NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2010 CA 0502

AMY RONQUILLE REID

VERSUS

SWEETWATER CAMPGROUND, RANCH & STABLES, L.L.C., AND SCOTTSDALE INSURANCE COMPANY

Judgment Rendered: OCT 2 9 2010

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On Appeal from the Twenty-First Judicial District Court
In and for the Parish of Tangipahoa
State of Louisiana
Docket No. 2006-3510

Honorable Brenda Bedsole Ricks, Judge Presiding

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BEFORE: WHIPPLE, McDONALD, AND McCLENDON, JJ.

McCLENDON, J.

In this personal injury case, the plaintiff appeals a trial court judgment granting summary judgment in favor of the defendant insurer and dismissing her claims against the insurer based on a lack of coverage. For the reasons that follow, we affirm.

FACTS AND PROCEDURAL HISTORY

On October 20, 2006, the plaintiff, Amy Ronquille Reid, filed a petition for damages against Sweetwater Campground, Ranch & Stables, L.L.C. (Sweetwater) and ABC Insurance Company (ABC). Scottsdale Insurance Company (Scottsdale) subsequently replaced ABC as the liability insurer for Sweetwater. Plaintiff asserted that, while participating in equine activities at Sweetwater, she suffered severe injuries due to Sweetwater's negligence. Thereafter, the defendants answered, generally denying the allegations of plaintiff's petition. Each defendant then filed a motion for summary judgment, seeking statutory immunity from plaintiff's claims.[1] Following a hearing, and after issuing reasons for judgment, the trial court signed its judgment on June 23, 2009, granting in part and denying in part the motions for summary judgment. The trial court granted the motions in part to the extent that Sweetwater qualified as a "farm animal activity sponsor" and was thus afforded the immunity or limitation of liability provided by statute, absent a showing by the plaintiff that an exception to such immunity or limitation of liability applied. The trial court denied the defendants' motions for summary judgment to the extent that it found genuine issues of material fact existed regarding the applicability of the exceptions argued by the plaintiff.[2]

Thereafter, on July 23, 2009, Scottsdale filed a second motion for summary judgment, asserting that it was entitled to judgment as a matter of law based on the animal and stable liability exclusions found in Sweetwater's general

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[1] The defendants' motions were based on LSA-R.S. 9:2795.1.

[2] From this judgment, Sweetwater sought review by this court, but its application for supervisory writs was denied on November 9, 2009. See **Reid v. Sweetwater Campground, Ranch & Stables, LLC**, 09-1346 (La.App. 1 Cir. 11/9/09) (unpublished writ action).

liability policy with Scottsdale. The motion was heard on November 16, 2009, at the conclusion of which the trial court granted Scottsdale's motion. Judgment was signed on December 7, 2009, finding no coverage under the insurance policy and dismissing all of plaintiff's claims against Scottsdale with prejudice. The court additionally found no just reason for delay and, to avoid multiple trials, designated the judgment as final. Thereafter, plaintiff requested written reasons for judgment, which were issued on December 11, 2009. Plaintiff appealed.

DISCUSSION

On appeal, summary judgments are reviewed *de novo* under the same criteria that govern the trial court's consideration of whether summary judgment is appropriate. **Duplantis v. Dillard's Dept. Store**, 02-0852, p. 5 (La.App. 1 Cir. 5/9/03), 849 So.2d 675, 679, writ denied, 03-1620 (La. 10/10/03), 855 So.2d 350. An appellate court thus asks the same questions as does the trial court in determining whether summary judgment is appropriate: whether there is any genuine issue of material fact, and whether the mover is entitled to judgment as a matter of law. **Brumfield v. Gafford**, 99-1712, p. 3 (La.App. 1 Cir. 9/22/00), 768 So.2d 223, 225. The summary judgment procedure is favored and is designed to secure the just, speedy, and inexpensive determination of every action. LSA-C.C.P. art. 966A(2). A motion for summary judgment is a procedural device used to avoid a full-scale trial when there is no genuine factual dispute. The motion should be granted only if the pleadings, depositions, answers to interrogatories, and admissions on file, together with any affidavits, show that there is no genuine issue as to material fact and that the mover is entitled to judgment as a matter of law. **Brumfield**, 99-1712 at pp. 3-4, 768 So.2d at 225; see LSA-C.C.P. art. 966B.

The burden of proof is on the movant. However, if the movant will not bear the burden of proof at the trial of the matter, the movant is not required to negate all essential elements of the adverse party's claim, but rather to point out an absence of factual support for one or more essential elements. Thereafter, if the adverse party fails to provide factual evidence sufficient to establish that he

will be able to satisfy his evidentiary burden of proof at trial, there is no genuine issue of material fact, and summary judgment is properly granted. LSA-C.C.P. art. 966C(2).

Because it is the applicable substantive law that determines materiality, whether a particular fact in dispute is "material" for summary judgment purposes can be seen only in light of the substantive law applicable to the case. **Guardia v. Lakeview Regional Medical Ctr.**, 08-1369, p. 4 (La.App. 1 Cir. 5/8/09), 13 So.3d 625, 628.

