IN THE COURT OF APPEALS OF TENNESSEE
WESTERN SECTION AT JACKSON

RENA M. and OSBORNE FLETCHER,	)	
	)	
Plaintiffs/Appellants	)	Shelby Circuit No. 32348 T.D.
	)	
VS.	)	
	)	Appeal No. 02A01-9409-CV-00174
LIFE INVESTORS INSURANCE COMPANY OF AMERICA	)	
	)	
Defendant/Appellee	).	

APPEAL FROM THE CIRCUIT COURT OF SHELBY COUNTY
AT MEMPHIS, TENNESSEE
THE HONORABLE JAMES E. SWEARENGEN, JUDGE

IRA M. THOMAS
AL H. THOMAS
THOMAS & THOMAS
77 Adams Avenue
Memphis, TN 38103-1709
Attorneys for Appellant

CHARLES A. SEVIER
WILSON, MCRAE, IVY, SEVIER, MCTYLER & STRAIN
295 Washington Ave., #2
Memphis, TN 38103
Attorney for Appellee

AFFIRMED AND REMANDED

WILLIAM H. INMAN, SENIOR JUDGE

CONCUR:

ALAN E. HIGHERS, JUDGE

DAVID R. FARMER, JUDGE

O P I N I O N

This is an action to recover medical benefits under a group health insurance policy. The motion of the defendant for summary judgment was granted pursuant to a finding that under the essential facts the policy exclusion for an intentional self-inflicted injury was applicable. The issue is presented on appeal. We affirm.

The plaintiff, Rena Fletcher, was employed by a group of physicians to whom a group policy of health insurance had been issued. Coverage was also provided for the plaintiff's daughter, Onie Fletcher, age 15, who, on December 13, 1988, intentionally ingested a large amount of her grandmother's gout medicine, Colchicine, together with an antibiotic. She left a note which stated, "I have committed suicide and if I live, I'll pay you back the money I owe you." Colchicine is a chemical, a "cellular poison," used to treat the blood of gout patients. The note was taped to a light switch, and it was discovered by Onie's mother when she arrived home from work. Onie was still awake but could not remember how many pills she had taken. She was induced to vomit and thereafter appeared to her mother to have recovered. The following day Onie was nauseated but no medical advice was sought. Two days later, Onie remained weak and nauseated, and she was taken to LeBonheur Children's Hospital where she died from Colchicine poisoning.

According to Onie's mother, a telephone bill for about $600.00 had arrived on December 13. Most of these charges were for collect calls to Onie from a boyfriend. A step-sister informed Onie that her mother knew about the bill and was upset by it. The plaintiff theorizes that Onie simply did "a typical teenage foolish thing" so that her parents would not get mad at her about the phone bill, and that she had no real intention to kill herself because her actions were "merely a ploy to generate sympathy."

The group policy excludes benefits for (19) intentionally self-inflicted injury and (20) suicide or attempted suicide. Much of the appellant's brief is given over to

a discussion of the principles enunciated in *Tennessee Farmers Mut. Ins. Co. v. Evans*, 814 S.W.2d 49 (Tenn. 1991) that the application of the exclusion requires preponderant proof that both the act and the injury were intended.

Even though a degree of speculation is necessary to determine the reason for Onie's action, we have no difficulty in agreeing with the theory of the plaintiff that Onie was simply trying to generate sympathy and forestall any confrontational troubles about the telephone charges, i.e., that she really did not intend suicide. The language of the note suggests this conclusion. But the case was not dismissed on the exclusionary ground of suicide and, consequently, *Evans* has no application.

The trial judge found that coverage was excluded because of an intentional, self-inflicted injury, and we see no escape whatsoever for this conclusion, keeping in mind that there is no dispute as to the material facts. Even assuming that Onie did not intend to kill herself, she clearly intended an injury. Were her actions a ploy for sympathy, as the appellant argues, they were nevertheless intentional and self-inflicted, and the benefits under the policy are excluded. *See Jones v. Fireman's Fund American Life Ins. Co.*, 731 S.W.2d 532 (Tenn. App. 1986). The judgment is affirmed at the cost of the appellants.

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William H. Inman, Senior Judge

Concur:

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Alan E. Highers, Judge

_____
David R, Farmer, Judge