

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Matter of Government Empls. Ins. Co. v. Lee

120 A.D.3d 497 (2d Dep't 2014) · No. 2014-01643 · Decided August 6, 2014

SUMMARY

The New York Appellate Division, Second Department, affirmed denial of GEICO's petition to permanently stay arbitration of Kuman Lee's supplementary uninsured/underinsured motorist claim. The court held that the GEICO policy's \$300,000 single per-person limit exceeded the Allstate policy's \$100,000 per-person limit, triggering SUM coverage under Insurance Law § 3420(f)(2).

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	William F. Mastro, J.P.; John M. Leventhal, J.; Plummer E. Lott, J.; Robert J. Miller, J.
JURISDICTION	New York
DECIDED	August 6, 2014
DOCKET	2014-01643
DISPOSITION	affirmed
PROCEDURAL POSTURE	In a CPLR article 75 proceeding, GEICO appealed from a judgment denying its petition to permanently stay arbitration of Lee's claim for supplementary uninsured/underinsured motorist benefits.
STANDARD OF REVIEW	The Appellate Division reviewed whether the petition to permanently stay arbitration was properly denied based on the applicable insurance policies and Insurance Law § 3420(f)(2).
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Government Employees Insurance Company v. Kuman Lee

TOPICS

- uninsured motorist
- insurance coverage
- arbitration
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the GEICO SUM provision was triggered when the tortfeasor's split-limit policy provided \$100,000 per person and \$300,000 per accident, while GEICO's policy provided a \$300,000 single limit per person and per accident.
2. Whether GEICO was entitled to a permanent stay of arbitration under CPLR article 75.

HOLDINGS

1. The GEICO SUM provision was triggered because the Allstate policy provided a lesser per-person bodily-injury liability limit than the GEICO policy, notwithstanding that both policies provided \$300,000 per-accident limits.
2. GEICO was not entitled to a permanent stay of arbitration, and the parties were properly directed to proceed to arbitration.

KEY QUOTATIONS

“The necessary analytical step, then, is to place the insured in the shoes of the tortfeasor and ask whether the insured would have greater bodily injury coverage under the circumstances than the tortfeasor actually has”
(120 A.D.3d at 497)

“The determination of whether SUM benefits are available requires a comparison of each policy's bodily injury liability coverage as it in fact operates under the policy terms applicable to that particular coverage”
(120 A.D.3d at 497)

FACTUAL BACKGROUND

Kuman Lee was a passenger in a vehicle operated by Soon Park that collided with a vehicle driven by Pilman Song. GEICO insured Park's vehicle under a single-limit policy providing \$300,000 per person and per accident, including SUM coverage; Song's vehicle was insured by Allstate under a split-limit policy providing \$100,000 per person and \$300,000 per accident. Lee received \$100,000 under the Allstate policy and then demanded arbitration under the GEICO SUM provision, contending that Allstate's per-person limit was lower than GEICO's.

PROCEDURAL HISTORY

Lee demanded arbitration under the SUM provision of a GEICO policy after receiving \$100,000 under the alleged tortfeasor's Allstate policy. GEICO commenced a proceeding to permanently stay arbitration, arguing that the SUM coverage was not triggered because both policies had \$300,000 per-accident limits. The Supreme Court, Queens County, denied the petition and directed the parties to proceed to arbitration; the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Prudential Prop. & Cas. Co. v. Szeli, 83 N.Y.2d 681 (1994)
- Matter of Government Empls. Ins. Co. v. Annamanthadoo, 302 A.D.2d 460, 462 (2d Dep't 2003)
- Matter of Automobile Ins. Co. of Hartford v. Ray, 51 A.D.3d 788, 789-790 (2d Dep't 2008)

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