SUPREME COURT OF TEXAS

In re USAA General Indemnity Company

629 S.W.3d 878 (Tex. 2021) · No. 20-0281 · Decided June 18, 2021

SUMMARY

The Texas Supreme Court addresses whether an insured may depose an insurance carrier's corporate representative in a suit for uninsured/underinsured motorist benefits. The Court holds that the deposition is not categorically barred by lack of personal knowledge or proportionality concerns, but its scope must be limited to matters relevant to the disputed liability, damages, and coverage issues and may not extend to unasserted or abated bad-faith claims. The Court grants mandamus relief in part because some noticed topics exceeded the permissible scope.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Debra H. Lehrmann
JURISDICTION	Texas
DECIDED	June 18, 2021
DOCKET	20-0281
DISPOSITION	writ_granted
PROCEDURAL POSTURE	USAA sought mandamus relief from an order denying its motion to quash a deposition notice and subpoena duces tecum for the deposition of USAA's corporate representative in a suit seeking uninsured/underinsured motorist benefits.
STANDARD OF REVIEW	Mandamus requires the relator to show that the trial court abused its discretion and that the relator lacks an adequate remedy by appeal. A trial court abuses its discretion by ordering discovery beyond that permitted by the rules of procedure.
PRECEDENTIAL VALUE	published precedential opinion of the Supreme Court of Texas
PARTIES	USAA General Indemnity Company v. Frank Wearden

TOPICS

discovery dispute · uninsured motorist · insurance · writ of certiorari · appellate procedure

PRACTICE AREAS

civil procedure · insurance · uninsured motorist · appellate procedure · contracts

QUESTIONS PRESENTED

1. Whether the Texas discovery rules categorically prohibit a UIM insured from deposing the carrier's corporate representative when the carrier's employees lack personal knowledge of the underlying accident and damages.
2. Whether proportionality concerns under Texas Rule of Civil Procedure 192.4 required quashing the deposition because the information was cumulative, obtainable from other sources, or more burdensome than beneficial.
3. What subjects fall within the permissible scope of a corporate-representative deposition in a UIM benefits action.
4. Whether USAA had an adequate remedy by appeal from the order compelling discovery.

HOLDINGS

1. The discovery rules do not categorically prohibit a UIM insured from deposing the carrier's corporate representative merely because the representative lacks personal knowledge of the underlying accident or damages.
2. Proportionality concerns did not categorically foreclose the deposition on the record presented, because USAA failed to support its objections with evidence showing that the deposition would be unreasonably cumulative or that its burden outweighed its likely benefit.
3. The deposition may address disputed issues bearing on USAA's defenses, Bernal's liability or underinsured status, and the existence and amount of Wearden's damages, but it may not extend generally to the UIM policy, all conditions precedent, offsets at the pre-liability-and-damages stage, claims-handling matters, privileged information, or other matters beyond the claims at issue.
4. USAA was entitled to partial mandamus relief because the trial court compelled discovery beyond the permissible scope and USAA lacked an adequate appellate remedy for the resulting burden.

KEY QUOTATIONS

> *"In light of these rules, USAA's insistence that a lack of personal knowledge necessarily equates to a lack of relevant knowledge rings hollow."* (11)

> *"Accordingly, with respect to Wearden's noticed deposition topics exceeding that proper scope, we hold that the trial court abused its discretion in denying USAA's motion to quash and for protection and that USAA lacks an adequate appellate remedy."* (19)

FACTUAL BACKGROUND

Frank Wearden, an insured under an automobile policy issued by USAA, was involved in a collision with Michelle Bernal, whom he alleged was an underinsured and negligent driver. After settling with Bernal, Wearden sued USAA for breach of contract and declaratory relief seeking UIM benefits, without asserting bad-faith or other extracontractual claims. USAA conceded the existence of the policy, Wearden's insured status, coverage of the vehicle, and policy limits, but disputed issues including Bernal's liability and the existence and amount of Wearden's damages. Wearden sought to depose a USAA corporate representative concerning the policy, conditions precedent, defenses, damages valuation, liability, and offsets.

PROCEDURAL HISTORY

Frank Wearden sued USAA for breach of contract and declaratory relief concerning UIM benefits. Wearden noticed the deposition of a USAA corporate representative on nine topics. The trial court denied USAA's motion to quash, and the court of appeals denied USAA's petition for writ of mandamus. The Supreme Court of Texas conditionally granted mandamus relief in part and ordered the trial court to vacate its order to the extent it allowed questioning on impermissible topics.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The trial court must vacate its order insofar as it permits the deposition to proceed on topics impermissible under the opinion. The writ will issue only if the trial court fails to comply.

CASES CITED

- In re Prudential Insurance Co. of America, 148 S.W.3d 124 (Tex. 2004) (orig. proceeding)
- In re CSX Corp., 124 S.W.3d 149 (Tex. 2003) (orig. proceeding)
- In re K & L Auto Crushers, 2021 WL 2172535 (Tex. May 28, 2021) (orig. proceeding)
- In re State Farm Lloyds, 520 S.W.3d 595 (Tex. 2017) (orig. proceeding)
- In re State Farm Mutual Automobile Insurance Co., 2021 WL 1045651 (Tex. Mar. 19, 2021) (orig. proceeding)
- In re Luna, 2016 WL 6576879 (Tex. App.—Corpus Christi–Edinburg 2016, orig. proceeding) (mem. op.)
- Brainard v. Trinity Universal Insurance Co., 216 S.W.3d 809 (Tex. 2006)
- In re Liberty County Mutual Insurance Co., 537 S.W.3d 214 (Tex. App.—Houston [1st Dist.] 2017, orig. proceeding)
- Liberty Mutual Insurance Co. v. Sims, 2015 WL 7770166 (Tex. App.—Tyler Dec. 3, 2015, pet. denied) (mem. op.)
- In re Liberty County Mutual Insurance Co., 557 S.W.3d 851 (Tex. App.—Houston [14th Dist.] 2018, orig. proceeding)
- In re Liberty County Mutual Insurance Co., 606 S.W.3d 866 (Tex. App.—Houston [14th Dist.] 2020, orig. proceeding)
- In re Perry, 2019 WL 1723509 (Tex. App.—Corpus Christi–Edinburg Apr. 18, 2019, orig. proceeding) (mem. op.)

- In re Garrison Property & Casualty Insurance Co., 2020 WL 6164982 (Tex. App.—Tyler Oct. 21, 2020, orig. proceeding) (mem. op.)
- In re Garcia, 2007 WL 1481897 (Tex. App.—San Antonio May 23, 2007, orig. proceeding) (mem. op.)
- In re Allstate Fire & Casualty Insurance Co., 617 S.W.3d 635 (Tex. App.—Houston [14th Dist.] 2021, orig. proceeding)
- Blevins v. State Farm Mutual Automobile Insurance Co., 2018 WL 5993445 (Tex. App.—Fort Worth Nov. 15, 2018, no pet.) (mem. op.)
- In re Alford Chevrolet-Geo, 997 S.W.2d 173 (Tex. 1999) (orig. proceeding)
- Heller v. City of Dallas, 303 F.R.D. 466 (N.D. Tex. 2014)
- In re American Optical, 988 S.W.2d 711 (Tex. 1998) (orig. proceeding)
- In re Hamilton, 2020 WL 5494503 (Tex. App.—Corpus Christi–Edinburg Sept. 10, 2020, orig. proceeding) (mem. op.)

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