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ARKANSAS COURT OF APPEALS

DIVISION IV
No. CA10-683

BONITA CROSS APPELLANT V. STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY APPELLEE	**Opinion Delivered** JANUARY 26, 2011 APPEAL FROM THE WASHINGTON COUNTY CIRCUIT COURT [NO. CV10-552-4] HONORABLE MARY ANN GUNN, JUDGE AFFIRMED

RAYMOND R. ABRAMSON, Judge

On November 10, 2008, Duane Cross and his wife, Bonita, were involved in an automobile accident in Oklahoma. The accident occurred when Duane lost consciousness while driving and Bonita, who was a passenger in the car, attempted to take control of the vehicle but failed. Bonita suffered injuries as a result of the accident.

At the time of the accident, the Crosses, who were Arkansas residents, had in place a policy of automobile insurance from State Farm Mutual Automobile Insurance Company (State Farm) covering the vehicle they were driving. The insurance policy was purchased in Arkansas and complied with Arkansas's mandatory insurance provisions.

On January 20, 2010, an attorney for Bonita Cross sent a demand letter to State Farm making a personal injury claim for Bonita's injuries and requesting the limits provided under the liability portion of the Cross policy. State Farm denied the claim, citing the household

exclusion contained in the policy. Thereafter, State Farm filed a Petition for Declaratory Judgment seeking a declaration that no coverage existed under the policy because of the household exclusion and subsequently moved for summary judgment on that ground.

After hearing arguments of counsel, the trial court granted State Farm's Motion for Summary Judgment and declared that the automobile policy in question did not provide coverage to Mrs. Cross. The order was entered on June 2, 2010, and Mrs. Cross timely appealed, claiming that the trial court erred in granting summary judgment and entering declaratory relief.

The standard of review applicable to appeals from a grant of summary judgment is well settled:

> Summary judgment should only be granted when it is clear that there are no genuine issues of material fact to be litigated, and the moving party is entitled to judgment as a matter of law. In reviewing summary-judgment cases, we determine whether the trial court's grant of summary judgment was appropriate based on whether the evidence presented by the moving party left a material question of fact unanswered. The moving party always bears the burden of sustaining a motion for summary judgment. Where there are no disputed material facts, our review must focus on the trial court's application of the law to those undisputed facts. When the facts are not at issue but possible inferences therefrom are, we will consider whether those inferences can be reasonably drawn from the undisputed facts and whether reasonable minds differ on those hypotheses.

Parker v. Southern Farm Bureau Cas. Ins. Co., 104 Ark. App. 301, 304, 292 S.W.3d 311, 314 (2009) (internal citations omitted). Here, the facts are not in dispute; therefore, our review must focus on the trial court's application of the law to the facts of this case.

Mrs. Cross first argues that the trial court erred in applying Arkansas contract law to determine whether coverage existed under the policy. She claims that Ark. Code Ann. § 23-

89-212[1] mandates that a motor vehicle policy must comply with the compulsory insurance laws of the state where the insured is driving—in her case, Oklahoma. She asserts that, under Oklahoma law, she is entitled to coverage because Oklahoma does not recognize the household exclusion and that, if the exclusion were enforced, the policy would fall short of the minimum liability coverage requirements under Oklahoma law.

Oklahoma law, however, only requires nonresident owners/operators of vehicles registered out of state to comply with the registering state's compulsory liability laws. Oklahoma Statutes Annotated Title 47, § 7-601(B)(3)(1993) provides that

> 3. The provisions of this subsection shall apply to nonresident owners and operators of vehicles that are not registered in this state only if the state in which the vehicle is registered requires compulsory liability insurance. In which cases, compliance with the requirements of the law of the state of registration shall be deemed compliance with the laws of this state.

Thus, under Oklahoma law, a nonresident owner/operator of a vehicle registered in another state—as is the case, here—is deemed to be in compliance with Oklahoma's compulsory insurance laws if the laws of the state of registration—in this case, Arkansas— have been met.

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[1]Ark. Code Ann. § 23-89-212 states, in pertinent part:

> (b) If the accident occurs outside this state but in the United States, its possessions, or Canada and if the limits of liability of the financial responsibility or compulsory insurance laws of the applicable jurisdiction exceed the limits of liability of the financial responsibility laws of this state, the motor vehicle liability insurance is deemed to comply with the limits of liability of the laws of the applicable jurisdiction.

