



IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARIO DE LOS SANTOS,)	
)	
Appellant,)	
)	
v.)	No. 437, 2024
)	
ALLSTATE PROPERTY AND)	On Appeal from the Superior Court
CASUALTY INSURANCE)	of the State of Delaware,
COMPANY and STATE FARM)	C.A. No. N22C-08-418 MAA
MUTUAL AUTOMOBILE)	
INSURANCE COMPANY,)	
)	
Appellees.)	

APPELLANT'S OPENING BRIEF ON APPEAL

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I. NATURE AND STAGE OF THE PROCEEDINGS

Mario De Los Santos (hereinafter “De Los Santos”) was involved in a motor vehicle accident on October 7, 2021. On August 23, 2022, De Los Santos filed a Complaint in the Superior Court of the State of Delaware against Allstate Property and Casualty Insurance Company (“Allstate”) and State Farm Mutual Automobile Insurance Company (“State Farm”).¹ The Complaint alleged that on the date of the accident, De Los Santos owned a vehicle that was insured under a policy with the Defendants that provided uninsured motorist coverage.² Allstate filed its Answer denying De Los Santos’ vehicle was insured by Allstate at the time of the accident.³ State Farm also filed its Answer denying that there was a policy of insurance covering De Los Santos’ vehicle at the time of the accident.⁴

De Los Santos was deposed August 23, 2023.⁵ Thereafter, on April 11, 2024, Allstate filed a Motion for Summary Judgment.⁶ State Farm also filed a Motion for Summary Judgment on April 26, 2024.⁷ De Los Santos filed a Response in Opposition to both Motions for Summary Judgment on June 3, 2024.⁸ Both

¹ App. at A020.

² *Id.*

³ App. at A023.

⁴ App. at A028.

⁵ *See* App. at A038.

⁶ App. at A031.

⁷ App. at A095.

⁸ App. at A207.

Defendants then filed Replies.⁹ Defendant Allstate noticed oral argument on the Motions to be held on October 7, 2024; however, on October 1, 2024 the Superior Court determined oral argument was not necessary, and granted both Defendants' Motions for Summary Judgment.¹⁰ De Los Santos filed a Notice of Appeal on October 17, 2024. This is Appellant's Opening Brief on Appeal.

⁹ App. at A299; A301.

¹⁰ Ex. A – Order dated Oct. 1, 2024.

II. SUMMARY OF ARGUMENTS

1. The Superior Court erred in granting summary judgment for Defendant State Farm by determining that 18 *Del. C.* § 3915 did not preclude the cancellation of De Los Santos' policy until the premium was refunded.
2. The Superior Court erred in granting summary judgment for Defendant Allstate because there exists a genuine issue of material fact in dispute as to the cause of the failure for De Los Santos' Allstate premium to be paid on September 29, 2021.

III. STATEMENT OF FACTS

De Los Santos's 2015 Honda Hybrid was insured by State Farm, bearing policy number 049 8101-C27-08 ("State Farm Policy"), which provided uninsured motorist benefits.¹¹ The policy period ran from September 27, 2021 through March 27, 2022.¹² On September 28, 2021, De Los Santos decided to change his automobile insurance carrier from State Farm to Allstate.¹³ De Los Santos contacted Powell Insurance Agency to obtain automobile insurance coverage through Allstate.¹⁴ The auto insurance coverage through Allstate, under policy number 808391459, was to be effective starting October 5, 2021.¹⁵ Allstate issued De Los Santos a Temporary Delaware Insurance Identification Card for policy number 808391459 ("Allstate Policy").¹⁶

On September 29, 2021, Allstate initiated an electronic withdrawal of the premium payment from an account ending in x4315, an account that De Los Santos claims was unfamiliar and unintended for the transaction.¹⁷ Concurrently, De Los Santos authorized a recurring monthly premium payment for the Allstate Policy

¹¹ App. at A122-23.

¹² *Id.*

¹³ App. at A050 at 45:15-16, 54:3-11.

¹⁴ App. at A258.

¹⁵ App. at A261.

¹⁶ App. at A270-71.

¹⁷ App. at A054 at 60:6-18.

from his Citizens Bank account, ending in x7960 for the 5th of every month.¹⁸ On October 5, 2021, Allstate sent correspondence to De Los Santos informing him that they were unable to apply the premium payment.¹⁹ The correspondence stated, “[Your payment] was returned from your bank because one of the following reasons: Invalid or non-existent checking account number; unable to locate checking account or account not on file; check was state-dated or post-dated; or endorsement was missing.”²⁰

By letter dated October 9, 2021, Allstate sent correspondence to De Los Santos regarding the Allstate Policy.²¹ The correspondence stated that Allstate was working on the changes De Los Santos requested and more information was needed.²² On October 11, 2021, De Los Santos contacted Allstate and was issued automobile insurance coverage effective October 18, 2021 under a new policy number of 808407196.²³ This time, there was no problem with the payment of the premium and there is no dispute that De Los Santos had valid Allstate coverage by, at least, October 18, 2021.²⁴

In anticipation of moving his insurance coverage to Allstate, De Los Santos

¹⁸ App. at A267.

