SUPREME COURT OF NEVADA

State Farm Mutual Automobile Insurance Company v. Hansen

2015 NV 74 (Nev. 2015) · No. 64484 · Decided September 24, 2015

SUMMARY

The Nevada Supreme Court answered two certified questions concerning an insurer’s obligation to provide independent counsel when the insurer and insured have conflicting legal interests. The court held that Nevada law requires the insurer to permit the insured to select independent counsel and pay reasonable costs when an actual conflict exists, but a reservation of rights does not create a per se conflict.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Cherry, J.; Saitta, J.; Gibbons, J.; Pickering, J.
JURISDICTION	Nevada
DECIDED	September 24, 2015
DOCKET	64484
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Nevada answered two certified questions from the United States District Court for the District of Nevada under NRAP 5 concerning an insurer's obligation to provide independent counsel when a conflict of interest arises and whether a reservation of rights creates a per se conflict.
STANDARD OF REVIEW	The court addressed certified questions of Nevada law and limited its factual consideration to the facts stated in the federal court's certification order.
PRECEDENTIAL VALUE	Published Nevada Supreme Court en banc opinion; precedential.
PARTIES	State Farm Mutual Automobile Insurance Company v. Stephen Tanner Hansen, Trace K. [surname unclear in source text]

TOPICS

duty to defend · insurance coverage · insurance · appellate procedure · contracts

PRACTICE AREAS

insurance | insurance coverage | professional responsibility | appellate procedure

QUESTIONS PRESENTED

1. Whether Nevada law requires an insurer to provide independent counsel for its insured when a conflict of interest arises between the insurer and the insured.
2. Whether a reservation of rights creates a per se conflict of interest requiring the insurer to provide independent counsel.

HOLDINGS

1. When an actual conflict of interest exists between an insurer and its insured, Nevada law requires the insurer to satisfy its contractual duty to defend by permitting the insured to select independent counsel and paying the reasonable costs of that representation.
2. A reservation of rights does not create a per se conflict of interest. The insurer must provide independent counsel only when the facts establish an actual, significant conflict of interest.

KEY QUOTATIONS

> *"We conclude that Nevada law requires an insurer to provide independent counsel for its insured when a conflict of interest arises between the insurer and the insured."* (2015 NV 74, at 1)

> *"A reservation of rights letter does not create a per se conflict of interest."* (2015 NV 74, at 1)

> *"When a conflict of interest exists between an insurer and its insured, Nevada law requires the insurer to satisfy its contractual duty to provide representation by permitting the insured to select independent counsel and by paying the reasonable costs of such counsel."* (2015 NV 74, at 9)

FACTUAL BACKGROUND

Stephen Hansen was injured when a vehicle driven by Brad Aguilar struck the vehicle in which Hansen was riding after a house-party altercation. Hansen sued Aguilar for negligence and intentional torts, and State Farm agreed to defend Aguilar while reserving the right to deny coverage for intentional acts and punitive damages. Aguilar admitted negligence, obtained summary judgment on that claim, settled with Hansen, and assigned his rights against State Farm to Hansen.

PROCEDURAL HISTORY

Aguilar was defended by State Farm under a reservation of rights after Hansen sued Aguilar for negligence and intentional torts. After Aguilar admitted negligence, the state district court granted summary judgment on the negligence claim, and Aguilar settled with Hansen and assigned his rights against State Farm. Hansen then sued State Farm in federal district court, alleging breach of contract, breach of the implied covenant, statutory bad faith, and related claims. The federal district court initially found that State Farm breached its duty to defend by failing to provide independent counsel, reconsidered in part, and certified two questions to the Nevada Supreme Court, which accepted them as issues of first impression.

DISPOSITION

other

REMAND INSTRUCTIONS

The certified questions were answered; the opinion did not direct a remand or otherwise adjudicate the federal case.

CASES CITED

- In re Fontainebleau Las Vegas Holdings, 128 Nev., Adv. Op. 53, 289 P.3d 1199 (2012)
- San Diego Navy Fed. Credit Union v. Cumis Ins. Soc'y, Inc., 208 Cal. Rptr. 494, 506 (Ct. App. 1984)
- United Enters., Inc. v. Superior Court, 108 Cal. Rptr. 3d 25 (App. 2010)
- Finley v. Home Ins. Co., 975 P.2d 1145, 1152-53 (Haw. 1998)
- Nev. Yellow Cab Corp. v. Eighth Judicial Dist. Court, 123 Nev. 44, 51-52, 152 P.3d 737, 741-42 (2007)
- Unigard Ins. Grp. v. O'Flaherty & Belgum, 45 Cal. Rptr. 2d 565, 568-69 (Ct. App. 1995)
- L & S Roofing Supply Co. v. St. Paul Fire & Marine Ins. Co., 521 So. 2d 1298, 1303-04 (Ala. 1987)
- Higgins v. Karp, 687 A.2d 539, 543 (Conn. 1997)
- In re Youngblood, 895 S.W.2d 322, 328 (Tenn. 1995)
- Tank v. State Farm Fire & Cas. Co., 715 P.2d 1133, 1137 (Wash. 1986)
- Norman v. Ins. Co. of N. Am., 239 S.E.2d 902, 907 (Va. 1978)
- Duval Ranching Co. v. Glickman, 930 F. Supp. 469, 473 (D. Nev. 1996)
- Rodriguez v. Disner, 688 F.3d 645, 655 (9th Cir. 2012)
- Patrons Oxford Ins. Co. v. Harris, 905 A.2d 819, 825-26 (Me. 2006)
- Pueblo Santa Fe Townhomes Owners' Ass'n v. Transcon. Ins. Co., 178 P.3d 485, 491 (Ariz. Ct. App. 2008)
- Herbert A. Sullivan, Inc. v. Utica Mut. Ins. Co., 788 N.E.2d 522, 539 (Mass. 2003)
- Travelers Prop. v. Centex Homes, No. C 10-02757 CRB, 2011 WL 1225982, at *8 (N.D. Cal. Apr. 1, 2011)
- Cardin v. Pac. Emps. Ins. Co., 745 F. Supp. 330, 336 (D. Md. 1990)
- Mut. Serv. Cas. Ins. Co. v. Luetmer, 474 N.W.2d 365, 368 (Minn. Ct. App. 1991)
- Nisson v. Am. Home Assurance Co., 917 P.2d 488, 490 (Okla. Civ. App. 1996)
- Fed. Ins. Co. v. MBL, Inc., 160 Cal. Rptr. 3d 910, 920 (Ct. App. 2013)