SUPREME COURT OF KENTUCKY

Kentucky Farm Bureau Mutual Insurance Company v. Rodgers

Kentucky Farm Bureau Mut. Ins. Co. v. Rodgers, 179 S.W.3d 815 (Ky. 2005) · No. 2002-SC-1044-DG; 2002-SC-001044-DG · Decided September 22, 2005

SUMMARY

The Supreme Court of Kentucky reversed a judgment awarding compensatory and punitive damages against Kentucky Farm Bureau in an underinsured-motorist bad-faith action and remanded for a new trial. The court held that evidence concerning the insurer's handling of an unrelated claim was improperly admitted under KRE 404(b) and the principles of State Farm Mutual Automobile Insurance Co. v. Campbell, although portions of the evidence could be used for the limited purpose of impeaching an expert witness. The court did not reach the constitutional challenge to the punitive-damages award.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Per Curiam; Cooper; Graves; Johnstone; Lambert; Roach; Scott; Wintersheimer
JURISDICTION	Kentucky
DECIDED	September 22, 2005
DOCKET	2002-SC-1044-DG; 2002-SC-001044-DG
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Rodgers prevailed in a Kentucky Unfair Claims Settlement Practices Act bad-faith action arising from Farm Bureau's handling of her underinsured-motorist claim. The Lincoln Circuit Court entered judgment on a jury verdict awarding compensatory and punitive damages, attorney fees, and costs. The Court of Appeals affirmed, and the Supreme Court of Kentucky granted discretionary review.
STANDARD OF REVIEW	Evidentiary rulings are generally reviewed for abuse of discretion. Preservation of an evidentiary issue may be accomplished by a motion in limine when the issue is sufficiently specified. The opinion did not reach the constitutional review of the punitive-damages award.
PRECEDENTIAL VALUE	published precedential opinion

PARTIES	Kentucky Farm Bureau Mutual Insurance Company v. Tina Rodgers, now Johnson

TOPICS

insurance bad faith · uninsured motorist · evidence · appellate procedure · standard of review

PRACTICE AREAS

insurance · insurance bad faith · uninsured motorist · evidence · appellate procedure

QUESTIONS PRESENTED

1. Whether evidence concerning Farm Bureau's handling of Mabel Raines's separate insurance claim was admissible to prove Farm Bureau acted in bad faith or to support punitive damages in Rodgers's action.
2. Whether portions of testimony concerning the Raines claim were admissible for the limited purpose of impeaching an expert's testimony about the adequacy of demand letters.
3. Whether the admission of the improper bad-acts evidence required reversal and a new trial.

HOLDINGS

1. Evidence of Farm Bureau's handling of the Raines claim was inadmissible to prove that Farm Bureau acted in bad faith in handling Rodgers's claim or to support punitive damages because the evidence did not establish sufficiently similar conduct and was barred by KRE 404(b) and the principles stated in State Farm Mutual Automobile Insurance Co. v. Campbell.
2. Some testimony concerning the Raines claim was admissible for the limited purpose of impeaching testimony that a properly documented demand letter would have produced a more prompt and favorable settlement, but it was not admissible substantively to prove Farm Bureau's bad faith or entitlement to punitive damages.
3. Admission of the improper Raines evidence required reversal of the Court of Appeals' judgment and remand to the Lincoln Circuit Court for a new trial.

KEY QUOTATIONS

> *“A defendant's dissimilar acts, independent from the acts upon which liability was premised, may not serve as the basis for punitive damages.”* (819)

> *“We admit evidence of a prior bad act under KRE 404(b) only if the evidence satisfies the three-part test of Bell v. Commonwealth”* (820)

> *“The Raines evidence that tended to show the ineffectiveness of Hibberd's "proper demand letter" was not admissible for the purpose of proving Farm Bureau's bad faith in this case by showing that it had acted in bad faith in another case.”* (821)

FACTUAL BACKGROUND

Rodgers was injured when Pearly Webb's vehicle struck hers. Webb's liability insurer offered its $25,000 policy limit, while Rodgers had $50,000 in underinsured-motorist coverage with Farm Bureau; Farm Bureau had already paid basic-reparations and medical-payment benefits. After Rodgers demanded the UIM policy limits, Farm Bureau offered $10,000, and a later UIM trial resulted in a $98,618 damages award. In Rodgers's bad-faith action, the trial court admitted testimony about Mabel Raines's separate claim against Farm Bureau, including settlement offers and the eventual verdict.

