



Omega Protein, Inc. v. Evanston Insurance Company

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Justia Opinion Summary

An explosion at the Omega Protein Plant in Moss Point, Mississippi killed one man and seriously injured several others. Multiple lawsuits were filed against Omega in federal district court. Colony Insurance Company filed a declaratory judgment action in state circuit court seeking a declaration that it did not cover bodily injuries arising out of the Moss Point facility explosion. Evanston Insurance Company intervened also seeking a declaration of no coverage for the same injuries: Evanston provided a \$5 million excess liability policy, which provided coverage after Colony's \$1 million policy was exhausted. Because Colony settled one of the underlying personal injury cases for \$1 million (the limits under its policy), Omega sought excess coverage from Evanston for the injuries that occurred at its plant. A special master was appointed, and the trial court granted Evanston's motion for summary judgment, finding that the pollution exclusion in the insurance contract barred coverage. Omega appealed that grant of summary judgment. The Mississippi Supreme Court found that a pollution exclusion in the insurance contract was ambiguous, and should have been construed in favor of the insured, allowing coverage. Further, the Court found the question of whether coverage was triggered was governed by the language of the contract, and that Evanston failed to prove there could be no coverage under the excess liability policy. Therefore, the Supreme Court reversed the trial court's grant of summary judgment as to all issues and remanded the case for further proceedings.

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IN THE SUPREME COURT OF MISSISSIPPI	
NO. 2020-CA-01097-SCT	
OMEGA PROTEIN, INC.	
v.	
EVANSTON INSURANCE COMPANY	
DATE OF JUDGMENT:	08/26/2020
TRIAL JUDGE:	HON. KATHY KING JACKSON
TRIAL COURT ATTORNEYS:	MARK D. MORRISON FREDRICK B. FEENEY, II SUSAN F. E. BRUHNKE NATHAN L. BURROW
COURT FROM WHICH APPEALED:	JACKSON COUNTY CIRCUIT COURT
ATTORNEYS FOR APPELLANT:	FREDRICK B. FEENEY, II SUSAN F. E. BRUHNKE
ATTORNEYS FOR APPELLEE:	ROBERT DOUGLAS MORGAN BENJAMIN COLLIER LEWIS
NATURE OF THE CASE:	CIVIL - INSURANCE
DISPOSITION:	REVERSED AND REMANDED - 01/20/2022
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	
BEFORE RANDOLPH, C.J., COLEMAN AND CHAMBERLIN, JJ.	
COLEMAN, JUSTICE, FOR THE COURT:	

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1.¶ On the morning of Monday, July 28, 2014, an explosion occurred at the facility of Omega Protein, Inc., in Moss Point, Mississippi. The explosion killed one man and seriously injured several others. Multiple lawsuits were filed against Omega in the United States District Court for the Southern District of Mississippi in Gulfport. Colony Insurance Company filed a declaratory judgment action in Jackson County Circuit Court

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