Supreme Court of Florida

No. SC10-116

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,
Petitioner,

vs.

GILDA MENENDEZ, et al.,
Respondents.

[August 25, 2011]

CANADY, C.J.

State Farm Mutual Automobile Insurance Company seeks review of State Farm Mutual Automobile Insurance Co. v. Menendez, 24 So. 3d 809 (Fla. 3d DCA 2010), in which the Third District Court of Appeal determined that the household exclusion in State Farm's policy issued to Gilda Menendez is ambiguous and therefore could not be enforced to eliminate coverage for bodily injuries suffered by members of the household of a permissive-driver insured. The Third District thus applied the rule that ambiguous policy provisions must be interpreted in favor of the insured. The Third District's decision expressly and directly conflicts with Linehan v. Alkhabbaz, 398 So. 2d 989 (Fla. 4th DCA 1981), in which the Fourth

District Court of Appeal concluded that a similar household exclusion provision did bar coverage for the injury claims of a member of the permissive driver's household. We have jurisdiction. See art. V, § 3(b)(3), Fla. Const. We conclude that the household exclusion provision in the policy issued to Menendez unambiguously applies to claims by members of the household of a permissive-driver insured. We therefore quash the Third District's decision and approve Linehan.

I. BACKGROUND

Menendez, the named insured in an automobile insurance policy issued by State Farm, permitted her granddaughter, Fabiola G. Llanes, to use her vehicle. While operating the vehicle, the granddaughter was in an accident with another vehicle, resulting in injuries to herself, her parents, Fabiola P. and Roger Llanes, and Menendez. When the accident occurred, the granddaughter was living with her parents, and Menendez was living at a separate address. Menendez filed a declaratory judgment action against State Farm and Fabiola G., Fabiola P., and Roger Llanes, seeking a determination that the policy provided insurance coverage for the bodily injuries suffered by the Llaneses. State Farm asserted in defense that due to the household exclusion in the policy, there is no coverage for the Llaneses' bodily injuries. In addition, State Farm filed a cross-claim seeking a declaration

that it had no obligation to defend or indemnify the granddaughter in any action filed by the parents or Menendez arising from the accident.

The policy issued to Menendez expressly defines terms in the insurance policy that appeared in bold and italicized type. Specifically, the policy defines the following material terms and phrases:

> Insured—means the person, persons or organization defined as insureds in the specific coverage. . . .
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> . . . .
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> Relative—as used in Sections I, III, IV and V means a person related to you or your spouse by blood, marriage or adoption (including a ward or foster child) who resides primarily with you. It includes your unmarried and unemancipated child away at school.
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> As used in Section II, relative means a relative of any degree by blood or marriage who usually makes his home in the same family unit, whether or not temporarily living elsewhere.
>
> . . . .
>
> You or Your—means the named insured or named insureds shown on the declarations page.

The portion of Menendez's policy titled "Liability—Coverage A"—which appears in Section I of the policy—obligates State Farm to "defend any suit against an insured" for covered damages and to pay damages which "an insured becomes legally liable to pay" because of bodily injury or property damage caused by accident resulting from the ownership, maintenance, or use of Menendez's car. The Coverage A provision—in its omnibus insured clause—then provides that for

purposes of that coverage, the term "insured" includes "you," "your spouse," "the relatives of the first person named in the declarations," "any other person while using such a car if its use is within the scope of consent of you or your spouse," and "any other person or organization liable for the use of such a car by one of the above insureds."

The household exclusion to Coverage A provides that there is no coverage for "any bodily injury to" "any insured or any member of an insured's family residing in the insured's household." State Farm asserted that the meaning of the household exclusion is plain and that "the insured's" as used in the exclusion refers to the prior phrase "an insured's" used earlier in the exclusion. State Farm thus reasoned that because the granddaughter, as a permissive driver of Menendez's vehicle, was an insured under the policy and the granddaughter and her parents resided in the same household, there is no coverage under the policy for the parents' bodily injuries.

