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SUPREME COURT OF ALABAMA

OCTOBER TERM, 2012-2013

1110993

Admiral Insurance Company

v.

Ryan Price-Williams

Appeal from Mobile Circuit Court
(CV-09-901938)

STUART, Justice.

Ryan Price-Williams sued Admiral Insurance Company and Gabriel Dean and Charles Baber in the Mobile Circuit Court pursuant to Alabama's direct-action statute, § 27-23-2, Ala.

Code 1975.[1] Both Dean and Baber were alleged by Price-Williams to be covered under a commercial general-liability insurance policy Admiral had issued the national Kappa Sigma fraternity to which Dean and Baber belonged. Price-Williams alleged that Admiral was obligated to pay a judgment that had been entered in favor of Price-Williams and against Dean and Baber in a previous action ("the underlying action"). Following a bench trial, the trial court entered a judgment in favor of Price-Williams and against Admiral, holding that the Admiral policy provided coverage to Dean and Baber for the

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[1]Price-Williams named Dean and Baber as defendants based on their status as indispensable parties under § 27-23-2, Ala. Code 1975. Section 27-23-2 provides:

> "Upon the recovery of a final judgment against any person ... by any person ... for loss or damage on account of bodily injury, ... if the defendant in such action was insured against the loss or damage at the time when the right of action arose, the judgment creditor shall be entitled to have the insurance money provided for in the contract of insurance between the insurer and the defendant applied to the satisfaction of the judgment, and if the judgment is not satisfied within 30 days after the date when it is entered, the judgment creditor may proceed against the defendant and the insurer to reach and apply the insurance money to the satisfaction of the judgment."

negligent and/or wanton acts that formed the basis of the underlying action. We affirm.

I.

On January 31, 2004, Price-Williams was attacked and beaten at a fraternity house maintained by the University of South Alabama chapter of Kappa Sigma in Mobile (the local chapter is hereinafter referred to as "Kappa Nu," while the national fraternity is referred to as "Kappa Sigma"). Price-Williams suffered significant, permanent injuries as a result of the assault and incurred medical expenses of approximately $27,145. On November 28, 2005, Price-Williams sued Kappa Sigma, Kappa Nu, and Dean, Baber, and Michael Howard, the three individuals alleged to have committed the assault, in the Mobile Circuit Court.[2] Price-Williams's complaint sought recovery based on the assault and asserted negligence and/or wantonness claims based on Dean's and Baber's failure as officers of Kappa Nu to implement the risk-management program Kappa Sigma required of local chapters, which program, Price-Williams alleged, would have either prevented the assault

[2]Dean and Baber were, respectively, president and vice president of Kappa Nu at the time of the assault. Neither Price-Williams nor Howard were members of Kappa Nu.

entirely or, at a minimum, limited its duration and intensity.[3]

Shortly after it received the complaint, Kappa Sigma notified its insurer Admiral of a possible occurrence under its commercial general-liability policy; however, because its policy with Admiral contained a self-insured retention clause, Kappa Sigma took initial responsibility for the defense of Price-Williams's claims. See generally Black's Law Dictionary 1482 (9th ed. 2009) (defining "self-insured retention" as "[t]he amount of an otherwise-covered loss that is not covered by an insurance policy and that usu[ally] must be paid before the insurer will pay benefits"). Kappa Sigma therefore retained its own counsel, which also represented Kappa Nu. However, that counsel did not represent either Dean or Baber, neither of whom made a claim upon Admiral for coverage based upon their status as officers of Kappa Nu. In fact, Dean, Baber, and Howard never retained counsel, answered the complaint, or appeared in the action, and a default judgment

[3]In the weeks after the assault, Dean, Baber, and Howard were arrested and charged with second-degree assault. Approximately four months later, Dean and Baber were expelled from Kappa Sigma because their involvement in the assault violated the Kappa Sigma code of conduct.

was accordingly entered against them. A summary judgment was also entered in favor of Kappa Sigma, and, by the time the jury trial began on November 17, 2008, Kappa Nu was the only remaining defendant.[4]

