

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

State Farm Fire & Cas. Co. v. Pritcher

546 So. 2d 1060 (Fla. Dist. Ct. App. 1989) · No. Nos. 88-1019, 88-1238 · Decided April 4, 1989

SUMMARY

The Florida Third District Court of Appeal reversed an award of attorney's fees to attorney Carl Spatz under the wrongful act doctrine. The court held that Spatz was not the wronged party because his own failure to obtain written approval for the assignment of the insurance policy caused the underlying litigation. The court directed that Spatz's request for fees be denied, while a special concurrence questioned the validity of part of the precedent supporting the wrongful act doctrine.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Per curiam; Schwartz, C.J.; Barkdull, J.; Cope, J.
JURISDICTION	Florida
DECIDED	April 4, 1989
DOCKET	Nos. 88-1019, 88-1238
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	State Farm appealed an order awarding Carl Spatz \$37,850 in attorney's fees under Florida's wrongful-act doctrine after the trial court found an equitable assignment of State Farm's insurance policy and granted relief in favor of Pritcher.
PRECEDENTIAL VALUE	Published Florida Third District Court of Appeal opinion; the per curiam majority opinion is precedential within the court's jurisdiction.
PARTIES	State Farm Fire & Casualty Company v. Nathan Pritcher, Carl Spatz

TOPICS

- insurance
- remedies
- negligence
- declaratory judgment
- appellate procedure

PRACTICE AREAS

- insurance law
- attorney's fees
- torts
- real estate transactions
- appellate practice

QUESTIONS PRESENTED

1. Whether Spatz was entitled to recover attorney's fees from State Farm under the wrongful-act doctrine.
2. Whether the wrongful-act doctrine creates an independent cause of action for a third-party litigant's attorney's fees.

HOLDINGS

1. Spatz was not entitled to attorney's fees because he was not the wronged party. Any wrong caused by the failure to obtain written approval of the policy assignment was directed toward Pritcher, and Spatz's own failure to properly close the transaction caused the litigation expenses for which he sought recovery.
2. The wrongful-act doctrine does not create an independent cause of action; it permits recovery of attorney's fees only as special damages when a defendant's wrongful act toward the plaintiff causes the plaintiff to litigate with third persons.

KEY QUOTATIONS

"The wrongful act doctrine does not create an independent cause of action; instead, it allows a claim for attorney's fees as special damages in the circumstances just stated." (546 So. 2d at 1061)

"The fact that the trial court ultimately held that State Farm had to equitably recognize the assignment of its policy and honor Pritcher's claim does not excuse Spatz' failure to properly represent Pritcher in the first instance and see that the assignment of the policy was in accordance with its terms." (546 So. 2d at 1062)

FACTUAL BACKGROUND

Pritcher contracted to purchase property insured by State Farm, and his attorney, Spatz, gave State Farm notice of an assignment of the policy without obtaining the policy's required written approval. After Pritcher suffered a loss, State Farm denied his claim for lack of a valid assignment. The trial court ultimately found an equitable assignment and required State Farm to honor Pritcher's claim, but awarded Spatz attorney's fees under the wrongful-act doctrine after Pritcher dismissed his negligence action against Spatz.

PROCEDURAL HISTORY

Pritcher sued State Farm on the policy and sued Spatz for negligence after State Farm denied Pritcher's claim based on the absence of written approval for assignment of the policy. Spatz crossclaimed against State Farm for declaratory relief, and the trial court found an equitable assignment and granted relief against State Farm in favor of Pritcher. After Pritcher dismissed his claim against Spatz, Spatz obtained an attorney's-fee award against State Farm. The Third District reversed and remanded with directions to deny Spatz's requested relief.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the order awarding attorney's fees to Spatz and deny the relief sought by Spatz.

CASES CITED

- F & R Builders, Inc. v. United States Fidelity and Guaranty Co., 490 So. 2d 1022 (Fla. 3d DCA 1986)
- Canadian Universal Insurance Co. v. Employers Surplus Lines Insurance Co., 325 So. 2d 29 (Fla. 3d DCA 1976)
- Milohnich v. First National Bank of Miami Springs, 224 So. 2d 759 (Fla. 3d DCA 1969)
- Behar v. Jefferson National Bank at Sunny Isles, 519 So. 2d 641 (Fla. 3d DCA 1988)
- Glace & Radcliffe, Inc. v. City of Live Oak, 471 So. 2d 144 (Fla. 1st DCA 1985)
- Manning v. Loidhamer, 13 Wash. App. 766, 538 P.2d 136 (1975)
- Auto-Owners Insurance Co. v. Hooks, 463 So. 2d 468 (Fla. 1st DCA 1985)
- United States Automobile Association v. Hartford Insurance Co., 468 So. 2d 545 (Fla. 5th DCA 1985), review denied, 476 So. 2d 676 (Fla. 1985)
- American Foreign Insurance Co. v. Avis Rent-A-Car System, 401 So. 2d 855 (Fla. 1st DCA 1981)
- American Home Assurance Co. v. City of Opa Locka, 368 So. 2d 416 (Fla. 3d DCA 1979)