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Partner Eric Stern quoted, Law 360, "Merck War Exclusion Appeal Puts Focus On Policy Language," 2-6-2023

Ahead of the approaching appeal between Merck and its insurers over the applicability of war exclusions to cyberattacks, policyholder- and insurer-side attorneys both stressed the importance of applying plain policy language... ***(subscribers can read full article at Read More link)***

Eric Stern, a partner with Kaufman Dolowich & Voluck LLP who represents insurers, also emphasized the importance of applying the plain language of insurance policies. However, Stern said the lower court in Merck, instead of adhering to this principle, had taken the unusual step of applying a standard relying on the reasonable expectation of the policyholder as to what a warlike activity would be without finding that there was ambiguity in the policy language. "That's not something that courts usually do," Stern said, adding that there usually needs to be ambiguity in the policy language before turning to the reasonable expectations of a policyholder as to what the policy language means.

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