After closing arguments were made at the conclusion of the trial, Kappa Nu reached a settlement with Price-Williams. Upon notifying the trial court of the settlement agreement, Price-Williams moved the trial court to withdraw his jury demand and to enter a final judgment against Dean, Baber, and Howard based upon the evidence adduced at trial.[5] The trial court granted the motion, dismissed the jury, and thereafter entered a 10-page order containing the following findings of fact and judgment:

> "11. As to [Price-Williams's] second and third causes of action, the court finds that both Dean and Baber, as officers of the local fraternity, had assumed and/or were under a duty to create, implement, supervise, and enforce what was described during trial as the chapter's 'risk management

[4]Admiral assumed responsibility for the investigation and defense of Price-Williams's claims in approximately July 2008 after Kappa Sigma's costs related to that claim exceeded the amount set forth in the self-insured retention clause in the Admiral policy.

[5]Apparently, the trial court set aside the default judgment previously entered against the three individual defendants.

program.' The court further finds, based upon the testimony offered at trial as well as documentary evidence introduced during trial, including the Executive Officers' Manual ... and the Kappa Sigma Fraternity Risk Management Manual ..., that these defendants both negligently and wantonly breached their individual duties to create, implement, supervise, and enforce a risk management program, and that as a proximate consequence of said breaches, [Price-Williams] was caused to suffer those injuries and damages as proven in this case.

"12. More particularly, the court finds that both Dean and Baber, in accepting their roles as executive officers of the local fraternity, agreed and assumed the duties imposed upon them that are found in the Executive Officers' Manual and the Kappa Sigma Fraternity Risk Management Manual, which included the implementation and enforcement of a risk management program. ...

"13. The evidence introduced at trial established that Dean, the president of the local fraternity, was considered the chief executive officer of the chapter. As president, Dean assumed and carried the ultimate duty both individually and on behalf of the local and national fraternity for the implementation and supervision of the chapter's risk management program. This means that it was his responsibility, acting within the scope of his duties as president, to take steps toward creating and enforcing a risk management program for the local fraternity at the University of South Alabama. He was responsible for working with the risk management committee chairman on the development of the chapter's risk management program, and in carrying out the goals of preventing injuries at the chapter house.

"14. Additionally, substantial evidence was introduced that established that Baber, as the vice president, was the second in command at the

fraternity house on the night in question. The court finds that his duties included not only the implementation of a risk management program, but also the actual enforcement of the program on the night in question. ... [Price-Williams] proved through the evidence at trial that neither of these officers took any steps in carrying out their duties of ensuring that order was maintained at the fraternity house on the evening in question.

"15. To the contrary, the evidence clearly and convincingly established that both Dean and Baber had been drinking this particular night, and that one or both of them knew that an assault was probably going to occur on [Price-Williams] once he walked through the front door of the fraternity house. The fact that no risk management program or education had been implemented only aggravated the situation once the assault began, since neither Dean nor Baber had left any responsible individual in charge of maintaining order at the fraternity house as was required under a reasonable risk management program which, in the court's opinion, would have minimized and/or prevented the assault from occurring in the first instance. ...

"16. The Kappa Sigma national fraternity, a former defendant in this action, granted to the local fraternity the authority and right to establish and operate a local fraternity at the University of South Alabama. The evidence at trial clearly established that both Dean and Baber, as the president and vice president of the local fraternity, pursuant to the authority bestowed upon them by the national and local fraternity, assumed the duty to create, implement, supervise, and enforce a risk management program relative to the operation of the local fraternity. These individuals were obligated to act in accordance with these duties which were required to be performed as part of their duties on behalf of the local and national fraternity. The court finds that these two

