SUPREME COURT OF MONTANA

Tidyman's Management Services Inc. v. Davis

376 Mont. 80, 2014 MT 205 (2014) · No. DA 13-0228 · Decided August 1, 2014

SUMMARY

The Montana Supreme Court reviews a dispute arising from National Union Fire Insurance Company's refusal to continue defending claims against Tidyman's officers and directors. The court addresses choice of law, the insurer's duty to defend, reasonableness and collusion concerning stipulated settlements, and prejudgment interest. It affirms in part, reverses in part, and remands for further proceedings.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Michael E. Wheat; Michael E. Wheat; Mike McGrath; Patricia Cotter; Jim Rice; Laurie McKinnon
JURISDICTION	Montana
DECIDED	August 1, 2014
DOCKET	DA 13-0228
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	National Union Fire Insurance Company appealed from orders granting the plaintiffs' summary judgment motion, approving stipulated settlements, entering judgment, and awarding prejudgment interest. The plaintiffs cross-appealed the date from which prejudgment interest accrued.
STANDARD OF REVIEW	Issues of law, insurance-contract interpretation, choice of law, and summary judgment are reviewed de novo. Prejudgment-interest rulings are reviewed for legal correctness. Discovery rulings are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	National Union Fire Insurance Company of Pittsburgh, PA v. Tidyman's Management Services Inc., Lenora Davis Bateman, Vicki Earhart, Carol Heald, Theresa Youngquist, Barbara Gaustad, Sharon Young, Diane Moles, Kyle Bailey, Mark Rademan, Drew Olsen, Chadney Sawyer, Thomas Nagrone, Dan Nagrone, Darrell Naccarato,

Pat Dahmen, Janelle Sells, Terri Orton, William Evanson, Bill Evanson, Tammy Evanson, Larry Thompson, Jason Guice, Jamie Guice, Laura Squibb, Rick Baillie, Jeffrey Tucker, Amy Tucker, Marybeth Wetsch, Laura Stockton, Jerry Streeter, Clara Kuhn, Nancy McDonald, Ted Nuxoll, Cindy Nuxoll, Dean Carlson

TOPICS

insurance coverage · duty to defend · summary judgment · civil procedure · prejudgment interest

PRACTICE AREAS

insurance · insurance coverage · corporate law · contracts · civil procedure · appellate procedure · remedies

QUESTIONS PRESENTED

1. Whether Montana or Washington law governed the insurance dispute.
2. Whether NUFI breached its duty to defend without a prior judicial analysis of policy coverage.
3. Whether NUFI was entitled to a hearing and discovery concerning the reasonableness and possible collusion of the stipulated settlements.
4. Whether prejudgment interest was proper and when it began accruing.

HOLDINGS

1. Montana law governs an insurance contract dispute when the policy contains no effective choice-of-law provision and Montana is an anticipated place of performance.
2. An insurer that recognizes that a complaint potentially implicates its policy, but unjustifiably refuses to defend while seeking no proper judicial determination of coverage, breaches its duty to defend and may be estopped from denying coverage.
3. Montana law does not automatically require a separate reasonableness hearing whenever an insurer breaches its duty to defend, although a district court may hold one.
4. A stipulated settlement resulting from an insurer's breach of the duty to defend must be reasonable, and when the insurer identifies specific facts suggesting excessiveness, a factual issue requiring a reasonableness hearing may preclude summary judgment.
5. The facts asserted by NUFI did not establish a need for a separate collusion inquiry because they showed, at most, issues concerning reasonableness rather than evidence of an agreement to defraud or break the law.
6. Prejudgment interest began accruing when the District Court approved the stipulated settlements and entered judgment, not when the first stipulation was filed.

KEY QUOTATIONS

> *“Unless there exists an “unequivocal” demonstration that the claim against an insured does not fall within the insurance policy’s coverage, an insurer has a duty to defend.”* (¶ 23)

> *“Where an insurer believes a policy exclusion precludes coverage, our case law is clear as to the prudent process to follow.”* (¶ 28)

> *“The burden of establishing the unreasonableness of the stipulated judgment shall rest with NUFI.”* (¶ 44)

FACTUAL BACKGROUND

The plaintiffs alleged that Tidyman's officers and directors breached fiduciary duties in connection with a merger between Tidyman's Management Services and SuperValu. NUFI insured Davis and Maxwell under a directors-and-officers liability policy and defended them during related federal litigation. After the claims were refiled in Montana state court, NUFI invoked an insured-versus-insured exclusion and stopped paying defense costs, after which Davis and Maxwell entered stipulated settlements assigning their claims against NUFI to the plaintiffs.

PROCEDURAL HISTORY

The plaintiffs sued former Tidyman's officers and directors in Montana state court for alleged breaches of fiduciary duties arising from a merger and later added NUFI, seeking a declaration of coverage. NUFI initially denied coverage under an insured-versus-insured exclusion, stopped paying defense costs, and later agreed to advance defense costs under a reservation of rights after stipulated settlements had been executed. The District Court granted summary judgment and approved $29 million stipulated judgments, but the Montana Supreme Court reversed insofar as the settlement amount was approved without further reasonableness review.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

The District Court must conduct a hearing focused on whether the $29 million stipulated settlement amount is reasonable. The court may set the hearing's parameters and determine whether and to what extent additional discovery is necessary. NUFI bears the burden of establishing unreasonableness.

CASES CITED

- Mitchell v. State Farm Ins. Co., 2003 MT 102, 315 Mont. 281, 68 P.3d 703
- Modroo v. Nationwide Mut. Fire Ins. Co., 2008 MT 275, 345 Mont. 262, 191 P.3d 389
- Tucker v. Farmers Ins. Exch., 2009 MT 247, 351 Mont. 448, 215 P.3d 1
- Farmers Union Mut. Ins. Co. v. Staples, 2004 MT 108, 321 Mont. 99, 90 P.3d 381
- State Farm Mut. Auto. Ins. Co. v. Freyer, 2013 MT 301, 372 Mont. 191, 312 P.3d 403
- Independent Milk & Cream Co. v. Aetna Life Ins. Co., 68 Mont. 152, 216 P. 1109 (1923)
- Keating v. Universal Underwriters Ins. Co., 133 Mont. 89, 320 P.2d 351 (1958)
- Nielsen v. TIG Ins. Co., No. CV 05-47-M-DWM, 2006 U.S. Dist. LEXIS 49002 (D. Mont. May 4, 2006)

- Travelers Cas. & Sur. Co. v. Ribi Immunochem Research, 2005 MT 50, 326 Mont. 174, 108 P.3d 469
- DiMarzio v. Crazy Mt. Constr., Inc., 2010 MT 231, 358 Mont. 119, 243 P.3d 718
- Burns v. Underwriters Adjusting Co., 234 Mont. 508, 765 P.2d 712 (1988)