COURT OF APPEALS OF THE STATE OF GEORGIA

Elizabeth Langley v. Travelers Home and Marine Insurance Company

Langley · No. A21A1393 · Decided June 15, 2021

SUMMARY

The Georgia Court of Appeals dismissed the appeal for lack of jurisdiction. The trial court had dismissed claims against non-party insurers but had not resolved the claims against Apex, had not directed entry of judgment under OCGA § 9-11-54 (b), and the plaintiff had not followed the interlocutory appeal procedures under OCGA § 5-6-34 (b).

CASE DETAILS

COURT	Court of Appeals of the State of Georgia
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Georgia
DECIDED	June 15, 2021
DOCKET	A21A1393
DISPOSITION	dismissed
PROCEDURAL POSTURE	Direct appeal from an order dismissing claims against nonparty entities and denying the plaintiff's motion to substitute a defendant.
STANDARD OF REVIEW	De novo review of appellate jurisdiction and whether the order was a final appealable judgment.
PRECEDENTIAL VALUE	Published Georgia Court of Appeals opinion
PARTIES	Elizabeth Langley v. Travelers Home and Marine Insurance Company, Apex Disaster Management, Inc., Geico Insurance Company, Phoenix Insurance Company, Travelers Insurance Company

TOPICS

appellate jurisdiction · final judgment rule · interlocutory appeal · appellate procedure · breach of contract

PRACTICE AREAS

appellate procedure · civil procedure · insurance · contracts

QUESTIONS PRESENTED

1. Whether the Court of Appeals had jurisdiction over a direct appeal from an order resolving claims against fewer than all parties when the trial court did not enter an express determination under OCGA § 9-11-54 (b) and the appellant did not follow the interlocutory appeal procedures of OCGA § 5-6-34 (b).

HOLDINGS

1. An order resolving claims against fewer than all parties is not a final judgment when other claims remain pending, absent an express determination for entry of judgment under OCGA § 9-11-54 (b).
2. An appeal from a nonfinal order must comply with the interlocutory appeal requirements of OCGA § 5-6-34 (b); failure to do so deprives the Court of Appeals of jurisdiction and requires dismissal.

KEY QUOTATIONS

> *"In such circumstances, there must be an express determination under OCGA § 9-11-54 (b) or there must be compliance with the interlocutory appeal requirements of OCGA § 5-6-34 (b). Where neither of these code sections [is] followed, the appeal is premature and must be dismissed."*

> *"Plaintiff's failure to follow the required appellate procedures deprives us of jurisdiction over this appeal, which is hereby DISMISSED."*

FACTUAL BACKGROUND

Langley brought a breach-of-contract action alleging that her insurer mishandled and failed to pay a homeowners insurance claim. Although the complaint named Apex Disaster Management, Inc. and an entity identified as "Travel Insurance thru Geico," service was made or attempted on Geico Insurance Company, Phoenix Insurance Company, and Travelers Insurance Company. Langley conceded that she had misidentified her insurer and sought to substitute another entity as a defendant.

PROCEDURAL HISTORY

Langley filed a breach-of-contract action concerning the handling and nonpayment of a homeowners insurance claim. The trial court dismissed motions filed by entities that were not named defendants and denied Langley's motion to substitute another entity as a defendant. Langley filed a direct appeal, but the Court of Appeals dismissed it for lack of jurisdiction because claims against Apex remained unresolved and the requirements for either a final judgment or an interlocutory appeal were not satisfied.

DISPOSITION

dismissed

CASES CITED

- Johnson v. Hosp. Corp. of America, 192 Ga. App. 628, 629 (385 SE2d 731) (1989)
- Pace Constr. Corp. v. Northpark Assocs., 215 Ga. App. 438, 439-440 (450 SE2d 828) (1994)