UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

Milinazzo v. State Farm Insurance

247 F.R.D. 691 (S.D. Fla. 2007) · Decided December 11, 2007

SUMMARY

The court addresses a plaintiff's motion to compel discovery in a first-party insurance coverage dispute. It holds that documents relating to the investigation, processing, analysis, and denial of the coverage claim are relevant to the breach-of-contract claim, while discovery directed solely to the premature bad-faith claim is not. The court also analyzes attorney-client privilege and federal work-product protection, concluding that documents created after the insurer's May 28, 2002 coverage denial are generally protected, but that the insurer failed to establish work-product protection for documents created before that date.

CASE DETAILS

COURT	United States District Court for the Southern District of Florida
WRITING FOR THE COURT	Edwin G. Torres
JURISDICTION	Florida
DECIDED	December 11, 2007
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to compel production of documents in a diversity action against her insurer concerning coverage and breach of contract. The court granted the motion in part and denied it in part.
STANDARD OF REVIEW	Discovery relevance and privilege determinations under Federal Rules of Civil Procedure 26 and 37; objections to discovery are evaluated under the broad relevance standard, with the resisting party bearing the burden of establishing privilege, undue burden, irrelevance, or work-product protection.
PRECEDENTIAL VALUE	Published federal district court discovery order; persuasive authority
PARTIES	Sharon Milinazzo v. State Farm Insurance Company

TOPICS

discovery dispute · work product doctrine · attorney client privilege · insurance coverage · breach of contract

PRACTICE AREAS

civil procedure | insurance coverage | discovery | privilege | contracts

QUESTIONS PRESENTED

1. Whether the plaintiff's efforts to confer before filing the motion to compel were sufficient under Federal Rule of Civil Procedure 37 and the Southern District of Florida's local rules.
2. Whether documents concerning State Farm's investigation, processing, analysis, and denial of the insurance claim were relevant and discoverable in the pending breach-of-contract coverage action.
3. Whether Florida law or federal law governed application of the work-product doctrine in this federal diversity discovery dispute.
4. Whether State Farm established attorney-client privilege over communications involving its claims personnel and attorneys.
5. Whether State Farm established work-product protection for claim-file documents created before and after the May 28, 2002 coverage denial.
6. Whether the plaintiff was entitled to State Farm's underwriting file, claims-handling guidelines, and standard operating procedures in the pending coverage dispute.

HOLDINGS

1. The plaintiff's efforts to resolve the discovery dispute without court intervention were materially sufficient, so the court reached the merits of the motion to compel.
2. Documents relating to the investigation, processing, analysis, and ultimate denial of the plaintiff's insurance claim were relevant and discoverable to the extent they related to the plaintiff's breach-of-contract coverage claim.
3. Discovery directed solely to the plaintiff's bad-faith claim was premature and irrelevant because coverage had not yet been determined.
4. State Farm established attorney-client privilege for the challenged communications dated after May 28, 2002 and for two undated documents that were clearly litigation oriented.
5. Federal law governs application of the work-product doctrine in this federal diversity discovery dispute.
6. State Farm was entitled to work-product protection for documents created after the May 28, 2002 denial of coverage, but failed to establish protection for documents created before that date.
7. The plaintiff did not demonstrate substantial need or inability to obtain the substantial equivalent by other means sufficient to overcome work-product protection for documents created after May 28, 2002.
8. The plaintiff was not entitled to the underwriting file, claims-handling guidelines concerning qualifying vehicles, or standard operating procedures for contacting insureds because those materials were irrelevant to the unambiguous coverage dispute and were primarily relevant, if at all, to the premature bad-faith claim.

KEY QUOTATIONS

> *“Objections which state that a discovery request is “vague, overly broad, or unduly burdensome” are, by themselves, meaningless, and are deemed without merit by this Court.”* (at 695)

> *“A party must anticipate litigation at the time the documents were drafted for these protections to apply.”* (at 698)

> *“At some point ... an insurance company’s activity shifts from mere claims evaluation to a strong anticipation of litigation.”* (at 701)

FACTUAL BACKGROUND

Milinazzo sought insurance coverage-related documents from State Farm, including the claim file, underwriting file, claims-handling guidelines, and communications concerning the claim. State Farm denied coverage on May 28, 2002 and withheld documents identified in a privilege log. The pending action concerned breach of the insurance contract; the bad-faith claim had not yet ripened because coverage had not been determined.

