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The Home Insurance Company v. Pan American Grain Manufacturing Co., Inc. United States Court of Appeals for the 1st Circuit 397 F.3d 12 (Decided February 4, 2005)

Seamus Weir, Class of 2006

Ultimately, the Court of Appeals reversed the district court and found the insurance contract at issue to be marine because its principle purpose was to insure against losses associated with maritime risks. Accordingly, the exercise of admiralty jurisdiction herein was proper.

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PLAIN MEANING OF SETTLEMENT AGREEMENT BETWEEN INSURER AND SHIPOWNER GUIDES COURT'S RESOLUTION OF A DISPUTE OVER RECOVERY FROM A THIRD PARTY

The Court of Appeals held that a shipowner breached a settlement agreement with its insurer by not seeking the latter's consent to a suit settlement with a third party and by not giving the insurer a share of the settlement. Under Puerto Rican law, if the terms of a contract are clear and leave no doubt to the intentions of the contracting parties, then the court will look to the plain meaning of the agreement.

The Home Insurance Company v. Pan American Grain Manufacturing Co., Inc.
United States Court of Appeals for the 1st Circuit
397 F.3d 12
(Decided February 4, 2005)

Plaintiff-Appellant Home Insurance Company ("Home") appealed from a decision of the district court awarding summary judgment to Defendant-Appellee Pan American Grain Manufacturing Co., Inc. ("Pan American"). Home, Pan American's insurer, alleged that Pan American had breached a settlement agreement by not seeking its approval of a settlement Pan American reached with Ochoa Fertilizer, Inc. ("Ochea"), and by failing to award Home one-third of the amount of that settlement.

Home had issued a marine hull insurance policy ("the policy") to Pan American that provided coverage up to $6,500,000 in the event that Pan American's ship ITB Zorra ("Zorra") was lost. The Zorra caught fire April 24, 1995, resulting in her destruction. Pan American filed a claim which Home denied; the insurer alleged that the loss was a result of the Zorra's unseaworthiness and thus amounted to a policy exception. Home brought suit seeking a declaratory judgment of non-coverage and Pan American counterclaimed. The two parties entered into a settlement agreement under which Home paid $3,333,000 to Pan American and Pan American promised: 1) to seek written approval from Home for any future recovery from third parties stemming from this claim, and 2) that Home would receive one-third of any recovery from third parties. The settlement agreement contained a provision stating that Home was not entitled to share in any "verdict or award...for punitive damages and/or loss of use."

One year after the parties entered into the settlement agreement, Pan American settled a suit with Ochoa for $800,000. Pan American did not give Home prior notice of the settlement or one-third of the award. Home responded by filing suit, seeking one-third of the $800,000, plus interest and attorney's fees. Pan American claimed that the Ochoa settlement was for damages for "loss of use" of the Zorra and therefore excluded from the settlement agreement. Home made two arguments: 1) that under maritime law, a shipowner was barred from recovering for lose of use where the insured vessel was a total loss, and 2) the Ochoa settlement did not result from a "verdict or award."

The district court adopted an earlier ruling by a magistrate judge that, in turn, relied on a pocket edition of Black's Law Dictionary to define an "award" as "an agreement granted by a formal process." The district court concluded that the Ochoa settlement constituted an "award" and that therefore Home was not entitled to share in it under the terms of the Home-Pan American settlement agreement. The Court of Appeals disagreed with the district court's interpretation of the term "award" and noted that under Puerto Rican law, if the terms of a contract are clear and unambiguous concerning the intentions of the parties then the literal sense of the stipulations will be observed. The Court of Appeals held that there was no ambiguity over the meaning of "award," and therefore the district court's interpretation was incorrect in that it went beyond the meaning of the word as generally used in legal writing, and as used in the Home-Pan American settlement in particular, by mischaracterizing voluntary settlement negotiation between parties as a "formal process."

Furthermore, the Court found it difficult to believe that two parties as sophisticated as Home and Pan American, represented by counsel, would not have used the term "settlement" in place of "award" if they had intended to exclude negotiated settlements from their settlement agreement. The Court noted that a paragraph of the settlement agreement mentioned both "awards" and "settlements" when describing various recoveries but specifically omitted "settlement" from the description of recoveries relating to punitive damages and/or loss of use. According to the Court, this strongly suggested that the parties recognized that an "award" and a "verdict" did not incorporate a "settlement."

The Court of Appeals found that the district court erred in determining that the Ochoa settlement was excluded from the Home-Pan American settlement because it was for "loss of use" of the Zorra. The Court found that language in the Ochoa settlement stated explicitly that the $800,000 was being paid in consideration not only for Ochoa's release from claims of loss of use, but also for release from all possible future claims. Thus, because the Ochoa settlement settled multiple claims, it was not excluded under the Home and Pan American agreement.

The Court held that the district court erred in not finding that Pan American breached its settlement agreement with Home when it did not notify Home of the Ochoa settlement prior to entering into it, and when it refused to share the recovery proceeds with Home in the manner specified by the settlement agreement.

Seamus Weir
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ARBITRATION CLAUSE IN EMPLOYMENT AGREEMENTS OF CRUISE LINE CREWMEMBERS ENFORCED PURSUANT TO U.N. CONVENTION

The seamen employment contract exemption contained within the Federal Arbitration Act did not allow crewmembers to circumvent submitting to arbitration under Philippine jurisdiction with respect to claims arising from an onboard accident, when arbitration was compelled by the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Rizalyn Bautista et al v. Star Cruises, Norwegian Cruise Line, Ltd.
United States Court of Appeals for the 11th Circuit
396 F.3d 1289
(Decided January 18, 2005)