

SUPREME COURT OF MONTANA

Hogenson Construction of North Dakota v. Montana State Fund

170 P.3d 471 (Mont. 2007) · No. DA 07-0015 · Decided October 22, 2007

SUMMARY

The Supreme Court of Montana affirmed summary judgment for Montana State Fund in a dispute over whether the insurer had a duty to defend a North Dakota construction company in an Oklahoma workers' compensation claim. The court held that the claim was outside the policy because it was filed more than twelve months after the injury, as required by Montana law, and therefore State Fund had no duty to defend. The court also concluded that the undisputed injury and filing dates did not require the insurer to resolve a factual dispute in favor of coverage.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                 |
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| COURT                 | Supreme Court of Montana                                                                                                                                                                                                                                        |
| WRITING FOR THE COURT | Brian Morris; Karla M. Gray; John Warner; Patricia Cotter; W. William Leaphart; James C. Nelson; Jim Rice                                                                                                                                                       |
| JURISDICTION          | Montana                                                                                                                                                                                                                                                         |
| DECIDED               | October 22, 2007                                                                                                                                                                                                                                                |
| DOCKET                | DA 07-0015                                                                                                                                                                                                                                                      |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Hogenson appealed the First Judicial District Court's grant of summary judgment to Montana State Fund in Hogenson's action for breach of contract and common-law bad faith arising from State Fund's refusal to defend an Oklahoma workers' compensation claim. |
| STANDARD OF REVIEW    | De novo review of summary judgment, applying the same criteria as the district court under Montana Rule of Civil Procedure 56.                                                                                                                                  |
| PRECEDENTIAL VALUE    | Published Montana Supreme Court opinion; precedential.                                                                                                                                                                                                          |
| PARTIES               | Hogenson Construction of North Dakota v. Montana State Fund                                                                                                                                                                                                     |

TOPICS

- workers compensation
- duty to defend
- insurance coverage
- insurance bad faith
- appellate procedure

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether Montana State Fund had a duty to defend Hogenson in the Oklahoma workers' compensation proceeding under the policy.
2. Whether the alleged factual dispute concerning when Hogenson learned of Reynolds's injury required State Fund to resolve coverage in favor of a defense.
3. Whether the district court properly granted State Fund summary judgment on Hogenson's claims for breach of contract and common-law bad faith.

## HOLDINGS

1. State Fund had no duty to defend because the policy covered only liability under Montana's Workers' Compensation Act, and Reynolds's claim was filed after the Act's mandatory twelve-month claim-presentment deadline.
2. State Fund was not required to resolve the asserted factual dispute in favor of coverage because the undisputed injury date and claim-filing date independently established that the claim was outside the policy.

## KEY QUOTATIONS

*“An insurer has a duty to defend unless the claim against the insured unequivocally falls outside the policy coverage.”* (¶ 12)

*“We conclude that the belated filing of Reynolds's claim absolved State Fund of any duty to defend Hogenson in the Oklahoma action.”* (¶ 20)

## FACTUAL BACKGROUND

Hogenson, a North Dakota construction company performing work in Montana, obtained workers' compensation coverage from Montana State Fund for the July 2000-July 2001 policy period. Harold Reynolds was injured at a Montana job site on January 16, 2001, but his signed Oklahoma workers' compensation claim was filed no earlier than July 12, 2002, more than twelve months after the injury. State Fund denied liability and later refused to defend Hogenson in the Oklahoma proceeding, where Reynolds ultimately recovered \$22,732.

## PROCEDURAL HISTORY

Reynolds filed a workers' compensation claim in Oklahoma arising from a January 16, 2001 workplace injury. The Oklahoma Workers' Compensation Court awarded Reynolds \$22,732, and an appellate panel upheld the award. Hogenson then sued State Fund in Montana for breach of contract and common-law bad faith; the Montana District Court granted State Fund summary judgment, and the Montana Supreme Court affirmed.

## DISPOSITION

affirmed

#### CASES CITED

- Farmers Union Mutual Insurance Co. v. Staples, 2004 MT 108, 321 Mont. 99, 90 P.3d 381
- Grenz v. Fire & Casualty of Connecticut, 260 Mont. 60, 857 P.2d 730 (1993)

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