

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STATE FARM MUTUAL AUTOMOBILE : CIVIL ACTION  
INSURANCE COMPANY :  
 :  
v. :  
 :  
DELORES AND WALLY SHARE : No. 98-1549

MEMORANDUM

Ludwig, J.

October 15, 1998

This is an action by plaintiff State Farm Mutual Automobile Insurance Company for a declaratory judgment as relates to a claim submitted by defendant Wally Share, its insured. He is alleged to have sustained personal injuries in an accident on August 26, 1996 while a passenger in a car operated by his wife, Delores Share. The car, which was jointly owned by defendants, was insured by plaintiff. Jurisdiction is diversity, 28 U.S.C. §§ 1332(a), 2201(a). The facts of the case are set forth in a stipulation.

The narrow issue presented here is whether the household exclusion in State Farm's automobile insurance policy should be applied to the husband's third-party claim against his wife.<sup>1</sup> The exclusion states that there is no liability coverage for bodily injury to "any insured or any member of a insured's family residing in the insured's household." Stip. facts, ¶ 24 (emphasis in original). The effect and enforceability of the exclusion are controlled by the law of the applicable state.

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<sup>1</sup> Plaintiff has paid the husband \$10,000 in medical expenses under the policy's first-party coverage. Stip. facts, ¶ 22. This was a one-car accident.

Defendants are permanent residents of Florida. The accident in question occurred in Pennsylvania while they were on a two-month vacation. The car was purchased and temporarily registered in Pennsylvania but was insured under a policy issued in Florida. Also, at the time of purchase, defendants obtained an exemption from Pennsylvania state sales tax by reason of their intention to pay Florida tax upon their return there.

A federal court sitting in diversity must apply the choice-of-law rules of the forum state. Klaxon v. Stentor Elec. Mfg. Co., 313 U.S. 487, 496 (1941); Fedorczyk v. Caribbean Cruise Lines, Ltd., 82 F.3d 69, 72 (3d Cir. 1996). Pennsylvania has adopted the significant contacts analysis, under which the law of the state having the most significant relationship with the parties and the transaction controls. Griffith v. United Air Lines, 416 Pa. 1, 21-22, 203 A.2d 796, 805-06 (1964). See also Compagnie des Bauxites de Guinee v. Argonaut-Midwest Ins. Co., 880 F.2d 685, 688-89 (3d Cir. 1989).

The inquiry here is potentially two-fold: (1) Is there a real conflict between the laws of the states involved; if so, (2) which jurisdiction has the greater interest, considering the qualitative contacts of the states, the parties and the controversy? LeJeune v. Bliss-Salem, Inc., 85 F.3d 1069, 1071 (3d Cir. 1996). Florida decisions uphold household exclusions similar to the one in this case while Pennsylvania decisions are generally to the contrary. Therefore, there appears to be an actual, as opposed to a "false," conflict of law question. Compare Fitzgibbon v. GEICO, 583 So. 2d

1020, 1021 (Fla. 1991) and Mitchell v. State Farm Mut. Auto Ins., 678 So. 2d 418, 421 (Fla. Dist. Ct. App. 1996), with Electric Ins. Co. v. Rubin, 32 F.3d 814, 818 (3d Cir. 1994) (“[I]t is true that ‘[t]he general rule in Pennsylvania . . . [is that] family car exclusions . . . are invalid as against the policy of the’ MVFRL [Motor Vehicle Family Responsibility Law].”) (quoting Sherwood v. Bankers Standard Ins. Co., 424 Pa. Super. 13, 16, 621 A.2d 1015, 1017 (1993), rev’d on other grounds, 538 Pa. 397, 648 A.2d 1171 (1994)). See also defendants’ mot. for summ. j., ex. C (letter from the Pennsylvania Insurance Department, Feb. 13, 1991, explaining that Pennsylvania insurers must offer the full extent of liability coverage required under the MVFRL for intra-family lawsuits).

Given the actual conflict, the determination of which state has the most significant relationship to this controversy must be made in favor of Florida. In a contract dispute, the “center of gravity” of the contract - the place of negotiation, signing, delivery, and parties’ domicile - ordinarily is dispositive. Neville Chemical Co. v. Union Carbide Corp., 422 F.2d 1205, 1211 (3d Cir. 1969); Carbone v. General Accident Ins. Co., 937 F. Supp. 413, 417 (E.D. Pa. 1996). All of the relevant factors here look to the applicability of Florida law - which, for the same reasons, would have been the law that was within the parties’ reasonable contemplation when the insurance policy was issued.

However, the policy also includes an “Out-of-State Coverage”

provision.<sup>2</sup> Because the accident occurred in Pennsylvania, the out-of-state coverage provision triggers application of Pennsylvania law - specifically, the MVFRL, 75 Pa C.S.A. § 1701 et seq.

