SUPREME COURT OF CONNECTICUT

Arrowood Indem. Co. v. King, 304 Conn. 179

39 A.3d 712 (2012) · No. No. 18658 · Decided March 27, 2012

SUMMARY

The Supreme Court of Connecticut answered three certified questions concerning homeowners insurance coverage for injuries arising from an all-terrain vehicle accident. The court held that the relevant insured location is the site of the accident, that the private dead-end road was not an insured location under the policy, and that post-accident social interactions did not justify delayed notice. The court also held that an insurer bears the burden of proving prejudice from untimely notice.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Harper, J.; Rogers, C.J.; Norcott, J.; Palmer, J.; Zarella, J.; McLachlan, J.; Eveleigh, J.
JURISDICTION	Connecticut
DECIDED	March 27, 2012
DOCKET	No. 18658
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Connecticut decided three certified questions of Connecticut insurance law referred by the United States Court of Appeals for the Second Circuit.
STANDARD OF REVIEW	The court construed the insurance policy as a question of law, applying ordinary principles of contract interpretation and reviewing the certified legal questions independently.
PRECEDENTIAL VALUE	Published and precedential Connecticut Supreme Court opinion answering certified questions of state law.
PARTIES	Arrowood Indemnity Company v. Pendleton King, Daphne King, Pendleton King, Jr., National Surety Corporation

TOPICS

insurance coverage · duty to defend · duty to indemnify · contract interpretation · appellate procedure

PRACTICE AREAS

insurance law · contract law · appellate procedure

QUESTIONS PRESENTED

1. Whether the phrase "on an insured location" in the homeowners policy refers to the location of the ATV at the time of entrustment, the location where it was garaged, or the location of the accident.
2. Whether the dead-end private road where the accident occurred constituted premises used in connection with the residence premises and therefore an insured location.
3. Whether social interactions between the insureds and the injured claimant's family, without reference to a claim, justified delaying notice of the potential claim.
4. Which party bears the burden of proving prejudice resulting from untimely notice under Connecticut law.

HOLDINGS

1. The phrase "on an insured location" refers to the location of the ATV at the time of the accident giving rise to the insurance claim, not its location when entrusted or where it was regularly garaged.
2. The dead-end private road where the ATV accident occurred was not an insured location under the policy and therefore the accident was not covered.
3. Social interactions between the Kings and the injured child's family that did not reference a potential claim did not justify delaying notice because the severity and circumstances of the accident would have led a reasonable person to believe that liability may have been incurred.
4. When an insurer relies on untimely notice to disclaim coverage, the insurer bears the burden of proving by a preponderance of the evidence that it was prejudiced by the delay.

KEY QUOTATIONS

> *"The determinative question is the intent of the parties, that is, what coverage the ... [insured] expected to receive and what the [insurer] was to provide, as disclosed by the provisions of the policy."* (304 Conn. at 218)

> *"We conclude that the natural and ordinary meaning of the phrase "on an [i]nsured location" unambiguously refers to the location of the ATV at the time of the accident giving rise to the insurance claim."* (304 Conn. at 219)

> *"We hold that the severity and circumstances of the injury in this case were such that a reasonable person would have known that "liability may have been incurred" and that social interactions following the injury, in which the victim in no way disclaimed the possibility of bringing an action, did not bear on the Kings' obligation to give notice within a reasonable time following the accident."* (304 Conn. at 224)

> *"We overrule Aetna Casualty & Surety Co. v. Murphy, 206 Conn. 409, 538 A.2d 219 (1988), to the extent that it allocated the burden to the insured to disprove prejudice, and we hold that the insurer bears the burden of*

> *proving, by a preponderance of evidence, that it has been prejudiced by the insured's failure to comply with a notice provision."* (304 Conn. at 225-26)

FACTUAL BACKGROUND

The Kings owned a homeowner's insurance policy covering their residence in a private residential development. Their fourteen-year-old son drove an all-terrain vehicle owned by his parents on a dead-end private road and towed a friend on a skateboard; the friend fell, suffered a severe head injury, and was hospitalized in a temporary coma. The accident occurred approximately fifty to seventy-five feet from the Kings' property, and the Kings did not notify their insurer until more than a year later, after receiving a letter from the injured child's attorney.

PROCEDURAL HISTORY

Arrowood's predecessor insurers brought a federal declaratory judgment action seeking a declaration that they owed no duty to defend or indemnify the Kings for an ATV-related injury. The United States District Court for the District of Connecticut granted summary judgment for the insurers. The Kings appealed, and the Second Circuit certified three unresolved questions of Connecticut law to the Connecticut Supreme Court.

DISPOSITION

other

REMAND INSTRUCTIONS

The court answered the three certified questions; it did not direct a remand because the questions were certified by the Second Circuit. No costs were taxed in the Connecticut Supreme Court.

CASES CITED

- Royal Indemnity Co. v. King, 512 F. Supp. 2d 117 (D. Conn. 2007)
- Arrowood Indemnity Co. v. King, 605 F.3d 62, 72-80 (2d Cir. 2010)
- Enviro Express, Inc. v. AIU Ins. Co., 279 Conn. 194, 199, 901 A.2d 666 (2006)
- Johnson v. Connecticut Ins. Guaranty Assn., 302 Conn. 639, 643, 31 A.3d 1004 (2011)
- LaBonte v. Federal Mutual Ins. Co., 159 Conn. 252, 257, 268 A.2d 663 (1970)
- Iorio v. Simone, 340 N.J. Super. 19, 23, 773 A.2d 722 (2001)
- Bankert v. Threshermen's Mutual Ins. Co., 110 Wis. 2d 469, 480, 329 N.W.2d 150 (1983)
- Greeley v. Cunningham, 116 Conn. 515, 520, 165 A. 678 (1933)
- Uguccioni v. United States Fidelity & Guaranty Co., 408 Pa. Super. 511, 513-14, 597 A.2d 149 (1991)
- Aetna Casualty & Surety Co. v. Murphy, 206 Conn. 409, 417-20, 538 A.2d 219 (1988)
- National Publishing Co. v. Hartford Fire Ins. Co., 287 Conn. 664, 674-75, 949 A.2d 1203 (2008)
- Plasticrete Corp. v. American Policyholders Ins. Co., 184 Conn. 231, 241, 439 A.2d 968 (1981)
- Baker v. Metropolitan Casualty Ins. Co., 118 Conn. 147, 149-54, 171 A. 7 (1934)
- Allstate Ins. Co. v. Shofner, 573 So. 2d 47, 49 (Fla. App. 1990)

- Chen v. Celon, Superior Court, judicial district of Fairfield, Docket No. CV-02-0391304-S, 2006 WL 3008410 (Oct. 10, 2006)