SUPREME COURT OF LOUISIANA

# Supreme Services and Specialty Co., Inc. v. Sonny Greer, Inc.

958 So. 2d 634 (La. 2007) · No. 2006-C-1827 · Decided May 22, 2007

## SUMMARY

The Louisiana Supreme Court reviews whether a commercial general liability policy covers damage caused by defective concrete work performed by an insured's subcontractors. The court holds that the policy's work-product exclusion unambiguously bars coverage for repairing or replacing the defective concrete slab itself, and that the products-completed operations hazard provision does not apply because no other property or third party was injured. The court reverses the court of appeal and reinstates the trial court's summary judgment for the insurer.

## CASE DETAILS

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| COURT | Supreme Court of Louisiana |
| WRITING FOR THE COURT | Johnson |
| JURISDICTION | Louisiana |
| DECIDED | May 22, 2007 |
| DOCKET | 2006-C-1827 |
| DISPOSITION | reversed |
| PROCEDURAL POSTURE | AXA sought review of a court of appeal decision reversing the trial court's grant of AXA's motion for summary judgment in an insurance-coverage dispute. The Louisiana Supreme Court granted the writ application, reversed the court of appeal, and reinstated the trial court's judgment. |
| STANDARD OF REVIEW | Summary judgment is reviewed de novo under the same criteria applicable to the trial court: whether there is a genuine issue of material fact and whether the mover is entitled to judgment as a matter of law. |
| PRECEDENTIAL VALUE | Published Louisiana Supreme Court opinion; precedential. |
| PARTIES | AXA Global Risk U.S. Insurance Company v. Supreme Services and Specialty Co., Inc., Sonny Greer, Inc. |

## TOPICS

construction defects | insurance coverage | duty to indemnify | summary judgment | appellate procedure

### PRACTICE AREAS

insurance | construction law | contracts | commercial litigation | appellate procedure

### QUESTIONS PRESENTED

1. Whether the CGL policy's work-product exclusions barred coverage for damage to concrete slabs defectively constructed by the insured or its subcontractors.
2. Whether the products-completed operations hazard provision created an ambiguity or restored coverage for the defective concrete work.
3. Whether the insurer was entitled to summary judgment as a matter of law.

### HOLDINGS

1. The CGL policy unambiguously excluded coverage for damage to the concrete slab that had to be repaired or replaced because Greer or its subcontractors performed defective work.
2. The work-product exclusion and products-completed operations hazard provision were not inherently contradictory or ambiguous.
3. AXA was entitled to summary judgment because the policy afforded no coverage for the claimed damage as a matter of law.

### KEY QUOTATIONS

> *"Under the "work product" exclusion, the insured or its subcontractor becomes liable for damages to its work or its product caused by its faulty workmanship."* (645)

> *"Under the PCOH provision, damages, other than the faulty product or work itself, arising out of the faulty workmanship are covered by the policy."* (645)

> *"Thus, the exception for the work performed on the insured's behalf by a subcontractor under the PCOH damage section of the policy simply is inapplicable to the present case."* (645)

> *"We further find that there is no inherent ambiguity canceling the "work product" exclusion when the defective work is performed by a subcontractor."* (646)

### FACTUAL BACKGROUND

Supreme Services contracted with Sonny Greer, Inc. to construct an oilfield service facility in Iberia Parish. Greer and its subcontractors poured and finished concrete slabs for the building and exterior areas, but the concrete cracked shortly after installation and continued to deteriorate despite attempted repairs and replacement. Supreme Services sued Greer for breach of contract and breach of a warranty concerning workmanship, and Greer sought coverage under its commercial general liability policy with AXA.

### PROCEDURAL HISTORY

Supreme Services sued Sonny Greer and the project architect for damages allegedly caused by defective design and construction of concrete slabs. Greer filed a third-party demand against its CGL insurer, AXA. The trial court granted AXA summary judgment, finding that the policy's work-product exclusions unambiguously barred coverage. The court of appeal reversed, but the Louisiana Supreme Court reversed the court of appeal and reinstated the trial court's judgment.

### DISPOSITION

reversed

### REMAND INSTRUCTIONS

None; the court reversed and rendered, reinstating the trial court's judgment.

### CASES CITED

- Mike Hooks, Inc. v. JACO Services, Inc., 674 So. 2d 1125 (La. App. 3 Cir. 1996), writ denied, 681 So. 2d 1264 (La. 1996)
- Vintage Contracting, L.L.C. v. Dixie Building Material Co., Inc., 858 So. 2d 22 (La. App. 5 Cir. 2003)
- Champagne v. Ward, 893 So. 2d 773 (La. 2005)
- Richard v. Hall, 874 So. 2d 131 (La. 2004)
- Smith v. Our Lady of the Lake Hospital, Inc., 639 So. 2d 730 (La. 1994)
- Reynolds v. Select, 634 So. 2d 1180 (La. 1994)
- Newby v. Jefferson Parish School Board, 738 So. 2d 93 (La. App. 5 Cir. 1999)
- Yount v. Maisano, 627 So. 2d 148 (La. 1993)
- Blackburn v. National Union Fire Insurance Co., 784 So. 2d 637 (La. 2001)
- McMath Construction Co., Inc. v. Dupuy, 897 So. 2d 677 (La. App. 1 Cir. 2004), writ denied, 896 So. 2d 40 (La. 2005)
- Bollinger Shipyards Lockport, L.L.C. v. AmClyde Engineered Products, Inc., 2003 WL 21396773 (E.D. La. June 11, 2003)
- Iberia Parish School Board v. Sandifer & Son Construction Co., Inc., 721 So. 2d 1021 (La. App. 3 Cir. 1998)
- Nash v. Western Casualty & Surety Co., 406 So. 2d 176 (La. App. 1 Cir. 1981)
- Aetna Insurance Co. v. Grady White Boats, Inc., 432 So. 2d 1082 (La. App. 3 Cir. 1983)
- Swarts v. Woodlawn, Inc., 610 So. 2d 888 (La. App. 1 Cir. 1992)
- Lewis v. Easley, 614 So. 2d 780 (La. App. 2 Cir. 1993)
- Old River Terminal Co-op v. Davco Corp., 431 So. 2d 1068 (La. App. 1 Cir. 1983)
- Allen v. Lawton and Moore Builders, Inc., 535 So. 2d 779 (La. App. 2 Cir. 1988)
- Parker v. Dubus Engine Co., 563 So. 2d 355 (La. App. 3 Cir. 1990)
- Fredeman Shipyard, Inc. v. Weldon Miller Contractors, 497 So. 2d 370 (La. App. 1 Cir. 1986)
- Bacon v. Diamond Motors, Inc., 424 So. 2d 1155 (La. App. 1 Cir. 1982)
- Breaux v. St. Paul Fire and Marine Insurance Co., 345 So. 2d 204 (La. App. 3 Cir. 1977)

- Livingston Parish School Board v. Fireman's Fund American Insurance Co., 282 So. 2d 478 (La. 1973)
- Oceanonics, Inc. v. Petroleum Distributing Co., 292 So. 2d 190 (La. 1974)
- Jones v. MFA Mutual Insurance Co., 398 So. 2d 10 (La. App. 3 Cir. 1981)
- Snell v. Stein, 259 So. 2d 876 (La. 1972)
- Niles v. American Bankers Insurance Co., 258 So. 2d 705 (La. App. 3 Cir. 1972)

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