SUPREME COURT OF PENNSYLVANIA

Jones v. Nationwide Property and Casualty Company

613 Pa. 219 (Pa. 2011) · No. No. 61 EAP 2010 · Decided December 21, 2011

SUMMARY

The Supreme Court of Pennsylvania considered whether the common-law made-whole doctrine required an insurer to reimburse an insured's collision-coverage deductible in full before retaining proceeds recovered through subrogation. The court held that the doctrine does not apply to collision coverage policies with deductibles because doing so would undermine Pennsylvania's statutory deductible requirements and risk-allocation scheme. It affirmed dismissal of the insured's class action challenging Nationwide's pro rata reimbursement practice.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Baer; Chief Justice Castille; Justice Saylor; Justice Eakin; Justice Todd; Justice McCaffery; Justice Orie Melvin
JURISDICTION	Pennsylvania
DECIDED	December 21, 2011
DOCKET	No. 61 EAP 2010
DISPOSITION	affirmed
PROCEDURAL POSTURE	Insured appealed from dismissal of a putative class action after the trial court sustained Nationwide's preliminary objections in the nature of a demurrer. The Superior Court affirmed on the ground that the complaint failed to assert a viable cause of action. The Supreme Court of Pennsylvania granted review and affirmed on different grounds.
STANDARD OF REVIEW	Questions of law are reviewed de novo and plenary. For preliminary objections in the nature of a demurrer, the question is whether, on the facts averred, the law says with certainty that no recovery is possible.
PRECEDENTIAL VALUE	precedential
PARTIES	Brenda Jones, individually and on behalf of all others similarly situated v. Nationwide Property and Casualty Company

TOPICS

casualty insurance litigation · subrogation · insurance coverage · administrative law · remedies

PRACTICE AREAS

insurance · insurance coverage · casualty insurance litigation · subrogation · remedies · administrative law

QUESTIONS PRESENTED

1. Whether Pennsylvania's made whole doctrine requires an insurer to reimburse an insured's entire collision deductible before exercising subrogation rights.
2. Whether Nationwide's pro rata reimbursement of the collision deductible violated the made whole doctrine and supported Jones's asserted causes of action.
3. Whether the Supreme Court needed to decide the Insurance Commissioner's authority to promulgate the pro rata reimbursement regulation or whether the regulation was void as inconsistent with the made whole doctrine.

HOLDINGS

1. The made whole doctrine does not apply to cases involving collision coverage policies with deductibles. Therefore, an insurer's pro rata reimbursement of the insured's deductible from a subrogation recovery does not violate the doctrine.
2. The court did not decide whether the Insurance Commissioner had authority to promulgate the regulation or whether the regulation was valid because Nationwide's practice was lawful even without relying on the regulation.

KEY QUOTATIONS

> *"We conclude that the made whole doctrine does not apply in cases involving collision coverage policies, and accordingly, that the practice of pro rata reimbursement of the insured's deductible from the insurer's subrogation recovery does not violate the made whole doctrine."* (32 A.3d at 1272)

> *"Although on different grounds than either of the courts below, we affirm the decision to dismiss Appellant Jones's class action based upon the preliminary objections raised by Nationwide."* (32 A.3d at 1273)

FACTUAL BACKGROUND

Jones's automobile was damaged in a December 10, 2005 accident. Her Nationwide policy provided collision coverage subject to a $500 deductible and granted Nationwide subrogation rights. Nationwide paid the vehicle damage claim less the deductible, recovered approximately ninety percent of its payment from the other driver's liability coverage, and reimbursed Jones ninety percent of her deductible, or $450. Jones challenged Nationwide's pro rata reimbursement practice in a putative class action.

PROCEDURAL HISTORY

Jones sued Nationwide, alleging that its practice of reimbursing only a pro rata share of a collision deductible from subrogation recoveries violated the made whole doctrine and supported claims for breach of contract, bad faith, conversion, unjust enrichment, and injunctive relief. The trial court sustained Nationwide's preliminary objections and dismissed the complaint, initially reasoning that Jones had failed to exhaust administrative remedies and alternatively finding no viable claim. The Superior Court rejected the exhaustion rationale but affirmed dismissal. The Supreme Court affirmed because the made whole doctrine does not apply to collision-coverage deductibles.

DISPOSITION

affirmed

CASES CITED

- Thompson v. W.C.A.B. (USF&G Co.), 566 Pa. 420, 781 A.2d 1146 (2001)
- Harnick v. State Farm Mut. Auto. Ins. Co., 2009 WL 579378 (E.D. Pa. Mar. 5, 2009)
- Jones v. Nationwide Prop. & Cas. Ins. Co., 607 Pa. 480, 8 A.3d 311 (2010)
- Bilt-Rite Contractors, Inc. v. The Architectural Studio, 581 Pa. 454, 866 A.2d 270 (2005)
- Gallop v. Rose, 420 Pa. Super. 388, 616 A.2d 1027 (1992)
- Nationwide Mut. Ins. Co. v. DiTomo, 330 Pa. Super. 117, 478 A.2d 1381 (1984)
- Walls v. City of Pittsburgh, 292 Pa. Super. 18, 436 A.2d 698 (1981)
- Ario v. Reliance Ins. Co., 602 Pa. 490, 980 A.2d 588 (2009)
- Allstate Ins. Co. v. Clarke, 364 Pa. Super. 196, 527 A.2d 1021 (1987)
- Schonau v. GEICO Gen. Ins. Co., 903 So. 2d 285 (Fla. Dist. Ct. App. 4th Dist. 2005)
- Monte de Oca v. State Farm Fire & Cas. Co., 897 So. 2d 471 (Fla. Dist. Ct. App. 3d Dist. 2004)
- Chandler v. State Farm Mutual Ins. Co., 598 F.3d 1115 (9th Cir. 2010)
- Averill v. Farmers Ins. Co. of Washington, 155 Wash. App. 106, 229 P.3d 830 (2010)
- Ferguson v. Safeco Ins. Co. of America, 342 Mont. 380, 180 P.3d 1164 (2008)
- Fitzpatrick v. Branoff, 504 Pa. 169, 470 A.2d 521 (1983)