An insurance policy is a contract between the parties, and should be construed employing the general rules of interpretation of contracts. **Blackburn v. National Union Fire Ins. Co. of Pittsburgh**, 00-2668, pp. 5-6 (La. 4/3/01), 784 So.2d 637, 641. The judicial responsibility in interpreting insurance contracts is to determine the parties' common intent. LSA-C.C. art. 2045; **Huggins v. Gerry Lane Enterprises, Inc.**, 06-2816, 06-2843, p. 3 (La. 5/22/07), 957 So.2d 127, 129. In ascertaining the common intent of the insured and insurer, courts begin their analysis with a review of the words in the insurance contract. Words in an insurance contract must be ascribed their generally prevailing meaning, unless the words have acquired a technical meaning, in which case the words must be ascribed their technical meaning. See LSA-C.C. art. 2047; **Succession of Fannaly v. Lafayette Ins. Co.**, 01-1144, 01-1343, 01-1355, 01-1360, p. 3 (La. 1/15/02), 805 So.2d 1134, 1137. Moreover, an insurance contract is construed as a whole and each provision in the contract must be interpreted in light of the other provisions. One provision of the contract should not be construed separately at the expense of disregarding other provisions. See LSA-C.C. art. 2050; **Peterson v. Schimek**, 98-1712, p. 5 (La. 3/2/99), 729 So.2d 1024, 1029. When the words of an insurance contract are clear and explicit and lead to no absurd consequences, courts must enforce the contract as written. See LSA-C.C. art. 2046. Insurance policies are meant to effect coverage; therefore, the contract is additionally interpreted to effect coverage where possible. See **Yount v. Maisano**, 627

So.2d 148, 151 (La. 1993). However, if an ambiguity remains after applying the general rules of contractual interpretation to an insurance contract, the ambiguous contractual provision is construed against the insurer who furnished the contract's text and in favor of the insured. See LSA-C.C. art. 2056.

Insurers have the right to limit coverage in any manner desired, so long as the limitations are clearly and unambiguously set forth in the contract and are not in conflict with statutory provisions or public policy. **Campbell v. Markel American Ins. Co.**, 00-1448, p. 10 (La.App. 1 Cir. 9/21/01), 822 So.2d 617, 623-24, writ denied, 01-2813 (La. 1/4/02), 805 So.2d 204. Coverage exclusions in insurance contracts are construed strictly against the insurer. **State Farm Mut. Auto. Ins. Co. v. Noyes**, 02-1876, p. 4 (La.App. 1 Cir. 2/23/04), 872 So.2d 1133, 1136.

In support of its motion for summary judgment, Scottsdale offered into evidence the insurance policy, including the policy exclusions at issue, and plaintiff's deposition. In opposition to the motion, plaintiff also relied on plaintiff's deposition and the policy exclusions. She also offered certain pleadings from the record, as well as copies of the depositions of Dorris "Doc" Carter, Sweetwater's horseback riding guide, and Rita Robichaud, owner of Sweetwater.

It is undisputed that Sweetwater and Scottsdale entered into an insurance agreement on October 3, 2005, which was in full force and effect at the time of plaintiff's accident. The exclusions in the insurance policy relied on by Scottsdale are as follows:

ANIMAL EXCLUSION

This policy does not provide coverage for:

Bodily injury, property damage or medical payments to others, caused by any animal, whether owned or not owned by any insured.

STABLE LIABILITY EXCLUSION

. . .

> The coverage provided by this policy does not apply to any "bodily injury," "property damage," "personal injury" or "advertising injury" claim or claims arising out of:
>
> 1. Riding instructions performed by you or on your behalf or on behalf of others; or
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> 2. Rental or leasing of saddle animals to others; or
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> 3. The training of saddle animals involving riders not employed by you.

In this appeal, plaintiff argues that genuine issues of material fact exist as to issues of negligence not covered by the exclusions. For example, plaintiff claims the animal exclusion does not exclude coverage in this matter because her bodily injury was not caused by an animal as required by the wording of the exclusion. Rather, plaintiff argues, her injuries were caused by the guide's failure to ascertain whether plaintiff could safely engage in horseback riding and to manage the horse during her ride. Plaintiff further asserts that the statutory exceptions to Sweetwater's immunity or limits on liability are not covered by the wording of the Stable Liability Exclusion. Plaintiff maintains that Doc Carter, the Sweetwater horseback riding guide, was negligent in his efforts to safely manage the horse plaintiff was riding, in his assessment of her abilities, and in properly instructing plaintiff.

In its reasons, the trial court specifically found that the animal and stable liability exclusions in the policy of insurance were clear and unambiguous and applicable in the instant matter. We agree. Plaintiff alleged in her petition that she suffered severe injuries "while participating in equine activities." In her deposition, plaintiff stated that her family rented the horse that was involved in her accident and that she rode the horse after her nephew did not want to ride anymore. Plaintiff further stated that she rode for about ten minutes when the horse suddenly bolted, and she fell off. The exclusions are unambiguous and do not afford recovery to a person for injuries "caused by any animal." Clearly, the action of the horse bolting caused plaintiff to fall from the horse and suffer

injuries. Additionally, the stable liability exclusion excludes coverage for any injury arising out of riding instructions or the rental of a horse to others. The policy exclusion is not limited to the rental of a horse to the individual who is injured, but includes the "[r]ental or leasing of saddle animals to others," which unquestionably is the case before us. Plaintiff's allegations are covered by the policy exclusions.

Accordingly, the trial court correctly concluded that the policy exclusions were applicable, precluding coverage and prohibiting recovery by the plaintiff against Scottsdale. As there were no genuine issues of material fact, Scottsdale was entitled to summary judgment as a matter of law.

CONCLUSION

For these reasons, the trial court's judgment, granting summary judgment in favor of the defendant, Scottsdale Insurance Company, is affirmed. Costs of this appeal are assessed to the plaintiff, Amy Ronquille Reid.

AFFIRMED.