SUPREME COURT OF MISSISSIPPI

Sharel A. Kenney v. Foremost Insurance Company and USAA Casualty Insurance Company

200 So. 3d 1048 (Miss. 2016) · No. No. 2015-CA-01051-SCT · Decided September 22, 2016

SUMMARY

The Supreme Court of Mississippi reviewed summary judgments concerning uninsured/underinsured motorist coverage after Sharel A. Kenney was injured in a Mississippi motorcycle accident. The court held that Louisiana law governed the insurance disputes and affirmed summary judgment for USAA Casualty Insurance Company because its policy excluded coverage for the motorcycle. It reversed summary judgment for Foremost Insurance Company and remanded because factual issues remained regarding whether Kenney validly rejected uninsured-motorist coverage under Louisiana law.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Randolph, Presiding Justice; Waller, Chief Justice; Dickinson, Presiding Justice; Lamar, Justice; Kitchens, Justice; King, Justice; Coleman, Justice; Maxwell, Justice; Beam, Justice
JURISDICTION	Mississippi
DECIDED	September 22, 2016
DOCKET	No. 2015-CA-01051-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a Rule 54(b) final judgment granting the insurers' motions for summary judgment in an insurance-coverage dispute.
STANDARD OF REVIEW	De novo review applies to grants of summary judgment.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion
PARTIES	Sharel A. Kenney v. Foremost Insurance Company, USAA Casualty Insurance Company

TOPICS

uninsured motorist · insurance coverage · standard of review · appellate procedure · contracts

PRACTICE AREAS

Insurance Contracts Appellate Procedure

QUESTIONS PRESENTED

1. Whether Louisiana or Mississippi law governed the insurance-contract disputes.
2. Whether the USAA-CIC policy excluded uninsured-motorist coverage for injuries sustained while Kenney occupied her motorcycle, which was not insured for uninsured-motorist coverage under that policy.
3. Whether Kenney validly rejected uninsured-motorist coverage under the Foremost policy and Louisiana law.

HOLDINGS

1. Louisiana law governs the insurance-contract disputes because Louisiana had the most substantial contacts with the parties and the subject matter.
2. Kenney was not entitled to uninsured-motorist benefits under the USAA-CIC policy because the policy excluded coverage for bodily injury sustained while occupying a vehicle owned by the insured but not insured for uninsured-motorist coverage under that policy.
3. Summary judgment for Foremost was improper because a genuine issue of material fact remained as to whether Kenney completed the Louisiana-prescribed uninsured-motorist rejection form in compliance with Louisiana law and knowingly rejected coverage.

KEY QUOTATIONS

> *"When courts are presented with a question as to what state's substantive law applies, the court determines "which state has the most substantial contacts with the parties and the subject matter of the action.""* (¶ 12)

> *"A properly completed and signed form creates a rebuttable presumption that the insured knowingly rejected coverage."* (¶ 19)

> *"Although Kenney's responses were tentative, a question of fact remains as to whether Kenney knowingly rejected UMBI coverage."* (¶ 21)

FACTUAL BACKGROUND

Kenney, a Louisiana resident, purchased a motorcycle in Louisiana and completed a Foremost motorcycle-insurance application containing a form rejecting uninsured/underinsured-motorist bodily-injury coverage. The motorcycle was principally garaged in Louisiana, and Kenney's Dodge Charger was insured under a separate USAA-CIC policy. After Kenney and her fiancé were injured in a Mississippi accident with an uninsured motorist, both insurers denied uninsured-motorist coverage.

PROCEDURAL HISTORY

Kenney sued the uninsured motorist, Foremost, USAA Casualty Insurance Company, and Daniel Steilberg after the insurers denied uninsured-motorist and medical-expense coverage following a motorcycle accident. The Hancock County Circuit Court applied Louisiana law, found that Kenney had rejected uninsured-motorist coverage under the Foremost policy, found no bad faith, and granted summary judgment to both insurers. The Supreme Court of Mississippi affirmed as to USAA-CIC, reversed as to Foremost, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion, including factual determination of whether the Foremost uninsured-motorist rejection form was completed in compliance with Louisiana law.

CASES CITED

- Harris v. Darby, 17 So. 3d 1076, 1078 (Miss. 2009)
- Boardman v. USAA, 470 So. 2d 1024, 1031, 1034, 1036 (Miss. 1985)
- O’Rourke v. Colonial Ins. Co., 624 So. 2d 84, 87 (Miss. 1993)
- Mitchell v. Craft, 211 So. 2d 509, 512 (Miss. 1968)
- Craig v. Columbus Compress & Warehouse Co., 210 So. 2d 645, 649 (Miss. 1968)
- Sandoz v. State Farm Mut. Auto. Ins. Co., 620 So. 2d 441, 444 (La. Ct. App. 1993)
- Gaudet v. Southern Farm Bureau Cas. Ins., 600 So. 2d 892 (La. App. 1st Cir. 1992)
- Galliano v. State Farm, 606 So. 2d 580 (La. App. 5th Cir. 1992)
- Haltom v. State Farm Mut. Auto. Ins. Co., 588 So. 2d 792 (La. App. 2d Cir. 1991)
- Duncan v. U.S.A.A. Ins. Co., 950 So. 2d 544, 551, 553 (La. 2006)