In contrast, Menendez and the Llaneses contended that the term "the insured's" at the end of the exclusion could not have the same meaning as the term "an insured's" used earlier in the exclusion. They argued that "the insured's" refers to the named insured, Menendez, and that "the insured's" does not include permissive drivers. Under this interpretation, the household exclusion would eliminate coverage for bodily injury claims of members of only the named

insured's household. Accordingly, Menendez and the Llaneses asserted that because the parents did not reside with the named insured at the time of the accident, the household exclusion is inapplicable to their injuries. In addition, the Llaneses argued that the granddaughter is not an insured under the policy and thus State Farm was obligated to provide coverage for her injuries.

State Farm, the Llaneses, and Menendez each filed a motion for summary judgment. After hearing arguments from the parties, the trial court concluded that the household exclusion is ambiguous. As a result, the trial court granted the motions for summary judgment filed by Menendez and the Llaneses, denied State Farm's motion for summary judgment, and entered a final summary judgment against State Farm. State Farm appealed the final summary judgment.

The Third District Court of Appeal affirmed. Based on the section of the policy which defines "insured" as including both the named insured and "any other person while using such a car if its use is within the scope of consent of" the named insured, the Third District concluded that the household exclusion clearly eliminates coverage for any bodily injury claims asserted by Menendez and her granddaughter. Menendez, 24 So. 3d at 811. The Third District agreed with the trial court, however, that the household exclusion is susceptible to more than one reasonable interpretation regarding coverage of the parents' bodily injuries. After discussing the arguments made by the respondents and State Farm, the Third

District construed the exclusion in favor of the insured and against the insurer and thus affirmed the trial court's order. Id. at 811-12. State Farm then petitioned this Court for review on the basis of express and direct conflict, and we accepted jurisdiction.

II. ANALYSIS

Before this Court, State Farm and the respondents agree that at the time of the accident, the granddaughter was using Menendez's car with Menendez's consent and therefore qualified as an omnibus insured under the policy. They further agree that absent an applicable exclusion, State Farm would be bound by Coverage A to defend the granddaughter in an action for bodily injuries arising from the accident and that if the granddaughter was found legally liable, State Farm would be bound to pay those damages. Finally, the parties agree that at the time of the accident, the granddaughter and her parents lived in the same residence but that Menendez did not live with them.

Thus, the sole question before this Court is the conflict issue—whether the household exclusion barring coverage for "any bodily injury to" "any insured or any member of an insured's family residing in the insured's household" unambiguously eliminates coverage for bodily injuries suffered by the members of the household of a permissive-driver insured. We agree with the Fourth District's decision in Linehan that the plain language of the household exclusion bars

coverage for bodily injuries suffered by members of the household of a permissive-driver insured.

In Linehan, the Fourth District addressed the applicability of a substantively similar household exclusion, which provided—as paraphrased by the district court—that "this insurance does not apply under coverage A to bodily injury to any insured or any member of the family of any insured residing in the same household as the insured." 398 So. 2d at 990 n.1. In that case, Katherine Alkhabbaz loaned her automobile to her aunt, Marianna R. Linehan. The vehicle was involved in an accident, killing Marianna and injuring her daughter, Laura Linehan, who was driving at the time. Marianna and Laura had resided together in the same household. Marianna's personal representative sued Alkhabbaz, Laura Linehan, State Farm, which insured the Alkhabbaz vehicle, and Liberty Mutual Insurance Company, which insured a vehicle owned by Marianna but not involved in the accident. State Farm contended that Laura, as a permissive driver, was an insured under the policy and asserted that since Marianna and Laura were residents of the same household, the household exclusion defeated the claims by Marianna's estate. The trial court granted summary judgment in favor of State Farm, and the Fourth District affirmed the summary judgment. Id. at 990.