¹⁹ App. at A278.

²⁰ *Id.*

²¹ App. at A282.

²² *Id.*

²³ App. at A284.

²⁴ App. at A285.

contacted his State Farm agent and notified him that he intended to switch to another insurance company.²⁵ Despite De Los Santos's verbal cancellation of the State Farm policy that was to be effective as of October 5, 2021, State Farm processed a scheduled premium payment on that same date in the amount of \$134.55 from De Los Santos's PNC account, ending in x5905.²⁶ State Farm sent De Los Santos confirmation of the policy cancellation by letter on October 7, 2021, reiterating the October 5, 2021 cancellation date and explaining that a refund would be processed through State Farm's Payment Plan Department.²⁷ On October 14, 2021, State Farm sent additional correspondence, indicating that a cash refund form was required to be completed before State Farm could refund any portion of the unearned premium.²⁸ De Los Santos completed and returned this form on October 26, 2021,²⁹ and ultimately, received a refund check, which he deposited on December 17, 2021.³⁰

On October 7, 2021, De Los Santos was involved in an automobile accident with an uninsured motorist, sustaining injuries and incurring damages.³¹ De Los Santos did not learn until after the October 7, 2021 accident that Allstate had voided

²⁵ App. at A051 at 46:23-48:21.

²⁶ App. at A276.

²⁷ App. at A280.

²⁸ App. at A294.

²⁹ App. at A296.

³⁰ App. at A297-98.

³¹ *See generally*, A020-23.

the Allstate Policy that was to be in effect beginning October 5, 2021.³² De Los Santos testified that he believed he would still have coverage through the State Farm Policy because State Farm processed the premium for the month of October 2021.³³ Both Allstate and State Farm denied uninsured motorist coverage as to the October 7, 2021 motor vehicle accident.

³² *See* A291.

³³ App. at A055 at 64:17-65:17.

IV. ARGUMENT

- A. The Superior Court erred in granting summary judgment for Defendant State Farm by determining that 18 *Del. C.* §3915 did not preclude the cancellation of De Los Santos’ policy until the premium was refunded.**

1. Question Presented

Did the Superior Court err in granting summary judgment for Defendant State Farm by narrowly interpreting 18 *Del. C.* § 3915 as applying solely to refund procedures, rather than as a statute intended to protect insureds by ensuring continuous coverage during a good-faith transition between insurers?³⁴

2. Standard and Scope of Review

The Supreme Court “review[s] the Superior Court’s decision on a motion for summary judgment *de novo*, applying the same standard as the trial court.” *Paul v. Deloitte & Touch LLP*, 974 A.2d 140, 145 (Del. 2009). “Questions concerning the interpretation of contracts are questions of law, which [this Court] review[s] *de novo*.” *Id.*

As stated in *DeMatteis v. RiseDelaware Inc.*, “this Court reviews questions of law, including the interpretation of a statute, *de novo*.” 315 A.3d 499, 508 (Del. 2024). Under this standard, the Court independently interprets statutes to determine and give effect to legislative intent, applying the plain language of the statute when

³⁴ Preserved *via* Plaintiff-Below, Appellant’s Response in Opposition to Defendants’ Motions for Summary Judgment (App. at A207).

unambiguous and consulting legislative history or other aids when ambiguities arise. *Clark v. State*, 184 A.3d 1292, 1295 (Del. 2018).

3. Merits of the Argument

The Superior Court erred in granting summary judgment for State Farm. The decision misapplied 18 *Del. C.* § 3915 by overlooking its purpose of protecting consumers during transitions between insurance policies. The Superior Court failed to adequately consider the public policy considerations favoring such protections of consumers.

State Farm Failed to Ensure Continuous Coverage as Required by 18 Del. C. § 3915.

18 *Del. C.* § 3915 establishes safeguards to protect insured individuals during policy transitions. The statute explicitly requires evidence of replacement insurance before an insurer can finalize cancellation and issue a refund on an unearned premium.

On October 4, 2021, De Los Santos contacted his insurance agent and cancelled his State Farm coverage to be effective as of October 5, 2021, the date that De Los Santos anticipated his Allstate coverage would begin.³⁵ De Los Santos had taken all necessary steps to ensure continuous coverage, including arranging payment for the Allstate policy and notifying State Farm of his intent to cancel.

