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# California Appellate Court Holds Additional Insured Is Contractually Required to Arbitrate Coverage Dispute

BY:

In *Philadelphia Indemnity Insurance Company v. SMG Holdings, Inc.*, the Third Appellate District Court of Appeal in Sacramento, California held that an additional insured was bound by an arbitration clause in the general liability insurance policy as to a coverage dispute between it and the insurance carrier.

The underlying civil action involved injuries suffered by an attendee at a Future Farmers of America (“Future Farmers”) event at the Fresno Convention Center in Fresno, California. The person stepped in a pothole in the parking lot and allegedly suffered serious injuries.

Future Farmers was required by contract to name site operator SMG Holdings, Inc. (“SMG”) as an additional insured on its general liability insurance coverage. Future Farmers obtained coverage with Philadelphia which added as insureds managers, lessors and landlords of property, as well as those “required by contract.” Philadelphia denied SMG’s tender of the injury action (on grounds the additional insured coverage did not include claims involving the parking lot) then, after two years of arguments about the coverage, filed a petition with the Superior Court to compel arbitration of the dispute per the arbitration clause. The Superior Court denied the petition, finding SMG as a non-signatory to the contract was not bound by the arbitration provision and that Philadelphia was equitably estopped from asserting the clause.

On appeal, the court of appeal found that SMG was a third-party beneficiary of the insurance contract and so was bound by the arbitration clause in it. The court also found that SMG was equitably estopped from asserting otherwise, saying that SMG’s tender was a “knowing claim of contract benefits,” so SMG was “estopped from disclaiming applicable contract burdens such as the arbitration clause.”

The appellate court held that the scope of the arbitration clause included the instant dispute because its use of “the insured” in the clause applied to an additional insured such as SMG. Finally, it also held that Philadelphia was not equitably estopped from asserting the arbitration clause by reason of its denial of the tender of defense and indemnity. The court reasoned that Philadelphia did not deny that SMG had coverage under the policy, rather it denied that the coverage granted to SMG included the injury claim.