MISSOURI COURT OF APPEALS
WESTERN DISTRICT

SHEYANN GEILER, ET AL.,
RESPONDENTS

vs.

LIBERTY INSURANCE CORPORATION, ET AL.,
APPELLANTS

DOCKET NUMBER WD83363

DATE: JANUARY 12, 2021

Appeal from:

The Circuit Court of Adair County, Missouri
The Honorable Gary L. Dial, Judge

Appellate Judges:

Division One: Thomas N. Chapman, Presiding Judge, Mark D. Pfeiffer, Judge and W. Douglas Thomson, Judge

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Attorneys:

Angela Higgins, for Appellants

James A. Wilke, for Starr Indemnity & Liability Company

Michael Manners, for Respondents Geiler, et al.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

SHEYANN GEILER, ET AL., RESPONDENTS,
v.
LIBERTY INSURANCE CORPORATION, ET AL., APPELLANTS.

WD83363 Adair County

Before Division One Judges: Thomas N. Chapman, Presiding Judge, Mark D. Pfeiffer, Judge, and W. Douglas Thomson, Judge

This appeal arises from an equitable garnishment action filed by Sheyann Geiler, et al. to collect from Liberty Insurance Corporation proceeds of an umbrella insurance policy that was issued to Sharpe Holdings, Inc. to satisfy the $7.5 million balance of a $9.5 million wrongful death judgment after the primary insurer, Starr Indemnity & Liability Company, paid its policy limits of $2 million. Liberty appeals from the trial court's grant of summary judgment in favor of the Plaintiffs and Starr and against Liberty.

AFFIRMED.

Division One holds:

As it is clear that a statutory bar has no effect on subject matter jurisdiction (does not render the judgment void), Liberty's collateral challenge to the wrongful death judgment on that basis is without merit and thus fails. There is no genuine issue of material fact as to the decedent's lack of involvement in the ongoing operations of CNS Ministries at the time of his fatal injury due to Liberty's own admission. Liberty failed to properly challenge the trial court's denial of its motion to compel discovery but such a challenge would have failed on the merits in that the record supports the trial court's finding that the wrongful death judgment arose from a trial and not from a settlement. And, Liberty's failure to challenge the articulated grounds for the trial court's grant of summary judgment in favor of Starr is fatal to its appeal of that judgment.

Opinion by: W. Douglas Thomson, Judge Date: January 12, 2021

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