³⁵ App. at A057 at 71:3-23.

Despite this verbal cancellation, on October 5, 2021, State Farm withdrew the premium payment for De Los Santos' State Farm policy.³⁶ State Farm then, per the State Farm policy language, sent correspondence to De Los Santos dated October 7, 2021, confirming De Los Santos' intention to cancel his State Farm policy.³⁷ This was the same date of the accident at the center of this litigation. Once State Farm learned of the October 7, 2021 motor vehicle accident, State Farm denied coverage, arguing that De Los Santos' policy was cancelled effective October 5, 2021, despite De Los Santos having actually paid the premium for ongoing coverage on that date and State Farm not receiving confirmation of De Los Santos' Allstate coverage until November 1, 2021.³⁸ State Farm failed to verify the existence of active replacement coverage before finalizing the cancellation. This failure contravenes the purpose of §3915, which is to prevent lapses in coverage during good-faith transitions between insurers.

The Superior Court incorrectly held that §3915 solely governs refund procedures rather than ensuring continuous coverage during policy transitions. This interpretation undermines the statute's protective intent and leaves consumers vulnerable to precisely the type of gap De Los Santos experienced. The Superior Court misinterpreted §3915 by limiting its scope to refund procedures, ignoring the

³⁶ App at A275-A276.

³⁷ App. at A280.

³⁸ App. at A110.

statute's broader purpose of safeguarding insured individuals against coverage lapses. This narrow reading undermines the legislative intent to protect consumers during insurance transitions and leaves insureds vulnerable to the type of administrative errors that occurred in this case. Delaware's public policy strongly favors consumer protection in insurance matters, emphasizing fairness and transparency in the cancellation process. This policy was further reflected in case law, such as *State Farm Mut. Auto. Ins. Co. v. Mundorf*, where the Delaware Supreme Court held that an insurer's failure to comply with statutory notice requirements rendered a policy cancellation invalid. 659 A.2d 215 (Del. 1995). The Court's reasoning underscored the necessity of providing policyholders with adequate notice to prevent abrupt coverage lapses.

Similarly, in *Dimenco v. Selective Ins. Co. of Am.*, the court addressed the obligations of insurers and third-party premium finance companies to provide sufficient notice of policy cancellations. *Dimenco v. Selective Ins. Co. of Am.*, 833 A.2d 984 (Del. Super. Ct. 2003). The court found that ensuring the insured party was adequately informed was a critical part of preventing unfair termination of coverage. These cases collectively reinforce Delaware's strong public policy of protecting insured individuals from unfair or abrupt lapses in coverage, consistent with the safeguards established in §3915.

The Superior Court, in granting State Farm's Motion for Summary Judgment,

determined that State Farm's collection of the insurance premium on October 5, 2021, after De Los Santos notified State Farm of his intent to cancel, does not change the analysis. Further, the Superior Court pointed out Plaintiff does not cite to any case law to support the argument that the purpose of §3915 is to ensure that an insured has valid coverage when switching insurance companies. Although the Superior Court is correct that Appellant is not aware of any case law that addresses §3915, Appellant posits that it does change the analysis that State Farm collected the premium on October 5, 2021. De Los Santos contacted his insurance agent and expressed a desire to cancel the State Farm policy. He believed that he continued to be insured by State Farm until the Allstate policy took effect.³⁹ It must be that the purpose of §3915 is so that Delaware drivers do not end up in De Los Santos' predicament where, through no fault of his, he is left with no insurance coverage. State Farm collected the premium on October 7, 2021 and did not receive the notice that De Los Santos had Allstate coverage until November 1, 2021. Despite De Los Santos' attempt to cancel the State Farm policy effective October 5, 2021, State Farm should be held to provide coverage for the October 7, 2021 loss.

Public Policy Supports Protecting Consumers During Good-Faith Policy Transitions.

Delaware courts have consistently emphasized the importance of consumer

³⁹ App. at A053-A054.

protection in interpreting insurance statutes, a principle deeply rooted in both legislative intent and judicial precedent. The legislative purpose behind §3915, which governs refunds upon policy cancellation, reflects this commitment by requiring insurers to ensure continuous coverage during policy transitions.

The Superior Court's decision in De Los Santos's case failed to recognize the protective purpose of §3915 and penalized the insured for merely attempting to switch insurance companies when State Farm increased the premium.⁴⁰ The Superior Court's narrow focus on the cash refund language belies the importance of De Los Santos' belief that State Farm would continue to insure him until the Allstate insurance had taken effect.

