STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0452

Joy Trueblood,
Appellant,

vs.

MMIC Insurance, Inc.,
Respondent.

Filed December 6, 2021
Affirmed
Frisch, Judge

Hennepin County District Court
File No. 27-CV-20-6378

Nicholas C. Rowley, Rodney G. Ritner, Trial Lawyers for Justice, P.C., Decorah, Iowa (for appellant)

Charles E. Spevacek, William M. Hart, Robert W. Vaccaro, Meagher & Geer, P.L.L.P., Minneapolis, Minnesota (for respondent)

Considered and decided by Frisch, Presiding Judge; Segal, Chief Judge; and Cleary, Judge.*

NONPRECEDENTIAL OPINION

FRISCH, Judge

Appellant-insured challenges the dismissal of her complaint, arguing that the district court erred by applying Minnesota law to dismiss her claims arising out of the alleged

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

negligent breach of contract by respondent-insurer in the defense of her underlying medical-malpractice lawsuit. We affirm.

FACTS

Appellant-insured Joy Trueblood alleges the following facts in her complaint.

Respondent-insurer MMIC Insurance, Inc., a Minnesota corporation, entered into a contract to provide medical-malpractice insurance to Trueblood, an Iowa resident, and to the Iowa clinic where she worked as a pathologist. Trueblood's liability insurance policies covered $9 million—$4 million in primary coverage and $5 million as an excess policy issued by another insurer.

In December 2017, a former patient sued Trueblood and the clinic, alleging that Trueblood negligently reported his test results and caused him to undergo unnecessary surgery. A jury trial occurred in April 2019, and the jury returned a verdict of $12.5 million in favor of the patient.[1] This amount was far greater than the amounts that the parties discussed during settlement negotiations and mediation. Trueblood settled the patient's claims for $9 million and did not make any personal payment toward the settlement.

In February 2020, Trueblood commenced this action in Minnesota against MMIC. Trueblood alleged that MMIC (1) engaged in bad faith for failing to investigate, failing to settle before trial, and failing to provide her with independent counsel; (2) breached its fiduciary duty to Trueblood; and (3) intentionally inflicted emotional distress related to the

[1] We observe that Trueblood's counsel on appeal also was the patient's counsel in the underlying medical-malpractice claim. In both the underlying action and in this appeal, counsel claims that Trueblood was negligent. We express concern regarding this seemingly incongruous representation.

participation in the underlying malpractice lawsuit.[2] The complaint styles these claims as torts, and Trueblood argued in the district court that Iowa law applied to her claims.

MMIC brought a motion to dismiss for failure to state a claim upon which relief can be granted. The district court concluded that Minnesota law applies to the claims set forth in the complaint and dismissed the action because Minnesota law does not recognize tort claims arising out of a breach of contract. Trueblood appeals.

DECISION

A party may move to dismiss a complaint based on a claimant's "failure to state a claim upon which relief can be granted." Minn. R. Civ. P. 12.02(e). "We review a district court's grant of a motion to dismiss for failure to state a claim . . . de novo to determine whether the pleadings set forth a legally sufficient claim for relief." *Abel v. Abbott Nw. Hosp.*, 947 N.W.2d 58, 68 (Minn. 2020). A claim is legally sufficient "if it is possible on any evidence which might be produced, consistent with the pleader's theory, to grant the relief demanded." *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 603 (Minn. 2014) (quotation omitted). "The reviewing court must consider only the facts alleged in the complaint, accepting those facts as true and must construe all reasonable inferences in favor of the nonmoving party." *Abel*, 947 N.W.2d at 68 (quotation omitted).

We begin by analyzing whether Minnesota law applies to Trueblood's claims before turning to whether the district court erred by granting MMIC's motion to dismiss.

[2] We group these claims together as a general allegation that MMIC engaged in a negligent breach of contract for its failure to represent her in the malpractice lawsuit as she expected under the policy agreement.

I. Minnesota law applies.

Trueblood commenced this action in Minnesota but contends that Iowa law applies to her claims. The parties agree that either state's law may be constitutionally applied, as both states have sufficient contacts with this case. *See Jepson v. Gen. Cas. Co. of Wis.*, 513 N.W.2d 467, 469 (Minn. 1994). Both parties also agree that Minnesota's choice-of-law rules apply here.

A district court's resolution of a choice-of-law issue is a question of law, which we review de novo. *Danielson v. Nat'l Supply Co.*, 670 N.W.2d 1, 4 (Minn. App. 2003), *rev. denied* (Minn. Dec. 16, 2003). A conflict of law exists if choosing the law of one state over the law of another state would be "outcome determinative." *Nodak Mut. Ins. Co. v. Am. Fam. Mut. Ins. Co.*, 590 N.W.2d 670, 672 (Minn. App. 1999).