In interpreting an insurance contract, we are bound by the plain meaning of the contract's text. "If the language used in an insurance policy is plain and

unambiguous, a court must interpret the policy in accordance with the plain meaning of the language used so as to give effect to the policy as it was written." Travelers Indem. Co. v. PCR Inc., 889 So. 2d 779, 785 (Fla. 2004). "Policy language is considered to be ambiguous . . . if the language 'is susceptible to more than one reasonable interpretation, one providing coverage and the other limiting coverage.'" Id. (quoting Swire Pac. Holdings v. Zurich Ins. Co., 845 So. 2d 161, 165 (Fla. 2003)). A provision is not ambiguous, however, "simply because it is complex or requires analysis." Penzer v. Transp. Ins. Co., 29 So. 3d 1000, 1005 (Fla. 2010) (quoting Garcia v. Fed. Ins. Co., 969 So. 2d 288, 291 (Fla. 2007)). "When language in an insurance policy is ambiguous, a court will resolve the ambiguity in favor of the insured by adopting the reasonable interpretation of the policy's language that provides coverage as opposed to the reasonable interpretation that would limit coverage." Travelers Indem. Co., 889 So. 2d at 785-86. "Generally, courts will strive to interpret an automobile insurance policy based on the definitions contained within the policy." Grant v. State Farm Fire & Cas. Co., 638 So. 2d 936, 937 (Fla. 1994).

Here, the text of the policy unambiguously excludes coverage for any bodily injury claims asserted by members of a permissive-driver insured's family residing in the household of the permissive-driver insured. This meaning emerges from the policy's separate definitions of the terms "insured" and "the named insured" and

the way the words "insured" and "insured's" are used in the text of the household exclusion. Both the broader context of the policy's defined terms and the immediate context of the policy exclusion provision point unambiguously to the conclusion that the household exclusion is applicable here.

Contrary to the respondents' argument, the policy clearly and consistently distinguishes the term "insured" from the concept of the "the named insured." In the definitions, the policy provides that Menendez, the individual who contracted with State Farm for insurance coverage, will be referred to as "you" throughout the policy. The policy then consistently uses "you" or the equally unambiguous phrases "the first person named in the declarations" or "the first insured named in the declarations" to refer to Menendez. The fact that Menendez, "the named insured," is consistently distinguished from the broader category of "insured," undermines the Third District's conclusion that the household exclusion is ambiguous.

Moreover, after defining "insured" for purposes of Coverage A as including individuals other than Menendez, such as permissive drivers, the policy does not distinguish "an insured" or "any insured" from "the insured." To the contrary, the policy uses the terms "an insured" and "the insured" interchangeably to refer to any type of insured, bolding and italicizing only the word "insured," not the article preceding the defined term.

In the text of the household exclusion itself—excluding coverage for "any bodily injury to" "any insured or any member of an insured's family residing in the insured's household"—the reference to "the insured's household" cannot reasonably be understood as denoting only "the named insured's household." The interpretation advanced by the respondents ignores the preceding reference in the exclusion to "any insured or any member of an insured's family." The initial reference in the exclusion to "any insured" governs the succeeding reference to "an insured's family" and "the insured's household." In the last phrase, the word "the" points back to the preceding reference to "any insured" and "an insured's family." The is "used as a function word to indicate that a following noun or noun equivalent refers to someone or something previously mentioned or clearly understood from the context or the situation." Webster's Third New International Dictionary 2368 (1993). The exclusion's reference to family members "residing in the insured's household" therefore encompasses family members residing in the household of any insured.

State Farm's position regarding the household exclusion is supported by this Court's decision in Webb v. American Fire & Casualty Co., 5 So. 2d 252 (Fla. 1941). In Webb, the plaintiff obtained a judgment against Sophie and Louis Davidson and then instituted garnishment proceedings against American Fire & Casualty Company by reason of an indemnity policy issued to Sophie Davidson.

Anna Webb was an employee of Louis Davidson. American Fire claimed that Webb's injuries, which occurred while Louis was driving, were not covered because of a policy exclusion that stated, "This policy does not apply . . . (f) Under Coverage 1, to bodily injury or to death of the Insured; or to bodily injury or to death of any employee of the Insured while engaged in the business of the Insured." Id. at 252.