PROCEDURAL HISTORY

A jury awarded Rodgers $30,000 in compensatory damages and $1,000,000 in punitive damages, and the trial court added attorney fees and costs. The Court of Appeals affirmed. The Supreme Court reversed because the trial court admitted improper evidence concerning Farm Bureau's handling of another person's claim, and remanded for a new trial.

DISPOSITION

```
reversed_and_remanded
```

REMAND INSTRUCTIONS

Remand to the Lincoln Circuit Court for a new trial consistent with the opinion. If the Raines evidence is offered on retrial, it may be admitted only for the limited purpose of impeaching Hibberd's testimony, and an admonition should be given if requested; it may not be used to prove Farm Bureau's bad faith or to obtain punitive damages.

CASES CITED

- State Farm Mut. Auto. Ins. Co. v. Reeder, 763 S.W.2d 116 (Ky. 1988)
- Coots v. Allstate Insurance Co., 853 S.W.2d 895, 902 (Ky. 1993)
- Beckner v. Palmore, 719 S.W.2d 288, 289 (Ky. App. 1986)
- Davis v. Commonwealth, 147 S.W.3d 709, 722-23 (Ky. 2004)
- True v. Raines, 99 S.W.3d 439 (Ky. 2003)
- Motorists Mut. Ins. Co. v. Glass, 996 S.W.2d 437, 453 (Ky. 1997)
- Ohio Cas. Ins. Co. v. State Farm Mut. Auto. Ins. Co., 511 S.W.2d 671, 674 (Ky. 1974)
- State ex rel. State Farm Mut. Auto. Ins. Co. v. Canady, 197 W.Va. 107, 475 S.E.2d 107, 111 n.4 (1996)
- State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 419, 422-24 (2003)
- Ansell v. Green Acres Contracting Co., Inc., 347 F.3d 515, 521 (3d Cir. 2003)
- Hitt v. Connell, 301 F.3d 240, 249-50 (5th Cir. 2002)
- Rearick v. Commonwealth, 858 S.W.2d 185, 187 (Ky. 1993)
- Bell v. Commonwealth, 875 S.W.2d 882, 889-91 (Ky. 1994)
- Kentucky Farm Bureau Mut. Ins. Co. v. Troxell, 959 S.W.2d 82, 85-86 (Ky. 1997)
- Tuttle v. Perry, 82 S.W.3d 920, 922 (Ky. 2002)
- Sanborn v. Commonwealth, 754 S.W.2d 534, 545 (Ky. 1988)

- Commonwealth v. English, 993 S.W.2d 941, 945 (Ky. 1999)
- Partin v. Commonwealth, 918 S.W.2d 219, 222 (Ky. 1996)
- Kuprion v. Fitzgerald, 888 S.W.2d 679, 684 (Ky. 1994)
- Goodyear Tire & Rubber Co. v. Thompson, 11 S.W.3d 575 (Ky. 2000)
- Jett v. Commonwealth, 436 S.W.2d 788 (Ky. 1969)
- Wittmer v. Jones, 864 S.W.2d 885 (Ky. 1993)
- BMW of North America, Inc. v. Gore, 517 U.S. 559, 575-77 (1996)
- TXO Production Corp. v. Alliance Resources Corp., 509 U.S. 443 (1993)
- Cooper Industries, Inc. v. Leatherman Tool Group, Inc., 532 U.S. 424 (2001)
- Sand Hill Energy, Inc. v. Ford Motor Co., 83 S.W.3d 483 (Ky. 2002), cert. granted, judgment vacated by Ford Motor Co. v. Smith, 538 U.S. 1028 (2003)
- Mathias v. Accor Economy Lodging, Inc., 347 F.3d 672, 678 (7th Cir. 2003)
- Phelps v. Louisville Water Co., 103 S.W.3d 46 (Ky. 2003)
- Nunn v. Slemmons' Adm'r, 298 Ky. 315, 182 S.W.2d 888 (1944)