> individual defendants, Dean and Baber, both negligently and wantonly breached their individual duties by failing to create, implement, supervise, and enforce an appropriate risk management program as alleged by [Price-Williams] in his complaint. The court further finds that these two individual's negligence and wantonness was committed while acting within the scope of these two individual's duties on behalf of the fraternity.
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> "Accordingly, the court hereby finds in favor of the plaintiff, Ryan Price-Williams, and against the three individual defendants, jointly and severally, as to the claims raised in [Price-Williams's] complaint. The court hereby awards to [Price-Williams] and against the individual defendants total compensatory damages in the amount of $500,000. The court further finds that an award of punitive damages is warranted based upon the clear and convincing evidence of wantonness of the individual defendants as to all three claims raised in [Price-Williams's] complaint, and hereby awards to [Price-Williams] and against the individual defendants punitive damages in the amount of $750,000, which is one and one-half times the amount of compensatory damages to be awarded to [Price-Williams]. The total amount of the verdict is therefore $1,250,000. It is the intention of this Court that this verdict represents the total damages to be awarded to [Price-Williams] in this case for all damage[] suffered by him as a result of the January 31, 2004, incident, and that the individual defendants are entitled to a setoff of the amount paid to [Price-Williams] by [Kappa Nu] as a result of the confidential pro tanto settlement."

Subsequently, there was a dispute between Price-Williams and Kappa Nu regarding the settlement agreement and, specifically, whether as part of the settlement Price-Williams

had agreed to release only Kappa Sigma and Kappa Nu or, as Kappa Nu maintained, to release Kappa Sigma, Kappa Nu, and Dean and Baber in their capacities as agents of Kappa Nu. Motions were filed by both parties with the trial court, which eventually ruled in favor of Price-Williams. Kappa Nu appealed that judgment to this Court, which affirmed the decision of the trial court, stating:

> "At the hearing on the parties' motions to enforce the settlement agreement held on February 6, 2009, the trial court correctly noted that counsel for [Kappa Nu] did not represent the individual defendants and that counsel therefore had no basis on which to argue on behalf of the individual defendants. The trial court also correctly concluded that a release by Price-Williams of all claims against [Kappa Nu], including all claims based on theories of vicarious liability, would fully protect the chapter from liability -- even liability arising from actions of the individual defendants to the extent they are agents of the chapter. In light of the colloquy that took place on November 20, 2008 [when the parties announced that a settlement had been reached], we conclude that the trial court's interpretation of the settlement agreement was not clearly erroneous, without supporting evidence, manifestly unjust, or against the great weight of evidence."

Kappa Sigma Fraternity v. Price-Williams, 40 So. 3d 683, 693 (Ala. 2009).

On October 6, 2009, approximately two months before our decision in Kappa Sigma was released, Price-Williams initiated

the instant action pursuant to § 27-23-2, alleging that, by virtue of their status as officers of Kappa Nu, Dean and Baber were additional insureds under the commercial general-liability insurance policy Kappa Sigma held with Admiral on the date of the assault. Admiral filed a response denying that Dean and Baber were covered under the policy held by Kappa Sigma.[6] On May 3, 2011, the trial court conducted a bench trial; however, Admiral did not attend the trial, having been under the mistaken belief that the case would be decided through the submission of briefs.[7] Notwithstanding Admiral's absence, the trial court proceeded to hear testimony from Baber and to receive exhibits, depositions, and documentary evidence from the parties in attendance. Admiral and Price-Williams thereafter submitted trial briefs in support of their positions, and, on March 9, 2012, the trial court entered an order stating its findings of fact and conclusions of law and entering a judgment in favor of Price-Williams. No

[6]Baber filed a cross-claim against Admiral seeking a ruling that Admiral was required to indemnify him for the judgment entered against him in the underlying action. The trial court decided this claim in favor of Admiral, and Baber has not appealed that judgment.

[7]Counsel for Admiral was contacted by the trial court on the morning of the trial.

postjudgment motions were filed, and, on April 19, 2012, Admiral filed its notice of appeal to this Court.

II.

