UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

# Garrison Property and Casualty Insurance Co. v. McIntire

No. 23-cv-05612-NW (N.D. Cal. July 7, 2025) · No. 23-cv-05612-NW · Decided July 7, 2025

## SUMMARY

The United States District Court for the Northern District of California granted Garrison Property and Casualty Insurance Company's motion for summary judgment in an action seeking a declaration that its automobile insurance policy did not require coverage for claims involving the Estate of Lisa Biakanja. The court held that the policy's family-member exclusion applied because the Biakanja children primarily resided with their mother, and declared that USAA owed no coverage for the specified creditor's claim, affirmative defenses, or cross-complaint.

## CASE DETAILS

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| COURT | United States District Court for the Northern District of California |
| WRITING FOR THE COURT | Noel Wise |
| JURISDICTION | United States District Court for the Northern District of California |
| DECIDED | July 7, 2025 |
| DOCKET | 23-cv-05612-NW |
| DISPOSITION | other |
| PROCEDURAL POSTURE | Plaintiff sought declaratory judgment concerning insurance coverage and moved for summary judgment. The district court granted the motion without oral argument. |
| STANDARD OF REVIEW | Summary judgment is proper when the pleadings, discovery, and affidavits show no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. Interpretation of an insurance policy, absent conflicting extrinsic evidence, is a question of law subject to independent judicial determination. |
| PRECEDENTIAL VALUE | unpublished |

## TOPICS

declaratory relief insurance · insurance coverage · duty to defend · contract interpretation · summary judgment

## PRACTICE AREAS

insurance coverage | declaratory judgment | civil procedure | probate | contracts

## QUESTIONS PRESENTED

1. Whether the policy term "resides primarily" applies to children who divided their time between the households of divorced parents.
2. Whether the policy's family-member exclusion bars coverage for the probate creditor's claim and the affirmative defenses and cross-complaint in the related civil action.
3. Whether USAA was entitled to declaratory judgment and summary judgment on the coverage dispute.

## HOLDINGS

1. The Biakanja children primarily resided with Lisa Biakanja despite dividing their time between both parents' households.
2. The family-member exclusion in the automobile policy applies to the claims at issue and bars coverage for the probate creditor's claim and the affirmative defenses and cross-complaint in the related civil action.
3. USAA was entitled to summary judgment and a declaration that it did not owe the Estate coverage for the creditor's claim or for the affirmative defenses and cross-complaint in the related civil action.

## KEY QUOTATIONS

> *"Summary judgment is proper where the pleadings, discovery and affidavits show that there is "no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.""* (at 2)

> *"Regardless of how the Court evaluates where the children primarily resided — whether based on residence over the past few years since the divorce, residence in the last few months, or residence at the time of the accident — the children primarily resided with Ms. Biakanja."* (at 3)

## FACTUAL BACKGROUND

Lisa Biakanja held an automobile insurance policy issued by USAA that was in effect when she and her three children died in an August 14, 2022 car accident. The policy excluded bodily-injury coverage for the insured or a family member when the ultimate benefits of indemnification accrued directly or indirectly to a covered person, and defined a family member as a person related by blood, marriage, registered domestic partnership, or adoption who primarily resided in the insured's household. The children spent more time with Lisa than with their father, including 56 percent of the year overall and 60 percent in the years preceding their deaths; one child had lived exclusively with Lisa since at least January 2022. The Estate sought defense services from USAA regarding a probate creditor's claim and a related state-court action, but USAA denied coverage for the latter.

## PROCEDURAL HISTORY

Garrison Property and Casualty Insurance Company initiated the federal action on October 31, 2023, seeking a declaration that its automobile policy did not require it to defend or indemnify the Estate of Lisa Biakanja in connection with a probate creditor's claim and claims asserted in a related state-court civil action. After briefing, the court vacated the motion hearing under Northern District of California Civil Local Rule 7-1(b) and granted Plaintiff's motion for summary judgment.

