UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

State Farm Mutual Automobile Insurance Company, Farmers Insurance Exchange v. Roger Ammann

828 F.2d 4 (9th Cir. 1987) · No. No. 86-6275 · Decided September 14, 1987

SUMMARY

The Ninth Circuit reversed and remanded summary judgment in a civil RICO action brought by State Farm and Farmers concerning false insurance claims. The court held that the district court applied the wrong three-year limitations period because the Supreme Court had established a uniform four-year period, and directed reconsideration under the applicable accrual rule.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Edward R. Pregerson; Anthony M. Kennedy; M.D. Crocker, Senior District Judge, sitting by designation
JURISDICTION	Federal
DECIDED	September 14, 1987
DOCKET	No. 86-6275
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed from the district court's grant of summary judgment for the defendant in a civil RICO action seeking treble damages for submission of allegedly false insurance claims.
STANDARD OF REVIEW	De novo review of the grant of summary judgment and the applicable statute-of-limitations rule.
PRECEDENTIAL VALUE	Published Ninth Circuit opinion
PARTIES	State Farm Mutual Automobile Insurance Company, Farmers Insurance Exchange v. Roger Ammann

TOPICS

statute of limitations · summary judgment · insurance · commercial litigation · civil procedure

PRACTICE AREAS

civil RICO | insurance litigation | statute of limitations | summary judgment | civil procedure

QUESTIONS PRESENTED

1. Whether the district court applied the correct limitations period to the plaintiffs' civil RICO claims.
2. When the civil RICO limitations period begins to run for each injury.

HOLDINGS

1. Civil RICO claims are governed by a uniform four-year statute of limitations, not the three-year period applied by the district court.
2. As to each injury, the civil RICO limitations period begins when the plaintiff knows or has reason to know of the injury that forms the basis of the action.

KEY QUOTATIONS

> *"Although the Court did not rule on when the civil RICO limitations period begins, it did establish a uniform four-year limitations period."* (828 F.2d at 5)

> *"as to each injury civil RICO limitations period "begins to run when the plaintiff knows or has reason to know of the injury which is the basis of the action""* (828 F.2d at 5)

FACTUAL BACKGROUND

Ammann pleaded guilty on December 21, 1984, to mail fraud for submitting false claims to State Farm, Farmers, and other insurance companies. On October 4, 1985, State Farm and Farmers filed a civil RICO action seeking treble damages based on those false claims. Ammann contended that the claims were time-barred because the insurers knew of the fraud as early as 1976.

PROCEDURAL HISTORY

Roger Ammann pleaded guilty to mail fraud arising from false insurance claims. State Farm and Farmers later filed a civil RICO complaint seeking treble damages. The district court granted Ammann summary judgment solely on statute-of-limitations grounds, applying a three-year limitations period; the Ninth Circuit reversed and remanded because the Supreme Court had subsequently established a uniform four-year civil RICO limitations period.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court was instructed to reconsider and dispose of the motion for summary judgment under the four-year civil RICO limitations period and the accrual rule stated in Compton v. Ide.

CASES CITED

- Compton v. Ide, 732 F.2d 1429, 1433 (9th Cir. 1984)
- Agency Holding Corp. v. Malley-Duff & Associates, 107 S. Ct. 2759, 97 L. Ed. 2d 121 (1987)
- Hennegan v. Pacifico Creative Service, Inc., 787 F.2d 1299, 1301-02 (9th Cir.), cert. denied, 107 S. Ct. 279, 93 L. Ed. 2d 254 (1986)
- Gibson v. United States, 781 F.2d 1334, 1340 (9th Cir.), cert. denied, 107 S. Ct. 928, 93 L. Ed. 2d 979 (1987)

OPINION

PER CURIAM.

828 F.2d 4 RICO Bus.Disp.Guide 6746 STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, FarmersInsurance Exchange, Plaintiff-Appellant,v.Roger AMMANN, Defendant-Appellee. No. 86-6275. United States Court of Appeals,Ninth Circuit. Submitted* Sept. 14, 1987.Decided Sept. 14, 1987. Wehner and Perlman, Charles C. Wehner, Karen A. Rooney, Los Angeles, Cal., for plaintiff-appellant.

K. David Olsen, Los Angeles, Cal., for defendant-appellee. Appeal from the United States District Court for the Central District of California. Before KENNEDY and PREGERSON, Circuit Judges, and CROCKER,** Senior District Judge. PREGERSON, Circuit Judge: The defendant below, Roger Ammann ("Ammann"), had entered guilty pleas to mail fraud on December 21, 1984 for submitting false claims to insurance companies including State Farm Mutual Automobile Insurance Co. ("State Farm") and Farmers Insurance Exchange ("Farmers"), the plaintiffs below.

