

Teufel v. American Family Mutual Insurance Co.

Full Citation: Teufel v. Am. Family Mut. Ins. Co., 419 P.3d 546 (Ariz. 2018).

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Opinion's Author: Justice Timmer

Joined By: Chief Justice Bales, Vice Chief Justice Brutinel, and Justices Pelander, Bolick, Gould, and Lopez.

Practitioners: For quick reference, please see the "Issue" and "Holding" sections.

Facts: Dennis Teufel hired a building company to construct a home on a vacant lot. Intending to reside at the "Longlook Property" upon its completion, Teufel acquired a homeowner's policy that insured against personal liability from American Family Mutual Insurance Company. Later, Teufel decided to sell the property to Cetotor, Inc., and his policy coverage ended.

Teufel then purchased another home, the 82nd Place Property, and acquired a new homeowner's policy from American Family. The policy included personal liability coverage and obligated American Family to defend Teufel against claims for compensatory damages for property damage based on accidents during the policy period, which was January 2012 to January 2013. In addition, the policy included a "contractual liability" exclusion clause: "We will not cover personal liability under any contract or agreement."

In 2011 and 2012, rockslides damaged the Longlook Property, allegedly the result of improper excavation during construction. Cetotor sued Teufel, alleging that he was a builder-vendor and asserting breach of contract, negligence, and fraud-based claims. Teufel tendered defense of the Cetotor suit to American Family under both of his insurance policies. American Family declined to represent him, claiming there was no coverage under either policy. In response, Teufel sued American Family and its agent in the present action, seeking damages and declaratory relief.

Procedural History: The case is currently before the Arizona Supreme Court. The trial court granted summary judgment in favor of American Family, finding that it had no duty to defend Teufel under either policy.¹ No property damage occurred during the Longlook Property's policy period, but one incident—a rockslide in August 2012—occurred during the 82nd Place Property's policy period.² However, the trial court reasoned that American Family still had no duty to cover the incident based on the contractual liability exclusion in the policy.³ Under the trial court's interpretation, Teufel's liability in this matter was "under a contract," because "but for" Teufel's real estate contract with Cetotor, no liability would exist, regardless of whether such liability was related to or independent of the contract.⁴

¹ Teufel v. American Family Mut. Ins. Co., 419 P.3d 546, 548 (Ariz. 2018).

² *Id.*

³ *Id.*

⁴ *Id.* at 549.

The court of appeals affirmed American Family's summary judgment motion with respect to the Longlook Property but reversed it regarding the 82nd Place Policy.⁵ The court of appeals disagreed with the trial court, finding that the contractual liability exclusion did not apply in this case.⁶ The appellate court reasoned that Cetotor's negligence claim exists independently of its contract with Teufel, and the word "under" in the exclusionary clause should be construed narrowly to cover only liability governed solely by a contract.⁷

The Arizona Supreme Court granted review to determine whether the contractual liability exclusion relieves American Family of its duty to defend Teufel.⁸

Issue: Homeowners' policies that insure against personal liability generally require the insurer to defend the insured against claims that fall within the policy's coverage. Does a policy exclusion for personal liability "under any contract" relieve an insurer of defending its insured, an alleged builder-vendor, against a claim of negligence by the home buyer?

Holding: No. The contractual liability exclusion does not relieve an insurer of its duty to defend the insured in this case because the negligence claim arises not from a contractual duty, but from the common-law duty to construct a home as a reasonable builder would.

Disposition: The trial court's grant of summary judgment was reversed.

Rule: A contractual liability exclusion in a homeowner's policy that insures against personal liability does not relieve the insurer of defending its insured against stand-alone negligence claims, even if the insured's relationship with the party asserting the claim originated in contract.

Reasoning:

- **Resolving ambiguities in the text.** The court acknowledged the existence of two competing interpretations of the exclusionary clause, rendering the language ambiguous.⁹ American Family sided with the trial court, arguing that Teufel's liability would not exist "but-for" the contract.¹⁰ Teufel, however, supported the appellate court's reasoning, asserting that Cetotor's negligence claim exists independently of its contract with Teufel.¹¹ The court adopted the appellate court's reasoning, finding that the exclusionary clause does not absolve American Family of its duty to defend Teufel against Cetotor's negligence claim.¹² First, the policy's language does not support the "but for" construction; rather, the exclusion applies

⁵ *Id.* at 548 (citing *Teufel v. American Family Mut. Ins. Co.*, No. 1 CA-CV 15-0736, 2017 WL 1882330, at *1 (Ariz. Ct. App. May 9, 2017) (mem. decision).

⁶ *Id.* (citing *Teufel*, 2017 WL 1882330 at *3).

⁷ *Id.* at 549.

⁸ *Id.* at 548.

⁹ *Id.* at 549.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 550.

to personal liability “originating from a contract.”¹³ Second, the insured’s reasonable expectations would be that the insurer would defend against a stand-alone tort claim, despite the existence of a contract linking the insured and the injured party.¹⁴ Finally, policy exclusions are construed in favor of the insured because the policy drafter could have expressly communicated a contrary intention.¹⁵

- **Negligence as a stand-alone tort claim.** The court rejected American Family’s argument that Teufel’s duty to Cetotor underlying the negligence claim was created solely by contract.¹⁶ Citing its decision in *Woodward v. Chirco Construction Co.*,¹⁷ the court noted that a purchaser is not limited to contractual remedies for a buyer-vendor’s negligence but can also seek remedies based on a buyer-vendor’s common-law duty of care to act as a reasonable builder would.¹⁸ The court thus affirmed its holding in *Woodward* and found that Cetotor alleged a stand-alone tort claim in its complaint, wholly independent of its contract with Teufel.¹⁹

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* (citing *First American Title Ins. Co. v. Action Acquisitions, LLC*, 187 P.3d 1107, 1110 (Ariz. 2008) (en banc); and then citing *Sparks v. Republic Nat. Life Ins. Co.*, 647 P.2d 1127, 1133 (Ariz. 1982) (en banc).

¹⁶ *Id.*

¹⁷ 687 P.2d 1269 (Ariz. 1984).

¹⁸ *Teufel*, 419 P.3d at 550–51 (citing *Woodward*, 687 P.2d at 1270–71).

¹⁹ *Id.* at 551–52.