SUPREME COURT OF ALABAMA

Pamela Hanner, as guardian of Stephen D. Hanner v. Metro Bank and Protective Life Insurance Company

952 So. 2d 1056 (Ala. 2006) · No. 1041966 · Decided September 15, 2006

SUMMARY

The Alabama Supreme Court initially remanded the appeal because the trial court's summary judgment was not final in light of consolidated claims and the absence of a clear Rule 54(b) certification. On return to remand, the court considered the merits of a dispute over life-insurance proceeds assigned as collateral to a bank loan. The court held that the divorce judgment created a vested equitable interest in the child's benefit, and it addressed whether the bank's assignment and knowledge of the divorce judgment affected its rights to the proceeds.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Lyons, Justice; Harwood, Justice; Woodall, Justice; Bolin, Justice; Parker, Justice
JURISDICTION	Alabama
DECIDED	September 15, 2006
DOCKET	1041966
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from summary judgments favoring Metro Bank and Protective Life Insurance Company in a declaratory-judgment action, Pamela Hanner's counterclaims against Protective Life, and her cross-claims against Metro Bank. The Supreme Court initially remanded because the appealed order was not final after consolidation; on return to remand, the trial court entered Rule 54(b) certification and the Supreme Court reached the merits.
STANDARD OF REVIEW	Summary judgment is reviewed under the same standard applicable to its entry: the movant must show no genuine issue of material fact and entitlement to judgment as a matter of law; evidence is viewed favorably to the nonmovant, who must present substantial evidence creating a genuine issue. Questions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Alabama; precedential.

PARTIES	Pamela Hanner, as guardian of Stephen D. Hanner v. Metro Bank, Protective Life Insurance Company

TOPICS

life insurance litigation · insurance coverage · divorce · summary judgment · appellate jurisdiction

PRACTICE AREAS

life insurance · insurance coverage · family law · civil procedure · appellate procedure

QUESTIONS PRESENTED

1. Whether the appeal could proceed from a summary judgment entered in one of two consolidated actions without a Rule 54(b) certification.
2. Whether the divorce judgment created in Stephen a vested equitable interest in the State Farm life-insurance policy.
3. Whether substantial evidence supported treating the Protective Life policy as a replacement for the State Farm policy, thereby extending Stephen's vested equitable interest to the Protective Life policy.
4. Whether assignment of the Protective Life policy to Metro Bank defeated or subordinated Stephen's equitable interest.
5. Whether factual questions concerning Metro Bank's and Protective Life's notice of Stephen's interest precluded summary judgment on the declaratory-judgment claim.
6. Whether factual questions precluded summary judgment on Pamela's conversion and unjust-enrichment claims against Metro Bank and breach-of-contract and bad-faith claims against Protective Life.
7. Whether summary judgment on Pamela's conversion and negligence claims against Protective Life was properly affirmed based on her failure to adequately argue those claims on appeal.
8. Whether Pamela was entitled to summary judgment.

HOLDINGS

1. A trial court must certify a judgment as final under Rule 54(b), Ala. R. Civ. P., before a judgment resolving fewer than all claims in a consolidated action may be appealed, unless all claims and parties in the consolidated actions have been adjudicated.
2. A divorce judgment requiring a parent to maintain a specified life-insurance policy and name a minor child as an irrevocable beneficiary creates in the child a vested equitable interest in that policy.
3. Substantial evidence created a jury question whether the Protective Life policy was purchased as a replacement for the State Farm policy covered by the divorce judgment; if so, Stephen had a vested equitable interest in the Protective Life policy.
4. An assignment of the policy to a creditor is not materially different from naming another beneficiary when determining whether the assignment defeats a beneficiary's vested equitable interest; an assignment may subordinate the beneficiary's interest to the creditor's interest.

5. Whether Metro Bank and Protective Life had notice sufficient to require further inquiry into Stephen's interest was a question for the jury, precluding summary judgment on the declaratory-judgment claim.
6. Summary judgment for Metro Bank on Pamela's conversion and unjust-enrichment claims was improper because genuine issues of material fact existed regarding Metro Bank's knowledge and entitlement to the insurance proceeds.
7. Summary judgment for Protective Life on Pamela's breach-of-contract claim was improper because the extent of Protective Life's knowledge of Stephen's interest before assignment or payment was a jury question.
8. Summary judgment on Pamela's bad-faith claim was premature because further factual findings concerning Protective Life's knowledge were necessary to determine whether a contract breach occurred and, if so, whether it was in bad faith, or whether the conduct constituted an abnormal bad-faith failure to pay.
9. The summary judgment against Pamela on her conversion and negligence claims against Protective Life was affirmed because she failed to cite authority or otherwise present developed appellate arguments on those claims.

KEY QUOTATIONS

> *"Accordingly, we hold that a trial court must certify a judgment as final pursuant to Rule 54(b), Ala. R. Civ. P., before a judgment on fewer than all the claims in a consolidated action can be appealed."* (1061)

> *"An agreement by an insured, in consideration of the settlement of property rights by which he agrees to make his children the sole irrevocable beneficiaries of a policy of life insurance, vests them with an equitable interest therein which may not be defeated without their consent."* (1064)

> *"Therefore, we deem the question whether Metro Bank had a duty to inquire further into the possibility of another's interest in the policy to be a question of fact for the jury, and we reverse the summary judgment for Metro Bank in the declaratory-judgment action."* (1068)

> *"AFFIRMED IN PART; REVERSED IN PART; AND REMANDED."* (1072)

FACTUAL BACKGROUND

A 1994 divorce judgment required Bret Hanner to maintain then-existing life-insurance coverage and name his minor son Stephen as an irrevocable beneficiary. Bret allowed the original State Farm policy and a later Primerica policy to lapse, then purchased a Protective Life policy naming Stephen as beneficiary of $75,000 and his new wife as beneficiary of $25,000. Bret assigned the Protective Life policy to Metro Bank as collateral for a loan, and after Bret's death Protective Life paid the policy proceeds to Metro Bank despite evidence that the bank and insurer knew Stephen had an interest connected to the divorce judgment.