In Travelers Indemnity Co. of Connecticut v. Miller, 86 So. 3d 338 (Ala. 2011), an appeal by an insurance company following a bench trial on a claim asserted under § 27-23-2, this Court stated:

> "The principal legal issue presented in this appeal is whether, under the evidence presented, the trial court could properly conclude that [the insurance company] was bound to provide coverage to [the insured] with respect to the occurrences described in [the plaintiff's] complaint. Because there were questions of fact regarding notice and coverage, the trial court received testimony in both oral and written form before entering its final judgment. Therefore, the ore tenus standard of review applies: 'Where evidence on an issue is presented both orally and by deposition, the ore tenus rule affords the trial court's finding a presumption of correctness.' Hall v. Mazzone, 486 So. 2d 408, 410 (Ala. 1986). 'Under that standard, a trial court's findings of fact based on oral testimony and a judgment based on those findings are given a presumption of correctness.' Beavers v. County of Walker, 645 So. 2d 1365, 1372 (Ala. 1994). However, 'that standard's presumption of correctness has no application to a trial court's conclusions on questions of law.' Id."

86 So. 3d at 341. The trial court in this case also considered both oral and written evidence, and the ore tenus

standard likewise guides our review of Admiral's claims on appeal.

III.

Admiral first argues that the trial court's judgment should be reversed because the gravamen of Price-Williams's claims is that he received bodily injury as a result of an illegal assault and battery, and Kappa Sigma's policy with Admiral contains the following exclusion: "This insurance does not apply to 'bodily injury,' 'property damage,' 'personal injury," or 'advertising injury' arising out of any act of assault and/or battery by any insured or additional insured." Thus, Admiral argues, the trial court erred in finding that coverage existed because it is undisputed that Price-Williams's injuries arose out of an assault committed by Dean and Baber.

However, in addition to his assault claim, Price-Williams alleged claims of negligence and/or wantonness based on Dean's and Baber's failure to implement the risk-management program required by Kappa Sigma rules. Price-Williams concedes that Dean's and Baber's participation in the actual assault was not

covered under the Admiral policy. The trial court likewise recognized this fact, stating:

> "38. The assault and battery exclusion is unambiguous and clearly excludes coverage for any bodily injury suffered by [Price-Williams] caused by Dean and Baber's conduct of assaulting him. This exclusion, however, is self-limiting, as it applies only to any damage[] due to the assault and battery by Dean and Baber, not any injuries caused by Michael Howard (since [it is undisputed that] Howard was not an insured under the policy). Both Admiral and [Price-Williams] agree that three individuals were involved in assaulting [Price-Williams]: Dean, Baber, and Howard. Although Dean and Baber's conduct of assault and battery is excluded under the policy, because Howard was not an insured under the policy, this exclusionary clause does not apply to the damage[] caused by Howard's conduct.
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> "39. In reviewing the evidence submitted, this court concurs with the trial court's findings in its final judgment [in the underlying action] that Dean and Baber's negligence and wantonness in failing to implement a proper risk management program actually facilitated Howard's conduct of assaulting [Price-Williams]. Accord R.B.Z. v. Warwick Dev. Co., 681 So. 2d 566, 569 (Ala. Civ. App. 1996) (finding that it was a jury question whether apartment manager's failure to follow proper policies as to who had access to keys to plaintiff's apartment facilitated crime of sexually assaulting plaintiff). Specifically, in its final judgment the trial court found that the fraternity house was 'out of control' and created a dangerous environment for those attending the Friday night drinking party on January 31, 2004, and that had Dean and Baber performed their legal obligations required of them as officers on behalf of the fraternity and enforced a proper risk management program, then [Price-Williams's]

> injuries would have been minimized or never occurred in the first instance.
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> "40. The court finds that Dean and Baber's negligence and wantonness combined and concurred with Howard's conduct of assaulting [Price-Williams], causing one indivisible injury to [Price-Williams]. Under Alabama law, '"where separate causes act contemporaneously to produce a given result, the causes of injury are concurrent within the rule making separate wrongdoers equally liable for the resultant injury."' Breland v. Rich, 69 So. 3d 803, 825 (Ala. 2011) (quoting Davison v. Mobile Infirmary, 456 So. 2d 14, 26 (Ala. 1984)). The court also finds, as did the trial court in the underlying [action], that Dean and Baber's negligence and wantonness proximately caused [Price-Williams's] injuries, [when] combined with Howard's conduct of assaulting [Price-Williams]. Finally, the court finds that Dean, Baber, and Howard are joint tortfeasors under Alabama law for purposes of coverage under the policy -- Dean and Baber for their negligence and wantonness, and Howard for his assault on [Price-Williams]."