We agree with the district court, and the parties, that a conflict of law exists. Iowa recognizes negligence claims arising out of a breach of contract, whereas Minnesota does not. *Compare Bellville v. Farm Bureau Mut. Ins. Co.*, 702 N.W.2d 468, 473 (Iowa 2005) (describing the elements of a first-party insured's bad-faith insurance claim), *and Villarreal v. United Fire & Cas. Co.*, 873 N.W.2d 714, 734 (Iowa 2016) (recognizing tort claim for bad faith arising out of obligations in an insurance contract), *with Morris v. Am. Mut. Ins. Co.*, 386 N.W.2d 233, 237 (Minn. 1986) (holding that an insured's claim of bad-faith breach of contract does not convert the breach into a tort). Because the complaint sets forth cognizable claims in Iowa but not Minnesota, the choice of Minnesota law would be outcome determinative.

We next apply Minnesota's five-factor choice-of-law analysis to determine which state's law applies. *Jepson*, 513 N.W.2d at 469-70. The five considerations are: (1) predictability of result, (2) maintenance of interstate order, (3) simplification of judicial task, (4) advancement of the forum's governmental interests, and (5) application of the better rule of law. *Id.* at 470. We address each factor in turn.

Predictability of Result

"This factor addresses whether the choice of law was predictable *before* the time of the transaction or event giving rise to the cause of action." *Danielson*, 670 N.W.2d at 7.

Trueblood argues that the parties would reasonably expect Iowa law to govern any dispute regarding coverage for claims against Trueblood because she is "an Iowa resident practicing medicine in Iowa" and the claims would presumably arise from incidents occurring in Iowa. MMIC, on the other hand, argues that the parties would reasonably expect Minnesota law to apply to claims administered by a Minnesota insurance company in Minnesota and arising from an insurance policy issued by that insurance company. We agree with both parties. It is not unreasonable for Trueblood, an insured who is licensed and practices medicine in Iowa, to expect that Iowa law would apply to claims arising from her insurance policy. Likewise, it is not unreasonable for MMIC to expect that Minnesota law would apply to claims related to the administration of its policy in Minnesota and arising from an insurance policy issued by a Minnesota insurance company. Because this

factor does not conclusively lend itself to the position of one party over the other, we conclude that it is neutral.[3]

Maintenance of Interstate Order

This factor addresses whether the application of Minnesota law would manifest disrespect for Iowa or impede the interstate movement of people and goods. *Jepson*, 513 N.W.2d at 471. "Deference to the state that is primarily concerned involves examining the contacts between the transaction and the states." *Nodak*, 590 N.W.2d at 674.

Trueblood argues that this factor favors the application of Iowa law because Iowa has the most significant contacts with the transactions related to this action. We disagree. Minnesota's contacts with the transactions giving rise to this action are more significant because Trueblood's claim derives from MMIC's claim evaluation and administration, settlement strategy, and decision-making, all of which originated in Minnesota. The record reflects that, although the underlying events of medical malpractice occurred in Iowa, Trueblood's current action relates to MMIC's administration of her claim, defense and settlement strategy, and other decision-making in the underlying malpractice action, all of which originated in Minnesota. Trueblood contends that some of the settlement decisions

[3] Trueblood cites cases from other jurisdictions in support of her argument that Iowa law should govern claims arising out of her practice of medicine and incidents occurring in Iowa. But these authorities are inapposite. The reference to a breach-of-contract case involving the denial of coverage is dissimilar to the tort claims asserted here. *Apollo Sprinkler Co. v. Fire Sprinkler Suppliers & Design, Inc.*, 382 N.W.2d 386, 390 (N.D. 1986). The application of a foreign state's law in *Ferren v. Gen. Motors Corp. Delco Battery Div.*, 628 A.2d 265 (N.H. 1993), was justified because the factual basis for the claim arose entirely in that foreign state. And in *Najarian v. Nat'l Amusements, Inc.*, 768 A.2d 1253 (R.I. 2001), none of the conduct giving rise to the underlying claim occurred in the forum state, unlike the circumstances in this case.

originated in Iowa because MMIC's claims evaluator resides in Iowa. But the claims evaluator did not possess any settlement authority and instead merely communicated MMIC's settlement strategy to Trueblood. We therefore conclude that this factor favors the application of Minnesota law.

Simplification of Judicial Task

This factor is not significant when the competing laws are straightforward and "the law of either state could be applied without difficulty." *Jepson*, 513 N.W.2d at 472. We conclude that this factor is not implicated because the district court could easily apply the laws of either state. *See Nodak Mut. Ins. Co. v. Am. Fam. Mut. Ins. Co.*, 604 N.W.2d 91, 95 (Minn. 2000) (reasoning that because "the conflicting laws at issue are relatively clear in that there is no dispute that recovery is allowed under one but not the other, this factor favors neither state's law").