As defendants correctly point out, they were, as nonresidents, subject to the MVFRL as nonresidents during the operation of their motor vehicle on Pennsylvania highways. See, e.g., Jarrett v. Pennsylvania Nat'l Mut. Ins. Co., 400 Pa. Super. 565, 569, 584 A.2d 327, 329 (1990) ("Owners of automobiles registered outside the Commonwealth [are] required to show proof of financial responsibility."); Boone v. Stonewall Ins. Co., 382 Pa. Super. 104, 108, 554 A.2d 968, 970 (1989) (holding that driver whose car was registered and insured in North Carolina was subject to Pennsylvania financial responsibility requirements). Section 1782(b) delineates the obligation of nonresidents under the MVFRL:

Nonresident. - The nonresident owner of a motor vehicle not registered in this Commonwealth may give proof of financial responsibility by filing with the department [of transportation] a written certificate . . . of an insurance company authorized to transact business in the state in which the

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<sup>2</sup> That provision states, in relevant part:

Out-of-State Coverage

If an insured under the liability coverages is in another state or Canada and as a non-resident becomes subject to its motor vehicle compulsory insurance, financial responsibility or similar law:

(a) the policy will be interpreted to give the coverage required by the law . . . .

Stip. facts ¶ 24.

motor vehicle or motor vehicles described in the certificate are registered. . . . The department shall accept the certificate upon condition that the insurance company complies with the following provisions with respect to the policies so certified:

\* \* \*

(2) The insurance company shall agree in writing that the policies shall be deemed to conform with the laws of this Commonwealth relating to the terms of motor vehicle liability policies issued in this Commonwealth.

78 Pa. C.S.A. § 1782(b).<sup>3</sup>

Pennsylvania courts have construed this provision to require nonresidents to furnish proof of financial responsibility as defined in § 1702. For nonresidents, the minimum liability coverage, as set forth in that section, is \$15,000 for bodily injury and \$5,000 for property damage. See Jarrett, 400 Pa. Super. at 569, 584 A.2d at 329; Boone, 382 Pa. Super. at 108, 554 A.2d at 970. The insurance policy coverage issued by State Farm in this case exceeds the minimums mandated under § 1702. However, the household exclusion limits liability to persons other than members of the insured's household. That result, according to defendants, would deny the necessary minimum coverage to all claimants.

Our task at this juncture is to predict how the Supreme Court of Pennsylvania would decide this insurance coverage question, having not ruled on it previously. PolSELLI v. Nationwide Mut. Fire Ins. Co., 126 F.3d 524, 528 n.3 (3d Cir. 1997); Surace v.

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<sup>3</sup> Pennsylvania courts have not considered the effect under the MVFRL of a nonresident's temporary Pennsylvania registration of a vehicle in Pennsylvania.

Caterpillar, Inc., 111 F.3d 1039, 1044 (3d Cir. 1997).<sup>4</sup> In our view, the Pennsylvania Court would not disallow the household exclusion on the basis of the MVFRL's nonresident provision. It would no doubt reason that doing so would be consistent with the MVFRL, and would not impair the interests of Pennsylvania residents. The financial responsibility statute was enacted by Pennsylvania in an effort to reduce escalating costs of automobile insurance in the Commonwealth. See Higueta v. Hai Son Dinh, 1998 WL 667785, \*7 (Pa. Sept. 29, 1998); Danko v. Erie Ins. Exchange, 428 Pa. Super. 223, 229, 630 A.2d 1219, 1222 (1993), aff'd, 538 Pa. 572, 649 A.2d 935 (1994). To thwart the clear provision of this insurance contract entered into by Florida residents in Florida would not further the cost-containment policy underlying the MVFRL.<sup>5</sup>

Other considerations would also be likely to prompt the Pennsylvania court not to disturb the exclusion. To allow a recovery of third-party benefits would be contrary to the reasonable expectations of the parties - an important factor in Pennsylvania insurance policy analysis. See, e.g., Geisler v.

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<sup>4</sup> While other Pennsylvania courts decisions may offer guidance, this appears to be a case of first impression.

<sup>5</sup> "In interpreting an insurance contract, we must ascertain the intent of the parties as manifested by the language of the written agreement. When the policy language is clear and unambiguous, we will give effect to the language of the contract." Paylor v. Hartford Ins. Co., 536 Pa. 583, 586, 640 A.2d 1234, 1235 (1994). See also United Servs. Auto. Ass'n. v. Evangelista, 698 F. Supp. 85, 88 (E.D. Pa. 1988) (upholding exclusion that was "clearly worded, unambiguous and conspicuously displayed"), aff'd, 872 F.2d 414 (3d Cir. 1989).

Motorists Mutual Ins. Co., 382 Pa. Super. 622, 626, 556 A.2d 391, 393 (1989) (noting that the insured's reasonable expectations are the focal point of interpreting an insurance contract). A nonresident insured should not be permitted to avoid such an exclusion depending merely on the fortuity of where the automobile accident occurred. See Jeffry v. Erie Ins. Exch., 423 Pa. Super. 483, 502, 621 A.2d 635, 645 (1993) ("there is a correlation between the premiums paid by the insured and the coverage a claimant could reasonably expect to receive.")

Our prediction is that the household exclusion would be upheld as valid and enforceable as a matter of Pennsylvania law, and, consequently, plaintiff's motion for judgment must be granted.

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Edmund V. Ludwig, J.