Admiral nevertheless argues that there was only one injury and that the acts combining to cause that injury are not severable so as to obligate Admiral to provide coverage for some claims -- the claims of negligence and/or wantonness based on Dean's and Baber's failure to implement a risk-management program -- while excluding the related assault claim. In support of this argument, Admiral cites Auto-Owners Insurance Co. v. American Central Insurance Co., 739 So. 2d 1078 (Ala. 1999), Horace Mann Insurance Co. v. D.A.C., 710 So.

2d 1274 (Ala. Civ. App. 1998), and Gregory v. Western World Insurance Co., 481 So. 2d 878 (Ala. 1985). Each of those cases, however, is distinguishable.

In Auto-Owners, this Court agreed with the trial court that it was not possible to distinguish between the plaintiff's intentional tort claims and unintentional tort claims "so as to obligate [the insurer] to provide a defense and indemnity as to some claims but not as to others," 739 So. 2d at 1082, and in D.A.C., the Court of Civil Appeals concluded that an "intentional-damages exclusion" in the policy prevented the plaintiff from recovering from an insurer even though the plaintiff had alleged both intentional and unintentional tort claims because the claims were all based on the same acts, 710 So. 2d at 1276. In this case, however, it is possible to distinguish between Price-Williams's claim alleging an intentional assault and his claims alleging negligence and/or wantonness because those claims are based on two separate and distinct acts -- the assault on Price-Williams, on the one hand, and Dean's and Baber's failure to implement the required Kappa Sigma risk-management program, on the other.

Moreover, in Gregory, this Court affirmed a judgment declaring that a plaintiff's negligence and wantonness claims against a bar based on injuries he received after being assaulted by a patron at the bar were not covered by the bar's insurance policy because the policy specifically excluded any claim alleging "'bodily injury or property damage arising out of assault and battery ..., whether caused by or at the instigation or direction of the insured, his employees, patrons, or any other person.'" 481 So. 2d at 878 (quoting insurance policy). The assault-and-battery exclusion in Kappa Sigma's policy, however, is much narrower; it excludes only claims for bodily injury or property damage "arising out of any act of assault and/or battery by any insured or additional insured." It is undisputed that some of Price-Williams's injuries are attributable to Howard, who was not an insured. Thus, in Gregory the plaintiff's injuries arose from an assault and battery committed by a patron and were therefore not compensable because they were specifically excluded by the policy, while Price-Williams's injuries were caused at least in part by a party not insured under the policy and were therefore not excluded by the language of the Admiral policy.

Gregory is therefore distinguishable. The trial court did not err by holding that the assault-and-battery exclusion in the Admiral policy does not bar Price-Williams from recovering from Admiral for personal injuries he received as a result of Dean's and Baber's negligence and/or wantonness.

Admiral makes two additional arguments that also fail because they do not recognize that the assault and battery and the failure to implement a risk-management program were two separate acts. Admiral first argues that Dean and Baber were not additional insureds under the Admiral policy because, Admiral alleges, they were not acting within the line and scope of their duties at the time of the assault:

> "In the case at bar, the policy language at issue is unambiguous. An insured is an officer of the fraternity 'acting within the scope of their duties on behalf of the Named Insured.' The trial court correctly found that 'Dean and Baber's conduct of assaulting [Price-Williams] does not fall within this policy definition of an "insured" under the policy.' However, in a reversal, the trial court also found that Dean and Baber's failure to implement a risk management program at the time of the assault was within the line and scope of their duties and, therefore, fell within the policy definition of an insured. This is nonsensical as a person can't be both within and outside the scope of his duties when committing the same act resulting in the same injury. Again, this inconsistency in the trial court's findings is reversible error."

