SUPREME COURT OF FLORIDA

Chandler v. Geico Indemnity Co.

78 So. 3d 1293 (Fla. 2011) · Decided November 23, 2011

SUMMARY

The Florida Supreme Court reviewed whether a rented vehicle qualified as a "temporary substitute auto" under a Geico insurance policy when the vehicle was driven by an unauthorized driver under the rental agreement. Applying Florida's dangerous instrumentality doctrine and its precedents in Susco and Roth, the court held that contractual restrictions on the identity of the driver did not negate the owner's permission to use the vehicle or defeat coverage. The court quashed the First District's decision favoring Geico.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Lewis, J.; Canady, C.J.; Labarga, J.; Pariente, J.; Perry, J.; Polston, J.; Quince, J.
JURISDICTION	Florida
DECIDED	November 23, 2011
DISPOSITION	quashed
PROCEDURAL POSTURE	Review of a First District Court of Appeal decision under the Florida Supreme Court's conflict jurisdiction concerning an insurer's duty to defend and indemnify under an automobile insurance policy.
STANDARD OF REVIEW	De novo review applies to summary judgment and interpretation of an insurance policy.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; binding statewide precedent.
PARTIES	Chandler v. Geico Indemnity Co.

TOPICS

insurance coverage · duty to defend · duty to indemnify · contract interpretation · declaratory relief insurance

PRACTICE AREAS

insurance law · automobile liability · civil procedure

QUESTIONS PRESENTED

1. Whether the rental vehicle qualified as a temporary substitute auto under the Geico policy.
2. Whether Avis's contractual restriction against unauthorized drivers eliminated its permission for purposes of temporary-substitute-auto coverage when Shazier had permission to use the vehicle as a substitute for her disabled automobile.
3. Whether an unauthorized-driver clause in a rental agreement can defeat coverage or liability under Florida's dangerous instrumentality doctrine.
4. Whether the insurer owed a duty to defend and indemnify the insureds and injured parties.

HOLDINGS

1. The rental Hyundai qualified as a temporary substitute auto because Avis gave Shazier permission to use it as a substitute for her disabled insured vehicle.
2. Permission under the policy concerns the purpose for which the vehicle was entrusted, not the identity of the person operating it, so long as the use remains within the permitted purpose.
3. Geico could not rely on Avis's unauthorized-driver clause to avoid coverage because the clause was inconsistent with Florida's substantive dangerous-instrumentality law and was contained in a contract to which Geico was not a party.
4. Geico owed coverage, including the duty to defend and indemnify under the policy, for the insureds and injured parties.

KEY QUOTATIONS

> *"The restrictions agreed upon do not change the fact that the automobile was being used with the owner's consent. Nor does it appear that the car was not being used for the purpose for which it was rented—i.e., the pleasure, convenience or business of the renter."* (1297-1298)

> *"Only to that limited extent is the issue pertinent when members of the public are injured by its operation, and only in a situation where the vehicle is not in operation pursuant to his authority, or where he has in fact been deprived of the incidents of ownership, can such an owner escape responsibility."* (1298)

> *"The permission required under the temporary substitute clause relates only to the purpose for which permission was given by the owner of the substitute automobile and not to the identity of the operator."* (1301)

> *"Use is thus broader than operation. ... One who operates a car uses it, ... but one can use a car without operating it."* (1301-1302)

FACTUAL BACKGROUND

Shazier, a named insured, rented a Hyundai Sonata from Avis after her insured Ford Expedition became disabled and designated her Geico insurance as primary coverage. Although the rental agreement restricted operation by unauthorized drivers, Shazier allowed Frederick Royal to use the vehicle, and Royal allowed Tercina Jordan to operate it. Jordan negligently crashed the vehicle, seriously injuring minor passengers and killing another passenger. Geico sought a declaration that it had no duty to defend or indemnify Shazier or Jordan, while an injured passenger sought summary judgment establishing coverage.

PROCEDURAL HISTORY

The trial court entered summary final judgment for an injured passenger, concluding that the rental vehicle was a temporary substitute auto under the Geico policy and that Geico owed coverage for Shazier and persons using the vehicle. The First District reversed and directed entry of summary judgment for Geico, holding that the rental vehicle was not being used with Avis's permission because Jordan was an unauthorized driver. The Florida Supreme Court accepted review based on express and direct conflict with Susco and Roth, consolidated the cases, quashed the First District's decision, and directed entry of judgment for the insureds and injured parties.

DISPOSITION

quashed

REMAND INSTRUCTIONS

The First District's decision was quashed, and the court directed that judgment be entered in favor of the insureds and injured parties.

CASES CITED

- Geico Indemnity Co. v. Shazier, 34 So. 3d 42 (Fla. 1st DCA 2010)
- Susco Car Rental System of Florida v. Leonard, 112 So. 2d 832 (Fla. 1959)
- Roth v. Old Republic Insurance Co., 269 So. 2d 3 (Fla. 1972)
- Aurbach v. Gallina, 753 So. 2d 60 (Fla. 2000)
- Southern Cotton Oil Co. v. Anderson, 86 So. 629 (Fla. 1920)
- Duncan Auto Realty, Ltd. v. Allstate Insurance Co., 754 So. 2d 863 (Fla. 3d DCA 2000)
- Auto-Owners Insurance Co. v. Anderson, 756 So. 2d 29 (Fla. 2000)
- Volusia County v. Aberdeen at Ormond Beach, L.P., 760 So. 2d 126 (Fla. 2000)
- Kattoum v. New Hampshire Indemnity Co., 968 So. 2d 602 (Fla. 2d DCA 2007)
- Leonard v. Susco Car Rental System of Florida, Inc., 103 So. 2d 243 (Fla. 3d DCA 1958)
- Frankel v. Fleming, 69 So. 2d 887 (Fla. 1954)
- State Farm Mutual Automobile Insurance Co. v. Clauson, 511 So. 2d 1085 (Fla. 3d DCA 1987)
- Government Employees Insurance Co. v. Hughes, 921 N.E.2d 269 (Ohio Ct. App. 2009)
- Indemnity Insurance Co. v. Metropolitan Casualty Insurance Co., 166 A.2d 355 (N.J. 1960)
- Bifulco v. Patient Business & Financial Services, Inc., 39 So. 3d 1255 (Fla. 2010)
