

SUPREME COURT OF THE STATE OF MONTANA

Giambra v. Travelers Indemnity Co.

2003 MT 289 · No. No. 03-376 · Decided October 21, 2003

SUMMARY

The Montana Supreme Court affirmed summary judgment for Travelers in a declaratory judgment action concerning payment of a minor's medical expenses after a sledding accident. The Court held that genuine issues of material fact existed regarding negligence and liability, so the insured's liability was not reasonably clear and Travelers was not required under *Ridley v. Guaranty National Insurance Co.* to advance medical-expense payments.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice James C. Nelson; James C. Nelson; Karla M. Gray; Jim Rice; Patricia Cotter; Jim Regnier
JURISDICTION	Montana
DECIDED	October 21, 2003
DOCKET	No. 03-376
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a district court order denying the plaintiffs' motion for summary judgment and granting Travelers' motion for summary judgment in a declaratory judgment action concerning an insurer's obligation to advance medical-expense payments.
STANDARD OF REVIEW	The court reviewed the grant or denial of summary judgment de novo and reviewed related legal conclusions for correctness.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	David Giambra and Alexandria Giambra, husband and wife on behalf of their minor child, Zadkiel Giambra v. The Travelers Indemnity Company

TOPICS

- insurance coverage
- summary judgment
- declaratory judgment
- negligence
- standard of review

PRACTICE AREAS

Insurance

Civil Procedure

Torts

Appellate Procedure

QUESTIONS PRESENTED

1. Whether the district court erred in concluding that genuine issues of material fact existed concerning negligence and liability.
2. Whether Travelers was required under Montana law to advance payment of Zadkiel's medical expenses when the insured's liability was not reasonably clear.

HOLDINGS

1. Summary judgment for Travelers was proper because genuine issues of material fact existed concerning whether Nicholas or Zadkiel was negligent and whether Nicholas was liable for the accident.
2. An insurer has no obligation under Ridley to advance an injured third party's medical expenses when genuine issues of material fact make the insured's liability not reasonably clear.

KEY QUOTATIONS

“In Ridley, we held that pursuant to §§ 33-18-201(6) and (13), MCA, when liability is reasonably clear, an insurer is obligated to advance payment of an injured third party’s medical expenses until a final settlement is reached.” (¶ 15)

“Here, genuine issues of material fact exist regarding negligence and liability. As such, Nicholas's liability is not reasonably clear, and Travelers has no obligation under Ridley to advance payment of Zadkiel's medical expenses.” (¶ 16)

FACTUAL BACKGROUND

Fourteen-year-old Zadkiel Giambra was sledding with other youths on or near an icy hill. Seventeen-year-old Nicholas Kelsey drove his family's vehicle to the hill to warn the youths to stop sledding, then moved the vehicle forward after delivering the warning. Zadkiel slid under the vehicle's front wheels and was injured. The record disputed whether Zadkiel was present when the warning was given, whether he resumed sledding into the vehicle's path, whether Nicholas could see him, and whether the icy conditions contributed to the accident.

PROCEDURAL HISTORY

The Giambras sought summary judgment requiring Travelers to advance payment of Zadkiel's medical expenses. Travelers opposed, asserting that liability of its insured, Nicholas Kelsey, was not reasonably clear. The Sixth Judicial District Court, Park County, denied the Giambras' motion and granted Travelers' motion, and the Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Cole ex rel. Cole Revocable Trust v. Cole, 2003 MT 229, ¶ 8, 317 Mont. 197, 75 P.3d 1280
- Gonzales v. Walchuk, 2002 MT 262, ¶ 9, 312 Mont. 240, 59 P.3d 377
- Ridley v. Guaranty Nat. Ins. Co., 286 Mont. 325, 951 P.2d 987 (1997)

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