Admiral's brief, p. 32 (emphasis added). In fact, however, the trial court did not find Dean and Baber to be both within and outside the scope of their duties with regard to "the same act"; rather, the trial court correctly held that Dean and Baber were not acting within the scope of their duties with regard to one act -- the assault of Price-Williams -- but were acting within the scope of their duties with regard to another act -- the failure to implement a risk-management program, as required by Kappa Sigma rules, at some point before the assault.

Admiral also argues that Dean's and Baber's failure to implement a risk-management program was not an "occurrence" under the policy because an "occurrence" is generally defined as "an accident" and, Admiral argues, Dean and Baber intended to injure Price-Williams:

> "Furthermore, regardless of how one characterizes the tort allegedly causing injury to another, if the injury was expected or intended, then the policy does not provide coverage for the resulting damages. The Admiral policy specifically excludes coverage for 'bodily injury or property damage expected or intended from the standpoint of the insured.' In the context of general liability policies, this Court has routinely held that an occurrence is defined as something unintended or unexpected. Hartford Cas. Ins. Co. v. Merchants & Farmers Bank, 928 So. 2d 1006, 1011 (Ala. 2005).

> Dean and Baber both stipulated to a prima facie case of assault in the second degree, which requires an intent to cause serious physical injury to another person. Therefore, Dean and Baber admitted they intended to cause injury to Price-Williams, which falls squarely within the policy exclusion."

Admiral's brief, p. 39. Again, however, this argument conflates two separate acts. It is undisputed that the assault was not a covered occurrence for various reasons, including the fact that it was not an accident, and the trial court did not rule otherwise. Rather, the trial court necessarily held that the "occurrence" was Dean's and Baber's failure to implement a risk-management program before the assault. There is no evidence indicating that Kappa Sigma, the named insured, "expected or intended" its local officers to ignore the requirement that they implement a risk-management program; thus, Dean's and Baber's failure in that regard is properly viewed as an accident or an occurrence invoking the policy.

Admiral's final argument is that the trial court's judgment should be reversed because, Admiral argues, there is no evidence indicating that Price-Williams's injuries were proximately caused by Dean's and Baber's negligence and/or wantonness in failing to implement a risk-management program.

For all that appears, Admiral argues, such a program would have done nothing to prevent or to mitigate the assault because fraternity rules prohibiting unlawful behavior like fighting already were in effect at the time of the assault, and Dean and Baber participated in the assault without regard to those rules.

The trial court specifically held that there was evidence that Dean's and Baber's negligence and/or wantonness was the proximate cause of Price-Williams's injuries, stating:

> "A properly implemented risk management program would have either prevented the assault from starting in the first instance or, at a minimum, stopped the assault within a few seconds after it started, obviating the harm suffered by [Price-Williams] as proven in the underlying case.
>
> "....
>
> "The court also finds, as did the trial court in the underlying case, that Dean and Baber's negligence and wantonness proximately caused [Price-Williams's] injuries, [when] combined with Howard's conduct of assaulting [Price-Williams]."

It is also evident from the references to "the underlying case" that the trial court here agreed with the findings of fact made by the trial court in the underlying action. As previously quoted supra, the trial court in the underlying action stated:

> "The court further finds, based upon the testimony offered at trial as well as documentary evidence introduced during trial, including the Executive Officers' Manual ... and the Kappa Sigma Fraternity Risk Management Manual ..., that these defendants both negligently and wantonly breached their individual duties to create, implement, supervise, and enforce a risk management program, and that as a proximate consequence of said breaches, [Price-Williams] was caused to suffer those injuries and damage[] as proven in this case."

Admiral argues that, in both the underlying action and this case, the trial courts concluded that there was proximate cause without there being any specific evidence to support that conclusion.[8]

"We have consistently held that questions of negligence and proximate cause involve findings of fact that are within the province of the jury." Union Bank & Trust Co. v. Elmore Cnty. Nat'l Bank, 592 So. 2d 560, 563 (Ala. 1991). "A trial judge, when acting as the factfinder, is entitled to the same deference as a jury." State v. Jude, 686 So. 2d 528, 535

[8]Admiral also argues that it was improper for the trial court to consider the findings of fact and judgment entered by the trial court in the underlying action because Admiral was not a party to that case. Price-Williams argues that Admiral waived this objection by failing to object to the final judgment when it was introduced at trial. We think it sufficient to note that there is ample evidence to support the judgment of the trial court in this action without considering the final judgment entered in the underlying action.