Ark. Code Ann. § 23-89-212(b)(Repl. 2004).

As this policy complied with the mandates of Arkansas law, the policy is deemed to be compliant with Oklahoma law by virtue of the statute. Thus, the household exclusion is enforceable.

Nor did the trial court err in applying Arkansas contract law to determine whether coverage existed under the policy at issue as Mrs. Cross asserts. Choice-of-law questions regarding insurance coverage have traditionally been resolved by applying the law of the state where the insurance contract was made (the *lex loci contractus* rule). *See* Robert A. Leflar, Luther McDougal, & Robert Felix, *American Conflicts Law* § 153 (4th ed.1986); RESTATEMENT (SECOND) CONFLICT OF LAWS § 193 (1971). *See generally John Hancock Mut. Life Ins. Co. v. Ramey*, 200 Ark. 635, 140 S.W.2d 701 (1940) (holding that the rights and liabilities of the parties to an insurance contract should be determined with regard to the law of the state where the contract was made). The *lex loci contractus* rule generally comports with the reasonable expectations of the parties concerning the principal situs of the insured risk, and it furnishes needed certainty and consistency in the selection of applicable law. *S. Farm Bureau Cas. Ins. Co. v. Craven*, 79 Ark. App. 423, 89 S.W.3d 369 (2002).

And, even if we were to analyze the choice-of-law issue using the "significant contact" approach which takes into account (1) the place of contracting; (2) the place of negotiation of the contract; (3) the place of performance; (4) the location of the subject matter of the contract; and (5) the domicile, residence, nationality, place of incorporation and place of business of the parties in determining the appropriate law to be applied, *see*

RESTATEMENT (SECOND) CONFLICT OF LAWS § 188 (1971), the insurance contract in the present case would be governed by Arkansas law. It is undisputed that the insurance contract was made in Arkansas. Further, virtually all significant contacts are with the state of Arkansas. The insureds were Arkansas residents, the insurance contract was written through an Arkansas agent, the insured vehicle was registered and principally located in Arkansas, and the policy complied with Arkansas law regarding minimum coverages. The only contact with the state of Oklahoma was that it was the situs of the accident. Where the only connection with a state is that it was the site of the accident, the state's contact is not significant enough to merit application of its law. *Craven*, *supra.*

However, merely determining that Arkansas law applies to the contract in question does not automatically render the household exclusion enforceable. The rights and liabilities of the parties to an insurance contract must be determined by considering the language of the entire policy. *Am. Indem. Co. v. Hood*, 183 Ark. 266, 35 S.W.2d 353 (1931). Legal effect must be given to all the language used, and the object to be accomplished by the contract should be considered in interpreting it. *Aetna Life Ins. Co. v. Spencer,* 182 Ark. 496, 32 S.W.2d 310 (1930). Whatever the construction of a particular clause standing alone may be, it must be read in connection with other clauses limiting or extending the insurer's liability. *Aetna Cas. & Sur. Co. v. Sengel*, 183 Ark. 151, 35 S.W.2d 67 (1931). In considering the phraseology of an insurance policy, the common usage of terms should prevail when interpretation is required. *Nat'l Investors Fire & Cas. Co. v. Preddy,* 248 Ark. 320, 451 S.W.2d

457 (1970).

While the policy does contain a valid household exclusion, it also contains a provision regarding out-of-state liability coverage when a vehicle becomes subject to the compulsory insurance laws of another state. That provision provides, in pertinent part:

> If:
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> 1. An ***insured*** is in another state of the United States of America . . . and as a nonresident becomes subject to its motor vehicle compulsory insurance law, financial responsibility law, or similar law; and
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> 2. This policy does not provide at least the minimum liability coverage required by such law for such nonresident,
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> then this policy will be interpreted to provide the minimum liability coverage required by such law.

Thus, under the express terms of the policy, the policy is to be interpreted as providing the minimum liability coverage required under Oklahoma law. As discussed above, Oklahoma law only requires that the policy comply with Arkansas law. Thus, as the Cross policy is in compliance with Arkansas law, it also comports with Oklahoma law, and the household exclusion is enforceable. Therefore, the trial court did not err in granting summary judgment and entering declaratory relief in favor of State Farm.

Affirmed.

VAUGHT, C.J., and GRUBER, J., agree.