PROCEDURAL HISTORY

Milinazzo initially pursued a state tort action arising from an automobile accident and, through a settlement and assignment agreement, acquired rights asserted against State Farm. She then filed this action against State Farm in state court; State Farm removed it to the Southern District of Florida on diversity grounds. The complaint included breach-of-contract and bad-faith claims, but Milinazzo stipulated that the bad-faith claim was premature and requested abatement pending resolution of coverage. The discovery dispute was referred to Magistrate Judge Torres.

DISPOSITION

other

CASES CITED

- McMahon v. Eastern Steamship Lines, Inc., 129 F.R.D. 197, 198 (S.D. Fla. 1989)
- Graham v. Casey's General Stores, 206 F.R.D. 251, 253-254 (S.D. Ind. 2002)
- White v. Kenneth Warren & Son, Ltd., 203 F.R.D. 364, 366 (N.D. Ill. 2001)
- Flora v. Hamilton, 81 F.R.D. 576, 578 (M.D.N.C. 1978)
- Giardina v. Lockheed Martin Corp., 2003 WL 21276348 (E.D. La. May 30, 2003)
- Josephs v. Harris Corp., 677 F.2d 985, 992 (3d Cir. 1982)
- Oppenheimer Fund, Inc. v. Sanders, 437 U.S. 340, 345 (1978)
- Peat, Inc. v. Vanguard Research, Inc., 378 F.3d 1154, 1159 (11th Cir. 2004)
- Dunkin' Donuts, Inc. v. Mary's Donuts, Inc., 2001 WL 34079319, at *2 (S.D. Fla. Nov. 1, 2001)
- Atrium on the Ocean II Condo. Ass'n v. QBE Ins. Corp., 2007 WL 2972937, at *1-*2 (S.D. Fla. Oct. 9, 2007)
- Vest v. Travelers Ins. Co., 753 So. 2d 1270, 1276 (Fla. 2000)
- Blanchard v. State Farm, 575 So. 2d 1289 (Fla. 1991)
- Allstate v. Clohessy, 32 F. Supp. 2d 1328, 1332 (M.D. Fla. 1998)

- Bradt v. Smith, 634 F.2d 796, 800 (5th Cir. 1981)
- Southern Bell Tel. & Tel. Co. v. Deason, 632 So. 2d 1377, 1383 (Fla. 1994)
- Bankers Ins. Co. v. Florida Department of Insurance, 755 So. 2d 729 (Fla. 1st DCA 2000)
- Hickman v. Taylor, 329 U.S. 495, 512 (1947)
- Auto Owners Ins. Co. v. Totaltape, Inc., 135 F.R.D. 199, 201 (M.D. Fla. 1990)
- Allstate Indemnity Co. v. Ruiz, 899 So. 2d 1121, 1129-1130 (Fla. 2005)
- Cozort v. State Farm Mut. Auto. Ins. Co., 233 F.R.D. 674, 676 (M.D. Fla. 2006)
- Frontier Refining Inc. v. Gorman-Rupp Co., 136 F.3d 695, 702 n.10 (10th Cir. 1998)
- United Coal Cos. v. Powell Construction Co., 839 F.2d 958, 966 (3d Cir. 1988)
- Place St. Michel, Inc. v. Travelers Property Casualty Co., 2007 WL 1059561 (S.D. Fla. Apr. 4, 2007)
- Carver v. Allstate Ins. Co., 94 F.R.D. 131, 134 (S.D. Ga. 1982)
- S.D. Warren Co. v. Eastern Electric Corp., 201 F.R.D. 280, 282-283 (D. Me. 2001)
- Harper v. Auto-Owners Ins. Co., 138 F.R.D. 655, 662-663 (S.D. Ind. 1991)
- Essex Builders Group, Inc. v. Amerisure Insurance Co., 2006 WL 1733857, at *2, *4 (M.D. Fla. June 20, 2006)
- Schipp v. General Motors Corp., 457 F. Supp. 2d 917, 923 (E.D. Ark. 2006)
- United States v. Schaltenbrand, 930 F.2d 1554, 1562 (11th Cir. 1991)
- Totaltape, 135 F.R.D. at 201
- Champion International Corp. v. Liberty Mutual Insurance Co., 129 F.R.D. 63 (S.D.N.Y. 1990)
- Johnson v. Geico General Insurance Co., 2007 WL 3344253, at *3 (S.D. Fla. Nov. 7, 2007)
- Bonner v. City of Prichard, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc)