

Kentucky Supreme Court
Cases of Note
September-October, 2020

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1. Hold down the control (“Ctrl”) key and click on the link.
2. Right-click on the link and select “Open Hyperlink”.

INSURANCE

Diana Metzger, et al. v. Auto-Owners Insurance Company, et al.

2018-SC-0070-DG September 24, 2020

Opinion of the Court by Justice Wright. All sitting; all concur. Appellants, Diana Metzger and her husband Gary, are members of a limited liability company (LLC). The LLC bought a commercial automobile insurance policy from Auto-Owners Insurance. The LLC’s policy from Auto-Owners included underinsured motorist (UIM) coverage. Diana Metzger drove her personal vehicle to a store to purchase inventory to resale at the LLC and was struck by an automobile in the parking lot while walking back to her personal vehicle. When the other driver’s coverage added to the settlement Metzger reached with her personal UIM coverage did not fully compensate Metzger for her injuries or Gary for his loss of consortium claim, they attempted to collect UIM benefits from the LLC’s policy with Auto-Owners. Auto Owners denied the claim, as Metzger was not occupying an automobile covered by the policy pursuant to the policy’s language. Metzger filed a declaratory action with the Jefferson Circuit Court, asking that court to declare Auto-Owners was obligated to provide UIM benefits under the LLC’s policy and Gary filed a derivative claim for loss of consortium. Auto-Owners filed a motion for summary judgment, which the trial court granted. Metzger appealed to the Court of Appeals which unanimously affirmed the trial court. Metzger then sought discretionary review from the Supreme Court of Kentucky, which granted review and affirmed, as “[t]he policy’s terms unambiguously distinguished between policies in which the named insured was an individual and those in which the named insured was not.” Because the policy terms were unambiguous, the Court would “not disturb the parties’ contractual rights.”

Darryl Isaacs, et al. v. Sentinel Insurance Company Limited D/B/A The Hartford

2018-SC-0078-DG September 24, 2020

Opinion of the Court by Justice Wright. Minton, C.J.; Hughes, Keller, Nickell, and VanMeter, JJ., concur. Lambert, J., not sitting. Appellant, Darryl Isaacs, was struck by an automobile while bicycling on a road in Louisville. Isaacs settled with both the driver who struck him and with his personal underinsured motorist (UIM) coverage. Isaacs’s law firm, a professional services company (PSC), had a commercial automobile policy with Sentinel. That policy included UIM coverage. When Isaacs was not fully compensated for his injuries and his wife, Theresa, was not fully compensated for her loss of consortium claim, they filed a UIM claim with Sentinel. Sentinel denied the claim and the Isaacses filed a motion for declaratory judgment in Jefferson Circuit Court, asking that court to declare that Sentinel was obligated to provide UIM benefits under the terms of the commercial policy. The trial court granted summary judgment in favor of Sentinel, finding that Isaacs did not qualify as an insured under the terms of the policy under the facts of the case. The Isaacses appealed to the Court of Appeals, which unanimously affirmed the trial court. The Isaacses then sought discretionary review from the Supreme Court of Kentucky, which granted review and affirmed. The Supreme Court first held a PSC is not

synonymous with its sole shareholder. The Court also held that the policy language at issue was unambiguous and it would “not disturb the parties’ contractual rights in the absence of an ambiguity.”

WORKERS COMPENSATION

Calloway County Sheriff’s Department v. Karen Woodall, Spouse of Steven Spillman, Deceased, et al.

AND

Karen Woodall, Spouse of Steven R. Spillman, Deceased, et al. v. Calloway County Sheriff’s Department, et al.

