[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 20-13500
Non-Argument Calendar

D.C. Docket No. 5:20-cv-00036-LGW-BWC

MILFORD CASUALTY INS. CO.,

Plaintiff - Appellee,

versus

WILLIAM STACEY MEEKS,

Defendant - Appellant.

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

(April 23, 2021)

Before MARTIN, JILL PRYOR, and LUCK, Circuit Judges.

PER CURIAM:

William Stacey Meeks appeals the district court's denial of his motion to dismiss and its grant of summary judgment in favor of Milford Casualty Insurance Company ("Milford"). He argues that the district court should have declined to exercise jurisdiction over Milford's declaratory judgment action because of a parallel pending action in state court. He also says the district court's grant of summary judgment is based on an incorrect interpretation of Milford's insurance policy. After careful consideration, we affirm.

I. BACKGROUND

A. The Incident[1]

During the early morning hours in December 2016, Abdi Mahad was driving a tractor trailer on behalf of BIH Express, Inc. ("BIH") on Georgia Highway 15 when he lost control of the vehicle. The truck overturned and slid across the highway into the lane in which Meeks was driving. Meeks's vehicle crashed into the overturned truck, knocking him unconscious. When Meeks awoke sometime later, he called 911 and then checked on Mahad. Meeks says when he arrived at the truck he saw Mahad standing upright in the overturned cab with papers stuffed under his arm and looking through other papers scattered about the floor. Mahad told Meeks that he was okay and Meeks walked back to his car.

[1] Because we are reviewing a grant of summary judgment, we present the facts in the light most favorable to the non-moving party (here, Meeks). S.E.C. v. Monterosso, 756 F.3d 1326, 1333 (11th Cir. 2014) (per curiam).

Sometime later, vehicles driven by Scott Buchanan and Roy Johnson also crashed into the overturned truck, injuring both drivers. The precise timing of these collisions is unsettled. Meeks testified that he does not know how long he was unconscious after his collision or how long he stayed in his car once he regained consciousness. Meeks further testified that he does not know how much time passed between his collision and the second collision, though he believes it was more than five minutes. He testified that the time between the second and third collisions was probably about five to seven minutes.

B. The Policy

BIH is the named insured under a motor carrier liability policy ("the Policy") that was issued in Kentucky and assumed by Milford. The Policy obligates Milford to pay all applicable bodily injury or property damage claims "caused by an 'accident' and resulting from the ownership, maintenance or use of covered 'autos'." The Policy defines the term "Accident" as "continuous or repeated exposure to the same conditions resulting in 'bodily injury.'"

The Policy also contains a "Limit of Insurance" provision that states, in relevant part:

> Regardless of the number of covered 'autos', 'insureds', premiums paid, claims made or vehicles involved in the 'accident', the most we will pay for the total of all damages . . . combined resulting from any one 'accident' is the Limit of Insurance for Covered Autos Liability Coverage . . . . All 'bodily injury' [and] 'property damage' . . . resulting

> from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one 'accident'.

The limit of insurance is $1,000,000 per accident.

C. Procedural History

Buchanan, Johnson, and Meeks all asserted claims against BIH for injuries sustained in the accident. The parties disagree about the exact nature and timing of the payout, but it is undisputed that Milford paid at least $1,000,000 (the limit of insurance under the Policy) in settlement to either Buchanan or Johnson, but that Meeks received no payment under the Policy.

In August 2018, Meeks filed an action in the Superior Court of Charlton County, Georgia, alleging that BIH and Mahad were liable to him for his injuries. The complaint also listed Milford as a defendant. While that action was pending, Milford filed the lawsuit now on appeal seeking a declaration under the Declaratory Judgment Act that it had exhausted its limits under the Policy and "owes no indemnity coverage" to Meeks nor has any obligation to provide a defense to any party in the underlying action. Thereafter, Milford moved for summary judgment, arguing that it was entitled to judgment on this issue as a matter of law. Meeks then filed a motion to dismiss Milford's action for declaratory relief. Meeks argued that the district court should exercise its discretion under the Declaratory Judgment Act to not hear Milford's action because a parallel state court action is pending.

The district court considered Meeks's motion to dismiss and Milford's motion for summary judgment together. The court denied Meeks's motion to dismiss. It found that the motion was untimely and concluded, in any event, that it would not be appropriate to abstain from hearing Milford's action. The court also granted Milford's motion for summary judgment. It held that the three collisions constituted only one "accident" under the Policy and therefore Milford had met its limit of insurance.

This is Meeks's appeal.

II. DISCUSSION

We first address the district court's denial of Meeks's motion to dismiss Milford's declaratory judgment action. We then turn to the court's grant of summary judgment in favor of Milford.

A. Meeks's Motion to Dismiss Milford's Declaratory Judgment Action

We review a district court's decision to hear a declaratory judgment action for abuse of discretion. Manuel v. Convergys Corp., 430 F.3d 1132, 1134 (11th Cir. 2005). Under this standard, "we will leave undisturbed a district court's ruling unless we find that the district court has made a clear error of judgment, or has applied the wrong legal standard." Ameritas Variable Life Ins. Co. v. Roach, 411 F.3d 1328, 1330 (11th Cir. 2005) (per curiam).

On appeal, Meeks argues both that his motion to dismiss was timely and that the district court erred by declining to abstain from hearing Milford's declaratory judgment action. Because we conclude the district court did not abuse its discretion by retaining jurisdiction over Milford's action, we need not (and do not) address timeliness.

