

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT JULY 21, 2009 THOMAS K. KAHN CLERK
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No. 09-10671
Non-Argument Calendar

D. C. Docket No. 07-00066-CV-5

NATIONWIDE PROPERTY & CASUALTY INSURANCE COMPANY,

Plaintiff-Appellee,

versus

CLYDE OSBURN,
a.k.a. Larry Osburn,
MATT MATTINGLY,
LIBERTY AUCTION, INC.,

Defendants-Appellants.

Appeal from the United States District Court
for the Southern District of Georgia

(July 21, 2009)

Before DUBINA, Chief Judge, WILSON and PRYOR, Circuit Judges.

PER CURIAM:

This is an appeal from the district court’s grant of summary judgment in favor of Nationwide Property & Casualty Insurance Company (“Nationwide”) in an insurance coverage dispute. Specifically, the district court determined in a detailed written order that Nationwide had no duty to defend or indemnify appellants Liberty Auction, Inc. and Matt Mattingly because of an unambiguous exclusion contained in the policy of insurance.

We review a district court’s grant of summary judgment *de novo*. *Twin City Fire Ins. Co. v. Ohio Cas. Ins. Co., Inc.*, 480 F.3d 1254, 1258 (11th Cir. 2007).

After reviewing the record and reading the parties’ briefs, we agree with the district court that the undisputed facts show that Clyde Osburn’s injuries arose out of the “maintenance”¹ of an automobile that was being “operated”² by Liberty Auction through its agent, Mattingly.

As a result, we agree with the district court that the exclusion applies, and Nationwide does not have the duty to defend Liberty Auction and Mattingly under the insurance policy. Accordingly, we affirm the district court’s grant of summary judgment in favor of Nationwide.

¹See *Hollis v. St. Paul Fire & Marine Ins. Co.*, 203 Ga. App. 252, 253, 416 S.E.2d 827, 829 (Ga. Ct. App. 1992).

²See *Williams v. State*, 111 Ga. App. 588, 592, 142 S.E.2d 409, 462 (Ga. Ct. App. 1965); *Flournoy v. State*, 106 Ga. App. 756, 758-59, 128 S.E.2d 528, 530-31 (Ga. Ct. App. 1962).

AFFIRMED.