SUPREME COURT OF THE STATE OF MONTANA

Giacomelli v. Scottsdale Insurance Company

2009 MT 418 (Mont. 2009) · No. DA 09-0035 · Decided December 8, 2009

SUMMARY

The Montana Supreme Court affirmed summary judgment for Scottsdale Insurance Company in favor of exclusions under a commercial general liability policy. The court held that the statutory term "exhibitors" in § 23-4-205, MCA, does not include jockeys and that the athletic or sports participants exclusion unambiguously barred coverage for jockeys injured while participating in horse races. The court also held that the exclusions did not violate public policy or the insureds' objectively reasonable expectations.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice W. William Leaphart; W. William Leaphart; Mike McGrath; James C. Nelson; Jim Rice; Brian Morris
JURISDICTION	Montana
DECIDED	December 8, 2009
DOCKET	DA 09-0035
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from an order granting summary judgment in favor of Scottsdale Insurance Company in a declaratory judgment action concerning insurance coverage for jockeys' injuries.
STANDARD OF REVIEW	Summary judgment is reviewed de novo under Rule 56, viewing the evidence and reasonable inferences in the light most favorable to the nonmoving party. Statutory and contract interpretations are reviewed for correctness.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; binding precedent in Montana.
PARTIES	Tim Giacomelli, Don Hamilton, Yellowstone Horse Racing Alliance, Inc., Yellowstone County, MetraPark v. Scottsdale Insurance Company, Payne Financial Group, Inc. d/b/a Hoiness La Bar

TOPICS

insurance coverage · statutory interpretation · contract interpretation · duty to defend · duty to indemnify

PRACTICE AREAS

insurance coverage · insurance litigation · contract interpretation · statutory interpretation · appellate procedure

QUESTIONS PRESENTED

1. Whether the term "exhibitors" in § 23-4-205, MCA, includes jockeys and therefore requires liability insurance coverage for jockeys.
2. Whether the jockeys could recover from Scottsdale or invalidate the policy exclusions based on Montana law.
3. Whether the athletic-or-sports-participant exclusion in the CGL policy was ambiguous.
4. Whether the policy exclusions violated the insureds' objectively reasonable expectations of coverage.

HOLDINGS

1. The statutory term "exhibitors" does not include jockeys. In pari-mutuel horse racing, the exhibitors are the persons who organize and present the race, while jockeys are participants.
2. The jockeys could not invalidate the exclusions or recover from Scottsdale on the theory that § 23-4-205, MCA, required coverage for jockeys, because that statute does not require such coverage.
3. The athletic-or-sports-participant exclusion is unambiguous and excludes coverage for the jockeys' injuries sustained while participating in horse races.
4. The exclusions did not violate the insureds' objectively reasonable expectations because the athletic-or-sports-participant exclusion clearly and unambiguously excluded coverage for jockeys injured while participating in horse races.

KEY QUOTATIONS

> *“We determine that the better rule is that a split in authority over the interpretation of language in an insurance policy does not conclusively establish ambiguity, but rather is a factor that we will consider in determining whether ambiguity exists.”* (¶ 38)

> *“This expectation, however, was not objectively reasonable. Contrary to the Jockeys’ assertions, we have concluded that the athletic or sports participants exclusion unambiguously expresses an intent to exclude coverage for jockeys injured while participating in horse races.”* (¶ 43)

FACTUAL BACKGROUND

Tim Giacomelli and Don Hamilton were injured while riding in horse races at MetraPark in Billings, Montana, which was owned by Yellowstone County and leased to the Yellowstone Horse Racing Alliance. The Alliance purchased a commercial general liability policy from Scottsdale as required by the lease, and Yellowstone County was an additional insured. Scottsdale refused to defend or indemnify the insureds based on special-event-participant and athletic-or-sports-participant exclusions after the jockeys asserted negligence claims arising from their injuries during the races.

