

SUPREME COURT OF THE STATE OF DELAWARE

Day v. Loucks

No. 322, 2017 · No. No. 322, 2017 · Decided February 28, 2018

SUMMARY

The Delaware Supreme Court affirmed the Superior Court’s dismissal without prejudice of Roy A. Day’s claims against insurance-company defendants. The Court held that principles of comity supported dismissal because Day had pursued substantially similar claims in federal courts and was subject to filing restrictions and sanctions arising from abusive litigation practices.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Leo E. Strine, Chief Justice; Gary F. Traynor, Justice; Karen L. Valihura, Justice
JURISDICTION	Delaware
DECIDED	February 28, 2018
DOCKET	No. 322, 2017
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Superior Court's dismissal without prejudice of Day's complaint against the appellees.
STANDARD OF REVIEW	De novo review of the Superior Court's dismissal of the complaint.
PRECEDENTIAL VALUE	Published order; precedential value not otherwise specified in the opinion.
PARTIES	Roy A. Day v. William (Bill) Loucks, Anthony J. DeSantis, 21st Century Centennial Insurance Company

TOPICS

- motions to dismiss
- civil procedure
- appellate procedure
- insurance
- contracts

PRACTICE AREAS

- civil procedure
- appellate procedure
- insurance
- contracts
- remedies

QUESTIONS PRESENTED

1. Whether the Superior Court properly dismissed Day's complaint without prejudice under principles of comity because substantially similar claims had been litigated in federal courts and Day had not complied with those courts' sanctions and filing procedures.
2. Whether Day could avoid federal-court filing restrictions and sanctions by filing substantially similar claims in the Delaware Superior Court.

HOLDINGS

1. The Superior Court properly dismissed Day's repetitive complaint without prejudice under principles of comity because Day had already pursued substantially similar claims in the federal courts of Delaware and Florida and was subject to procedures imposed by those courts in response to his vexatious litigation.
2. Day could reinstitute the action if he provided proof and documentation that he had paid the monetary sanctions imposed by the Middle District of Florida.

KEY QUOTATIONS

“Under the doctrine of comity, “the courts of one state or jurisdiction give effect to the laws and judicial decisions of another, not as a matter of obligation but out of deference and respect.”” (6)

“It is plain that Day filed this repetitive action in the Superior Court to avoid the procedures implemented in the Delaware and Florida federal courts.” (7)

FACTUAL BACKGROUND

Day, a Florida resident, alleged that 21st Century Centennial Insurance Company mishandled insurance claims arising from two automobile accidents and asserted contract, negligence, fraud, and emotional-distress theories against the insurer and its officers. He claimed that letters containing demands and proposed damages became binding contracts because the recipients did not reject them. Day had previously pursued substantially similar claims in federal courts in Delaware and Florida and had been subject to sanctions and filing restrictions based on repetitive and frivolous litigation.

PROCEDURAL HISTORY

Day filed an action in the Delaware Superior Court concerning insurance claims arising from two Florida automobile accidents. The Superior Court dismissed the action without prejudice under principles of comity because Day had pursued substantially similar claims in federal courts and was subject to filing restrictions and unpaid sanctions imposed by those courts. The Delaware Supreme Court affirmed and held that Day could reinstitute the complaint upon providing proof that he had paid the applicable sanctions.

DISPOSITION

affirmed

CASES CITED

- *Malpiede v. Townson*, 780 A.2d 1075, 1082 (Del. 2001)
- *Cent. Mortg. Co. v. Morgan Stanley Mortg. Capital Holdings LLC*, 27 A.3d 531, 535 (Del. 2011)
- *Columbia Cas. Co. v. Playtex FP, Inc.*, 584 A.2d 1214, 1218 (Del. 1991)
- *Day v. Loucks*, 2017 WL 3225921 (Del. Super. Ct. July 28, 2017)
- *Day v. Loucks*, 2016 WL 3129618, at *1-2 (D. Del. June 1, 2016), *aff'd*, 668 Fed. Appx. 425 (3d Cir. Sept. 20, 2016)
- *Day v. Loucks*, 2015 WL 12868205, at *2 (D. Del. Aug. 6, 2015), *aff'd*, 636 Fed. Appx. 830 (3d Cir. Mar. 4, 2016)
- *Day v. 21st Century Centennial Ins. Co.*, No. 8:14-cv-2048-T-36AEP, Order at 4 (M.D. Fla. Oct. 30, 2014)
- *Day v. 21st Century Centennial Ins. Co.*, 2014 WL 3909533, at *3 (D. Del. Aug. 11, 2014)
- *In re Roy Day Litig.*, 976 F. Supp. 1460 (M.D. Fla. 1995)
- *In re Roy Day Litig.*, 2011 WL 550207, at *1 (M.D. Fla. Feb. 9, 2011)
- *Day v. Toner*, 2013 WL 3939656, at *2 (D. Del. July 26, 2013), *aff'd*, 549 Fed. Appx. 66 (3d Cir. Jan. 10, 2014)
- *Day v. Day*, 510 U.S. 1, 2 (1993)
- *Day v. State*, 903 So. 2d 886, 887 (Fla. 2005)