This Court concluded that American Fire was not liable under the policy. In interpreting the exclusion, this Court looked at the policy's definition of insured, which included "not only the named Insured but also any person while using the automobile when such actual use is with the permission of the named Insured." Id. at 253. Because there was a dispute regarding whether Louis Davison had been added to the policy as a named insured before the accident occurred, this Court's holding addressed both possibilities. This Court concluded that if Louis were a named insured, Webb could not recover "because the accident occurred while she was engaged as an employee of the insured." In the alternative, this Court determined that even if Sophie Davidson were the only named insured on the policy, Webb nevertheless could not recover "because the exclusion clause applies not only to the named insured but also applied to Louis Davidson who was using the automobile with the knowledge and consent of the named insured to transport his employee under his contract of employment with the plaintiff." Id. In brief,

this Court interpreted the term "the Insured," used in an exclusionary clause, as incorporating the policy definition of "insured," which includes permissive drivers.

Our interpretation of the household exclusion provision here is consistent with the reasoning of Webb and with the view adopted by the large majority of other jurisdictions that have addressed similarly worded policy provisions. See Zipperer v. State Farm Mut. Auto. Ins. Co., 254 F.2d 853, 855 (5th Cir. 1958) (concluding that an exclusion stating that coverage did not apply "to the insured or any member of the family of the insured residing in the same household as the insured" barred coverage for injuries sustained by a passenger who was a relative of a permissive-driver insured); State Farm Mut. Auto. Ins. Co. v. Northwest Leasing Corp., 295 F. Supp. 516, 519 (D.N.D. 1969) (concluding that an exclusion for "bodily injury to the insured or any member of the family of the insured residing in the same household as the insured" applied to the wife of a permissive insured); Third Nat'l Bank of Ashland v. State Farm Mut. Auto. Ins. Co., 334 S.W.2d 261, 262-63 (Ky. 1960) (concluding that an exclusion barring coverage for bodily injuries "to the insured or any member of the family of the insured residing in the same household as the insured" applied to injuries suffered by the cohabitating sister-in-law of a permissive driver), superseded by statute as recognized in Lewis v. West Am. Ins. Co., 927 S.W.2d 829 (Ky. 1996) (concluding that in light of Kentucky Motor Vehicle Reparations Act, household

exclusions in automobile liability insurance policies violate public policy and thus are not enforceable); State Farm Mut. Auto. Ins. Co. v. Ballmer, 899 S.W.2d 523, 525-26 (Mo. 1995) (concluding that an exclusion for bodily injury to "any insured or any member of an insured's family residing in the insured's household" was unambiguous and that "the insured" simply referred to any person or organization identified previously in the exclusion as "an insured," which under the facts of that case included the permissive driver); Nodak Mut. Ins. Co. v. Wacker, 154 N.W.2d 776, 778-80 (N.D. 1967) (concluding that "the insured" in a household exclusion included a permissive driver and barred the claim by the wife of the permissive driver). But see Patton v. Patton, 198 A.2d 578, 580, 582-83 (Pa. 1964) (concluding that "the insured" in an exclusion eliminating coverage for bodily injury "to the insured or any member of the family of the insured residing in the same household as the insured" meant only the named insured and did not bar a claim by the wife of a permissive driver against the named insured).

III. CONCLUSION

Based on the foregoing, we quash the Third District's decision, approve Linehan, and remand for proceedings consistent with this opinion. The plain language of the household exclusion precludes coverage for bodily injuries suffered by members of the household of a permissive-driver insured, such as the parents in this case, Fabiola P. and Roger Llanes.

It is so ordered.

PARIENTE, LEWIS, QUINCE, POLSTON, LABARGA, and PERRY, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND IF FILED, DETERMINED.

Application for Review of the Decision of the District Court of Appeal - Direct Conflict of Decisions

Third District - Case No. 3D08-2969

(Dade County)

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