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### Summary of Wingco v. Gov't Emps. Ins. Co., 130 Nev. Adv. Op. 20

Michael Paretti  
*Nevada Law Journal*

Craig Friedel

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## **Summary**

The Court determined whether NRS 687B.145(3)<sup>2</sup>, which provides that a motor vehicle insurer must offer its insured the option of purchasing medical payment coverage, requires written rejection of medical coverage by the insured to be valid.

## **Disposition**

The Court determined that if NRS 687B.145(3) meant to impose a written requirement on medpay coverage the Legislature would have stated so expressly. Therefore, the Court deemed that Nev. Rev. Stat. 687B.145(3) does not require a written rejection of medpay coverage by the insured.

## **Factual and Procedural History**

Appellants Wingco and Werning (together, Wingco) were injured in automobile accidents. Respondent Geico insured appellants and denied coverage of their medical expenses. Appellants then requested that Geico either provide signed written rejections of medical payment coverage by appellants or tender \$1,000 – the minimum amount of medical coverage the insurer must offer. Respondent refused their requests and appellants initiated a class action on behalf of themselves and others similarly situated.

Geico filed a motion to dismiss in the Eighth Judicial District Court, and appellants filed a cross-motion for summary judgment. The district court granted Geico's motion to dismiss and denied appellants' motion for summary judgment. Wingco appeals.

## **Discussion**

NRS 687B.145(3) expressly requires insurers to offer the option of purchasing medical payment, or "medpay", coverage in the amount of at least \$1,000 but does not expressly require a written rejection of this offer. However, the appellants argued that the Court should read a written rejection requirement into Nev. Rev. Stat. 687B.145(3). The appellants relied primarily on *Continental Insurance Co. v. Murphy*, 120 Nev. 506, 507, 96 P.3d 747, 748 (2004), where the Court read an implied written rejection requirement into NRS 687B.145(2). However, the Court did not find this argument persuasive as it actually invoked a different provision of Nevada law.<sup>3</sup>

Appellants also argued that an early draft of Nev. Rev. Stat. 687B.145(3) expressed the legislative intent to include a written rejection requirement.<sup>4</sup> The Court also found this argument

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<sup>1</sup> By Michael Paretti. Edited by Craig Friedel.

<sup>2</sup> NEV. REV. STAT. 687B.145(3) states in part that "an insurance company transacting motor vehicle insurance in this State **must offer** an insured under a policy covering the use of a passenger car, the option of purchasing coverage in an amount of at least \$1,000 for the payment of reasonable and necessary medical expenses resulting from an accident..." (Emphasis added.)

<sup>3</sup> The Court determined that the "written rejection requirement referenced in *Continental* originates in Nev. Rev. Stat. 690B.020, not Nev. Rev. Stat. 687B.145, and is express, not implied."

<sup>4</sup> Hearing on A.B. 405 Before the Assembly Commerce Comm., 65th Leg. (Nev., March 29, 1989); see also A.B. 405, 65th Leg. (Nev. 1989)

unpersuasive as the law was amended to remove the written rejection requirement, expressing the Legislature's intent that it did not necessitate a written rejection under the law.<sup>5</sup>

### **Conclusion**

The Nevada Supreme Court determined that if the Legislature intended a written rejection requirement in Nev. Rev. Stat. 687B.145(3) it would have expressly stated so. Therefore, the Court established that the law does not require a written rejection of medpay coverage. Accordingly, the Court affirmed the district court's order granting summary judgment in favor of the respondents.

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<sup>5</sup> In so concluding, the Court adopted a federal district court disposition it found persuasive. *Schuck v. Signature Flight Support of Nevada, Inc.*, 126 Nev. , n.2, 245 P.3d 542, 546 n.2 (2010).