SUPREME COURT OF KANSAS

Phillips v. St. Paul Fire & Marine Insurance Co., 289 Kan. 521

213 P.3d 1066 (2009) · No. No. 97,806 · Decided August 28, 2009

SUMMARY

The Kansas Supreme Court held that a valid prior written rejection of higher underinsured motorist coverage limits remained effective for any subsequent policy issued by the same insurer to the same insured under K.S.A. 40-284(c). Because the Unified Government had previously rejected the higher limit, the 1999 rejection controlled its 2003 policy with St. Paul despite an intervening lapse in coverage and an incomplete 2003 rejection form. The court reversed the district court, vacated the attorney fees award, and affirmed the Court of Appeals.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Beier, J.
JURISDICTION	Kansas
DECIDED	August 28, 2009
DOCKET	No. 97,806
DISPOSITION	reversed
PROCEDURAL POSTURE	Phillips pursued a claim for underinsured motorist benefits against St. Paul after settling with the juvenile driver and dismissing his claim against Mid-Century Insurance Company. Both parties moved for summary judgment. The district court granted Phillips summary judgment and awarded attorney fees. The Court of Appeals reversed and remanded, and the Kansas Supreme Court granted Phillips's petition for review.
STANDARD OF REVIEW	Because the material facts were undisputed, the Supreme Court applied unlimited review. It also reviewed statutory interpretation questions de novo and applied the same summary-judgment standard as the district court.
PRECEDENTIAL VALUE	Published Kansas Supreme Court opinion; precedential.
PARTIES	St. Paul Fire & Marine Insurance Co. v. Douglas Phillips

TOPICS

uninsured motorist · insurance coverage · statutory interpretation · plain meaning rule · appellate procedure

PRACTICE AREAS

Insurance law · Appellate practice · Statutory interpretation

QUESTIONS PRESENTED

1. Whether the Unified Government's valid 1999 written rejection of the higher UIM coverage limit controlled the UIM limit in its 2003 policy with St. Paul despite the intervening lapse in coverage and the defective 2003 rejection form.
2. Whether St. Paul denied Phillips's UIM claim without just cause or excuse and was therefore liable for attorney fees.
3. Whether the attorney fees awarded by the district court were reasonable.

HOLDINGS

1. Under K.S.A. 40-284(c), a valid prior written rejection of higher UIM coverage remains effective for any subsequent policy issued by the same insurer to the same insured unless the insured revokes the earlier rejection or requests higher coverage in writing. The subsequent policy need not be a renewal policy, and an intervening lapse in coverage or business relationship does not automatically revoke the rejection.
2. Phillips was not entitled to the attorney-fee award because the merits ruling required summary judgment in favor of St. Paul; the attorney-fee issue was therefore moot and the award was vacated.
3. The reasonableness of the attorney-fee award need not be decided because the merits ruling rendered the attorney-fee issues moot; the award was vacated.

KEY QUOTATIONS

> *"When an insured has previously rejected a higher coverage limit for statutorily mandated UIM insurance, that rejection controls any subsequent policy issued by the same insurer to the same insured for such insurance unless the insured has revoked the earlier rejection in writing."* (213 P.3d at 1071)

> *"The subsequent policy need not be a renewal policy, and an intervening lapse in coverage or the business relationship of the insured and insurer does not automatically revoke an earlier rejection."* (213 P.3d at 1071)

FACTUAL BACKGROUND

In 1999, the Unified Government obtained automobile insurance from St. Paul and signed a written rejection of the higher UIM limit, resulting in a $50,000 limit rather than $500,000. St. Paul did not insure the Unified Government in 2000, 2001, or 2002, but insured it again in 2003. Although the 2003 rejection form was incompletely filled out, the policy listed a $50,000 UIM limit, the Unified Government paid for $50,000 of coverage, and its risk manager stated that amount was the coverage intended.

PROCEDURAL HISTORY

Phillips sued St. Paul, Mid-Century, and the juvenile driver after a 2003 accident involving a Unified Government street-department truck. After settling with the juvenile and dismissing Mid-Century, Phillips proceeded against St. Paul for UIM benefits. The district court ruled that the 2003 rejection form unlawfully limited mandatory UIM coverage, granted Phillips summary judgment, and awarded attorney fees. The Court of Appeals reversed and remanded. The Kansas Supreme Court reversed the district court, vacated the attorney-fee award, and affirmed the Court of Appeals.

DISPOSITION

reversed

CASES CITED

- Phillips v. St. Paul Fire & Marine Ins. Co., 39 Kan. App. 2d 758, 184 P.3d 280 (2008)
- Mitchell v. Liberty Mut. Ins. Co., 271 Kan. 684, 24 P.3d 711 (2001)
- Troutman v. Curtis, 286 Kan. 452, 185 P.3d 930 (2008)
- Nungesser v. Bryant, 283 Kan. 550, 153 P.3d 1277 (2007)
- Cooke v. Gillespie, 285 Kan. 748, 176 P.3d 144 (2008)
- Higgins v. Abilene Machine, Inc., 288 Kan. 359, 204 P.3d 1156 (2009)
- Winnebago Tribe of Nebraska v. Kline, 283 Kan. 64, 150 P.3d 892 (2007)
- State v. Stallings, 284 Kan. 741, 163 P.3d 1232 (2007)
- In re K.M.H., 285 Kan. 53, 169 P.3d 1025 (2007)