

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 27, 2026

No. 25-10725

Thomas B. Plunkett, III
Clerk

LIBERTY MUTUAL FIRE INSURANCE COMPANY,

Plaintiff—Appellee,

versus

NORTH TARRANT INFRASTRUCTURE, L.L.C.; FERROVIAL
CONSTRUCTION US CORPORATION; WEBBER, L.L.C.,

Defendants—Appellants.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:23-CV-1043

Before SMITH and HIGGINSON, *Circuit Judges*.¹

PER CURIAM:*

A 130-vehicle pileup in February 2021 on I-35W in Fort Worth, Texas, generated dozens of lawsuits against several parties, including Defendants—Appellants North Tarrant Infrastructure, L.L.C. (“NTI”), Ferrovial Construction US Corporation, and Webber, L.L.C. (collectively,

¹ Judge WIENER was present for oral argument but is unable to participate in this decision. The case is decided by a quorum. See 28 U.S.C. § 46(d).

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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“Defendants”). An insurance agreement obligated Plaintiff–Appellee Liberty Mutual Fire Insurance Company (“Liberty Mutual”) to provide coverage to Defendants for certain bodily injury arising out of their 2013 to 2018 construction work on a segment of I-35W. As a result, Liberty Mutual initially agreed to defend Defendants, subject to a full reservation of rights. But several years into litigation, Liberty Mutual filed a declaratory judgment action to establish that it owed no duty to defend Defendants in the underlying lawsuits, arguing that the claims against Defendants were not covered by the policy language. The district court granted summary judgment in favor of Liberty Mutual, interpreting the insurance agreement to cover only injuries arising out of the rebuilding, constructing, and expanding of the relevant segment of I-35W, and finding that the underlying lawsuits did not allege any facts regarding Defendants’ acts or omissions during construction which could have caused the underlying plaintiffs’ injuries; instead, the allegations all concerned alleged failures in maintenance and operation of the roadway. We AFFIRM.

We review a district court’s award of summary judgment *de novo*, applying the same Rule 56 standard as the district court. *Ford Motor Co. v. Tex. Dep’t of Transp.*, 264 F.3d 493, 498 (5th Cir. 2001). Summary judgment is proper only when “there is no genuine dispute as to any material fact and . . . the movant is entitled to judgment as a matter of law.” FED. R. CIV. P. 56(a).

We apply Texas law to this dispute. *See Edwards Co. v. Monogram Indus., Inc.*, 730 F.2d 977, 979 n.5 (5th Cir. 1984) (applying Texas law in diversity action where “[b]oth parties have briefed and argued this case to the district court and this court on the theory that Texas law applies”). “In Texas, ‘[t]he eight-corners rule provides that when an insured is sued by a third party, the liability insurer is to determine its duty to defend solely from [the] terms of the policy and the pleadings of the third-party claimant.’”

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Gore Design Completions, Ltd. v. Hartford Fire Ins. Co., 538 F.3d 365, 368 (5th Cir. 2008) (quoting *GuideOne Elite Ins. Co. v. Fielder Rd. Baptist Church*, 197 S.W.3d 305, 307 (Tex. 2006)) (first alteration in original). “If the four corners of a petition allege facts stating a cause of action which potentially falls within the four corners of the policy’s scope of coverage, the insurer has a duty to defend.” *Liberty Mut. Ins. Co. v. Graham*, 473 F.3d 596, 600 (5th Cir. 2006).

Much of the dispute in this case centers around how to read the insurance policy and its various exclusions and amendments, some of which are clunky and poorly drafted. Defendants interpret the insurance agreement to apply to bodily injury arising out of their completed work on the relevant segment of I-35W, known as “Segment 3A.” Defendants then argue that the exclusions in the policy only exclude bodily injury arising out of their completed work conducted for some project other than Segment 3A.