(Ala. Crim. App. 1996). Moreover, this Court will reverse a fact-finder's conclusions on a proximate-cause issue and decide that issue as a matter of law only if "'there is a total lack of evidence from which the fact-finder may reasonably infer a direct causal relation between the culpable conduct and the resulting injury.'" Green v. Alabama Power Co., 597 So. 2d 1325, 1328 (Ala. 1992) (quoting Davison v. Mobile Infirmary, 456 So. 2d 14, 24 (Ala. 1984)). In the instant case, we cannot agree with Admiral that there was a total lack of evidence from which the trial court could have reasonably inferred that Dean's and Baber's failure to implement a risk-management program proximately caused Price-Williams's injuries. Admiral emphasizes its claim that a risk-management program would not have prevented the assault upon Price-Williams because the individuals who would have been responsible for a risk-management program -- Dean and Baber -- were, in fact, participants in the assault. Moreover, Admiral argues, Dean and Baber were unrestrained by existing rules against fighting; thus, it is only reasonable to conclude that they would have been similarly unrestrained by any rules implemented as part of a risk-management program.

However, this argument does not account for the fact that a proper risk-management program would have put other safeguards in place.

The evidence supports the conclusion that, on the night of January 31, 2004, a party -- whether formal or informal -- took place at the Kappa Nu fraternity house. Dean and Baber both indulged in alcoholic beverages at that party. The Kappa Sigma Risk Management Handbook, which was submitted as evidence at both the trial in this case and in the underlying action, sets out various general guidelines that should be followed with regard to parties at which alcohol is served, including the following:

> "9. Designate sober monitors to be responsible for any decision making at the party.
>
> > "Having monitors allows the chapter to handle any disruptive behavior, assist guests by calling for taxis, help check IDs, and generally maintain order. It is always a good idea to have someone with ultimate authority keeping a close, attentive eye on all the activities at a Fraternity function. As with sober drivers, having responsible people accept this role is of the utmost importance."

The trial court could have reasonably concluded that a proper risk-management program, including the designation of a

responsible "sober monitor" to "generally maintain order" would have, as the trial court stated, "either prevented the assault from starting in the first instance or, at a minimum, stopped the assault within a few seconds after it started."[9] Thus, there was evidence from which the trial court could reasonably have inferred that Dean's and Baber's failure to implement a risk-management program for Kappa Nu proximately caused Price-Williams's injuries. See also R.B.Z. v. Warwick Dev. Co., 681 So. 2d 566, 569 (Ala. Civ. App. 1996) (stating that an apartment complex's "lackadaisical policies" concerning who had access to tenants' apartments "facilitated" crimes committed against tenants by an individual who accessed their apartments as a result of that policy failure).

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[9]In fact, the trial court in the underlying action reached precisely this conclusion, stating:

> "The fact that no risk management program or education had been implemented only aggravated the situation, once the assault began, since neither Dean nor Baber had left any responsible individual in charge of maintaining order at the fraternity house as was required under a reasonable risk management program which, in the court's opinion, would have minimized and/or prevented the assault from occurring in the first instance."

(Emphasis added.)

IV.

Price-Williams sued Admiral pursuant to § 27-23-2 after obtaining a judgment against Dean and Baber, who he alleged were insured by Admiral under a policy Admiral had issued to Kappa Sigma, by virtue of their positions as officers of the local chapter of Kappa Sigma. Following a bench trial, the trial court entered a judgment in favor of Price-Williams, obligating Admiral to fulfill the judgment entered against Dean and Baber in the underlying action. Because the evidence adduced at trial supports the trial court's conclusion that Admiral's policy with Kappa Sigma provided liability coverage to Dean and Baber with regard to the negligence and wantonness claims tried in the underlying action, we hereby affirm that judgment.

AFFIRMED.

Malone, C.J., and Parker, Shaw, and Wise, JJ., concur.