

## [Ninth Circuit's Fraudulent Payments Coverage Ruling Has Implications for Cyber Insurance Purchasers](#) ›

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### Key takeaways

The US Court of Appeals for the Ninth Circuit ruled in favor of policyholders who face cybercrime risks by finding that payments mistakenly made by an employee based on fraudulent invoices were covered by insurance

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The ruling illustrates why companies shouldn't take insurance coverage denials at face value and should work with their coverage counsel to clarify policy wording

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The decision also underscores the importance of being proactive about obtaining appropriate coverage for common exposures, including social engineering scams, ransomware attacks, privacy claims and government investigations

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In a decision with significant implications for policyholders seeking coverage for social engineering scams and cybercrime losses, the US Court of Appeals for the Ninth Circuit held in *Ernst and Haas Management Company, Inc. v. Hiscox, Inc.* that an insurance policy covering losses resulting directly from computer fraud included coverage for payments made based on a fraudulent invoice. The Ninth Circuit held that the loss was “directly” caused by the fraud, disagreeing with the insurer’s argument that the unwitting employee who received the fraudulent invoice and sent the payment to the fraudster was an intervening actor.

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