#### DISPOSITION

other

#### CASES CITED

- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)
- Nat'l Auto. & Cas. Ins. Co. v. Underwood, 9 Cal. App. 4th 31, 36 (1992)
- Utley v. Allstate Ins. Co., 19 Cal. App. 4th 815, 821 (1993)
- Safeco Ins. Co. v. Gibson, 211 Cal. App. 3d 176, 181 (1989)

#### OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7 GARRISON PROPERTY AND Case No. 23-cv-05612-NW CASUALTY INSURANCE CO., 8 Plaintiff, ORDER GRANTING PLAINTIFF’S 9 MOTION FOR SUMMARY v. JUDGMENT 10 JOAN MCINTIRE, et al., Re: ECF No. 57 11 Defendants. 12 13 Plaintiff Garrison Property and Casualty Insurance Company d/b/a United States 14 Automobile Association (“USAA” or “Plaintiff”) sued Defendants the Estate of Lisa Biakanja by 15 and through its co-administrators, and Kenneth M. McIntire and Joan McIntire, individually and 16 on behalf of all wrongful death beneficiaries of Lisa Biakanja (collectively, “Defendants”).

17 Plaintiff seeks a declaratory judgment finding that the automobile insurance policy it issued to Ms. 18 Biakanja does not obligate USAA to defend or indemnify Ms. Biakanja’s estate in connection with 19 claims pending against the estate in state court. Compl., ECF No. 1; Amend. Compl., ECF No. 9 20 (“FAC”). 21 On February 12, 2025, Plaintiff filed a motion for summary judgment.

Mot., ECF No. 57. 22 Having considered the parties’ briefs and the relevant legal authority, the Court concluded that 23 oral argument was not required, see N.D. Cal. Civ. L.R. 7-1(b), and vacated the motion hearing. 24 ECF No. 70. Plaintiff’s motion is GRANTED. 25 I. BACKGROUND 26 USAA is a Texas corporation with its principal place of business located in San Antonio, 27 Texas.

FAC ¶ 4. Lisa and Steven Biakanja were the divorced parents of minor children Lucy, 1 On August 14, 2022, Ms. Biakanja and her three children were killed in a car accident in San 2 Benito County. Id. 3 Ms. Biakanja held an auto policy from USAA, which was valid from March 1, 2022, to 4 September 1, 2022. FAC ¶ 48. Subject to certain exclusions, the policy provides liability 5 coverage for bodily injury or property damage “for which any covered person becomes legally 6 liable because of an auto accident,” and states that USAA will settle or defend any claim seeking damages covered by policy.

Id., Ex. D. The policy states that it excludes bodily injury coverage for “you or any family member, nor do we provide coverage for any covered person for [bodily injury] to you or any family member whenever the ultimate benefits of that indemnification accrue directly or indirectly to any covered person.” Id. The policy defines “family member” as “a person related to you by blood, marriage, registered domestic partnership under California law, or adoption who resides primarily in your household.” Id. On February 24, 2023, Mr. Biakanja brought a creditor’s claim in the probate action of Ms. Biakanja’s estate (“the Estate”),[1] seeking damages resulting from the car accident and for the wrongful death of their children.

FAC ¶ 17. Kenneth McIntire, the children’s grandfather, is a co-administrator of the Estate.[2] Opp’n at 2. On August 8, 2023, the Estate filed a civil action against the California Department of Transportation (“Civil Action”).[3] FAC ¶ 40.

The Department of Transportation filed affirmative defenses asserting contributory negligence and apportionment against Ms. Biakanja, through her Estate, and additionally filed a cross-complaint in the Civil Action (“Cross-Complaint”). Id. ¶ 41. The Estate sought defense services from USAA under the auto policy for the creditor’s claim, and the Cross-Complaint and affirmative defenses in the Civil Action.

Id. ¶ 44. USAA is defending the Estate against the creditor’s claim under a reservation of rights but denied the 1 The creditor’s claim is Case No. 22PR000599, and is proceeding in Superior Court, County of Monterey. 2 Joan McIntire is not a co-administrator of the Estate. Answer, ECF No. 18. 3 The Civil Action is Case No. CU2300165, and is proceeding in Superior Court, County of San Estate’s requested defense as to the Civil Action because, as USAA alleges, the claims do not fall under the auto policy.

