

LDS Church May Pursue Abuse Suit Coverage, 10th Circ. Says

By **Hope Patti**

Law360 (July 29, 2026, 3:00 PM EDT) -- The Tenth Circuit revived the Church of Jesus Christ of Latter-day Saints' bid for coverage of costs it incurred in underlying litigation claiming it failed to protect children who were sexually abused by a church member, saying the district court should have read ambiguous policy terms in favor of coverage.

In a **published opinion** Tuesday, a three-judge panel held that a Utah federal court erred in granting summary judgment to the church's insurers, AIG unit National Union Fire Insurance Co. of Pittsburgh, Pa. and Chubb unit Ace Property and Casualty Insurance Co.

"The policies' definitions of 'occurrence' are ambiguous, the church's reading is plausible, and Utah law requires courts to read ambiguous provisions in favor of coverage," U.S. Circuit Judge Gregory A. Phillips wrote for the court.

The coverage dispute stemmed from underlying litigation over church member Michael Jensen's abuse of children that he babysat between 2007 and 2011.

Jensen, the son and grandson of prominent church members, moved from Utah to West Virginia with his family in the early 2000s. In 2013, he was sentenced to between 35 and 75 years in state prison, followed by 50 years of probation, and ordered to register as a sex offender, according to court filings.

After the sentencing, several minors and their parents sued the church, Jensen and others in West Virginia state court in September 2013. The suit alleged that the church knew of Jensen's history of sexual abuse but allowed him to be a babysitter for church families and coordinated his living arrangements in homes with young children.

At trial, but before verdict, the church settled with the remaining minors and their families.

During the trial, the church sought coverage under policies with National Union and Ace that were in effect between 2007 and 2011. After National Union and Ace refused to cover defense and settlement costs, the church settled with the victims and sued the insurers for breach of contract and bad faith in Utah federal court in October 2021.

The district court granted summary judgment to the insurers in March 2025, finding that "the abuse of separate victims at separate times and in separate places presumptively constitutes multiple occurrences." The court further found that the church was required to exhaust the policies' retained limits for each occurrence but had not done so.

On appeal, the church argued that what was alleged as its failure to prevent Jensen's separate instances of abuse is a single occurrence.

The panel found Tuesday that the church presented a reasonable interpretation of the policies' occurrence provisions.

The policies define an occurrence as "an accident, including continuous or repeated exposure to substantially the same general harmful conditions." The National Union policy adds that exposure to such conditions will be deemed to arise out of one occurrence, while the Ace policies note that

exposure to the same harmful conditions is a single occurrence "regardless of the frequency or repetition thereof, or the number of claimants."

"We need not hold that the church's interpretation is the most reasonable or most plausible interpretation. And we don't," Judge Phillips said. "We hold only that it is plausible. And because it is plausible, and the district court's interpretation is also plausible, the provisions are ambiguous under Utah law."

The fact that other courts have handed down conflicting approaches when deciding whether sexual abuse counts as one occurrence or several reinforces the conclusion that the policies are ambiguous, the judge added.

Representatives of the parties did not immediately respond to requests for comment Wednesday.

U.S. Circuit Judges Gregory A. Phillips and Nancy L. Moritz and U.S. District Judge Matthew L. Garcia, by designation, sat on the panel for the Tenth Circuit.

The church is represented by Haley K. Krug, Randy T. Austin, Wade L. Woodard, Justin W. Starr and Michael D. Johnston of Kirton McConkie.

National Union is represented by Mark J. Sobczak, Richard H. Nicolaides Jr. and Amy P. Klie of Nicolaides Fink Thorpe Michaelides Sullivan LLP and Phillip S. Ferguson and Rebecca Lee Hill of Christensen & Jensen PC.

Ace is represented by Christopher A. Wadley and Ryan J. Rodman of Walker Wilcox Matousek LLP.

The case is Church of Jesus Christ of Latter-Day Saints v. National Union Fire Insurance Co. of Pittsburgh, Pa. et al., case number 25-4049, in the U.S. Court of Appeals for the Tenth Circuit.

--Editing by Emma Brauer.