

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALLSTATE PROPERTY &	:	CIVIL ACTION
CASUALTY INSURANCE COMPANY,	:	
Plaintiff,	:	
	:	
v.	:	
	:	
ANGELA VARGAS,	:	NO. 2:06-CV-3368-LDD
Defendant.	:	

ORDER

AND NOW, this 30th day of August 2007, upon consideration of Plaintiff’s Motion for Summary Judgment (Doc. No. 62) and Defendant’s Response in Opposition (Doc. No. 63), it is hereby ORDERED that Plaintiff’s Motion is GRANTED. It is further ORDERED that summary judgment is granted in favor of Plaintiff Allstate Property and Casualty Insurance Company (“Allstate”) and against Defendant Angela Vargas on the declaratory judgment claim.

The facts of this case are straightforward and undisputed. On June 19, 2003, Defendant Angela Vargas was injured in a motor vehicle accident while she was operating a vehicle owned by her then-fiancé, Stacey Wilkins. The vehicle was insured by Plaintiff Allstate; the insurance policy covered two automobiles and provided \$100,000/\$300,000 in stacked underinsured motorist (UIM) benefits.

There is no dispute that the pertinent policy language expressly limited stacked recovery to “you or a resident relative.” Pl.’s Motion, Ex. A, Allstate Auto Insurance Policy, at 13; Def.’s Resp., at 8 n.3. “You” is defined in the insurance contract as “the resident policyholder named on the declarations page and that policyholder’s resident spouse.” Pl.’s Motion, Ex. A, Allstate Auto Insurance Policy, at 5. Only Wilkins was named on the declarations page as the insured;

Vargas was listed as an additional driver on the policy. Id., Ex. A, Auto Policy Declarations, at 1. There is no claim that Vargas was Wilkins' "resident relative" or "resident spouse" in June 2003.<sup>1</sup> Following the accident, Vargas submitted a claim for underinsured motorist benefits under Wilkins' policy. Allstate ultimately paid her \$100,000 in unstacked benefits, but Vargas maintains that she is entitled to stacked recovery of up to an additional \$200,000.

Plaintiff Allstate subsequently initiated a declaratory action in this Court, seeking a judicial declaration that Defendant Vargas is not eligible for stacked recovery. Vargas answered and asserted a number of counterclaims against Allstate. The counterclaims were stayed pending the resolution of the question of Vargas' entitlement to stacked benefits. Allstate has now moved for summary judgment on its declaratory judgment claim. Relying on the plain language of the insurance contract, Plaintiff argues that because Vargas was not the named insured or the insured's resident spouse or resident relative at the time of the accident, she is precluded from receiving stacked benefits.

Contract interpretation is the province of the courts. Standard Venetian Blind Co. v. Am. Empire Ins. Co., 469 A.2d 563, 566 (Pa. 1983). It is a settled principle of contract law that if the contract language is clear and free from ambiguity, courts are legally bound to give effect to that language. Id.; Werkman v. Erie Ins. Exch., 629 A.2d 1042, 1045 (Pa. Super. 1993). In general, where there is no evidence of fraud, failing to read the contract "is an unavailing excuse or defense and cannot justify an avoidance, modification or nullification of the contract or any provision thereof." Standard Venetian Blind Co., 469 A.2d at 566 (quoting In re Olson's Estate,

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<sup>1</sup> At the time of the accident, Vargas and Wilkins shared a residence but were not married.

291 A.2d 95, 98 (Pa. 1972)). Courts may not “rewrite” contracts based on equitable principles by adopting constructions that conflict with the contracts’ plain provisions. Guardian Life Ins. Co. v. Zerance, 479 A.2d 949, 953 (Pa. 1984).

Here, by her own admission, the express terms of the insurance contract at issue precludes Defendant’s stacked recovery because she was not the policyholder, nor a resident relative or spouse of the policyholder. However, Defendant argues that she nevertheless should be considered a named insured since she was an “intended beneficiary” of the policy. In support of this contention, she proffers an affidavit attesting that at all relevant times, she held the subjective belief that she was in fact a named insured on the insurance contract and that she paid premiums to Allstate as a result. See Def.’s Resp., Ex. G (Vargas affidavit), at ¶¶ 4-5. Furthermore, she claims that Allstate was aware of her ownership interest in one of the vehicles covered under the policy, and thus should be estopped from denying stacked recovery. However, other than repeating these conclusory allegations, Defendant has failed to present any competent evidence to substantiate her claims. See, e.g., Dyszel v. Marks, 6 F.3d 116, 129-30 (3d Cir. 1993) (“self-serving allegations are entitled to little weight, and are insufficient to raise triable issue of fact”; “objective, credible evidence” required); Boykins v. Lucent Technologies, Inc., 78 F. Supp. 2d 402, 408 (E.D. Pa. 2000) (“[s]peculation, conclusory allegations, and mere denials are insufficient to raise genuine issues of material fact”). Even accepting all of Defendant’s statements as true and giving her the benefit of all reasonable inferences, it is evident Plaintiff is entitled to judgment as a matter of law. See Fed. R. Civ. P. 56(c); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 256 (1986). Vargas simply cannot demonstrate the existence of a genuine

dispute of material fact such that a reasonable factfinder could ultimately resolve the declaratory judgment claim in her favor. See Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986).

First, the instant contract is clear and unambiguous. One's own failure to read a contract does not justify voiding of the contract's plain and express terms. Standard Venetian Blind Co., 469 A.2d at 566. In this case, even the most cursory review of the face of the particular insurance policy, indeed, of even the contract's very first page, should have disabused Defendant of whatever beliefs she may have held about the extent of her insurance coverage. Given that the policy named Wilkins as the sole policyholder, Allstate certainly had no affirmative duty to clarify the scope of Defendant's coverage, especially where, as here, there is absolutely no evidence that Allstate was even aware of Vargas' subjective beliefs.

