

COURT OF APPEALS OF TEXAS, FOURTEENTH DISTRICT

Hand & Wrist Center of Houston, P.A. v. Lowery Masonry, LLC

No. 14-19-00539-CV · No. No. 14-19-00539-CV · Decided December 22, 2020

SUMMARY

The Texas Fourteenth Court of Appeals reviewed a traditional summary judgment in a breach-of-guaranty action involving medical expenses for an injured employee. The court held that the employer's interpretation of an exception concerning workers' compensation insurance would render the phrase "additional payment" meaningless and therefore was not conclusively established as the only reasonable interpretation. The court reversed the summary judgment and remanded for further proceedings.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourteenth District
WRITING FOR THE COURT	Kevin Jewell; Christopher; Zimmerer
JURISDICTION	Texas
DECIDED	December 22, 2020
DOCKET	No. 14-19-00539-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a traditional summary judgment denying Hand & Wrist Center recovery under a guaranty agreement.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The court takes as true all evidence favorable to the nonmovant, indulges every reasonable inference in the nonmovant's favor, and resolves doubts in the nonmovant's favor. A traditional summary-judgment movant must conclusively establish entitlement to judgment as a matter of law; if the movant fails to meet that burden, reversal is required regardless of the nonmovant's opposing arguments or response.
PRECEDENTIAL VALUE	Published Texas Court of Appeals memorandum opinion; precedential status is identified in the supplied metadata as published.
PARTIES	Hand & Wrist Center of Houston, P.A. v. Lowery Masonry, LLC

TOPICS

breach of contract

contract interpretation

summary judgment

standard of review

appellate procedure

PRACTICE AREAS

contract law

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether Lowery conclusively established that the workers' compensation insurance exception in the Letter of Guarantee barred Hand & Wrist Center from recovering any payment from Lowery.
2. Whether the guaranty provision stating that the medical providers would not seek 'additional payment' when Lowery had Texas Mutual workers' compensation insurance was unambiguous and required judgment for Lowery as a matter of law.
3. Whether the trial court properly granted traditional summary judgment on Hand & Wrist Center's breach-of-guaranty claim.

HOLDINGS

1. No. Lowery did not conclusively establish an unambiguous, certain, or definite legal meaning of the guaranty in its favor, and therefore was not entitled to traditional summary judgment.
2. Yes. When a defendant contends that contract terms preclude the plaintiff's recovery, the defendant must prove that its interpretation is the only reasonable interpretation.
3. No. The summary judgment must be reversed because Lowery failed to conclusively prove that the guaranty's exception eliminated its payment obligation.

KEY QUOTATIONS

“Accordingly, we hold that Lowery did not conclusively establish an unambiguous certain or definite legal meaning in its favor.” (8)

“Therefore, we must reverse the summary judgment.” (9)

FACTUAL BACKGROUND

Sandro Tovar allegedly sustained a work-related injury while employed by Lowery Masonry and sought treatment from Hand & Wrist Center. Before treatment, Lowery's president signed a Letter of Guarantee promising that Lowery would pay the medical providers' usual and customary fees within 30 days after receiving notice, subject to specified exceptions. Hand & Wrist Center treated Tovar and sent Lowery a bill for \$6,699.86, but the record did not establish whether an insurer or another party paid any portion of the bill. Lowery relied on evidence that it maintained workers' compensation insurance with Texas Mutual Insurance Company and argued that the guaranty therefore barred recovery.

PROCEDURAL HISTORY

Hand & Wrist Center treated an employee of Lowery Masonry and sued Lowery for breach of a Letter of Guarantee after allegedly not receiving payment. Lowery moved for traditional summary judgment, arguing that

the guaranty barred recovery because it had workers' compensation insurance with Texas Mutual Insurance Company. The 189th District Court of Harris County granted the motion and ordered that Hand & Wrist Center take nothing. The Court of Appeals reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause was remanded to the trial court for further proceedings.