[2019-SC-0419-WC](#) September 24, 2020

Opinion of the Court by Justice VanMeter. Minton, C.J.; Hughes, Lambert, and Nickell, JJ., concur. Keller, J., concurs in part and concurs in result only by separate opinion in which Wright, J., joins. Steven Spillman was injured during his employment with the Calloway County Sheriff’s Department (the “Department”). Thereafter, Spillman was awarded permanent partial disability benefits (“PPD”). In January 2017, more than four years after the accident that caused his injuries, Spillman died following a surgery necessitated by that injury. Karen Woodall, Spillman’s widow, and his daughter, Jennifer Nelson, were appointed coadministrators of his estate (the “Estate”). Woodall, as surviving spouse, filed a claim for income benefits under KRS 342.750(1)(a). The Estate sought a lump-sum benefit under KRS 342.750(6). The ALJ denied all benefits and dismissed all claims finding that the claims were time barred. The Workers’ Compensation Board (the “Board”) found Woodall was eligible for surviving spouse benefits but agreed that the Estate was not entitled to a lump-sum death benefit. The Court of Appeals affirmed the decision of the Board. The parties appealed to the Supreme Court of Kentucky. On review, the Supreme Court affirmed the decision of the Court of Appeals and clarified that the four-year limitation in KRS 342.750(6) does not apply to income benefit claims by surviving spouses under KRS 342.750(1)(a). Moreover, the Supreme Court held a claim for income benefits by an injured worker’s surviving spouse has no temporal limitation and that such a claim can be made regardless of whether the total amount of an injured worker’s PPD benefits have been paid out. The Court also held that the 4-year limitation for a lump sum benefits award in KRS 342.750(6) did not violate equal rights protections under the state or federal constitutions. The Supreme Court also held the KRS 342.750(6) did not constitute special legislation under Sections 59 and 60 of the Kentucky Constitution and clarified that the appropriate test to determine whether a statute qualifies as special legislation is whether the statute applies to a particular individual, object, or locale.

Porter Slaughter v. Tube Turns, et al.

[2020-SC-0013-WC](#) September 24, 2020

Opinion of the Court by Justice Nickell. All sitting; all concur. Porter Slaughter sustained a work-related injury to his right shoulder in 1996 and a second workrelated injury to his left shoulder, chest, and neck in 1997. The two claims were consolidated, and a settlement agreement was approved in November 1997. Income benefits were paid for the right shoulder injury but not the left shoulder injury, although Slaughter remained eligible for medical expenses for that injury. Motions to reopen the left shoulder claim were denied in 1999 and 2001 as untimely under the then-current versions of KRS 342.125(3). Following a left shoulder surgery, Slaughter was granted leave to reopen his claim in November 2016 and was awarded medical expenses and TTD benefits in early 2017. On July 10, 2018, Slaughter moved once again to reopen the left shoulder claim asserting he was entitled to income benefits based on a recent surgery and

increased impairment. Tube Turns objected, asserting recent amendments to KRS 342.125(3) prohibited reopening a claim more than four years after entry of an original award or settlement. Slaughter asserted the 2017 award extended the limitations period citing *Hall v. Hospitality Resources, Inc.*, 276 S.W.3d 775 (Ky. 2008). The CALJ agreed with Tube Turns and denied the motion. The Board affirmed and on appeal, the Court of Appeals concluded Hall had been superseded by the 2018 10 amendments to KRS 342.125(3) which restricted motions to reopen to a four-year period following an original award. The Court of Appeals also concluded the legislature had explicitly declared the amendments were to apply retroactively. On appeal, Slaughter's attempt to revive a previously abandoned constitutional challenge to the statutory amendment was rejected. On the merits, the Supreme Court held the 2018 amendments to KRS 342.125(3) removed any doubt as to the legislature's intent following the decision in Hall and explicitly specified orders granting or denying benefits entered after the original award or settlement are not to be considered "original orders" for purposes of extending the statutory deadline for filing motions to reopen. Further, in enacting KRS 342.25(8), the legislature expressly declared the revised time limitations were to be retroactively applied irrespective of the date of injury or award. Accordingly, the Court held the CALJ correctly denied the 2018 motion to reopen as untimely.