

SUPREME COURT OF APPEALS OF WEST VIRGINIA

St. Paul Fire and Marine Insurance Company v. AmerisourceBergen Drug Corporation and Bellco Drug Corporation v. Ace American Insurance Company and Ace Property and Casualty Insurance Company

St. Paul v. AmerisourceBergen · No. No. 21-0036 · Decided November 15, 2021

SUMMARY

The Supreme Court of Appeals of West Virginia considers whether a circuit court may issue an anti-suit injunction preventing parties from pursuing parallel insurance coverage litigation in another state. The court holds that West Virginia courts possess this authority, but emphasizes that comity requires anti-suit injunctions to be issued cautiously and narrowly. The court affirms the circuit court's authority, reverses the breadth of the injunction, and remands for reconsideration.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Hutchison
JURISDICTION	West Virginia
DECIDED	November 15, 2021
DOCKET	No. 21-0036
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	St. Paul appealed, and Ace American and Ace Property and Casualty intervened in the appeal, challenging the Boone County Circuit Court's order granting AmerisourceBergen's anti-suit injunction against parallel insurance-coverage litigation in California.
STANDARD OF REVIEW	The grant of an injunction and ultimate disposition are reviewed for abuse of discretion, underlying factual findings for clear error, and questions of law de novo.
PRECEDENTIAL VALUE	Published opinion; binding precedent of the Supreme Court of Appeals of West Virginia.
PARTIES	St. Paul Fire and Marine Insurance Company, Ace American Insurance Company, Ace Property and Casualty Insurance Company v.

TOPICS

injunctions interstate disputes insurance coverage declaratory relief insurance appellate jurisdiction

PRACTICE AREAS

insurance civil procedure appellate procedure remedies federalism commercial litigation

QUESTIONS PRESENTED

1. Whether a West Virginia circuit court has authority to enjoin parties before it from pursuing substantially similar insurance-coverage litigation in another state.
2. What standard governs whether litigation in another state is substantially similar for purposes of an anti-suit injunction.
3. What equitable and comity considerations govern issuance of an anti-suit injunction.
4. Whether the circuit court abused its discretion by entering an anti-suit injunction that broadly prohibited litigation concerning opioid insurance coverage beyond the sixteen policies at issue in the West Virginia action.

HOLDINGS

1. A West Virginia circuit court may enjoin parties subject to its in personam jurisdiction from instituting or prosecuting substantially similar litigation in another state when necessary to protect the circuit court's jurisdiction and provide complete and final justice.
2. For purposes of an anti-suit injunction, litigation in another state is substantially similar when the court assesses the similarity of the parties, the similarity of the issues, and the capacity of the action in this state to dispose of the foreign action.
3. An anti-suit injunction is an exceptional remedy that must be entered cautiously and with restraint; although the circuit court properly found grounds to enjoin the substantially similar California litigation, its injunction was overbroad because it was not narrowly tailored to the sixteen policies and issues presented in the West Virginia action.

KEY QUOTATIONS

“An anti-suit injunction is an order barring parties to an action in this state from instituting or prosecuting substantially similar litigation in another state.” (at 16-17)

“The principle of comity requires that a circuit court enter an anti-suit injunction cautiously and with restraint.” (at 17)

“An anti-suit injunction is an exceptional remedy but is appropriate when equity compels the circuit court: (1) to address a threat to the court’s jurisdiction; (2) to prevent the evasion of an important public policy; (3) to

prevent a multiplicity of suits that result in delay, inconvenience, expense, inconsistency, or will be a “race to judgment”; or (4) to protect a party from vexatious, inequitable or harassing litigation.” (at 17)

FACTUAL BACKGROUND

AmerisourceBergen and Bellco, pharmaceutical distributors involved in numerous opioid-related lawsuits, sought insurance coverage and defense costs under sixteen commercial general liability policies. During the West Virginia coverage litigation, St. Paul filed a related California action seeking declarations concerning coverage under policies issued to AmerisourceBergen and its affiliates. The Boone County Circuit Court found the California action substantially similar and entered a broad anti-suit injunction, but the Supreme Court concluded that the order restricted litigation concerning policies and issues beyond those presented in West Virginia.

PROCEDURAL HISTORY

AmerisourceBergen and Bellco filed a West Virginia declaratory insurance-coverage action in 2017 concerning sixteen liability policies and coverage for opioid-related lawsuits. After St. Paul filed a competing coverage action in California, the circuit court entered an order enjoining all parties from instituting or prosecuting collateral litigation concerning opioid-coverage issues. The Supreme Court of Appeals of West Virginia affirmed the circuit court's authority to issue an anti-suit injunction but reversed the injunction as overbroad and remanded for reconsideration and clarification.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court must reconsider and clarify the anti-suit injunction, narrowly tailoring it to the equitable circumstances and issues presented by the West Virginia action, including the sixteen policies at issue, or conduct other proceedings it deems necessary.

CASES CITED

- State ex rel. McGraw v. Telecheck Services, Inc., 213 W. Va. 438, 582 S.E.2d 885 (2003)
- State v. Baker, 112 W. Va. 263, 164 S.E. 154 (1932)
- State By and Through McGraw v. Imperial Marketing, 196 W. Va. 346, 472 S.E.2d 792 (1996)
- State v. Fredlock, 52 W. Va. 232, 43 S.E. 153 (1903)
- Maslowski v. Prospect Funding Partners LLC, 890 N.W.2d 756 (Minn. Ct. App. 2017)
- Kessel v. Leavitt, 204 W. Va. 95, 511 S.E.2d 720 (1998)
- Pasquale v. Ohio Power Co., 187 W. Va. 292, 418 S.E.2d 738 (1992)
- Russell v. Bush & Burchett, Inc., 210 W. Va. 699, 559 S.E.2d 36 (2001)
- Cincinnati Insurance Co. v. H.D. Smith, L.L.C., 829 F.3d 771 (7th Cir. 2016)
- James v. Grand Trunk Western R. Co., 152 N.E.2d 858 (Ill. 1958)

- French v. Hay, 89 U.S. 250 (1874)
- Golden Rule Insurance Co. v. Harper, 925 S.W.2d 649 (Tex. 1996)

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