

SUPREME COURT OF TEXAS

Elephant Insurance Company, LLC v. Lorraine Kenyon, Individually and as Executrix of the Estate of Theodore Kenyon

Elephant Insurance · No. No. 20-0366 · Decided April 22, 2022

SUMMARY

Justice Evan A. Young, joined by Justice Blacklock, concurs in the Texas Supreme Court's judgment but argues that the Court should reconsider its approach to recognizing new common-law tort duties. The concurrence emphasizes the judiciary's limited lawmaking role in highly regulated areas, including automobile-insurance claims processing, and suggests that courts should defer to comprehensive statutory and regulatory schemes.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Evan A. Young; James D. Blacklock
JURISDICTION	Texas
DECIDED	April 22, 2022
DOCKET	No. 20-0366
DISPOSITION	other
PROCEDURAL POSTURE	Petition for review from the Court of Appeals for the Fourth District of Texas. The supplied text is a concurring opinion addressing the court's approach to recognizing new common-law duties in negligence cases.
PRECEDENTIAL VALUE	Published concurring opinion; the concurrence's policy observations are not the Court's binding holding.
PARTIES	Elephant Insurance Company, LLC v. Lorraine Kenyon, Individually and as Executrix of the Estate of Theodore Kenyon

TOPICS

duty of care negligence insurance insurance bad faith probate

PRACTICE AREAS

torts insurance probate

QUESTIONS PRESENTED

1. Whether Texas courts should reconsider their framework for recognizing new common-law duties in negligence cases, particularly the practice of weighing social, economic, political, and related policy considerations.
2. Whether the existence of comprehensive statutory and regulatory schemes should cause courts to refrain from creating or retaining extra-statutory tort duties in highly regulated contexts such as automobile-insurance claims processing.

KEY QUOTATIONS

“Our branch’s core role is unchanging, though, because our core role is not to adjust or make the law, but to interpret and apply it.” (at 7)

“In a case like the one we decide today, what is really gained by continuing to speak of identifying and balancing social, economic, and political considerations?” (at 9)

“No party in this case has requested that we reconsider the judicial role in expounding new duties, and I agree that the Court’s opinion reaches the correct result under our precedents.” (at 11)

FACTUAL BACKGROUND

The case arose in the context of processing automobile-insurance claims. The concurrence discusses the broader question whether courts should recognize or expand common-law tort duties in a highly regulated insurance environment, but it does not provide the underlying claim-specific facts.

PROCEDURAL HISTORY

The case reached the Supreme Court of Texas on petition for review from the Fourth Court of Appeals. The concurrence states that the Court’s opinion correctly applied existing Texas precedents and that the Court reached the correct result, but the supplied text does not state the lower-court disposition or the precise judgment entered.

DISPOSITION

other

CASES CITED

- In re State, 602 S.W.3d 549 (Tex. 2020)
- Chambers-Liberty Counties Navigation District v. State, 575 S.W.3d 339 (Tex. 2019)
- Archer v. Anderson, 556 S.W.3d 228 (Tex. 2018)
- Morath v. The Texas Taxpayer & Student Fairness Coalition, 490 S.W.3d 826 (Tex. 2016)
- Strickland v. Medlen, 397 S.W.3d 184 (Tex. 2013)
- Texas Mutual Insurance Co. v. Ruttiger, 381 S.W.3d 430 (Tex. 2012)
- Aranda v. Insurance Co. of North America, 748 S.W.2d 210 (Tex. 1988)
- Arnold v. National County Mutual Fire Insurance Co., 725 S.W.2d 165 (Tex. 1987)

- *Pagayon v. Exxon Mobil Corp.*, 536 S.W.3d 499 (Tex. 2017)
- *Humble Sand & Gravel, Inc. v. Gomez*, 146 S.W.3d 170 (Tex. 2004)
- *Greater Houston Transportation Co. v. Phillips*, 801 S.W.2d 523 (Tex. 1990)
- *Otis Engineering Corp. v. Clark*, 668 S.W.2d 307 (Tex. 1983)
- *El Chico Corp. v. Poole*, 732 S.W.2d 306 (Tex. 1978)
- *Stevens v. Dudley*, 56 Vt. 158 (1883)

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