

Minnesota Court of Appeals Confirms Agent Comments Can Bind Insurer



Article By

[Christopher H. Yetka](#)

[Barnes & Thornburg LLP](#)

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In January 2017, a jury awarded Prospect Foundry \$53,300 on a counterclaim for breach of the implied covenant of good faith and fair dealing. At the heart of the case was a representation by an insurance agent that certain workers' compensation claims would be closed, or reserves reduced, allowing Prospect to receive a dividend on their workers' compensation insurance premiums.

The insurer appealed, claiming in part that Prospect's description of the representations of the agent should not have been permitted into evidence. In an April 16 decision, the Minnesota Court of Appeals affirmed in *Western Nat'l Mut. Ins. Co. v. Prospect Foundry*, A17-0992, 2018 WL 1787687 (Minn. Ct. App. April 16, 2018). In relevant part, the court held:

In the past, Minnesota distinguished between insurance agents and insurance brokers for principal-agent analysis. [Citation omitted] . . . However, a Minnesota Statute now states that '[a] person performing acts requiring a producer license . . . is at all times the agent of the insurer and the not insured.' [Citation omitted]

The court then looked at the actions of the agent, and the agency agreement and stated:

Based on this evidence, we conclude that the district court had sufficient grounds to treat [the agent] as being 'authorized by [Western National] to make a statement concerning' the open claims to Prospect, or - at a minimum - was making a statement concerning a matter within the scope of the agency or employment. . . .

The *Western National* case demonstrates that in Minnesota, under the right circumstances, a policyholder can rely on the representations made to them by insurance agents and brokers. As always, policyholders are encouraged to get those representations in writing, or to send a written confirmation of their understanding of the communication so that it can be confirmed at a later date.

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