## SUPREME COURT OF GEORGIA

# Dees v. Logan, 282 Ga. 815

653 S.E.2d 735 (2007) · No. S07G0290 · Decided November 21, 2007

### SUMMARY

The Supreme Court of Georgia held that an uninsured motorist insurer may not offset a personal-injury damages award by workers' compensation, Social Security disability, or similar benefits received by the insured. The court concluded that the relevant Georgia uninsured motorist statute authorized exclusions for compensated property loss but did not authorize offsets for personal-injury benefits, rendering the policy provision unenforceable. The court reversed the Court of Appeals and overruled contrary decisions.

### CASE DETAILS

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| COURT | Supreme Court of Georgia |
| WRITING FOR THE COURT | Thompson, Justice; All the Justices |
| JURISDICTION | Georgia |
| DECIDED | November 21, 2007 |
| DOCKET | S07G0290 |
| DISPOSITION | reversed |
| PROCEDURAL POSTURE | The Supreme Court of Georgia granted certiorari to review the Court of Appeals' decision affirming, in part, a trial-court ruling that reduced an uninsured-motorist damage award by workers' compensation and similar collateral benefits. |
| STANDARD OF REVIEW | De novo review of the interpretation and enforceability of an uninsured-motorist policy provision under the governing statute. |
| PRECEDENTIAL VALUE | Published, binding Supreme Court of Georgia precedent |
| PARTIES | Dees et al. v. Logan |

### TOPICS

uninsured motorist · insurance coverage · statutory interpretation · plain meaning rule · legislative intent

### PRACTICE AREAS

insurance · uninsured motorist · statutory interpretation · torts

## QUESTIONS PRESENTED

1. Whether an uninsured-motorist insurer may offset workers' compensation, Social Security disability, settlement, and similar collateral benefits against damages awarded for personal injuries.
2. Whether OCGA § 33-7-11 permits a policy provision authorizing offsets for personal-injury benefits.
3. Whether the 2006 amendment to OCGA § 33-7-11 or legislative acquiescence in prior Court of Appeals decisions required affirmance of the offset.
4. Whether application of the collateral-source or no-double-recovery principles permits the insurer to reduce the uninsured-motorist award.

## HOLDINGS

1. An uninsured-motorist carrier may not offset workers' compensation, disability, or similar benefits received by the insured against damages awarded for personal injuries.
2. The uninsured-motorist policy provision permitting an offset for personal-injury benefits was void and unenforceable because it conflicted with the clear mandate of Georgia's Uninsured Motorist Act.
3. The 2006 amendment to OCGA § 33-7-11 did not demonstrate legislative intent to permit offsets for workers' compensation or similar personal-injury benefits.
4. The no-double-recovery principle did not require reducing the uninsured-motorist award by workers' compensation or similar benefits.

## KEY QUOTATIONS

> *"The plain meaning of this subsection is that an uninsured motorist carrier can setoff benefits which its insured may have received to compensate for property loss."* (653 S.E.2d at 736)

> *"Inasmuch as the uninsured policy provision in this case permits a setoff for personal injury benefits, it is in conflict with the plain mandate of the Uninsured Motorist Act. It follows that the policy provision is void and unenforceable."* (653 S.E.2d at 737)

> *"Dees is not recovering twice; and State Farm is not paying twice."* (653 S.E.2d at 737)

## FACTUAL BACKGROUND

Dees and his wife sought damages after an automobile collision with Logan. The jury awarded $130,000 for lost wages, $4,939 for COBRA reimbursement, $10,000 for pain and suffering, and $5,000 for loss of consortium. Dees had received workers' compensation benefits, Social Security disability benefits, and a settlement from Logan's liability insurer, and State Farm sought to offset those amounts against the uninsured-motorist recovery under a policy clause covering workers' compensation, disability, and similar benefits.

## PROCEDURAL HISTORY

Dees and his wife sued Logan for injuries arising from an automobile collision. A jury awarded damages for lost wages, COBRA payments, pain and suffering, and loss of consortium. The trial court accepted State Farm's proposed offsets for workers' compensation, Social Security disability, and a settlement with Logan's liability insurer, and ordered that the Dees recover nothing from State Farm or Logan. The Court of Appeals affirmed in part, and the Supreme Court granted certiorari and reversed.

## DISPOSITION

reversed

## CASES CITED

- Dees v. Logan, 281 Ga. App. 837, 637 S.E.2d 424 (2006)
- Alexander Properties Group v. Doe, 280 Ga. 306, 309, 626 S.E.2d 497 (2006)
- C. Brown Trucking v. Rushing, 265 Ga. App. 676, 677, 595 S.E.2d 346 (2004)
- Hartford Accident & Indemnity Co. v. Booker, 140 Ga. App. 3, 4(1), 230 S.E.2d 70 (1976)
- Rampley v. Doe, 179 Ga. App. 475, 476, 347 S.E.2d 255 (1986)
- Brunswick Savings & Trust Co. v. National Bank, 102 Ga. 776, 779-780, 29 S.E. 688 (1898)
- Bennett v. Haley, 132 Ga. App. 512, 522(16), 208 S.E.2d 302 (1974)
- Orndorff v. Brown, 197 Ga. App. 591, 399 S.E.2d 77 (1990)
- McGlohon v. Ogden, 251 Ga. 625, n. 1, 308 S.E.2d 541 (1983)
- Dacosta v. Allstate Ins. Co., 188 Ga. App. 10, 372 S.E.2d 7 (1988)
- Abernathy v. City of Albany, 269 Ga. 88, 90, 495 S.E.2d 13 (1997)
- Hall v. Hopper, 234 Ga. 625, 216 S.E.2d 839 (1975)
- Gordon v. Atlanta Cas. Co., 279 Ga. 148, 149, 611 S.E.2d 24 (2005)
- Carter v. Banks, 254 Ga. 550, 552, 330 S.E.2d 866 (1985)
- Ferqueron v. State Farm Mut. Auto. Ins. Co., 271 Ga. App. 572, 610 S.E.2d 184 (2005)
- Johnson v. State Farm Mut. Auto. Ins. Co., 216 Ga. App. 541, 455 S.E.2d 91 (1995)
- Northbrook Property & Casualty Insurance Co. v. Merchant, 215 Ga. App. 273, 450 S.E.2d 425 (1994)