Second, Defendant is not an "intended beneficiary" of the policy such that she can claim stacked recovery. It is settled Pennsylvania law that for one to be an "intended beneficiary," both parties to the original contract must have intended to create a third-party beneficiary obligation, and that intent must be ascertainable from the contract itself. Van Cor, Inc. v. Am. Cas. Co., 208 A.2d 267, 269 (Pa. 1965); Silverman v. Food Fair Stores, Inc., 180 A.2d 894, 895 (Pa. 1962). However, in this instance, there is no evidence from the insurance contract that either of the parties intended Vargas to be a third party beneficiary so as to entitle her to UIM stacking benefits. Being listed as a driver does not make one an "intended beneficiary" or a named insured, regardless of whether that individual was an occasional or regular operator of the insured vehicle. See Nationwide v. Budd-Baldwin, 947 F.2d 1098, 1101-03 (3d Cir. 1991) (where policy extended underinsured motorist benefits only to insured and her resident relatives, even though brother was listed as a driver, that he did not live with his insured sister meant he was ineligible

for benefits); Caron v. Reliance Ins. Co., 703 A.2d 63, 68 (Pa. Super. 1997) (being listed as driver did not render plaintiff an “insured” where explicit terms of insurance policy precluded such coverage). Furthermore, even if there was any evidence that Defendant in fact paid a portion of the premiums for the policy *and that Plaintiff knew of this*, the Court is aware of no legal authority for Vargas’ apparent argument that merely paying premiums, without more, automatically transforms one into an insured, even where the explicit terms of the contract say otherwise. Cf. Utica Mut. Ins. Co. v. Contrisciane, 473 A.2d 1005, 1011 (Pa. 1984) (claimant has no contractual relationship with insurer where he did not pay premiums *nor* was he a specifically intended beneficiary of the policy). Accepting Defendant’s position on this point would render the express contractual provisions limiting the category of individuals eligible for stacked benefits completely meaningless and superfluous.

Third, Vargas’ expectation of coverage cannot prevail over the clear terms of the instant contract. See, e.g., Jeffrey v. Erie Ins. Exch., 621 A.2d 635, 638 (Pa. Super. 1993) (“[a]n insured will not be heard to complain that his reasonable expectations were frustrated by policy terms which are clear and unambiguous”). As a threshold matter, only the objectively reasonable expectations of an *insured* may be considered by courts, in certain instances, in contract construction. See Bensalem Twp. v. Int’l Surplus Lines Ins. Co., 38 F.3d 1303, 1311 (3d Cir. 1994) (“where the insurer or its agent creates *in the insured* a reasonable expectation of coverage that is not supported by the terms of the policy that expectation will prevail over the language of the policy”) (emphasis added). Moreover, in this case, absent evidence that Allstate “actively provid[ed] misinformation about the scope of coverage provided by a policy or passively fail[ed] to notify the insured of changes in the policy,” see id., at 1312 (summarizing types of situations

in Pennsylvania where insured's objectively reasonable expectations may be used to defeat explicit contract provisions), no trier of fact could conclude that Defendant Vargas' expectations of coverage were "objectively reasonable." Selected Risks Ins. Co. v. Bruno, 718 F.2d 67, 70-71 (3d Cir. 1983) (where facts indicated claimant should have known of a contract term, his expectations of coverage to the contrary were "patently unreasonable" and are not protected). As such, Defendant's subjective expectations have no bearing on the proper scope of the particular insurance contract at issue.

Finally, Defendant's estoppel and public policy arguments are similarly unavailing. Estoppel is applied "to preclude one from doing an act differently than the manner in which another was induced by word or deed to expect." Zitelli v. Dermatology Educ. & Research Found., 633 A.2d 134, 139 (Pa. 1993) (citing Novelty Knitting Mills, Inc. v. Siskind, 457 A.2d 502, 503 (Pa. 1983)). This equitable doctrine has no application where the claimant's alleged injury is the result of her own omission or mistake. Id. at 141 (quoting In re Tallarico's Estate, 228 A.2d 736, 741 (Pa. 1967)). Fundamentally, there is no proof here that Allstate had any knowledge of Vargas' ownership interest in one of the vehicles covered under the policy, nor can the Court identify any conduct on the part of Allstate that could possibly constitute the requisite inducement. Furthermore, contrary to Defendant's claim, what Allstate may have said or done *after* the date of the accident is plainly irrelevant to the estoppel issue. Moreover, regardless of whether Pennsylvania public policy favors stacking recovery, the Pennsylvania Supreme Court has nevertheless cautioned that courts should not be influenced by equitable considerations to the exclusion of general rules governing contract interpretation. Hall v. Amica Mut. Ins. Co., 648 A.2d 755, 760-61 (Pa. 1994) ("[a]lthough uninsured motorist coverage serves the purpose of

protecting innocent victims from irresponsible uninsured motorists, that purpose does not rise to the level of a public policy overriding every other consideration of statutory construction”). Since the contract here is clear and unambiguous, this Court cannot rewrite its provisions to extend coverage where none existed by relying on policy concerns. Caron, 703 A.2d at 67-70 (trial court erred as matter of law in finding Pennsylvania public policy necessitated UIM recovery by claimant who was not covered under explicit terms of insurance contract).

In conclusion, for the reasons set forth above, Plaintiff Allstate is entitled to summary judgment on its declaratory judgment claim.

BY THE COURT:

/S/LEGROME D. DAVIS

Legrome D. Davis, J.