APPELLATE COURT OF ILLINOIS, SECOND DISTRICT

Anderson v. Vrahnos, 149 Ill. App. 3d 251

500 N.E.2d 110 (Ill. App. Ct. 1986) · No. No. 2-85-0543 · Decided November 3, 1986

SUMMARY

The Illinois Appellate Court held that an enforceable oral insurance binder existed despite the insureds' failure to return an application for permanent coverage. However, the court concluded that Illinois's statutory offer requirement for underinsured-motorist coverage did not apply to temporary insurance binders. The trial court's grant of summary judgment for Interstate Fire & Casualty Company was therefore affirmed.

CASE DETAILS

COURT	Appellate Court of Illinois, Second District
WRITING FOR THE COURT	Justice Hopf; Justice Unverzagt; Justice Schnake
JURISDICTION	Illinois
DECIDED	November 3, 1986
DOCKET	No. 2-85-0543
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order granting Interstate Fire & Casualty Company's motion for summary judgment and denying Anderson's cross-motion for summary judgment on her declaratory-judgment claim concerning underinsured-motorist coverage.
STANDARD OF REVIEW	Summary judgment is proper when the pleadings, depositions, admissions, and affidavits show no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Contract construction without material factual disputes is reviewed de novo.
PRECEDENTIAL VALUE	Published Illinois Appellate Court opinion; precedential
PARTIES	Beth Anderson v. George J. Vrahnos, Interstate Fire & Casualty Company

TOPICS

uninsured motorist · insurance coverage · contract interpretation · statutory interpretation · standard of review

PRACTICE AREAS

insurance law · contract law · civil procedure

QUESTIONS PRESENTED

1. Whether the Andersons' failure to return the permanent-insurance application meant that no enforceable insurance contract existed for the binder period.
2. Whether the application-return requirement was a condition of Interstate's duty to provide coverage during the five-day binder period.
3. Whether section 143a-2(3) of the Illinois Insurance Code required an offer of underinsured-motorist coverage for an oral temporary insurance binder and, absent such an offer, implied that coverage into the binder.

HOLDINGS

1. An enforceable oral insurance contract existed because Interstate promised to provide coverage and the Andersons impliedly promised to pay the premium; returning the application was not necessary consideration.
2. The application-return language did not create a condition precedent to Interstate's duty to provide coverage during the five-day binder period; coverage was effective immediately and continued for five days unless an application was received to continue it.
3. Section 143a-2(3) did not require Interstate to offer underinsured-motorist coverage before authorizing the temporary oral binder; therefore, the binder did not include underinsured-motorist coverage as a matter of law.

KEY QUOTATIONS

> *"The language which formed the contract did not amount to a condition of contract."* (256)

> *"Accordingly, we hold that the binder authorized by Interstate for plaintiff did not, as a matter of law, include underinsured-motorist coverage."* (260)

FACTUAL BACKGROUND

Richard Anderson purchased a motorcycle for his wife and contacted insurance broker George Vrahnos about coverage. Vrahnos obtained Interstate's authorization for an oral five-day binder covering specified liability and uninsured-motorist limits, but no underinsured-motorist offer was made during the binder conversation. Beth Anderson was injured during the binder period by a driver who had $25,000 in liability coverage; the Andersons later received a permanent-insurance application, signed it without selecting underinsured-motorist coverage, and did not return it.

PROCEDURAL HISTORY

Anderson filed a declaratory-judgment action against Vrahnos and Interstate seeking a ruling that an oral motorcycle insurance binder included $100,000 in underinsured-motorist coverage. The Lake County trial court held that no enforceable insurance contract existed because the permanent application was not returned, granted Interstate summary judgment, denied Anderson's motion and later denied reconsideration. Anderson appealed, and the appellate court affirmed on different grounds.

DISPOSITION

affirmed

CASES CITED

- Village of Schaumburg v. Franberg, 99 Ill. App. 3d 1, 9, 424 N.E.2d 1239 (1981)
- Elliot v. Villa Park Trust & Savings Bank, 63 Ill. App. 3d 714, 717, 380 N.E.2d 507 (1978)
- Leisure v. Smith, 13 Ill. App. 3d 1070, 1073, 302 N.E.2d 177 (1973)
- Rymer v. Kendall College, 64 Ill. App. 3d 355, 359, 380 N.E.2d 1089 (1978)
- State Farm Mutual Automobile Insurance Co. v. Schmitt, 94 Ill. App. 3d 1062, 1063, 419 N.E.2d 601 (1981)
- State Farm Fire & Casualty Co. v. Moore, 103 Ill. App. 3d 250, 255, 430 N.E.2d 641 (1981)
- Tucker v. Country Mutual Insurance Co., 125 Ill. App. 3d 329, 465 N.E.2d 956 (1984)
- Cloninger v. National General Insurance Co., 109 Ill. 2d 419, 424, 488 N.E.2d 548 (1985)