suggesting that the exclusion extended to those kinds of accidents. Second, the court relied on technical literature that included personal injury and property damage within the industry understanding of marine insurance. Third, the court felt that the language used by the legislature was intended to exclude certain kinds of policies. As a result, the court concluded that the exclusion prohibited coverage of the personal injury and property claims.

Police Activities Exclusion Construed

Murdock v. Dinsmoor, 892 F.2d 7 (1st Cir. 1989).

The court concluded that a policy that excluded claims against the policyholder "arising out of" the activities of its police extended to its negligent hiring of officers. Murdock claimed that police employed by the Town of Gilsum, New Hampshire, kidnapped and beat him in an effort to recover stolen marijuana. He sued the officers, the town, and the town council. A claim against the town alleged that it negligently hired the officers. One insurer sought a declaration that its policy did not cover the incident on the basis of a policy exclusion. The exclusion provided for no coverage for bodily injury arising out of the legal liability of the insured resulting from the activities and operations of the town's police department and the individual officers the town employed. Applying New Hampshire law, the court found that there was no ambiguity in the term "arising out of," which was broadly construed as applying to any originating act. The court then held that the allegation of negligent hiring was a sufficient connection to warrant application of the exclusion.

Auto Exclusion in Homeowner's Policy Construed

Cone v. Nationwide Mutual Fire Insurance Co., 58 U.S.L.W. 2385 (N.Y. 1989).

In contrast to the prior case, the New York Court of Appeals construed a clause excluding coverage in a homeowner's policy for occurrences "arising out of" the ownership of an automobile to require defense of a claim for negligent entrustment of a vehicle. Cone's son, a 14-year-old, was riding a three wheeled vehicle when he struck a pick-up truck. Cone sued the truck owner who counterclaimed, alleging negligent entrustment of the vehicle to the minor. Cone sought to have his homeowner's insurer defend the counterclaim. The insurer denied coverage under an exclusion for occurrences "arising out of ownership, maintenance, or use of a motor vehicle."

The court held that the exclusion did not apply to the counterclaim. According to the court, the claim of negligent entrustment of the vehicle was separate from a claim based on negligence. Relying on a case in which the court concluded that negligent entrustment claims were not excluded under a clause excluding occurrences "based directly on" the use of a motor vehicle, the court concluded that the difference in language was not significant enough to warrant a different result.