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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-5610-10T2
A-6205-10T2
A-0178-11T2
A-0179-11T2
A-0180-11T2

HELEN CHAITMAN and
ELIZABETH KRINICK,

Plaintiffs-Appellants,

v.

CHUBB INSURANCE COMPANY
OF NEW JERSEY,

Defendant-Respondent.

STANLEY M. KATZ and
MARILYN KATZ,

Plaintiffs-Appellants,

v.

GREAT NORTHERN INSURANCE
COMPANY and FEDERAL INSURANCE
COMPANY,

Defendants-Respondents.

JESSE COHEN,

Plaintiff-Appellant,

v.
GREAT NORTHERN INSURANCE COMPANY,

Defendant-Respondent.

MARSHA PESHKIN and HOWARD ISRAEL,

Plaintiffs-Appellants,

and

ELINOR R. LIFTON,

Plaintiff,

v.

FEDERAL INSURANCE COMPANY,

Defendant-Respondent.

NORMAN FEINBERG and
PHYLLIS KROCK,

Plaintiffs-Appellants,

v.

PACIFIC INDEMNITY COMPANY,

Defendant-Respondent.

Submitted October 2, 2012 - Decided December 14, 2012

Before Judges Alvarez and St. John.

On appeal from the Superior Court of New Jersey, Law Division, Somerset County, Docket Nos. L-1518-09, L-0794-10, L-0445-10, L-0443-10, and L-0446-10.

Sherman, Silverstein, Kohl, Rose & Podolsky, P.A., attorneys for appellants (Alan C. Milstein, on the brief).

Cozen O'Connor, attorneys for respondents (Thomas McKay, III, and Kellyn J. W. Muller, on the brief).

PER CURIAM

In this consolidated appeal from the grant of summary judgment dismissing their complaints, we address the claims of the following plaintiffs: Helen Chaitman and Elizabeth Krinick; Marsha Peshkin and Howard Israel; Jesse Cohen; Norman Feinberg and Phyllis Krock; and Stanley M. Katz and Marilyn Katz.[1] All filed suit against their homeowners' insurance companies, defendants: Chubb Insurance Company of New Jersey; Federal Insurance Company; Great Northern Insurance Company; Pacific Indemnity Company; and Great Northern Insurance Company and Federal Insurance Company.

Plaintiffs assert that they are entitled to be made whole by defendants for losses arising from Bernard Madoff's investment fraud[2] under the contents provisions of their homeowners' policies. Because it is pertinent to our decision, we note that when Madoff entered his guilty plea, he acknowledged that upon receipt of client funds transmitted by check or wire transfer, the money would be deposited into a Bernard L. Madoff Investment Securities, LLC (BLMIS) account at the J.P. Morgan Chase Manhattan Bank (Chase Bank). The money

[1] Elinor R. Lifton dismissed her complaint with prejudice and is not involved in this appeal.

[2] Madoff solicited clients to open securities and investment trading accounts with him, failed to invest the funds as promised, and converted the money to his own benefit. Madoff's clients lost billions of dollars in his longstanding Ponzi scheme. Transcript of Plea Hearing at 23-34, United States v. Bernard L. Madoff, No. 09-CR-213 (S.D.N.Y. Mar. 12, 2009).

would then be retained for a few hours before being deposited into other accounts in furtherance of the Ponzi scheme.

Madoff admitted that investor funds were never used to create individual trading accounts, much less to purchase securities, or to do other than fund the lifestyle he, his family, and close associates enjoyed. When necessary, he would use new investor money, or money he maintained in an account in his name, to advance fictitious returns to other investors of longer standing, until the eventual day of collapse of his criminal enterprise.

All the homeowners' policies contain the following language:

> For a covered loss to each category of contents listed below, we will not pay more than the amount shown. For any one occurrence, payment will be under the category providing you with the most coverage. These special limits do not increase the amount of coverage on your contents or on any item covered elsewhere in this policy.
>
> Legal tender, bank notes, stored value cards, bullion, gold, silver, platinum, or tokens. . . . . $1,500[3]
>
> Securities, accounts (other than accounts covered under Extra Coverages, Account funds), deeds, evidences of debt, letters of

[3] Two of the policies contained slightly different language, limiting coverage of "[m]oney, bank notes, bullion, gold, silver, or platinum" to $1,000.

> credit, notes other than bank notes, manuscripts, passports or tickets. . $5,000 However, when this property is located in a bank vault or bank safe deposit box, your full contents coverage away from your residences will apply for a covered loss.

On June 24, 2011, Judge Thomas C. Miller granted summary judgment to defendants, finding that plaintiffs' claims were for the loss of money paid to Madoff, as the funds were never converted to securities or accounts. The judge disagreed with plaintiffs' characterization of the investments as having been accounts located in a bank vault or bank safe deposit box, which would thereby trigger full coverage to the maximum available for contents loss on the policies. In his view, the contention had no basis in law, fact, or the plain meaning of the words. Given that conclusion, he dismissed the complaints, each plaintiff having already been compensated, per the policy limit, to the extent of $1000 or $1500 for the year in which they sent payments to BMIS.

Significantly, the trial court found the words "money," "legal tender," and "accounts" in the special limit provisions "have common meanings and are easily understood; the terms are not ambiguous . . . ." Since the words meant what they said, plaintiffs' proffered interpretation of the policy language, whether reasonable or unreasonable, was irrelevant because no ambiguity existed which required interpretation. We agree with

this analysis and consider plaintiffs' arguments to not warrant much discussion in a written opinion. R. 2:11-3(e)(1)(E).

As our Supreme Court has stated, where insurance terms are unambiguous, it is unnecessary to "engage in a strained construction" of them. Progressive Cas. Ins. Co. v. Hurley, 166 N.J. 260, 273 (2001). Therefore, since plaintiffs' contention that the loss constituted a theft of something other than money — of accounts or of the contents of a bank vault or a bank safety deposit box — is not premised on the straightforward meaning of the language, the judge properly granted summary judgment.

Defendants were entitled to summary judgment because "the moving party . . . demonstrated there were no genuine disputes as to material facts." Whitfield v. Bonanno Real Estate Grp., 419 N.J. Super. 547, 551 (App. Div. 2011) (citation omitted). The evidence further established that "the moving party [was] entitled to a judgment or order as a matter of law." R. 4:46-2(c). Employing the same standard as the trial court, we are therefore satisfied that summary judgment was properly granted. Murray v. Plainfield Rescue Squad, 210 N.J. 581, 584 (2012).

Affirmed.