

COURT OF APPEALS
MUSKINGUM COUNTY, OHIO
FIFTH APPELLATE DISTRICT

GARY EDGELL, INDIVIDUALLY AND AS
ADMINISTRATOR OF THE ESTATE OF
ERIC EDGELL, ET AL.

Plaintiffs-Appellees

-vs-

MONROE GUARANTY INSURANCE
COMPANY, ET AL.

Defendants

and

WAUSAU BUSINESS INSURANCE CO.

Defendant-Appellant

JUDGES:

Hon. William B. Hoffman, P.J.

Hon. Sheila G. Farmer, J.

Hon. John F. Boggins, J.

Case No. CT2002-0008

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Court of Common Pleas,
Case No. CC2001-0022

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

March 25, 2003

APPEARANCES:

For Plaintiffs-Appellees

For Defendant-Appellant

JAMES W. RANSBOTTOM
P.O. Box 340
Zanesville, OH 43702

JOHN C. PFAU
P.O. Box 9070

Farmer, J.

{¶1} On January 10, 1999, Eric Edgell was fatally injured in a motor vehicle accident. At the time of the accident, numerous insurance policies were in effect. Pertinent to this appeal are two policies of insurance issued by appellant, Wausau Business Insurance Company, to the Morgan Local School District, the employer of Eric's parents, Gary and Lily Edgell. The two policies are a business auto policy and an education liability policy.

{¶2} On January 10, 2001, appellees, Gary Edgell, individually and as administrator of the Estate of Eric Edgell, and others, filed a declaratory judgment action against appellant to determine insurance coverage.

{¶3} All parties filed motions for summary judgment. By judgment entry filed February 8, 2002, the trial court granted appellees' motion for summary judgment. On March 6, 2002, the trial court entered final judgment in favor of appellees and against appellant.

{¶4} Appellant filed an appeal and this matter is now before this court for consideration. Assignments of error are as follows:

I

{¶5} "THE TRIAL COURT ERRED IN APPLYING *SCOTT-PONTZER* TO SCHOOL DISTRICT INSURANCE POLICIES AND RULING THAT THE EDGELLS WERE INSUREDS FOR PURPOSES OF UNDERINSURED MOTORIST COVERAGE UNDER THE WAUSAU POLICY."

II

{¶6} “APPELLEES ARE NOT ENTITLED TO UNDERINSURED MOTORIST COVERAGE UNDER THE SCHOOL DISTRICT LIABILITY POLICY.”

I

{¶7} Appellant claims the trial court erred in finding *Scott-Pontzer v. Liberty Mutual Fire Insurance Co.*, 85 Ohio St.3d 660, 1999-Ohio-292, was applicable to school district insurance policies. We disagree.

{¶8} We find our decision in *Westfield Insurance Company v. Wausau Business Insurance Company* (December 30, 2002), Stark App. Nos. 2002CA00138 and 2002CA00150, to be controlling sub judice. We find the rationale of this case is in accordance with decisions from other districts. See, *Mizen v. Utica National Insurance Group*, 147 Ohio App.3d 274, 2002-Ohio-37; *Allen v. Johnson*, Wayne App. No. 01CA0046, 2002-Ohio-3404; *Roberts v. Wausau Business Insurance Company*, Franklin App. Nos. 02AP-04 and 02AP-05, 2002-Ohio-4734.

{¶9} Assignment of Error I is denied.

II

{¶10} Appellant claims appellees are not entitled to underinsured motorist coverage under the school district liability policy.

{¶11} We find this assignment of error is not ripe for appeal. Although appellant properly moved on summary judgment on this issue, the trial court did not address it in the judgment entry which is the subject matter of this appeal.

{¶12} Assignment of Error II is denied.

{¶13} The judgment of the Court of Common Pleas of Muskingum County, Ohio is hereby affirmed.

By Farmer, J.

Hoffman, P.J. and

Boggins, J. concur.

Topic: Scott-Pontzer applies to school board's insurance policy.