Id. ¶¶ 30, 45. On October 31, 2023, USAA initiated this action, seeking declaratory judgment that USAA does not owe the Estate coverage for (a) the creditor’s claim, and (b) the affirmative defenses and Cross-Complaint. USAA now moves for summary judgment. Mot. at 1. II. LEGAL STANDARD Summary judgment is proper where the pleadings, discovery and affidavits show that there is “no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed.

R. Civ. P. 56(a). A fact is material if it might affect the outcome of the lawsuit under governing law, and a dispute about such a material fact is genuine “if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). III. DISCUSSION USAA’s claims all turn on whether the exclusion from liability coverage of “family member[s],” defined as “a person related to you by blood... who resides primarily in your 16 household," applies to bar coverage for the creditor's claim and the Civil Action.

USAA argues 17 that "[t]he Children are Lisa Biakanja's blood relatives who resided with her the majority of the 18 year and resided with her at the time of their deaths." Mot. at 17. Defendants acknowledge the 19 exclusion provision in the auto policy but argue that it does not apply. Opp'n at 2. Specifically, 20 Defendants contend that "the policy language (resides primarily) d[oes] not address this common, 21 shared custody circumstance," where the children resided with each parent at different times.

Id. 22 The parties agree that the question presented – whether "resides primarily" applies to a 23 shared custody and living circumstance – is a legal one, and that California law applies. Opp'n at 24 4; see Nat'l Auto. & Cas. Ins. Co. v. Underwood, 9 Cal. App. 4th 31, 36 (1992) ("The 25 interpretation of an insurance policy, like any other contract where there is no conflicting extrinsic 26 evidence, is a matter of law for the reviewing court's independent determination.").

California 27 courts have generally recognized that the term "reside" is not inherently ambiguous but does vary ] 1703381, at *7 (N.D. Cal. Apr. 19, 2013), aff'd, 608 F. App'x 496 (9th Cir. 2015) (citing Utley v. 2 || Allstate Ins. Co., 19 Cal.App.4th 815, 821 (1993)); see also Safeco Ins. Co. v. Gibson, 211 3 Cal.App.3d 176, 181 (1989). "Courts are required to 'examine the particular circumstances of the 4 || case' before them in this process and assess whether the disputed terms are susceptible to multiple 5 'reasonable constructions.'" /d. at *8 (citing Underwood, 9 Cal. App.

4th at 40-42). 6 Here, no reasonable construction of the term "resides primarily" supports the conclusion 7 || that the Biakanja children did not reside primarily with Ms. Biakanja. As Defendants 8 acknowledge, "the Biakanja children resided more often with their mother," and resided with her 9 || "when the accident happened." Opp'n at 9.

The parties agree that "[t]he Children were estimated 10 || to have spent 56% of the year with Lisa Biakanja and 44% of the year with Steven Biakanja," and 11 "{ijn the few years leading up to the Children's deaths, the Children were with Lisa Biakanja 60% 12 || of the time." Def's Response to Pl's Statement of Facts, ECF No. 67 (Fact Nos. 2, 5).

Moreover, 13 "Lucy Biakanja had been living with Lisa Biakanja exclusively since at least January 4, 2022." Id. 14 || (Fact No. 4). Regardless of how the Court evaluates where the children primarily resided — 3 15 || whether based on residence over the past few years since the divorce, residence in the last few a 16 || months, or residence at the time of the accident — the children primarily resided with Ms. 2 17 || Biakanja.

Therefore, the "family member" exclusion in the auto policy applies, and USAA is Z 18 entitled to judgment as a matter of law. 19 |} IV. CONCLUSION 20 The Court GRANTS Plaintiff's motion for summary judgment. The Court finds that 21 USAA is entitled to declaratory judgment that it does not owe the Estate coverage for (a) the creditor's claim, and (b) the affirmative defenses and Cross-Complaint in the Civil Action.

IT IS SO ORDERED. Dated: July 7, 2025, Mi hid Noél Wise United States District Judge