

SUPREME JUDICIAL COURT OF MAINE

Michael Fortin v. Jacob Titcomb

2013 ME 14 (2013) · No. Fed-12-60 · Decided January 29, 2013

SUMMARY

The Maine Supreme Judicial Court answered a certified question from the United States Court of Appeals for the First Circuit concerning the damages limit applicable to a governmental employee sued in an individual capacity. The court held that, regardless of available insurance coverage, the employee's personal liability for negligent acts within the scope of employment is limited to \$10,000 under 14 M.R.S. § 8104-D. The court declined to answer a second certified question concerning interpretation of an ambiguous insurance policy.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Gorman, J.; Saufley, C.J.; Levy, J.; Silver, J.; Mead, J.; Jabar, J.
JURISDICTION	Maine
DECIDED	January 29, 2013
DOCKET	Fed-12-60
DISPOSITION	other
PROCEDURAL POSTURE	The United States Court of Appeals for the First Circuit certified two questions of Maine law to the Supreme Judicial Court of Maine under 4 M.R.S. § 57 and M.R. App. P. 25.
STANDARD OF REVIEW	De novo review of the meaning and interplay of the Maine Tort Claims Act's damages-limit provisions.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Michael Fortin v. Jacob Titcomb

TOPICS

municipal liability insurance coverage statutory interpretation damages appellate procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the applicable limit on damages against a government employee sued in his personal capacity is the \$10,000 limit in 14 M.R.S. § 8104-D or the higher limit available under 14 M.R.S. §§ 8105(1) and 8116 when insurance is available.
2. Whether the Maine Supreme Judicial Court should answer the certified question concerning interpretive principles applicable to an ambiguous insurance policy procured by a governmental body to cover Maine Tort Claims Act liability.

HOLDINGS

1. Whether or not an insurance policy is available to cover the judgment, the employee's personal liability for negligent acts or omissions within the course and scope of employment is limited to \$10,000 under 14 M.R.S. § 8104-D.
2. The court declined to answer the second certified question because its answer would not be determinative of the case after the court concluded that Titcomb's individual liability was limited to \$10,000 regardless of insurance.

KEY QUOTATIONS

“Whether or not an insurance policy is available to cover a judgment against a government employee sued in his personal capacity, the applicable limit on the award of damages is \$10,000 pursuant to 14 M.R.S. § 8104-D.” (¶ 1)

“Given this holding, we decline to answer certified question 2.” (¶ 12)

FACTUAL BACKGROUND

In 2007, Wells police officer Jacob Titcomb allegedly used force while arresting Michael Fortin. Fortin sued Titcomb, and a jury found Titcomb liable for negligence and awarded Fortin \$125,000. The federal district court reduced the award to \$10,000 under Maine's statutory limitation on the personal liability of governmental employees.

PROCEDURAL HISTORY

Fortin sued Titcomb in the United States District Court for the District of Maine based on federal and state claims arising from Titcomb's use of force during Fortin's arrest. A jury found Titcomb liable on a state-law negligence claim and awarded \$125,000. The District Court reduced the award to \$10,000 under 14 M.R.S. § 8104-D. Fortin appealed, and the First Circuit certified two questions concerning the applicable damages cap and interpretation of an insurance policy.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand instructions were issued; the court answered the first certified question and declined to answer the second.

CASES CITED

- Darney v. Dragon Prods. Co., LLC, 2010 ME 39, ¶¶ 9-10, 994 A.2d 804
- Searle v. Town of Bucksport, 2010 ME 89, ¶ 8, 3 A.3d 390
- Friends of the Boundary Mountains v. Land Use Regulation Comm’n, 2012 ME 53, ¶ 20, 40 A.3d 947
- Mitton v. Verizon, 2012 ME 41, ¶ 8, 38 A.3d 1285
- Fortin v. Titcomb, 747 F. Supp. 2d 44, 46 (D. Me. 2010)
- Fortin v. Titcomb, 671 F.3d 63, 66-70 (1st Cir. 2012)
- Rodriguez v. Town of Moose River, 2007 ME 68, ¶¶ 26, 34 & n.4, 922 A.2d 484
- Morgan v. Kooistra, 2008 ME 26, ¶¶ 20-23, 941 A.2d 447
- Darling v. Augusta Mental Health Instit., 535 A.2d 421, 425 (Me. 1987)
- Polley v. Atwell, 581 A.2d 410, 414 (Me. 1990)
- Selby v. Cumberland County, 2002 ME 80, ¶¶ 6, 8 & n.6, 796 A.2d 678
- Carroll v. City of Portland, 1999 ME 131, ¶ 6 n.4, 736 A.2d 279