

The Supreme Court of the State of Louisiana

CAMERON SOULE

No. 2021-CC-00322

VS.

WOODWARD DESIGN + BUILD, LLCs,
HOUSTON CASUALTY COMPANY, ET AL.

IN RE: Houston Casualty Company - Applicant Defendant; Applying For
Supervisory Writ, Parish of Orleans Civil, Civil District Court Number(s) 2018-935,
Court of Appeal, Fourth Circuit, Number(s) 2021-C-0015;

May 11, 2021

Writ application granted. See per curiam.

JBW

JDH

SJC

JTG

WJC

Weimer, C.J., would grant and docket.
Griffin, J., recused.

Supreme Court of Louisiana

May 11, 2021



Chief Deputy Clerk of Court
For the Court

05/11/21

SUPREME COURT OF LOUISIANA

No. 2021-CC-00322

CAMERON SOULE

VS.

**WOODWARD DESIGN + BUILD, LLCS, HOUSTON CASUALTY
COMPANY, ET AL.**

On Supervisory Writ to the Civil District Court, Parish of Orleans Civil

PER CURIAM*

Woodward Design + Build, LLC (“Woodward”) served as general contractor on a condominium construction project. As required by the owner of the project, Woodward obtained a Contractor Controlled Insurance Program (“CCIP”) policy from Houston Casualty Company (“HCC”) for the purpose of covering its subcontractors.

The instant litigation arose when plaintiff was injured after an elevator hoist fell at the construction site. The hoist was provided by Eagle Access, LLC (“Eagle”), a subcontractor of Woodward.

As a result, plaintiff filed the instant suit against Woodward, HCC and Eagle. Woodward and HCC filed cross-motions for summary judgment, seeking to determine whether Eagle is an insured under HCC’s CCIP policy. The district court granted Woodward’s motion and denied HCC’s motion, finding that Eagle is an insured under the CCIP policy issued to Woodward by HCC.

HCC sought supervisory review of this ruling. The majority of the court of appeal denied writs, with one judge dissenting and assigning reasons. HCC’s application to this court followed.

* Griffin, J. recused.

The narrow issue presented for our review is whether Eagle was properly enrolled as an insured under the HCC policy. Accordingly, a brief review of the facts surrounding coverage is appropriate,

A requirement of the insurance policy Woodward obtained from HCC was that Woodward contract with an approved provider to perform “Contractor Enrollment.” Pursuant to this requirement, Woodward retained an approved provider, Wrap Up Insurance Solutions, Inc. (“Wrap Up Administrator”). The Wrap Up Administrator sent an email to Eagle specifically advising that insurance coverage was not automatic and sent the required enrollment form to Eagle.

The Wrap Up Administrator followed up by sending a second email to Eagle after it formally entered into the subcontract with Woodward. Eagle declined to comply with the request, stating that Eagle would “not participate in paying any wrap insurance premiums” as Eagle had its own insurance. Accordingly, the Wrap Up Administrator advised Woodward that Eagle was unwilling to enroll. This information was provided to Woodward’s senior project manager, who indicated he did not see any reason to include Eagle because “[t]hey are an equipment supplier and their only on site work is to erect and dismantle the man/material hoist.”

Subsequently, after commencing work on the project, Eagle sent an enrollment form to the Wrap Up Administrator. The Wrap Up Administrator advised Woodward of Eagle’s action and requested advice on how to proceed. The Woodward representative replied that a decision had been made earlier to exclude Eagle from coverage. Accordingly, on April 24, 2017, the Wrap Up Administrator sent a letter advising Eagle that it was not covered “under the General Liability Contractor Controlled Insurance Program for the trade of Hoist Rental and Service – the Standard Project.” A copy of this letter was sent to Woodward. The accident forming

the basis of this litigation occurred approximately three months later on July 28, 2017.

In *Sims v. Mulhearn Funeral Home, Inc.*, 2007-0054 (La. 5/22/07), 956 So.2d 583, 588–89, we set forth the following principles for interpreting insurance policies:

In analyzing insurance policies, certain elementary legal principles apply. First and foremost is the rule that an insurance policy is a contract between the parties and should be construed using the general rules of interpretation of contracts set forth in the Civil Code.

According to those rules, the responsibility of the judiciary in interpreting insurance contracts is to determine the parties' common intent. Courts begin their analysis of the parties' common intent by examining the words of the insurance contract itself. In ascertaining the common intent, words and phrases in an insurance policy are to be construed using their plain, ordinary and generally prevailing meaning, unless the words have acquired a technical meaning, in which case the words must be ascribed their technical meaning. [citations omitted].

The HCC policy provides the following definition of “enrolled contractor”:

“Enrolled Contractors” mean contractors who, **prior to the commencement of their work** on the covered project, **have completed the appropriate enrollments documents for the “covered project.”** [emphasis added].

Although the policy does not define the term “appropriate enrollment documents,” it requires the insured to contract with a lists of approved providers “to perform Contractor Enrollment. . . .” Pursuant to that requirement, Woodward contracted with the Wrap Up Administrator.

The Wrap Up Administrator prepared a Wrap Up Insurance Manual which Woodward incorporated into its subcontracts. The manual defined an enrolled contractor or subcontractor as follows:

Contractor(s), Subcontractor(s) and Subcontractors –Any Tier who have been enrolled in the Wrap Up Program by providing to the Wrap Up Administrator a completed and signed Enrollment Form. Wrap Up enrollment is

considered complete when the Wrap Up Administer has issued a certificate of insurance to the Enrolled Contractor.

The manual further provided that enrollment by the submission of an enrollment form to the Wrap Up Administrator was required, providing:

To enroll in the program, the “Enrollment Form” must be completely filled out and returned to the Wrap Up Administrator within Ten (10) business days after notification of contract award or no less than prior to your mobilization on the Jobsite. This form is necessary to provide coverage for the Contractor on the project.

The undisputed facts demonstrate that this procedure was not followed by Eagle. As a result, the Wrap Up Administrator never issued a certificate of insurance to Eagle and instead sent a letter to Eagle, with a copy to Woodward, advising Eagle it was not covered “under the General Liability Contractor Controlled Insurance Program for the trade of Hoist Rental and Service – the Standard Project.”

Under these circumstances, we find the district court erred in granting summary judgment in favor of Woodward and denying HCC’s motion. That judgment must be reversed.

DECREE

For the reasons assigned, the writ is granted. The judgment of the district court is reversed. The Motion for Partial Summary Judgment filed by Houston Casualty Company is granted, finding that Eagle Access, LLC/Division Management, LLC is not an insured under the Contractor Controlled Insurance Program policy issued by Houston Casualty Company.