Our Court has identified nine factors for courts to consider in determining whether to dismiss a pending declaratory judgment action in favor of a parallel state action:

> (1) the strength of the state's interest in having the issues raised in the federal declaratory action decided in the state courts;
>
> (2) whether the judgment in the federal declaratory action would settle the controversy;
>
> (3) whether the federal declaratory action would serve a useful purpose in clarifying the legal relations at issue;
>
> (4) whether the declaratory remedy is being used merely for the purpose of 'procedural fending'—that is, to provide an arena for a race for res judicata or to achieve a federal hearing in a case otherwise not removable;
>
> (5) whether the use of a declaratory action would increase the friction between our federal and state courts and improperly encroach on state jurisdiction;
>
> (6) whether there is an alternative remedy that is better or more effective;
>
> (7) whether the underlying factual issues are important to an informed resolution of the case;

(8) whether the state trial court is in a better position to evaluate those factual issues than is the federal court; and

(9) whether there is a close nexus between the underlying factual and legal issues and state law and/or public policy, or whether federal common or statutory law dictates a resolution of the declaratory judgment action.

Ameritas, 411 F.3d at 1331. This list is "neither absolute nor is any one factor controlling." Id.

The district court held that the balance of the relevant factors weighed in favor of retaining jurisdiction over Milford's declaratory judgment action. This was not an abuse of discretion. To begin, it is undisputed that Kentucky law governs here because the Policy was issued and delivered in Kentucky. For that reason, we agree with the district court that factors one, five, eight, and nine weigh in favor of retaining jurisdiction. The Georgia Superior Court, where Meeks's state action is pending, has no stronger interest in interpreting Kentucky law than does the federal court. Neither is the Georgia Superior Court better positioned to evaluate Kentucky law and apply it to the facts of this case.

Meeks's arguments do not show the district court abused its discretion. Meeks says the fourth factor weighs in favor of declining jurisdiction because Milford's declaratory judgment action is "being used to provide an arena for a race for res judicata in a case not otherwise removable" and points to the fact that Milford recognized the res judicata effect the federal decision would have. He also argues that the state court is more familiar with the facts and thus better able to

evaluate them, making factors seven and eight weigh in his favor. However, even if we were to agree with Meeks that some factors weigh in favor of declining jurisdiction, that would not lead us to conclude the district court abused its discretion. As noted above, we think factors one, five, eight, and nine weigh in favor of retaining jurisdiction. And the district court adequately considered factors four and seven when reaching its decision. Therefore, the court neither "made a clear error of judgment" nor "applied the wrong legal standard." Ameritas, 411 F.3d at 1330.

B. Milford's Motion for Summary Judgment

We review de novo a grant of summary judgment, drawing all reasonable inferences and reviewing all evidence in the light most favorable to the non-moving party. Newcomb v. Spring Creek Cooler, Inc., 926 F.3d 709, 713 (11th Cir. 2019). Summary judgment is appropriate only where "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).

Milford says it is entitled to summary judgment because it already fulfilled its obligation under the Policy when it paid $1,000,000 to claimants other than Meeks for claims stemming from the collisions. Under the Policy, Milford is obligated to pay up to $1,000,000 "per accident." Thus the central question is whether the three collisions constituted a single accident or multiple accidents. We

agree with the district court that, according to the terms of the Policy, only one accident occurred.

Again here, Kentucky law controls. Under Kentucky law, contract interpretation is a question of law subject to de novo review on appeal. Maze v. Bd. of Dirs. for Commonwealth Postsecondary Educ. Prepaid Tuition Trust Fund, 559 S.W.3d 354, 363 (Ky. 2018). The first question in interpreting a contract is whether the contract is ambiguous. Bd. of Trustees of Ky. Sch. Bds. Ins. Trust v. Pope, 528 S.W.3d 901, 906 (Ky. 2017). "A contract is ambiguous if a reasonable person would find it susceptible to different or inconsistent interpretations." Hazard Coal Corp. v. Knight, 325 S.W.3d 290, 298 (Ky. 2010) (quotation marks omitted). In the absence of ambiguity, we must interpret the contract "strictly according to its terms" which means "assigning language its ordinary meaning and without resort to extrinsic evidence." Ky. Shakespeare Festival, Inc. v. Dunaway, 490 S.W.3d 691, 694 (Ky. 2016) (quotation marks omitted).

As defined in the Policy, the term "accident" unambiguously encompasses all three collisions. The Policy defines "accident" as including "continuous or repeated exposure to the same conditions resulting in 'bodily injury' or 'property damage.'" The inclusion of "continuous or repeated exposure to the same conditions" clearly contemplates the situation here: multiple collisions with the same overturned truck. The Policy's "Limit of Insurance" section makes this even

more explicit, clarifying that "repeated exposure to substantially the same conditions will be considered as resulting from one 'accident'" for coverage purposes.

Meeks says the collisions here cannot constitute a single accident under the Policy because he was exposed to "entirely different conditions" than Buchanan and Johnson. According to Meeks, the difference is that he collided with the overturned truck while it was sliding across the highway while Buchanan and Johnson hit a stationary truck after the driver had time to warn approaching motorists. This argument does not carry the day. All three motorists hit the truck within a matter of minutes as it lay overturned in the road. The fact that Meeks's collision occurred while the truck was still moving and the others happened once the truck was stationary does not change the fact that the injuries of all three claimants arose from "substantially the same conditions." Therefore, under the plain terms of the Policy, only one accident occurred. Because Milford has paid the amount required for a single accident, the district court's grant of summary judgment was proper.

AFFIRMED.