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Benchmark Ins. Co. v. Sparks, 127 Nev. Adv. Op. No. 33 (July 7, 2011)¹
INSURANCE LAW – POLICY INTERPRETATION

Summary

An appeal from a District Court’s denial of summary judgment.

Disposition/Outcome

District Court’s decision affirmed because the insurance contract’s liability exhaustion provision was ambiguous.

Factual and Procedural History

Sparks test-drove a vehicle owned by a Las Vegas car dealership. During the test, Sparks was involved in an accident. The injured party sued Sparks and the dealership for negligence. Sparks insurer, Benchmark, deposited Sparks’ entire policy limit with the district court (\$30,000), and then subsequently filed for summary judgment citing the insurance contract’s following provision as their grounds:

We will pay damages for “bodily injury” or “property damages” for which any “insured” becomes legally responsible because of an auto accident.... We will settle or defend, as we consider appropriate, any claim or suit asking for these damages. In addition to our limit of liability, we will pay all defense costs we incur. Our duty to settle or defend ends when our limit of liability for this coverage has been exhausted.

This district court denied Benchmark’s motion for summary judgment, wherein Benchmark filed an appeal shortly thereafter.

Discussion

The present case asked the court whether an insurer may contractually limit its duties. Writing for a majority of three, Justice Parraguirre began the opinion by first stating the general rule: an insurer may contractually limit their duties only if it does so unambiguously. The court then moved to the specific question in this case: whether Benchmark’s limitation of duty clause is unambiguous.

The court looked to the North Carolina Supreme Court, wherein *Brown v. Lumberman Mutual Casualty Co.* answered this same question while considering a nearly identical insurance clause.² The *Brown* court held the clause must be read in whole, not in isolation; and accordingly, the “we will settle or defense ... any claim or suit” sentence conflict with “our duty

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² 390 S.E.2d 150 (N.C. 1990)

to settle or defend ends when . . . ” Accordingly, this provision is ambiguous because it is “reasonably susceptible to more than one interpretation.”³

An ambiguous provision of an insurance policy “should be construed to effectuate the reasonable expectations of the insured.” *National Union Fire Ins. v. Caesars Palace*, 106 Nev. 330, 332-33, 792 P.2d 1129, 1130 (1990). Consequently, the court concluded Spark reasonably expected Benchmark to provide a legal defense until it used his policy’s liability limits to obtain a settlement or satisfy a judgment. The court then ended its opinion by state Benchmark’s failure to obtain a settlement required them to continue providing Sparks with a legal defense.

Conclusion

Although an insurer may contractually limit its duties, any potential ambiguity in their liability coverage is interpreted in favor of the insured. An ambiguity is present when the provision, when read in whole, can be interpreted as having more than one meaning.

³ Margrave v. Dermody Properties, 110 Nev. 824, 827, 878 P.2d 291, 293 (1994).