Circuit Court of Appeals, No. 20-20165.

For Lebron: William Perry of Interpleader Law

For National Union Fire and AIG Claims: Harrison Yoss, Matthew Kolodoski and Gino Rossini of Thompson, Coe, Cousins & Irons

---- **Index References** ----

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