IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED
February 5, 2020

Lyle W. Cayce
Clerk

No. 19-30106

JASON DEAN MAYS,

Plaintiff

v.

C-DIVE, L.L.C.,

Defendant - Appellant

CATLIN INSURANCE COMPANY; NEW YORK MARINE & GENERAL INSURANCE COMPANY,

Third Party Defendants - Appellants

v.

GULF SOUTH PIPELINE COMPANY, L.P.,

Defendant - Appellee

BRIAN BEADELL,

Plaintiff

v.

C-DIVE, L.L.C.,

Defendant - Appellant

v.

No. 19-30106

GULF SOUTH PIPELINE COMPANY, L.P.,

Defendant - Appellee

ADAM ZIMA,

Plaintiff

v.

C-DIVE, L.L.C.,

Defendant - Appellant

CATLIN INSURANCE COMPANY; NEW YORK MARINE & GENERAL INSURANCE COMPANY,

Third Party Defendants - Appellants

v.

GULF SOUTH PIPELINE COMPANY, L.P.,

Defendant - Appellee

MATTHEW BOYD,

Plaintiff

v.

C-DIVE, L.L.C.,

Defendant - Appellant

CATLIN INSURANCE COMPANY; NEW YORK MARINE & GENERAL INSURANCE COMPANY,

Third Party Defendants - Appellants

No. 19-30106

v.

GULF SOUTH PIPELINE COMPANY, L.P.,

Defendant - Appellee

In re: In the Matter of the Complaint of C-Dive, L.L.C., as Owner and Operator of the MS Kerci Pray for Exoneration from and/or Limitation of Liability

C-DIVE, L.L.C., as Owner and Operator of the MS Kerci Pray for Exoneration from and/or Limitation of Liability,

Petitioner - Appellant

v.

GULF SOUTH PIPELINE COMPANY, L.P.,

Claimant - Appellee

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:16-CV-13139
USDC No. 2:16-CV-13318
USDC No. 2:16-CV-13951
USDC No. 2:16-CV-13952
USDC No. 2:17-CV-668

Before KING, COSTA, and HO, Circuit Judges.

GREGG COSTA, Circuit Judge:*

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* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

An explosion injured four divers while they were decommissioning a pipeline in the Gulf of Mexico. The divers worked for C-Dive, L.L.C. Gulf South Pipeline Company, the owner of the pipeline, had hired C-Dive to plug it. The divers sued C-Dive and Gulf South for Jones Act negligence as well as negligence and unseaworthiness under general maritime law.

Gulf South responded with cross-claims against C-Dive and third-party claims against C-Dive's insurers, Catlin Insurance Company and New York Marine & General Insurance Company. Among other things, Gulf South claimed that its master services agreement (MSA) with C-Dive required that Gulf South would be included as an additional insured under C-Dive's comprehensive general liability insurance policies. C-Dive, Catlin, and New York Marine countered that the MSA was between C-Dive and Gulf South's parent company, Boardwalk Pipelines, LP, and that the additional insured provision applied only to the parent company—not its subsidiaries.

Both sides sought summary judgment on the issue. The district court granted Gulf South's motion. It concluded that the MSA's additional insured provision applied to Boardwalk Pipelines, LP and its subsidiaries, including Gulf South. And because C-Dive's policies with Catlin and New York Marine cover any entity that C-Dive contractually agrees to include as an additional insured, those policies covered Gulf South too. C-Dive and its insurers appeal.

The interpretation of a maritime contract is a matter of law subject to *de novo* review. *Int'l Marine, L.L.C. v. Delta Towing, L.L.C.*, 704 F.3d 350, 354 (5th Cir. 2013). "Under admiralty law, a contract 'should be read as a whole and its words given their plain meaning unless the provision is ambiguous.'" *Holmes Motors, Inc. v. BP Expl. & Prod., Inc.*, 829 F.3d 313, 315 (5th Cir. 2016) (citation omitted). We must "interpret, to the extent possible, all the terms in a contract without rendering any of them meaningless or superfluous." *Chembulk Trading LLC v. Chemex Ltd.*, 393 F.3d 550, 555 (5th Cir. 2004).

Whether the MSA requires Gulf South to be an additional insured on C-Dive's insurance policies is the sole issue. The MSA provides that C-Dive's insurance policies "shall be endorsed to include Boardwalk Pipelines, LP as [an] additional insured." C-Dive and its insurers assert that the use of "Boardwalk Pipelines, LP" means the additional insured requirement covers only the parent company. Their argument is as follows: The MSA makes a distinction between "Boardwalk Pipelines, LP" and "Boardwalk." Use of both terms must mean there is a difference between the two usages. And because the MSA states that "[r]eference to Boardwalk shall also include its subsidiaries and . . . affiliates," "Boardwalk Pipelines, LP" must refer only to the parent company. Otherwise, there would be no other way to refer to the parent company on its own.

