Integrated Project Delivery Partners, Inc. v Utica First Ins. Co.

2025 NY Slip Op 35089(U)

December 29, 2025

Supreme Court, New York County

Docket Number: Index No. 652221/2019

Judge: Arlene P. Bluth

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. ARLENE P. BLUTH** **PART** **14**

Justice

----------X

INTEGRATED PROJECT DELIVERY PARTNERS, INC.

Plaintiff,

- v -

UTICA FIRST INSURANCE COMPANY,

Defendant.

----------X

INDEX NO. 652221/2019

MOTION DATE N/A

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 44, 45, 46, 47, 48 were read on this motion to/for SUMMARY JUDGMENT.

Plaintiff's motion for summary judgment is denied and defendant's cross-motion for *inter alia* summary judgment is granted.

Background

This insurance dispute arises out of construction accident that occurred way back in 2013. Non-party Raonel Villa (an employee of Jhofer Electric Communications and Controls Corp ["Jhofer Electric"]) sued 980 Madison (the owner) and RFR Holding in New York County. These parties than commenced a third-party action against Jhofer Electric and the plaintiff here. Plaintiff claims it entered into a master contract with Jhofer Electric and that Jhofer Electric was required to procure liability insurance in favor of plaintiff.

After plaintiff was brought into the Villa action, it claims it sent defendant an indemnification demand and that defendant disclaimed coverage. Defendant pointed to various exclusions that it insisted compelled the denial of coverage.

Plaintiff moves for summary judgment and argues that there was an overarching General Services Contract between Jhofer Electric that required Jhofer Electric to get insurance coverage to cover all Jhofer work on its projects with plaintiff. It contends that defendant issued a policy to Jhofer Electric that should provide it with defense and indemnity.

Plaintiff observes that the exclusions cited by defendant in the disclaimer letter are inapplicable because defendant did not send the disclaimer letter to plaintiff and, instead, the letter was sent to plaintiff's insurer (Mt. Hawley). Plaintiff concludes that defendant therefore waived its right to rely on the exclusions.

In opposition and in support of its cross-motion, defendant argues that plaintiff was not an additional insured on a policy issued by defendant on the date of Mr. Villa's accident. Defendant adds that even if the policy was applicable, it contained an "Employee Exclusion," an exclusion that plaintiff does not dispute exists. With respect to notice, defendant argues that this argument is without merit as it was not required to notify plaintiff about the lack of coverage where none existed in the first instance.

In opposition and reply, plaintiff claims that it needs discovery to ascertain whether it was an additional insured on the date of the accident. It argues that it should have the chance to explore why the insurance only became effective on the day after the accident. Plaintiff maintains that the Amended Declarations page indicates that the additional insured endorsement was effective from July 10, 2013 through July 10, 2014 (which would therefore include Villa's accident on August 2, 2013).

In reply, defendant argues that plaintiff does not dispute in this record that the accident occurred on August 2, 2013 and that the policy (as it existed on that day) did not provide

additional insurance coverage. It points out that plaintiff was the party to seek summary judgment initially only to now seem to want to do discovery.

Discussion

First, this Court must acknowledge the obvious elephant in the room. Although this matter was only assigned to this part in the last few days, this motion was clearly lost or abandoned by the prior judge. It was fully briefed in August 2020 and then nothing happened (the motion was never marked submitted) until it was transferred to this part in December 2025. That is completely unacceptable, and on behalf of the Court system, this Court apologizes profusely for this embarrassing delay.

Turning to the merits, the Court grants defendant's cross-motion for summary judgment. The Court's first task in an insurance dispute is to ascertain whether coverage existed. The parties are in general agreement on many of the key facts surrounding this particular issue. They both agree that coverage, at least on paper, became effective on August 3, 2013 and that Villa's accident happened on August 2, 2013.[1] Plaintiff seems to acknowledge that this creates a problem as, in its opposition to defendant's cross-motion, plaintiff demands discovery to find out why the blanket additional insurance coverage became effective the day after the accident.

Unfortunately, plaintiff did not meet its burden to raise a material issue of fact. It is unclear what discovery would reveal and plaintiff only offered generalized speculation. On this record, defendant met its burden to show that the coverage plaintiff seeks became effective on August 3, 2013 (NYSCEF Doc. No. 47 at 63 of 79) and that Villa's accident was on August 2, 2013. That means that plaintiff is not entitled to defense and indemnification under the terms of the blanket additional insured endorsement. And this Court cannot create coverage where none

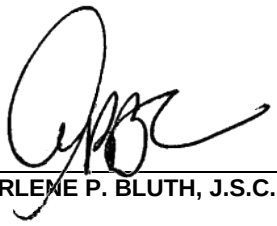
[1] Curiously, plaintiff's moving papers contend that the accident happened on August 3, 2013 despite the fact that Villa's pleading in the underlying action clearly state the accident took place on August 2, 2013.

existed. The remaining arguments are denied as moot in light of the Court's threshold determination concerning coverage.

Accordingly, it is hereby

ORDERED that plaintiff's motion is denied and defendant's cross-motion is granted to the extent that it is entitled to summary judgment; and it is further

DECLARED that plaintiff was not an additional insured under the subject policy issued by defendant and defendant need not defend or indemnify plaintiff in connection with Mr. Villa's action under Index Number 157562/2013.



12/29/2025
DATE

ARLENE P. BLUTH, J.S.C.

CHECK ONE:	X	CASE DISPOSED			NON-FINAL DISPOSITION		
		GRANTED		DENIED	GRANTED IN PART	X	OTHER
APPLICATION:		SETTLE ORDER			SUBMIT ORDER		
CHECK IF APPROPRIATE:		INCLUDES TRANSFER/REASSIGN			FIDUCIARY APPOINTMENT		REFERENCE