

# Mary Borja Discusses Insurer's Win in Computer Fraud Coverage Case

---

*Law360*

August 4, 2017

Mary E. Borja, a partner in Wiley Rein's Insurance and Litigation practices, was quoted in an August 2 *Law360* article about a federal judge's ruling that a company is not entitled to coverage, under a computer fraud provision, for an \$800,000 loss that resulted from an email-based theft scheme.

The case, *American Tooling Center Inc. v. Travelers Casualty and Surety Co. of America*, stems from a scam in which thieves, pretending to be a vendor, used fraudulent emails to trick the company into wiring funds to a sham bank account.

A U.S. district judge in Michigan ruled on August 1 that the company's loss was not directly caused by the use of a computer – and therefore not covered – because several intervening events occurred between the receipt of the fraudulent emails and the transfer of funds to the account.

The judge cited a 2016 decision by the Fifth Circuit, in *Apache Corp. v. Great American Insurance Co.*, that a loss resulting from a similar email scam was not covered under a computer fraud provision.

Ms. Borja said the ubiquity of computers in businesses' operations is the very reason that limitations on computer fraud coverage are necessary.

"In these types of schemes, a computer is being used, but in modern American business, computers are used all day long," Ms. Borja said. "As a result, the *American Tooling* and *Apache* courts found that the use of a computer as a part of the scheme, by itself, doesn't satisfy

## Related Professionals

---

Mary E. Borja  
Partner  
202.719.4252  
mborja@wiley.law

## Practice Areas

---

Insurance  
Litigation

the policy language.”