CASES CITED

- Mann Frankfort Stein & Lipp Advisors, Inc. v. Fielding, 289 S.W.3d 844, 848 (Tex. 2009)
- Dias v. Goodman Mfg. Co., L.P., 214 S.W.3d 672, 675-76 (Tex. App.—Houston [14th Dist.] 2007, pet. denied)
- Friendswood Dev. Co. v. McDade & Co., 926 S.W.2d 280, 282 (Tex. 1996)
- Buck v. Blum, 130 S.W.3d 285, 288 (Tex. App.—Houston [14th Dist.] 2004, no pet.)
- Wasserberg v. Flooring Servs. of Tex., LLC, 376 S.W.3d 202, 205-06 (Tex. App.—Houston [14th Dist.] 2012, no pet.)
- Clark v. Cotten Schmidt, L.L.P., 327 S.W.3d 765, 774-75 & n.11 (Tex. App.—Fort Worth 2010, no pet.)
- El Paso Field Servs., L.P. v. MasTec N.A., Inc., 389 S.W.3d 802, 806 (Tex. 2012)
- Gulf Ins. Co. v. Burns Motors, Inc., 22 S.W.3d 417, 423 (Tex. 2000)
- City of Houston v. Clear Creek Basin Auth., 589 S.W.2d 671, 678 (Tex. 1979)
- Williams Consol. I, Ltd./BSI Holdings, Inc. v. TIG Ins. Co., 230 S.W.3d 895, 900 (Tex. App.—Houston [14th Dist.] 2007, no pet.)
- Plains Expl. & Prod. Co. v. Torch Energy Advisors Inc., 473 S.W.3d 296, 305 (Tex. 2015)
- Italian Cowboy Partners, Ltd. v. Prudential Ins. Co. of Am., 341 S.W.3d 323, 333 (Tex. 2011)
- Dynegy Midstream Servs., Ltd. P'ship. v. Apache Corp., 294 S.W.3d 164, 168 (Tex. 2009)
- Nat'l City Bank v. Ortiz, 401 S.W.3d 867, 878 (Tex. App.—Houston [14th Dist.] 2013, pet. denied)
- Frost Nat'l Bank v. L&F Distribs., Ltd., 165 S.W.3d 310, 312 (Tex. 2005) (per curiam)
- David J. Sacks, P.C. v. Haden, 266 S.W.3d 447, 450 (Tex. 2008) (per curiam)
- Material P'ships, Inc. v. Ventura, 102 S.W.3d 252, 258 (Tex. App.—Houston [14th Dist.] 2003, pet. denied)
- J.M. Davidson, Inc. v. Webster, 128 S.W.3d 223, 229 (Tex. 2003)
- Coker v. Coker, 650 S.W.2d 391, 393-94 & n.1 (Tex. 1983)
- Ace Ins. Co. v. Zurich Am. Ins. Co., 59 S.W.3d 424, 428-29 (Tex. App.—Houston [1st Dist.] 2001, pet. denied)
- Westwind Expl., Inc. v. Homestate Sav. Ass'n, 696 S.W.2d 378, 382 (Tex. 1985)
- McKnight v. Va. Mirror Co., 463 S.W.2d 428, 430 (Tex. 1971)

- Principal Commercial Acceptance, L.L.C. v. Buchanan Fund V, L.L.C., No. 01-11-00782-CV, 2012 WL 6095236, at *8 (Tex. App.—Houston [1st Dist.] Dec. 6, 2012, pet. denied) (mem. op.)
- N. Nat. Gas Co. v. Oneok Bushton Processing, Inc., No. 14-11-00539-CV, 2012 WL 4364652, at *7 (Tex. App.—Houston [14th Dist.] Sept. 25, 2012, no pet.) (mem. op.)
- Kaye/Bassman Int'l Corp. v. Help Desk Now, Inc., 321 S.W.3d 806, 813 (Tex. App.—Dallas 2010, pet. denied)

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