

U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 25-3085

C.J. HESSE, INC.; ATLANTIC PIER CO., INC.,
Appellants

v.

AMERICAN FAMILY HOME INSURANCE COMPANY

On Appeal from the U.S. District Court, D.N.J.
Judge Robert Kirsch, No. 3:25-cv-01101

Before: SHWARTZ, RESTREPO, and CHUNG, *Circuit Judges*
Submitted: Sept. 29, 2026; Filed: Oct. 26, 2026

NONPRECEDENTIAL OPINION*

CHUNG, *Circuit Judge*. C.J. Hesse, Inc. (“Hesse”) and Atlantic Pier Co., Inc. (“Atlantic Pier”) claimed in New Jersey state court that American Family Home Insurance Company (“AFHIC”) breached its duty to defend them in six lawsuits naming them as defendants. Hesse and Atlantic Pier (together, “Insureds”) based their claim on an automobile insurance policy issued by AFHIC. Following removal, the District Court granted AFHIC’s motion for summary judgment and denied Insureds’ motion for the same. *C.J. Hesse, Inc. v. Am. Fam. Home Ins. Co.*, No. CV 25-1101 (RK) (JBD), 2025 WL 2731349, at *9 (D.N.J. Sept. 25, 2025). We will affirm.

* This disposition is not an opinion of the full Court and, under I.O.P. 5.7, is not binding precedent.

I. BACKGROUND¹

Insureds carry a joint commercial automobile insurance policy issued by AFHIC. Atlantic Pier leases a plot of land in Manchester Township, New Jersey, to Ocean County Landfill Co., Inc., which operates a landfill on the site. Hesse is a general contractor controlled by members of the same family that controls Atlantic Pier, and the two share a business address. Neither Insured was involved in operating the landfill, and the record contains no evidence of a connection between Hesse and the landfill.

Four accidents occurred at the landfill, which gave rise to six lawsuits filed in New Jersey State Court. All six suits alleged that the plaintiffs suffered physical injury or property damage from garbage truck accidents caused by Insureds' negligent maintenance of the landfill premises.² Insureds notified AFHIC of each of these matters, but AFHIC denied that it had any duty to defend Insureds.

The policy here provides a table, titled "Covered Auto Designation Symbols," that lists ten numbered (1-9 and 19) categories of "autos." JA175-76. Number 1 is defined as "Any 'Auto.'" JA175. Numbers 2 through 6 describe various categories of "Owned" autos. JA175. Numbers 8 and 9 describe "Hired" and "Non-owned" autos that Insureds lease, hire, rent, or borrow, or that are used in connection with an Insured's business. JA175. A separate section titled "Owned Autos" further specifies that coverage for number 1 through 6 or 19 includes coverage "for 'autos' that [Insureds] acquire after the policy period begins of the type described." JA176.

¹ Because we write for the parties, we recite only the facts pertinent to our decision.

² Hesse was only named as a defendant in three of the six suits.

The policy’s “Covered Autos Liability Coverage” section specifies that AFHIC has a duty to defend Insureds against suits when bodily injury or property damage is “caused by an ‘accident’ and [is] resulting from the ownership, maintenance or use of a covered ‘auto.’” JA176. For purposes of this section, the “Covered Autos” are those described by category number 1. JA164. Thus, liability coverage is provided for “any auto,” including autos acquired after the policy period begins. JA164, JA176.

II. DISCUSSION³

We review the District Court’s summary judgment decision de novo, applying the same standard that a district court would have under Fed. R. Civ. P. 56(a). *Turco v. City of Englewood*, 935 F.3d 155, 161 (3d Cir. 2019). Summary judgment shall be granted if, viewing the evidence in the light most favorable to the non-moving party, *id.*, “the movant shows that 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); *see also Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). To survive summary judgment, the non-moving party must make a sufficient showing as to any element on which it will bear the burden of proof at trial. *Celotex Corp.*, 477 U.S. at 322. A genuine dispute exists when “a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

The parties agree that the insurance policy is governed by New Jersey law. Under New Jersey law, an insured bears the burden to prove that an insurer has a duty to defend. *Kent*

³ The District Court had jurisdiction pursuant to 28 U.S.C. § 1332(a). This Court has jurisdiction under 28 U.S.C. § 1291.

Motor Cars, Inc. v. Reynolds & Reynolds, Co., 25 A.3d 1027, 1042 (N.J. 2011). When considering whether there is a duty to defend, we compare the complaint to the policy and ask “‘whether, if the allegations are sustained, the insurer will be required to pay the resulting judgment,’ with any doubts ‘resolved in favor of the insured.’” *Norman Int’l, Inc. v. Admiral Ins. Co.*, 279 A.3d 425, 432 (N.J. 2022) (quoting *Abouzaid v. Mansard Gardens Assocs., LLC*, 23 A.3d 338, 346 (N.J. 2011)).