On October 4, 1985, State Farm and Farmers filed a civil complaint seeking treble damages for violation of the Racketeer Influenced and Corrupt Organization Act ("RICO") for the submission of false insurance claims. Ammann moved for summary judgment arguing that the complaint did not state a claim and that the statute of limitations had run because State Farm and Farmers knew of the fraud as early as 1976.

The district court granted summary judgment in a ruling that discussed only the statute of limitations. State Farm and Farmers appeal. The district court applied a three-year limitation period beginning when the plaintiffs knew or should have known of the injury complained of. Compton v. Ide, 732 F.2d 1429, 1433 (9th Cir.1984).

The district court granted summary judgment on the ground that State Farm's and Farmers' claims were time barred because "the plaintiffs knew this pattern of racketeering long before three years before filing the complaint on October 4, 1985.... [They knew] back in 1982, '76, '75; long before the complaint was filed October 4, 1985."

The Supreme Court decided Agency Holding Corp. v. Malley-Duff & Associates, --- U.S. ----, 107 S. Ct. 2759, 97 L. Ed. 2d 121 (1987), after the district court granted summary judgment. Although the Court did not rule on when the civil RICO limitations period begins, it did establish a uniform four-year limitations period.

Because the district court applied a three-year period, and because it is possible that the district court would have decided differently if it applied a four-year period, we reverse and remand for a disposition of the motion for summary judgment in accordance with Malley-Duff and Compton, 732 F.2d at 1433 (as to each injury civil RICO limitations period "begins to run when the plaintiff knows or has reason to know of the injury which is the basis of the action").

REVERSED and REMANDED. KENNEDY, Circuit Judge, concurring: 1 I concur in the panel's opinion, and write separately to explain how the opinion should, in my view, be interpreted in light of other decisions in our circuit. 2 We hold that as to each injury the civil RICO statute of limitations period begins to run when the plaintiff knows or has reason to know of the injury which is the basis of the action.

Ante at 5. This rule of separate accrual has not been announced by the Supreme Court, which specifically declined to address the issue in Agency Holding Corp. v. Malley-Duff & Assocs., --- U.S. ----, ----, 107 S. Ct. 2759, 2767, 97 L. Ed. 2d 121 (1987), nor by our circuit in a published opinion.

The closest we have come was in Compton v. Ide, 732 F.2d 1429, 1433 (9th Cir.1984), in which we announced the rule that the RICO cause of action accrues when the plaintiff knows or has reason to know of the injury. Because all the relevant events occurred outside the limitations period in that case, however, see id. at 1432, we did not have occasion to decide the extent to which separate injuries sustained within the limitations period might be actionable despite the existence of some time-barred causes of action.

3 The basis for our holding comes not from Malley-Duff or Compton, but from Hennegan v. Pacifico Creative Serv., Inc., 787 F.2d 1299 (9th Cir.), cert. denied, --- U.S. ----, 107 S. Ct. 279, 93 L. Ed. 2d 254 (1986), and Gibson v. United States, 781 F.2d 1334 (9th Cir.1986), cert. denied, --- U.S. ----, 107 S. Ct. 928, 93 L. Ed. 2d 979 (1987). Hennegan was an antitrust case, and Gibson was a section 1983 case; but as we have said, the same federal accrual rule applies in RICO actions as in section 1983 and antitrust actions.

Compton, 732 F.2d at 1433. The rule is that a cause of action accrues when new overt acts occur within the limitations period, even if a conspiracy was formed and other acts were committed outside the limitations period. Hennegan, 787 F.2d at 1301; Gibson, 781 F.2d at 1340. A corollary rule is that damages may not be recovered for injuries sustained as a result of acts committed outside the limitations period.

Hennegan, 787 F.2d at 1302; Gibson, 781 F.2d at 1340. 4 These rules, applied to this case, yield a clear result. The plaintiffs may recover damages for acts committed after October 4, 1981, four years before the filing of the complaint, but they may not recover damages for acts occurring before that date.

As I understand it, this must be the essence of our holding. * The panel unanimously finds this case suitable for decision without oral argument. Fed.R.App.P. 34(a) and Ninth Circuit Rule 34-4 ** Honorable M.D. Crocker, Senior United States District Judge, Eastern District of California, sitting by designation

PREGERSON, J.

PREGERSON, Circuit Judge: The defendant below, Roger Ammann ("Ammann"), had entered guilty pleas to mail fraud on December 21, 1984 for submitting false claims to insurance companies including State Farm Mutual Automobile Insurance Co. ("State Farm") and Farmers Insurance Exchange ("Farmers"), the plaintiffs below.

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2759, 97 L.Ed.2d 121 (1987), after the district court *5granted summary judgment. Although the Court did not rule on when the civil RICO limitations period begins, it did establish a uniform four-year limitations period.

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REVERSED and REMANDED.