But the Court need not wade into the contractual dispute to resolve this case, since Defendants cannot prevail even under their own interpretation of the policy. Assuming for a moment that the Defendants’ interpretation is correct, we must assess whether, under the eight-corners rule, any of the petitions implicate this interpretation of the insurance agreement. They do not.²

Defendants identify multiple petitions that allegedly implicate their work on Segment 3A. *See, e.g., Vardy v. New Prime, Inc.*, Case No. DC-21-

² Defendants assert that the district court proceeded out of order, and they argue that our precedent and Texas state law require us to first determine which allegations fall within the policy’s coverage, and only then determine which of those allegations are separately excluded. *See Buchholz v. Crestbrook Ins. Co.*, 65 F.4th 766, 769–71, (5th Cir. 2023) (noting that this approach is “required by the Supreme Court of Texas”). But this only undermines Defendants’ arguments, as it is clear when applying this framework here that Defendants do not prevail under their own interpretation.

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09849 (Tex. Dist. Ct. Dallas Cnty.); *Gerred v. Fed Ex Ground Package Sys. Inc.*, Case No. 352-327055-21 (Tex. Dist. Ct. Tarrant Cnty.). But viewed in context, those petitions allege that “Roadway Defendants” failed to “operate and maintain” the segment of I-35W on which the accident occurred. While Defendants are named in a list of companies comprising the “Roadway Defendants,” the petitions’ allegations focus on the failure to “properly prepare for oncoming winter weather,” “deploy all the resources necessary to accomplish that,” or “constantly monitor the roadways.”³ The accident giving rise to the underlying lawsuits in this matter occurred on February 11, 2021, years after Defendants completed their work on Segment 3A.

Read in context, none of the claims in these petitions alleges bodily injury arising out of Defendants’ work.⁴ At most, these petitions allege that the companies responsible for day-to-day maintenance and operations breached their duties, and the segment that Defendants worked on was the mere situs of the tragic 2021 pileup. *Cf. Lancer Ins. Co. v. Garcia Holiday Tours*, 345 S.W.3d 50, 57–58 (Tex. 2011) (rejecting argument that “injury-producing event” arose out of the use of a vehicle when the event “only

³ Defendants concede that “[b]y definition, ongoing-maintenance-and-operations allegations are not within the ‘products-completed operations hazard’” that the policy language covers.

⁴ Defendants state that Liberty Mutual has never disputed that the underlying allegations fall within the initial scope of the policy language. Even if that were true, Defendants also urge us to first determine which allegations fall within the scope of the policy language, because “the insured has the burden first to prove that their loss falls within the terms of the contract.” *Buchholz*, 65 F.4th at 769. It is clear that there are no allegations that fall within the scope of the policy language at this first step (or within Defendants’ overall interpretation, more broadly). “We can affirm the district court on any grounds supported by the record on appeal.” *Id.* at 771. For that reason, we also need not decide if the district court’s precise holding on the scope of the exclusionary language was correct.

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incidentally occurred within the locational setting of a motor vehicle”). Because these Defendants had no role in that day-to-day maintenance, and because their work had been completed years prior to the accident, the petitions’ allegations fall outside even Defendants’ interpretation of the contract.⁵

On these grounds, we **AFFIRM** the district court’s grant of summary judgment.

⁵ Defendants also more broadly contend that several plaintiffs allege that (1) bodily injury occurred on Segment 3A and (2) Defendants built Segment 3A, and that this alone is enough to establish bodily injury arising out of Defendants’ long-completed work on Segment 3A. We disagree for the same reasons. Segment 3A was “merely the situs of an incident that could have occurred anywhere” under plaintiffs’ allegations against these Defendants, and “the causal connection to the” Defendants’ work is “too remote to invoke coverage.” *Lancer*, 345 S.W.3d at 57 (analyzing similar policy language in the automobile-insurance context) (quotation omitted). On reply, Defendants take this a step further, arguing that they only need to show that the suits alleged (1) bodily injury or property damage (2) that occurred within 10 years of either the policy period or the completion of their work on Segment 3A. This is also incorrect, as it ignores the fact that the ten-year coverage only applies to bodily injury within the “products-completed operations hazard”—in other words, bodily injury “arising out of . . . ‘[Defendants’] work.’”