Advancement of the Forum's Governmental Interest

This factor relates to which law would "most effectively advance a 'significant interest of the forum' state." *Medtronic, Inc. v. Advanced Bionics Corp.*, 630 N.W.2d 438, 455 (Minn. App. 2001) (quoting *Jepson*, 513 N.W.2d at 472). This factor is designed to ensure that Minnesota courts do not apply rules of law that are "inconsistent with Minnesota's concept of fairness and equity." *Id.* In considering which law will advance the governmental interest of Minnesota, we consider the public policy of both forums. *Lommen v. City of E. Grand Forks*, 522 N.W.2d 148, 152 (Minn. App. 1994), *rev. granted* (Minn. Dec. 2, 1994), *rev. vacated and appeal dismissed* (Minn. Aug. 9, 1995).

We first observe that Trueblood now concedes that this factor favors the application of Minnesota law. Trueblood initially argued that this factor favors the application of Iowa law because Iowa has a strong interest in the adjudication of tort claims occurring within Iowa and that Iowa recognizes negligent breach-of-contract claims. But counsel conceded during oral argument that this factor favors the application of Minnesota law in a Minnesota forum.

We also note that, in this instance, Minnesota has a strong interest in applying its own law because Trueblood's underlying claim is expressly not permitted under Minnesota law. It is well-settled that Minnesota does not recognize torts arising from a breach of contract. We have repeatedly refused to expand contract claims into tort claims. *See, e.g.*, *Lesmeister v. Dilly*, 330 N.W.2d 95, 102 (Minn. 1983) (concluding that when the duties arose out of contracts, it was error to submit the theory of "negligent breach" of contract to the jury); *Wild v. Rarig*, 234 N.W.2d 775, 790 (Minn. 1975) ("A malicious or bad-faith motive in breaching a contract does not convert a contract action into a tort action."); *McNeill & Assocs. v. ITT Life Ins. Corp.*, 446 N.W.2d 181, 185 (Minn. App. 1989) ("A bad-faith breach of contract does not become a tort."), *rev. denied* (Minn. Dec. 1, 1989). The application of Iowa law in this action would be "inconsistent with Minnesota's concept of fairness and equity" when Minnesota does not recognize any of the causes of action asserted by Trueblood. *Medtronic*, 630 N.W.2d at 455. We therefore determine that this factor strongly favors the application of Minnesota law.

Better Rule of Law

Although we usually consider the final factor "only when the other four factors are not dispositive," *Schumacher v. Schumacher*, 676 N.W.2d 685, 691-92 (Minn. App. 2004), we conclude that the well-reasoned body of law forbidding tort claims arising out of a breach of contract is the better rule of law. Parties to a contract bargain for certain rights and obligations under that contract and their duties and expectations are defined in a negotiated writing. In the event of a breach, so too are the rights and obligations of the parties defined by the contract and, as a longstanding matter of public policy, we have long declined to "convert a contract action into a tort action" regardless of the "malicious or bad-faith motive in breaching a contract." *Rarig*, 234 N.W.2d at 790. Therefore, a claim arising from an alleged breach of duty arising from a contract sounds exclusively in contract, not tort.

The balance of these factors favors the application of Minnesota law in this action, and we therefore affirm the district court's determination that Minnesota law applies.

II. The complaint fails to state a claim upon which relief can be granted.

Under Minnesota law, the complaint does not state a cognizable claim for relief. In third-party insurance claims, an insured may not recover tort damages from an insurer absent an independent tort because the insurer's rights and obligations are determined by the insurance policy, *St. Paul Fire & Marine Ins. Co. v. A.P.I. Inc.*, 738 N.W.2d 401, 408 (Minn. App. 2007), *rev. denied* (Minn. Dec. 11, 2007), and Minnesota's single exception to this rule does not apply here. The exception provides that an insurer is liable if it refuses to settle within policy limits and that decision is not made in good faith. *See Short v.*

Dairyland Ins. Co., 334 N.W.2d 384, 387-88 (Minn. 1983). But Trueblood settled the malpractice lawsuit for $9 million, which was within her policy limits. Because she did not make any personal payment toward the settlement, MMIC did not breach its duty of good faith.

We conclude that Minnesota law applies to this matter and that Trueblood failed to state a claim upon which relief can be granted. The district court did not err by dismissing Trueblood's complaint.[4]

Affirmed.

[4] We express no opinion as to whether Trueblood may pursue her claims in a different forum.