

***Jones v. IDS Property Casualty Insurance Co* (2018) 27 Cal. App. 5th 625**
Policy language was sufficient to aggregate spouse's damages for loss of consortium with damages for bodily injury to injured spouse.

FACTS/PROCEDURE

Janet and Richard Buhler (Buhlers) had a traffic accident in which Mark Alan Jones was seriously injured. In August 2013, the trial court entered judgment against the Buhlers and awarded Mark \$1,350,000 and his wife Melanie Jones \$150,000 for loss of consortium. The Buhlers had an automobile insurance policy with IDS Property Casualty Insurance Company (IDS) that provided coverage of \$250,000 for bodily injury for each person and \$500,000 for each occurrence.¹

After IDS paid the Joneses \$250,000, the per person limit, the Joneses brought suit against IDS and the Buhlers for a judicial declaration that under the terms of the policy, IDS had a duty to pay the full per person limits of \$250,000, to both Mark Jones and Melanie Jones, for a total of \$500,000, the per occurrence limit. IDS moved for a nonsuit which was granted.

On appeal, the Joneses contend the trial court erred in ruling the per person limit of the policy applied, instead of the per occurrence limit, since loss of consortium is an independent tort subject to a separate per person limit of the policy.

DISCUSSION

The Court of Appeal for the Third District Affirmed. The issue on appeal was when a wife sues for loss of consortium after her husband is seriously injured in an automobile accident that is the defendant's fault, is her claim subject to the same per person limit of the defendant's insurance policy as her husband's claim for bodily injury? Here, the Court found it does.

In reaching its decision, the Court cited *United Services Automobile Assn v. Warner*², holding that, "a spouse's claim for loss of consortium was subject to the same per person policy limits as the injured spouse's damages." The Court also relied on the policy in *Warner* which read, in part: "the limit of bodily injury liability stated in the declarations as applicable to each person is the limit of the company's liability for all damages, including damages for care and loss of services."

The Court found that the "for care and loss of service" language in IDS's policy only differed slightly from the language in other published cases, but that it was sufficient enough to aggregate the two claims.

¹ Policy language reads: "The bodily injury liability limits for each person is the maximum we will pay as damage for bodily injury, including damages for care and loss of service, to one person per occurrence."

² (1976) 64 Cal.App.3d 957