

JUNE 13, 2003

# Insurance firm denies liability for murder by salesman

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**A**n internationally known insurance firm wants off the hook for any damages due the survivors of a West Knox County woman raped and killed by a traveling salesman in 2001.

Lloyds of London, an insurance firm best known for providing coverage for celebrities, contends it should not be responsible for the actions of convicted killer Roger Broadway.

Broadway was selling magazines door-to-door when he raped, beat, smothered and stabbed Eskalene DeBorde, 66, in her home. He pleaded guilty in Knox County Criminal Court earlier this year and will spend the rest of his life behind bars.

DeBorde's children, H. Elizabeth Noffisinger and James Michael Potts, are suing American Community Services Inc., an Indiana magazine clearinghouse, for damages in connection with her death. Lloyds provides insurance for ACS.

"The underlying cause of this lady's death was the rape and murder," Lloyds' attorney Kenneth Williams told U.S. District Court Judge James Jarvis Thursday. "That was an intentional act. This policy was intended to cover accidental incidents only."

The wrongful death lawsuit, filed in Knox County Circuit Court in October 2001, accuses ACS of negligence for allowing Broadway, who had just been released from prison when he was hired as a salesman, to hawk the firm's magazines.

Lloyds, in turn, filed suit in federal court, arguing the policy it issued to ACS excludes

coverage for violent acts. Williams called it an "assault exclusion."

"It's obvious this whole scenario (of DeBorde's death) was contemplated by these parties when they negotiated the contract," Williams said.

Lloyds' lawsuit made temporary allies of ACS and attorney Bob Pryor, who is representing DeBorde's children, at Thursday's hearing.

Pryor told Jarvis the "assault exclusion" specifically addresses employees of ACS. Broadway was not an employee of ACS but instead was hired by an independent contractor that contracted with ACS to provide a sales force, he said.

"He's two contracts away from ACS," Pryor said of Broadway.

The independent contractor, identified by Pryor as The Real Deal, "goes around in a van, picking up salespeople on the street, in the ghetto or wherever they can," Pryor said.

Broadway was picked up in front of a halfway house where he was living just days after being released from prison, Pryor said. All Broadway was asked to do was fill out a form before he was sent out, Pryor said.

Pryor argued that ACS controls most of the operations of the independent contractors and remains responsible for DeBorde's death. But he insisted Lloyds is also on the hook.

"The books are full of magazine salesmen (who commit crimes)," he said. "They had a history of that and concede that it is a hazard of this business."

He said Lloyds was well aware that ACS sought insurance to protect the firm from liability created by violent salesmen.

"On behalf of the victims of this crime it's our position you should find (Lloyds) has a duty to defend and a duty to indemnify (ACS)," Pryor said.

Jarvis said he would render a written opinion after reviewing the case.

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