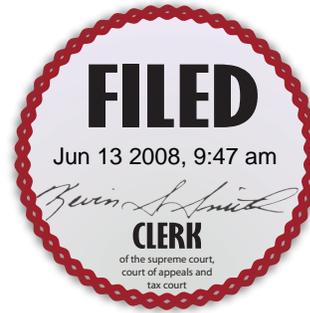


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

INDIANA FARM BUREAU INSURANCE,)

Appellant-Defendant,)

vs.)

No. 05A02-0802-CV-100

JUSTIN R. MCINTIRE,)

Appellee-Plaintiff.)

APPEAL FROM THE BLACKFORD CIRCUIT COURT
The Honorable Dean A. Young, Judge
Cause No. 05C01-0706-PL-107

June 13, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Indiana Farm Bureau Insurance (Farm Bureau) appeals the trial court's order granting partial summary judgment against it and in favor of appellee-plaintiff Justin R. McIntire. Specifically, Farm Bureau contends that it was error for the trial court to conclude as a matter of law that there was a contract between the parties. Concluding that the trial court's entry was not a final judgment, we dismiss the appeal.

FACTS

On December 7, 2006, McIntire was involved in an accident in Blackford County after his vehicle slid on ice, resulting in damage to his vehicle and the vehicle of a third party. Thereafter, McIntire reported the accident to Farm Bureau, his purported insurer. Farm Bureau denied coverage, contending that there was no insurance policy in effect at the time of the accident.

McIntire filed a complaint against Farm Bureau on June 5, 2007, and a motion for summary judgment on November 1, 2007. Farm Bureau responded and filed its own motion for summary judgment on December 3, 2007.

The trial court held a hearing on December 6, 2007, at which Farm Bureau contended that McIntire's policy was cancelled at the time of the accident. On December 10, 2007, the trial court issued an order granting partial summary judgment in favor of McIntire and concluding that the parties had a contract for automobile insurance in effect at the time of the accident. However, the trial court cautioned that its

grant of summary judgment does not include a finding that the policy in force on December 7th, 2006, results in liability of the defendant to pay, or

indemnify the plaintiff against payment of any amounts. However, the parties have admitted the existence of the policy, and the terms of that policy shall govern the rights and obligations of the parties. The Court's grant of summary judgment is limited to acknowledging the existence of such a policy, that it was a contract binding on the parties named on this action, and that it was in force on December 7th, 2006.

Appellant's App. p. 5. Farm Bureau now appeals.

DISCUSSION AND DECISION

Trial Rule 54(B) provides that a "judgment which adjudicates one or more but less than all of the claims of the parties in a given action is interlocutory and not appealable." Paulson v. Centier Bank, 704 N.E.2d 482, 488 (Ind. Ct. App. 1998). A judgment is interlocutory unless the trial court (1) expressly determines that there is no just reason for delay, and (2) in writing expressly directs the entry of judgment thereon. Radbel v. Midwestern Elec., Inc., 550 N.E.2d 340, 340 (Ind. Ct. App. 1990).

In this case, the trial court specifically limited its partial summary judgment order to the existence of an insurance policy between the parties. The judgment does not include a finding based on the "liability of the defendant to pay, or indemnify the plaintiff against payment of any amounts." Appellant's App. p. 5. The trial court did not make a written determination that there was no just reason for delay or direct entry of judgment. Because the trial court's order of partial summary judgment is interlocutory, it is not a final judgment reviewable by this court.

Appeal dismissed.

KIRSCH, J., and BAILEY, J., concur.