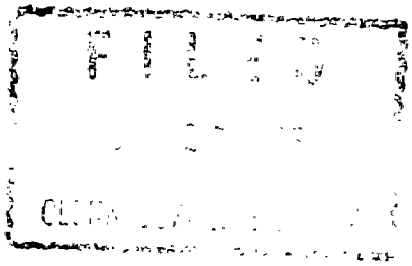
IN THE COURT OF APPEALS OF IOWA



No 5-091 / 94-0410

NANCY O'DONNELL, Individually and as Executor of the Estate of Eugene M. O'Donnell and as Next Friend of BRENT O'DONNELL,

Appellee,

vs.

AMERICAN FAMILY MUTUAL INSURANCE COMPANY,

Appellant.

Appeal from the Iowa District Court for Fayette County, William G. Klotzbach, Judge.

Defendant appeals a judgment of the district court holding the antistacking provisions contained in plaintiff's insurance policies were not valid and the releases preventing coverage under two other policies were void or voidable. **REVERSED.**

Bruce L. Gettman and Kellyann M. Lekar of Clark, Butler, Walsh & McGivern, Waterloo, for appellant.

Jeffrey E. Clements, West Union, for appellee.

Considered by Hayden, P.J., and Sackett and Cady, JJ.

HAYDEN, P.J.

On June 10, 1989, Eugene O'Donnell, and his mother, Marie O'Donnell, were killed in an accident by a car driven by Barton Jans. Nancy O'Donnell, Eugene's wife, was injured in the accident, while their son was not injured.

At the time of the accident, Eugene had two policies of insurance with the defendant, American Family Insurance. The 1985 Oldsmobile the O'Donnells were driving at the time of the accident was covered by one policy, and a second policy covered another vehicle. A third policy was owned by Eugene's stepdaughter. Each of the policies contained an "antistacking" provision establishing the maximum limits of liability with respect to underinsured motorist coverage was $50,000 per person and $100,000 per occurrence, regardless of how many vehicles were described in the declaration or how many of the insured were involved in an accident.

The O'Donnells and American Family negotiated a settlement. The O'Donnells were represented by attorney Alice Koempel. The parties ultimately agreed Marie's estate would receive $50,000, Nancy would receive $30,000, and Eugene's estate would receive $20,000. On August 15, 1990, the O'Donnells signed two releases. Nancy signed as executor of Eugene's estate. Pursuant to each release, Nancy was to hold American Family harmless for all claims that are or might be covered by underinsured/uninsured motorist coverage resulting from the accident. Once she signed each release, she was given the agreed upon amount.

On September 19, 1990, the Iowa Supreme Court decided the case of *Hernandez v. Farmers Ins. Co.*, 460 N.W.2d 842, 844-45 (Iowa 1990) (antistacking provisions in underinsured motorist coverage, to the extent they prevented full compensation to victims, were void as against public policy). Thereafter, Nancy sent a letter to American Family requesting additional payment under the other policies owned by Eugene. American Family denied the claim on the basis the release and trust agreements previously executed were valid and enforceable. Nancy subsequently filed the present petition. Nancy alleged the O'Donnells had not been fully compensated for their injuries and damages and were entitled to further recovery under the other policies.

Pursuant to an order dated September 21, 1992, the issue of whether or not the releases previously executed between the parties barred recovery by the O'Donnells was bifurcated from the issue of damages. The case was tried to the court on a joint stipulation of the facts. Pursuant to the stipulation, attorney Koempel testified she had reviewed the language in the various policies and agreed "stacking" was not allowed under the terms of the policies. Koempel testified she advised the O'Donnells to settle the case without attempting to stack the remaining policies. Nancy testified she was aware at the time she signed the releases American Family had no intention of paying her more money under the remaining policies.

The trial court opined that pursuant to *Hernandez, id.*, the O'Donnells had not been fully compensated for their injuries and they may make additional claims under the remaining insurance policies. American Family now appeals. On appeal, the sole issue is whether the releases signed by the O'Donnells preclude them from making additional claims against American Family for any additional underinsurance motorist coverage.

I. Scope of Review.

Our scope of review in actions at law is for correction of errors at law. Iowa R. App. P. 4; *Midwest Recovery Servs. v. Cooper*, 465 N.W.2d 855, 856 (Iowa 1991).

II. Validity of Releases.

A release is a contract and its validity is governed by the usual rules relating to contracts. *Verne R. Houghton Ins. Agency, Inc. v. Orr Drywall, Co.*, 470 N.W.2d 39, 42 (Iowa 1991) (citing *Stetzel v. Dickenson*, 174 N.W.2d 438, 439 (Iowa 1970)). The O'Donnells allege the releases should be set aside under the doctrine of mutual mistake. We hold the fact our supreme court subsequently clarified the law does not make the releases executed by the O'Donnells voidable contracts on the basis of mutual mistake.

At the time of the execution of the releases, the O'Donnells believed no additional insurance was available due to the antistacking provisions. This was not a mistake. At the time of the execution of the releases, antistacking provisions had been held valid. *See Kluiter v. State Farm Mut. Auto Ins. Co.*, 417 N.W.2d 74, 76-77 (Iowa

1987). *Tri-State Ins. Co. of Minn. v. De Gooyer*, 379 N.W.2d 16, 19 (Iowa 1985). The O'Donnells argue a mistake was created by a change in law with the *Hernandez* decision. 460 N.W.2d at 844-45. We hold a mutual mistake is not created by the subsequent clarification of a question of law by judicial decision. *See, e.g., Anita Founds., Inc. v. ILGWU Nat'l Retirement Fund*, 710 F. Supp. 983, 987 (S.D.N.Y. 1989) ("Settlements which are made in reliance on a judicial decision that is subsequently overruled are not so endangered, [citation omitted], and this court declines to place settlements in absence of judicial interpretation on different footing."); *Cooley v. Calaveras County*, 53 P. 1075, 1077 (Cal. 1898) ("A subsequent decision of a higher court, in a different case, giving a different exposition to a point of law from the one declared and known when a settlement between the parties takes place, cannot have a retrospective effect and overturn such settlement.") (internal quotation and citation omitted); *California Ass'n of Highway Patrolmen v. California Dep't of Personnel Admin.*, 185 Cal. App. 3d 352, 365, 229 Cal. Rptr. 729, 736 (Cal. Ct. App. 1986) ("The community would be in a miserable condition if at every change of opinion upon questions of law all their previous contracts and settlements were to be overturned.") (internal quotations and citations omitted); *Tharp v. Industrial Comm'n of Arizona*, 535 P.2d 29, 30-31 (Ariz. Ct. App. 1975) ("We hold when an award becomes final and the judicial construction of a relevant statute is overruled or reinterpreted, such subsequent action does not affect that award or its finality."). It is the understanding of the law

prevailing at the time of the transaction in question which will govern whether a mistake has been made.

We observe a contrary result here would seriously undermine the strong public policy favoring out-of-court settlements. *Wright v. Scott*, 410 N.W.2d 247, 249 (Iowa 1987); *Bakke v. Bakke*, 47 N.W.2d 813, 817 (Iowa 1951). The O'Donnells fully and completely released American Family. They are bound by those releases, and may not make additional claims under the applicable underinsured motorist policies.

We reverse the trial court's ruling. Costs on appeal are taxed to the O'Donnells.

REVERSED.