This is precisely what De Los Santos thought would happen and testified to that at his deposition. He believed that when Allstate failed to withdraw the money from his account, but State Farm did on October 5, 2021, he would continue to be insured by State Farm throughout the month or until the Allstate policy was confirmed.⁴¹

⁴⁰ App. at A51 at 46:18-20.

⁴¹ App. at A57 at 71:24-73:24.

B. The Superior Court erred in granting summary judgment for Defendant Allstate because there exists a genuine issue of material fact in dispute as to the cause of the failure of De Los Santos' Allstate premium to be paid on September 29, 2021.

1. Question Presented

Did the Superior Court err in granting summary judgment in favor of Defendant Allstate when there exists a genuine issue of material fact in dispute as to the reason De Los Santos initial premium payment was not made?⁴²

2. Scope of Review

The Supreme Court “review[s] the Superior Court’s decision on a motion for summary judgment *de novo*, applying the same standard as the trial court.” *Paul v. Deloitte & Touch LLP*, 974 A.2d 140, 145 (Del. 2009). “Questions concerning the interpretation of contracts are questions of law, which [this Court] review[s] *de novo*.” *Id.*

3. Merits of the Argument

Unresolved Factual Disputes Preclude Summary Judgment for Allstate

Under Delaware law, summary judgment is appropriate only when there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. *Williams v. Geier*, 671 A.2d 1368, 1375 (Del. 1996).

⁴² Preserved *via* Plaintiff-Below, Appellant’s Response in Opposition to Defendants’ Motions for Summary Judgment (App. at A207).

Factual discrepancies remain regarding the cause of the error that led to the lapse in De Los Santos's insurance coverage, precluding summary judgment. The record indicates that Allstate attempted to process the premium payment for De Los Santos's new policy on September 29, 2021, from an account ending in x4315.⁴³ De Los Santos testified these last 4 digits are not from an account he recognized nor authorized.⁴⁴ De Los Santos went to the Allstate agent and providing his routing number for the September 29, 2021 withdrawal, but did not know if the agent wrote down the wrong number.⁴⁵

De Los Santos also provided Allstate account information for an account ending in x7960 during his policy application.⁴⁶ Monthly withdrawals for premium payments would be made on the 5th of every month. When the initial premium payment failed on September 29, 2021, Allstate did not reach out to De Los Santos until October 5, 2021, the day he expected his coverage to begin.⁴⁷ That correspondence confirmed that the payment had failed, but did not indicate whether the policy was voided or otherwise terminated, raising questions about the clarity of Allstate's communications and its role in the coverage lapse. Allstate's next correspondence to De Los Santos, dated October 9, 2021, informed him that Allstate

⁴³ App. at A265.

⁴⁴ App. at A238.

⁴⁵ App. at A54 at 61:1-13.

⁴⁶ App. at A267.

⁴⁷ App. at A278.

was working on changes he requested for policy 808391459.⁴⁸ There is no indication from this document that De Los Santos is not currently covered by Allstate. Allstate did not send a notice of voided coverage to De Los Santos until October 12, 2021.⁴⁹

As soon as De Los Santos was aware that there was a problem with the Allstate coverage, he paid the premium; however, Allstate issued a new policy number as indicated in correspondence dated October 11, 2021, with the coverage to become effective starting on October 18, 2021.⁵⁰

A genuine issue of a disputed material fact exists as to the failure of Allstate, through their agent, to properly process De Los Santos' initial premium payment on September 29, 2021 precludes the granting of summary judgment in Allstate's favor. De Los Santos should have an opportunity for this matter to be heard in Superior Court to determine whether Allstate was at fault for the failure of coverage.

⁴⁸ App. at A282.

⁴⁹ App. at A291.

⁵⁰ App. at A284-A289.

V. CONCLUSION

The Superior Court erred in granting summary judgment in favor of Allstate and State Farm. De Los Santos took all reasonable steps to ensure continuous insurance coverage, including arranging payment for his new Allstate policy and notifying State Farm of his intent to cancel. Despite his good-faith efforts, both Allstate and State Farm denied coverage.

The Superior Court's narrow interpretation of 18 *Del. C.* § 3915 as applying solely to refund procedures misinterprets the statute's purpose and public policy, which aim to protect consumers from coverage gaps during policy transitions. Furthermore, unresolved factual disputes, including Allstate's failure to process the payment correctly and State Farm's improper withdrawal of a premium post-cancellation, make summary judgment inappropriate.

Because De Los Santos acted in good faith, and because the Defendants' actions contributed to the gap in insurance coverage, this Court is respectfully urged to reverse the Superior Court's Order and provide guidance on the proper application of 18 *Del. C.* §3915 to ensure that individuals are not unjustly left without insurance coverage while engaging in good-faith efforts to maintain auto insurance.

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