Under New Jersey law, a court interprets an insurance policy by “read[ing] the policy as a whole and in accordance with the plain and ordinary meaning of its terms.” *Wilson v. USI Ins. Serv. LLC*, 57 F.4th 131, 140 (3d Cir. 2023). A court enforces the policy’s language “as written” where it is “clear and unambiguous.” *Id.* at 140-41. If the terms are ambiguous, we must construe them “against the insurer and in favor of the insured, in order to give effect to the insured’s *reasonable* expectations.” *Flomerfelt v. Cardiello*, 997 A.2d 991, 996 (N.J. 2010) (emphasis added).

Per the liability policy, AFHIC must defend the Insureds in cases involving injury or damage “caused by an ‘accident’ and resulting from the ownership, maintenance or use of a covered ‘auto,’” JA176, where the covered auto is defined as “Any ‘Auto,’” JA175. The Insureds argue that the garbage trucks, though not owned or maintained by Insureds, meet the definition of “any auto.” Therefore, they assert, the six suits involve injury or damage “caused by an ‘accident’ and resulting from the ownership, maintenance or use of a covered ‘auto,’” triggering AFHIC’s duty to defend. JA176. Defendant does not dispute that the garbage trucks meet the policy’s definition of an “auto,” but maintains that “any auto,” read in the context of the entire policy, has a limited scope.

We agree with the District Court that the trucks involved in the six lawsuits are not “covered ‘auto[s]’” under the policy. Even if the term were ambiguous, any expectation by Plaintiffs that such a circumstance would be covered by the commercial auto liability policy is not “reasonable.”⁴ *Flomerfelt*, 997 A.2d at 996. The policy specifies that liability coverage is for “any ‘auto,’” JA164, including autos acquired after the policy is in place, JA175. Moreover, the policy sets forth a table of Covered Auto Designation Symbols, which lists categories of autos that the liability policy could cover. JA175-76. These include autos that Insureds “own,” “acquire,” “lease,” “hire,” “rent,” “borrow,” or “use[] in connection with [the Insureds’] business.” JA175-76. Reading these provisions together, *see Wilson*, 57 F.4th at 140, reflects that the liability policy applies to vehicles owned or operated by Insureds, and to vehicles otherwise used to further Insureds’ purposes. The liability policy cannot be reasonably read to apply to a third-party vehicle driven by a third party for a third-party business purpose that happens to be on an Insured’s property, like the garbage trucks. Although no New Jersey court has interpreted similar “any ‘auto’” language in a commercial auto insurance policy, multiple courts have rejected Plaintiffs’ sweeping interpretation when analyzing nearly identical language. *See, e.g., Bamber v. Lumbermens Mut. Cas. Co.*, 680 A.2d 901, 903 (Pa. Super. Ct. 1996); *Cont’l*

⁴ In support of their position, Plaintiffs argue that, under New Jersey law, they are not permitted to acquire premises liability insurance because they do not have a permit to dispose of solid waste, and thus it is reasonable to conclude the parties expected the term “any auto” to effectively backdoor the proscribed premises liability insurance into a commercial automobile policy. We disagree that this was a reasonable expectation of the parties, even considering the New Jersey statutory scheme.

Ins. Co. v. Ins. Co. of N. Am., 608 So.2d 1108, 1109 (La. Ct. App. 1992). These courts have reasoned that interpreting “any auto” as proposed by Plaintiffs would lead to absurd results, namely providing coverage under an automobile policy for any event involving any car on an insured’s property, even when the automobile is not owned, controlled, maintained, or operated by the policy-holder. *See, e.g., Liberty Mut. Ins. Co. v. Mid-Continent Ins. Co.*, 266 F. Supp. 2d 533, 545 (N.D. Tex. 2003), *rev’d on other grounds*, 508 F.3d 261 (5th Cir. 2007). In other words, no reasonable jury could conclude Insureds’ reading reflects a reasonable expectation by the insured. *See id.* (“[I]t is unreasonable to conclude that [the insurer or the insured] intended the policy to provide coverage for any auto accident that occurred in the vicinity of [the insured’s] operation.”). Accordingly, Plaintiffs have failed to make a sufficient showing on an element on which it will bear the burden of proof at trial. *Celotex Corp.*, 477 U.S. at 322.

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For the reasons stated above, we will AFFIRM the order of the District Court.