PROCEDURAL HISTORY

Protective Life filed a declaratory-judgment action concerning ownership of proceeds from a life-insurance policy assigned by Bret Hanner to Metro Bank as collateral. Pamela Hanner counterclaimed against Protective Life for breach of contract, bad faith, conversion, and negligence, and cross-claimed against Metro Bank for conversion and unjust enrichment; a separate action against Bret's estate and widow was consolidated with the declaratory action. The trial court granted summary judgment to Metro Bank and Protective Life and denied Pamela's motion. The Supreme Court first remanded for a Rule 54(b) certification or adjudication of the remaining claims, after which the trial court certified the summary judgment as final. On the merits, the Supreme Court affirmed in part, reversed in part, and remanded.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

The trial court was directed to conduct further proceedings on the declaratory-judgment claim, Metro Bank's conversion and unjust-enrichment claims, Protective Life's breach-of-contract and bad-faith claims, and other claims for which summary judgment was reversed. Summary judgment on Pamela's conversion and negligence claims against Protective Life was affirmed, as was the denial of Pamela's summary-judgment motion.

CASES CITED

- Robinson v. Computer Servicenters, Inc., 360 So. 2d 299, 302 (Ala. 1978)
- Wilson v. Wilson, 736 So. 2d 633, 634 (Ala. Civ. App. 1999)
- Huene v. United States, 743 F.2d 703, 705 (9th Cir. 1984)
- Trinity Broadcasting Corp. v. Eller, 827 F.2d 673, 675 (10th Cir. 1987)
- Spraytex, Inc. v. DJS&T, 96 F.3d 1377, 1382 (Fed. Cir. 1996)
- Schneider National Carriers, Inc. v. Tinney, 776 So. 2d 753, 755 (Ala. 2000)
- Sho-Me Motor Lodges, Inc. v. Jehle-Slauson Construction Co., 466 So. 2d 83, 87 (Ala. 1985)
- Foster v. Greer & Sons, Inc., 446 So. 2d 605, 609-10 (Ala. 1984)
- Ex parte Andrews, 520 So. 2d 507, 510 (Ala. 1987)
- McClendon v. Mountain Top Indoor Flea Market, Inc., 601 So. 2d 957, 958 (Ala. 1992)
- West v. Founders Life Assurance Co. of Florida, 547 So. 2d 870, 871 (Ala. 1989)
- Capital Alliance Insurance Co. v. Thorough-Clean, Inc., 639 So. 2d 1349, 1350 (Ala. 1994)
- Alabama Republican Party v. McGinley, 893 So. 2d 337, 342 (Ala. 2004)
- Williams v. Williams, 276 Ala. 43, 158 So. 2d 901 (1963)
- Frawley v. U.S. Steel Mining Co., 496 So. 2d 731 (Ala. 1986)
- Brown v. Brown, 604 So. 2d 365 (Ala. 1992)
- Rountree v. Frazee, 282 Ala. 142, 209 So. 2d 424, 426 (1968)
- Wewahitchka State Bank v. Mixon, 504 So. 2d 1328 (Fla. Dist. Ct. App. 1987)
- Berryman v. Adams, 883 So. 2d 214 (Ala. Civ. App. 2003)
- Manning v. Wingo, 577 So. 2d 865, 868 (Ala. 1991)
- Rolling 'R' Construction, Inc. v. Dodd, 477 So. 2d 330, 331-32 (Ala. 1985)
- McLaughlin v. Pannell Kerr Forster, 504 So. 2d 264, 265 (Ala. 1987)

- State Security Life Insurance Co. v. Henson, 288 Ala. 497, 262 So. 2d 745, 751 (1972)
- Strickland v. Kafko Manufacturing, Inc., 512 So. 2d 714, 716 (Ala. 1987)
- Rau v. Rau, 429 So. 2d 593 (Ala. Civ. App. 1982)
- Holley v. Holley, 660 So. 2d 608, 610 (Ala. Civ. App. 1995)
- State Farm Fire & Casualty Co. v. Slade, 747 So. 2d 293 (Ala. 1999)
- City of Birmingham v. Business Realty Investment Co., 722 So. 2d 747, 752 (Ala. 1998)
- Ex parte Riley, 464 So. 2d 92, 94 (Ala. 1985)
- Tanner v. State Farm Fire & Casualty Co., 874 So. 2d 1058, 1066 (Ala. 2003)
- Lloyd Noland Foundation v. City of Fairfield Healthcare Authority, 837 So. 2d 253, 263 (Ala. 2002)
- National Security Fire & Casualty Co. v. Vintson, 414 So. 2d 49, 51 (Ala. 1982)
- U.S.F.&G. v. McKinnon, 356 So. 2d 600 (Ala. 1978)