PROCEDURAL HISTORY

Giacomelli and Hamilton were injured during horse races and sued Yellowstone County and the Yellowstone Horse Racing Alliance for negligence. After settling those suits, the jockeys received an assignment of the insureds' claims against Scottsdale and filed a declaratory judgment action seeking coverage and enforcement of Scottsdale's duties to defend and indemnify. The District Court for the Thirteenth Judicial District denied the jockeys' summary-judgment motion, held that the policy exclusions were unambiguous and did not violate public policy or the insureds' reasonable expectations, and the Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Natl. Cas. Co. v. Am. Bankers Ins. Co. of Fla., 2001 MT 28, ¶ 13, 304 Mont. 163, 19 P.3d 223
- Peyatt v. Moore, 2004 MT 341, ¶ 13, 324 Mont. 249, 102 P.3d 535
- Signal Perfection, Ltd. v. Rocky Mt. Bank – Billings, 2009 MT 365, ¶ 10, 353 Mont. 237, __ P.3d __
- State v. Skyline Broadcasters, Inc., 2009 MT 193, ¶ 12, 351 Mont. 127, 211 P.3d 189
- Smith v. Burlington N. & Santa Fe Ry., 2008 MT 225, ¶ 22, 344 Mont. 278, 187 P.3d 639
- Fliehler v. Unisured Employers Fund, 2002 MT 125, ¶ 13, 310 Mont. 99, 48 P.3d 746
- Czajkowski v. Meyers, 2007 MT 292, ¶ 24, 339 Mont. 503, 172 P.3d 94
- Colmore v. Uninsured Employers' Fund, 2005 MT 239, ¶ 72, 328 Mont. 441, 121 P.3d 1007
- Associated Press v. Mont. Sen. Republican Caucus, 286 Mont. 172, 179-80, 951 P.2d 65, 69-70 (1997)
- In re Mental Health of E.T., 2008 MT 299, ¶ 13, 345 Mont. 497, 191 P.3d 470
- Gannett Satellite Info. Network, Inc. v. State, 2009 MT 5, ¶ 20, 348 Mont. 333, 201 P.3d 132
- Mont. Sports Shooting Assn. v. State, 2008 MT 190, ¶ 25, 344 Mont. 1, 185 P.3d 1003
- Ross v. Golden St. Rodeo Co., 165 Mont. 337, 348, 530 P.2d 1166, 1172 (1974)
- Kuhr v. City of Billings, 2007 MT 201, ¶ 29, 338 Mont. 402, 168 P.3d 615
- Christenot v. State, 272 Mont. 396, 400, 901 P.2d 545, 548 (1995)
- Hoyt v. Northern Maine Fair Assn., 118 A. 290, 292 (Me. 1922)
- Haynes v. County of Missoula, 163 Mont. 270, 517 P.2d 370 (1973)
- Lindemann v. American Horse Shows Assn., 164 Misc. 2d 937 (N.Y. Sup. 1994)
- Morrison v. Union Park Assn., 149 A. 804 (Me. 1930)
- Modroo v. Nationwide Mut. Fire Ins. Co., 2008 MT 275, ¶ 23, 345 Mont. 262, 191 P.3d 389
- Natl. Farmers Union Prop. & Cas. Co. v. George, 1998 MT 205, ¶ 12, 290 Mont. 386, 963 P.2d 1259
- Pablo v. Moore, 2000 MT 48, ¶¶ 15, 22, 298 Mont. 393, 995 P.2d 460
- Wendell v. State Farm Mutual Automobile Insurance Co., 1999 MT 17, ¶¶ 29, 41, 293 Mont. 140, 974 P.2d 623
- Sullins v. Allstate Ins. Co., 667 A.2d 617, 624 (Md. 1995)

- Lower Paxton Township v. U.S. Fid. & Guar. Co., 557 A.2d 393, 400 n. 4 (Pa. Super. 1989)
- Johnson v. Eq. Fire & Marine Ins. Co., 142 Mont. 128, 131, 381 P.2d 778, 779 (1963)
- Mitchell v. German Com. Accident Co., 161 S.W. 362, 363 (Mo. App. 1913)
- Am. Family Mut. Ins. Co. v. Livengood, 1998 MT 329, ¶¶ 32-33, 292 Mont. 244, 970 P.2d 1054
- Transamerica Ins. Co. v. Royle, 202 Mont. 173, 180-81, 656 P.2d 820, 824 (1983)
- Wellcome v. Home Ins. Co., 257 Mont. 354, 359, 849 P.2d 190, 194 (1993)
- National Fire & Marine Ins. Co. v. Adoreable Promotions, Inc., 451 F. Supp. 2d 1301, 1307-10 (M.D. Fla. 2006)