

SUPREME COURT OF ALASKA

O'Connor v. Star Insurance Co.

83 P.3d 1 (Alaska 2003) · No. S-10500 · Decided December 26, 2003

SUMMARY

The Supreme Court of Alaska held that a surety issuing a statutory contractor licensing bond does not owe third-party claimants an actionable tort duty to independently investigate their claims against the bonded contractor. The court distinguished licensing bonds from construction payment and performance bonds and affirmed summary judgment for Star Insurance Company on the O'Connors' bad-faith claims.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Eastaugh, Justice; Fabe, Chief Justice; Matthews, Justice; Bryner, Justice; Carpeneti, Justice
JURISDICTION	Alaska
DECIDED	December 26, 2003
DOCKET	S-10500
DISPOSITION	affirmed
PROCEDURAL POSTURE	The O'Connors appealed grants of summary judgment in favor of Star on their bad-faith claims arising from Star's alleged failure to investigate claims against a contractor's Alaska licensing bond.
STANDARD OF REVIEW	The court applied independent judgment to statutory interpretation and related legal questions, clearly erroneous review to factual questions, and could affirm on any basis appearing in the record.
PRECEDENTIAL VALUE	Published Alaska Supreme Court opinion; precedential.
PARTIES	Kevin O'Connor, Yvette O'Connor v. Star Insurance Company

TOPICS

- insurance bad faith
- construction law
- duty of care
- standard of review
- appellate procedure

PRACTICE AREAS

- construction law
- insurance
- commercial litigation
- torts
- contracts

QUESTIONS PRESENTED

1. Whether a surety issuing an Alaska statutory licensing bond owes third-party claimants an actionable tort duty of good faith and fair dealing requiring it to independently investigate claims against the bonded contractor.
2. Whether the superior court properly granted summary judgment to Star on the O'Connors' bad-faith claims.

HOLDINGS

1. An Alaska licensing-bond surety does not, merely by issuing the licensing bond, owe third-party claimants an actionable tort duty to independently investigate their claims against the bonded contractor.
2. Summary judgment for Star was proper because the O'Connors failed to establish that Star owed them the actionable tort duty on which their bad-faith claims depended.

KEY QUOTATIONS

“We therefore discern nothing in AS 08.18 that can be read to impose on licensing bond sureties a duty to independently investigate third-party claims against bonded contractors.” (83 P.3d at 6)

“Because the O'Connors have not established that Star owed them an actionable duty to independently investigate the O'Connors' claim against the bonded contractor, and because we see no basis in precedent or in statute for imposing such a duty, we decline to hold that Star by virtue of issuing the licensing bond owed the O'Connors an actionable duty to independently investigate the O'Connors' claim against Homestead Builders.” (83 P.3d at 6)

FACTUAL BACKGROUND

Star issued Homestead Builders a \$10,000 licensing surety bond required for contractor registration under AS 08.18.071. The O'Connors hired Homestead Builders to perform construction work on their home, became dissatisfied with the work, and sued the contractor, its owner, and Star. After multiple claims were asserted against the bond and Homestead Builders filed for bankruptcy, Star tendered defense of the O'Connors' claim to Homestead Builders under an indemnity agreement and filed an interpleader action. The O'Connors claimed that Star acted in bad faith by failing to independently investigate their claim and other claims against the bond.

PROCEDURAL HISTORY

The O'Connors sued Homestead Builders, its owner, and Star, alleging deficient construction and liability under Star's licensing bond. After Homestead Builders and Born filed for bankruptcy and multiple claims were made against the bond, Star filed an interpleader action; the interpleader action was consolidated with the O'Connors' superior court action. The superior court granted Star summary judgment on both the O'Connors' interpleader counterclaim and Count II of their amended complaint, and the Supreme Court of Alaska affirmed.

DISPOSITION

affirmed

CASES CITED

- Cook Inlet Keeper v. State, 46 P.3d 957, 961 (Alaska 2002)
- Fancyboy v. Alaska Village Electric Cooperative, Inc., 984 P.2d 1128, 1132 (Alaska 1999)
- Dunn v. Dunn, 952 P.2d 268, 270 (Alaska 1998)
- R.F. v. S.S., 928 P.2d 1194, 1196 n. 2 (Alaska 1996)
- Far N. Sanitation, Inc. v. Alaska Public Utilities Commission, 825 P.2d 867, 869 n. 2 (Alaska 1992)
- Loyal Order of Moose v. International Fidelity Insurance Co., 797 P.2d 622 (Alaska 1990)
- Alaska Pacific Assurance Co. v. Collins, 794 P.2d 936, 947 (Alaska 1990)
- State Farm Fire & Casualty Co. v. Nicholson, 777 P.2d 1152, 1154-57 (Alaska 1989)
- O.K. Lumber Co. v. Providence Washington Insurance Co., 759 P.2d 523, 525-26 (Alaska 1988)
- Gross v. Bayshore Land Co., 710 P.2d 1007, 1013 (Alaska 1985)
- Cates Construction, Inc. v. Talbot Partners, 21 Cal. 4th 28, 86 Cal. Rptr. 2d 855, 980 P.2d 407, 410 (1999)

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