But reading the MSA as a whole, we conclude that it unambiguously uses "Boardwalk Pipelines, LP" and "Boardwalk" interchangeably such that the additional insured provision's reference to Boardwalk Pipelines, LP encompasses subsidiaries like Gulf South.

For starters, the MSA's description of Boardwalk Pipelines, LP indicates that the agreement draws no distinction between the parent entity and its affiliates. The MSA opens by stating that Boardwalk Pipelines, LP is "hereinafter referred to as 'Boardwalk.'" This "hereinafter referred" clause treats Boardwalk Pipelines, LP and Boardwalk as one and the same. The MSA goes on to explain that "[r]eference to Boardwalk shall also include *its* subsidiaries and . . . affiliates *of Boardwalk*, including . . . Gulf South." By attributing subsidiaries and affiliates to "Boardwalk," this clause uses the term both to describe the parent company (per the "hereinafter referred" clause) and to clarify that any reference to that parent includes its affiliates. If the MSA meant to distinguish between Boardwalk Pipelines, LP and Boardwalk, it would have omitted the "hereinafter referred" clause and provided that

"reference to Boardwalk shall include *Boardwalk Pipelines, LP*'s subsidiaries and affiliates."

The MSA's Insurance Requirements section further demonstrates that "Boardwalk Pipelines, LP" and "Boardwalk" are interchangeable. Consider first the additional insured provision itself, which states: "All [of C-Dive's insurance] policies . . . shall be endorsed to include Boardwalk Pipelines, LP as additional insured and these policies will respond as primary to any other insurance available to Boardwalk." It would make no sense to require C-Dive's policies to include only the Boardwalk parent company as an additional insured but then to make those same policies primary for all of Boardwalk's subsidiaries. The MSA also requires C-Dive to maintain insurance coverage "with insurance companies acceptable to Boardwalk" and provide copies of its insurance policies "for inspection by Boardwalk" upon request. Boardwalk Pipelines, LP's affiliate companies would have little need to approve C-Dive's insurers or inspect C-Dive's insurance policies if they were not additional insureds along with the parent company. The nonsensical implications of a distinction between "Boardwalk Pipelines, LP" and "Boardwalk" illustrate that the two terms must mean the same thing for the MSA to make sense. *See L & A Contracting Co. v. S. Concrete Servs., Inc.*, 17 F.3d 106, 110–11 (5th Cir. 1994) ("A definition of a contract term that leads to impractical or commercially absurd results is unreasonable.").

Two addenda to the MSA provide additional support for this conclusion. First, the sample Additional Insured Endorsement—which "is attached [to] and made a part" of the MSA—contemplates that Boardwalk's affiliates are included as additional insured. It states:

> [A]s respects the operations of [C-Dive] and as respects work performed for **Boardwalk Pipelines, LP** under an agreement with [C-Dive], the following applies:

> (1) Boardwalk Pipelines, LP, its parent, subsidiary and affiliated companies, and its and their respective directors, officers, partners, managers, members, employees, representatives and agents named as additional insured under this policy; and
>
> (2) This insurance is primary insurance with respect to the interests of the above additional insured . . . .

The first bullet point is ungrammatical,[1] but the import seems to be that Boardwalk Pipelines, LP and its affiliates are all additional insureds. This reading is reinforced by the second bullet point, which refers broadly to the "above additional insured" rather than Boardwalk Pipelines, LP alone.

Second, the certificate of insurance included as a supplement to the MSA equates Boardwalk Pipelines, LP with Boardwalk just like the "hereinafter referred" clause. It lists "**Boardwalk Pipelines, LP** (collectively 'Boardwalk')" as the certificate holder. By following "Boardwalk Pipelines, LP" immediately with "(collectively 'Boardwalk')," the certificate suggests that the two terms carry the same meaning.

We therefore conclude that the only reasonable reading of the MSA is that it uses "Boardwalk Pipelines, LP" and "Boardwalk" interchangeably. The district court thus correctly concluded that the agreement unambiguously includes affiliates like Gulf South in the additional insured requirement. *See Chembulk*, 393 F.3d at 555 n.6 (explaining that a contract is unambiguous if "its language as a whole is clear, explicit, and leads to no absurd consequences, and as such it can be given only one reasonable interpretation").

The judgment is AFFIRMED.

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[1] Namely, the bullet point appears to inadvertently exclude the word "are" before the word "named." The Appellants do not dispute this reading of the endorsement.