SUPREME COURT OF MISSISSIPPI

Owens Corning v. Mississippi Insurance Guaranty Association

No. 2005-CA-01450-SCT (Miss. Feb. 1, 2007) · No. No. 2005-CA-01450-SCT · Decided June 20, 2005

SUMMARY

The Supreme Court of Mississippi affirmed summary judgment for the Mississippi Insurance Guaranty Association in an asbestos-insurance coverage dispute. The court held that Owens Corning could not rely on the Mississippi residency of underlying tort claimants to satisfy the residency requirement for a covered claim under Miss. Code Ann. § 83-23-109(f), because Owens Corning was the claimant and was not a Mississippi resident.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Cobb, Presiding Justice; Cobb, P.J.; Diaz, J.; Randolph, J.; Smith, C.J.; Waller, P.J.; Easley, J.; Carlson, J.; Dickinson, J.; Graves, J.
JURISDICTION	Mississippi
DECIDED	June 20, 2005
DOCKET	No. 2005-CA-01450-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Owens Corning appealed the Madison County Circuit Court's grant of summary judgment to the Mississippi Insurance Guaranty Association in Owens Corning's action for declaratory relief and damages.
STANDARD OF REVIEW	De novo review applies to a lower court's grant or denial of summary judgment. The evidence is viewed in the light most favorable to the nonmoving party, and summary judgment is proper only when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Owens Corning v. Mississippi Insurance Guaranty Association

TOPICS

insurance coverage · statutory interpretation · summary judgment · appellate procedure

PRACTICE AREAS

insurance coverage · insurance guaranty associations · civil procedure · appellate procedure

QUESTIONS PRESENTED

1. Whether Owens Corning could use the Mississippi residency of the underlying tort claimants to satisfy the residency requirement for a covered claim under Miss. Code Ann. § 83-23-109(f).
2. Whether MIGA's interpretation of the Insurance Guaranty Act was entitled to administrative-agency deference.
3. Whether the circuit court properly granted summary judgment to MIGA.

HOLDINGS

1. MIGA is not a state agency, so its interpretation of the Insurance Guaranty Act is not entitled to deference accorded to an administrative agency's construction of statutes and regulations.
2. The circuit court's grant of summary judgment is reviewed de novo, and summary judgment is proper when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.
3. Owens Corning could not satisfy the statutory residency requirement by relying on the Mississippi residency of underlying tort claimants who were not asserting claims against MIGA. Because Owens Corning was the claimant and insured asserting the claim and was not a Mississippi resident, its claim was not a covered claim.

KEY QUOTATIONS

> *"The underlying tort claimants are not currently asserting claims. Therefore, they are not "claimants" within the meaning of § 83-23-109 (f)."* (¶13)

> *"The trial court correctly granted MIGA's motion for summary judgment, and therefore we affirm."* (¶15)

FACTUAL BACKGROUND

Owens Corning, a Delaware corporation with its principal place of business in Ohio, manufactured, sold, and installed asbestos-containing insulation from 1953 to 1973, resulting in extensive product-liability claims. It purchased three insurance policies from Southern American Insurance Company, which was licensed in Mississippi and later became insolvent. After Ohio's guaranty association denied coverage, Owens Corning sought recovery from MIGA for approximately $135 million in claims brought by Mississippi residents, although Owens Corning itself was not a Mississippi resident.

PROCEDURAL HISTORY

Owens Corning filed the action in the Madison County Circuit Court on September 3, 1999, seeking recovery under insurance policies issued by the insolvent Southern American Insurance Company. MIGA moved for summary judgment based on Owens Corning's lack of Mississippi residency, and the circuit court granted the motion. Owens Corning perfected an appeal, and the Mississippi Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Elec. Data Sys. Corp. v. Miss. Div. of Medicaid, 853 So. 2d 1192, 1202 (Miss. 2003)
- Miss. Ins. Guar. Ass'n v. Gandy, 289 So. 2d 677, 680-81 (Miss. 1973)
- Miss. Ins. Guar. Ass'n v. Byars, 614 So. 2d 959, 963-64 (Miss. 1993)
- Smith v. Sanders, 485 So. 2d 1051, 1054 (Miss. 1986)
- Bobby Kitchens, Inc. v. Miss. Ins. Guar. Ass'n, 560 So. 2d 129, 135 (Miss. 1989)
- Clark Equip. Co. v. Mass. Insurers Insolvency Fund, 423 Mass. 165, 666 N.E.2d 1304 (Mass. 1996)
- T&N v. Penn. Ins. Guar. Ass'n, 44 F.3d 174 (3d Cir. 1994)

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