SUPREME COURT OF CONNECTICUT

ACMAT Corp. v. Greater New York Mutual Insurance Co., 282 Conn. 576

923 A.2d 697 (2007) · No. No. 17740 · Decided May 29, 2007

SUMMARY

The Supreme Court of Connecticut considered whether to adopt a common-law exception to the American rule permitting a prevailing policyholder to recover attorney's fees in a declaratory judgment action against its insurer absent bad faith. The court declined to recognize a broad insurance exception and held that fees may be awarded without a contractual or statutory authorization only when the insurer engaged in bad-faith conduct before or during the litigation. Because the trial court found no bad faith and identified no statutory or contractual basis for the award, the judgment was reversed and the case remanded with direction to deny the fee motion.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Norcott, J.; Borden, J.; Palmer, J.; Vertefeuille, J.; Zarella, J.
JURISDICTION	Connecticut
DECIDED	May 29, 2007
DOCKET	No. 17740
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The insurer appealed from a trial court judgment awarding the insured $126,153.50 in attorney's fees incurred in a declaratory judgment action establishing the existence of insurance coverage. The appeal was transferred from the Appellate Court to the Supreme Court of Connecticut.
STANDARD OF REVIEW	An award of attorney's fees and the factual predicate supporting the award are reviewed for abuse of discretion, including whether the trial court correctly applied the law and reasonably could have reached its conclusion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Greater New York Mutual Insurance Company v. ACMAT Corporation

TOPICS

attorney fees | declaratory relief insurance | insurance coverage | duty to defend | contracts

PRACTICE AREAS

insurance | insurance coverage | insurance bad faith | attorney fees | declaratory relief insurance

QUESTIONS PRESENTED

1. Whether Connecticut should adopt a common-law insurance exception to the American rule permitting a policyholder that prevails against its insurer in a declaratory judgment action to recover attorney's fees absent insurer bad faith.
2. Whether the trial court improperly awarded attorney's fees where there was no statutory or contractual authorization and no finding of bad faith.

HOLDINGS

1. Connecticut will not adopt a broad common-law exception to the American rule for prevailing policyholders in insurance coverage declaratory judgment actions. Attorney's fees may be awarded only when authorized by contract or statute, or when the insurer engaged in bad-faith conduct prior to or during the litigation.
2. The trial court improperly awarded ACMAT attorney's fees because no statutory or contractual provision authorized the award and the trial court found that ACMAT failed to prove bad faith.

KEY QUOTATIONS

> *"The general rule of law known as the American rule is that attorney's fees and ordinary expenses and burdens of litigation are not allowed to the successful party absent a contractual or statutory exception."* (702)

> *"we conclude that, even without an authorizing contractual or statutory provision, a trial court may award attorney's fees to a policyholder that has prevailed in a declaratory judgment action against its insurance company only if the policyholder can prove that the insurer has engaged in bad faith conduct prior to or in the course of the litigation."* (708)

> *"Thus, because the trial court in the present case found that the plaintiff failed to prove that the defendant had acted in bad faith, and there is no claim of a statutory or contractual basis for the attorney's fee award, we conclude that the trial court's award of attorney's fees in this case was improper."* (709)

FACTUAL BACKGROUND

ACMAT, formerly Acoustical Materials Corporation, faced numerous asbestos-related lawsuits arising from alleged exposure at its workplaces. ACMAT located a certificate of insurance indicating that Greater New York had issued a products liability and comprehensive general liability policy, but Greater New York denied that the policy existed and refused to defend ACMAT. After ACMAT prevailed in a declaratory judgment action establishing the policy's existence and coverage period, the trial court awarded ACMAT attorney's fees incurred in prosecuting that action.

PROCEDURAL HISTORY

ACMAT initially filed a federal declaratory judgment action, which was dismissed for lack of the amount in controversy required for diversity jurisdiction. ACMAT then pursued a state declaratory judgment action, and the trial court declared that Greater New York had issued an applicable insurance policy. The Appellate Court affirmed that judgment. ACMAT subsequently moved for attorney's fees under Practice Book § 11-21, and the trial court granted the motion; the Supreme Court reversed the fee award and remanded with instructions to deny the motion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded with direction to deny ACMAT's motion for attorney's fees.

CASES CITED

- Broadnax v. New Haven, 270 Conn. 133, 178-79, 851 A.2d 1113 (2004)
- Schoonmaker v. Lawrence Brunoli, Inc., 265 Conn. 210, 252-53, 828 A.2d 64 (2003)
- Maris v. McGrath, 269 Conn. 834, 844-47, 850 A.2d 133 (2004)
- Peterson v. Norwalk, 152 Conn. 77, 80, 203 A.2d 294 (1964)
- Burr v. Lichtenheim, 190 Conn. 351, 363-64, 460 A.2d 1290 (1983)
- Bodner v. United Services Automobile Assn., 222 Conn. 480, 499, 610 A.2d 1212 (1992)
- Fleming v. Garnett, 231 Conn. 77, 94, 646 A.2d 1308 (1994)
- ACMAT Corp. v. Greater New York Mutual Ins. Co., 88 Conn. App. 471, 473-75, 483, 869 A.2d 1254, cert. denied, 274 Conn. 903, 876 A.2d 11 (2005)
- ACMAT Corp. v. Greater New York Mutual Ins. Co., 58 F. Supp. 2d 1, 5 (D. Conn. 1999)
- Mountain West Farm Bureau Mutual Ins. Co. v. Brewer, 315 Mont. 231, 244, 69 P.3d 652 (2003)
- Olympic Steamship Co. v. Centennial Ins. Co., 117 Wash. 2d 37, 52-53, 811 P.2d 673 (1991)
- Aetna Casualty & Surety Co. v. Pitrolo, 176 W. Va. 190, 194-95, 342 S.E.2d 156 (1986)