NEBRASKA SUPREME COURT

Brunkhardt v. Mountain West Farm Bureau Mutual Insurance

269 Neb. 222 (2005) · Decided January 28, 2005

SUMMARY

The Nebraska Supreme Court affirmed dismissal of the Brunkhardts' action seeking underinsured motorist benefits from Mountain West Farm Bureau Mutual Insurance Company for lack of personal jurisdiction. The court held that Mountain West's limited contacts with Nebraska—including communications responding to claims and knowledge that its insured traveled to Nebraska—resulted from unilateral acts and did not constitute purposeful availment. Accordingly, Mountain West lacked sufficient minimum contacts with Nebraska to satisfy due process.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Connolly, J.; Connolly; Gerrard; Hendry; Lerman; McCormack; Miller; Stephan; Wright
JURISDICTION	Nebraska
DECIDED	January 28, 2005
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Brunkhardts appealed the district court's dismissal of their complaint seeking underinsured motorist benefits from Mountain West for lack of personal jurisdiction.
STANDARD OF REVIEW	Because the jurisdictional question involved no factual dispute, the issue was a matter of law reviewed independently.
PRECEDENTIAL VALUE	Published opinion; precedential Nebraska Supreme Court decision.
PARTIES	Darlene Brunkhardt, Justin Brunkhardt v. Mountain West Farm Bureau Mutual Insurance Company

TOPICS

personal jurisdiction · due process · insurance · civil procedure

PRACTICE AREAS

civil procedure · insurance law · personal jurisdiction

QUESTIONS PRESENTED

1. Whether Mountain West had sufficient minimum contacts with Nebraska to permit the exercise of personal jurisdiction over it in the Brunkhardts' action for underinsured motorist benefits.
2. Whether Mountain West's insurance of a Wyoming resident who traveled to Nebraska, its agent's knowledge of that travel, and its communications with Nebraska attorneys constituted purposeful availment of Nebraska's benefits and protections.

HOLDINGS

1. Nebraska's long-arm statute extends jurisdiction over nonresidents as far as the federal Constitution permits, so the controlling question was whether Mountain West had sufficient minimum contacts with Nebraska consistent with due process.
2. Mountain West's contacts with Nebraska were insufficient to confer specific personal jurisdiction because they resulted from the unilateral actions of its insureds and other parties, not from Mountain West's purposeful availment of Nebraska.
3. General personal jurisdiction did not exist because Mountain West lacked continuous and systematic general business contacts with Nebraska.

KEY QUOTATIONS

> *"When a jurisdictional question does not involve a factual dispute, determination of a jurisdictional issue is a matter of law which requires an appellate court to determine the matter independently of the trial court."* (at 225)

> *"To subject an out-of-state defendant to personal jurisdiction in a forum court, due process requires that the defendant have minimum contacts with the forum state so as not to offend traditional notions of fair play and substantial justice."* (at 226)

> *"Contacts created by another's unilateral acts are insufficient to confer jurisdiction."* (at 227)

> *"Under these circumstances, when the insurance contract was issued in Wyoming by a Wyoming company to another Wyoming resident and when contacts with the forum are the result of others' unilateral actions, the contacts are not sufficient to exercise personal jurisdiction over the defendant."* (at 228)

FACTUAL BACKGROUND

Darlene Brunkhardt, a Wyoming resident, was injured in a motor vehicle collision in Nebraska and later sought underinsured motorist benefits under an insurance policy issued in Wyoming by Mountain West, a Wyoming company. Mountain West sold insurance in Wyoming and Montana but was not authorized to do business in Nebraska and had no Nebraska property, employees, offices, accounts, listings, or service agent. Its contacts with Nebraska consisted primarily of communications responding to claims and subrogation matters initiated by insureds or others, while Darlene's travel and work commute into Nebraska were unilateral acts.

PROCEDURAL HISTORY

After Darlene Brunkhardt was injured in Nebraska and unsuccessfully sought underinsured motorist benefits under a policy issued in Wyoming, the Brunkhardts filed suit in Nebraska. Mountain West moved to dismiss for lack of personal jurisdiction. The district court found that Mountain West lacked sufficient contacts with Nebraska and dismissed the complaint; the Nebraska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Diversified Telecom Servs. v. Clevinger, 268 Neb. 388, 683 N.W.2d 338 (2004)
- Quality Pork Internal v. Rupari Food Servs., 267 Neb. 474, 675 N.W.2d 642 (2004)
- Blue Cross and Blue Shield v. Dailey, 268 Neb. 733, 687 N.W.2d 689 (2004)
- Kugler Co. v. Growth Products Ltd., 265 Neb. 505, 658 N.W.2d 40 (2003)
- Helicopteros Nacionales de Colombia v. Hall, 466 U.S. 408, 104 S. Ct. 1868, 80 L. Ed. 2d 404 (1984)
- Batton v. Tennessee Farmers Mut. Ins. Co., 153 Ariz. 268, 736 P.2d 2 (1987)
- Hunt v. Erie Ins. Group, 728 F.2d 1244 (9th Cir. 1984)
- Ex Parte Georgia Farm Bur. Mut. Auto. Ins., 889 So. 2d 545 (Ala. 2004)
- Tennessee Farmers Mut. Ins. v. Harris, 833 S.W.2d 850 (Ky. App. 1992)
- Zimmerman v. American Inter-Insurance Exch., 386 N.W.2d 825 (Minn. App. 1986)
- United Farm Bur. Mut. Ins. v. U.S. Fid. & Guar., 501 Pa. 646, 462 A.2d 1300 (1983)