NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-13244
Non-Argument Calendar

ATLANTIC BUSINESS CORPORATION,
d.b.a., ABO Pharmaceuticals,

Plaintiff-Appellant,

versus

RLI INSURANCE COMPANY,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:23-cv-02645-SCJ

Before LAGOA, KIDD, and WILSON, Circuit Judges.

PER CURIAM:

This is a straightforward contract interpretation case. Plaintiff Atlantic Business Corp. ("Atlantic") sued Defendant RLI

Insurance Co. ("RLI") alleging that the terms of Atlantic's insurance policy with RLI obligated RLI to cover damage to blood plasma that underwent a harmful temperature variation due to a delay in shipment. But the insurance policy governing the scope of coverage contains a warranty plainly excluding coverage "for loss, damage, or deterioration arising *from delay*[.]" And because this provision does not conflict with any other provision in the policy, its plain language governs. We therefore affirm the district court's grant of summary judgment in favor of RLI.

I. FACTUAL AND PROCEDURAL BACKGROUND

Atlantic Business Corp. does business in the global trade of blood plasma. On June 15, 2021, Atlantic sought to ship 2,440.45 kilograms of blood plasma from Mexico to arrive the next day in New York. An "FDA hold," however, delayed the shipment, which only arrived in New York on June 18, 2021. As a result of this unanticipated delay, the blood plasma was not properly maintained at the requisite temperatures and spoiled, rendering it unusable.

Prior to shipment, Atlantic insured transportation of the blood plasma by taking out a policy with RLI Insurance Co. The policy, which comprises a "Marine Open Cargo Policy" (the "MOC policy") and an attendant "Certificate of Insurance" (the "COI", and together with the MOC policy, the "Policy"), contains several provisions relevant to resolution of this appeal.

The COI includes an "Endorsement" stating:

> [c]overage specifically includes deterioration/decay of or damage to the goods insured, including spoilage,

> from any cause which shall arise during the insured voyage.

The COI, however, caveats this expansive provision of coverage in a section titled "Conditions," which provides that certain "Paramount Warranties"

> shall be paramount and shall not be modified or superseded by any other provision included herein or stamped or endorsed hereon unless such other provision refers specifically to the risk excluded by these warranties and expressly assumes the said risks.

The COI classifies four warranties as Paramount Warranties: (1) [Free of Capture and Seizure] Warranty, (2) [Strikes, Risks, and Civil Commotions] Warranty, (3) Delay Warranty, and (4) Nuclear/Radioactive Contamination Exclusion Warranty.

Although the COI does not itself define the Delay Warranty, the MOC policy defines the Delay Warranty as follows:

> Warranted free of claim for loss of market or for loss, damage or deterioration arising from delay, whether such delay be caused by a peril insured against or otherwise.

Atlantic sued RLI alleging that the Endorsement's coverage of spoilation arising "from any cause" during shipment obligated RLI to cover the loss Atlantic incurred from the blood plasma's spoilation from temperature variation en route to New York. RLI countered that the plasma's spoilation was caused by a delay in shipment and that the Delay Warranty explicitly excludes from coverage damage arising from shipment delays. The district court

agreed with RLI, rejecting Atlantic's contention that the Endorsement's expansive "from any cause" language conflicts with, and overrides, the Delay Warranty.[1] The district court denied Atlantic's motion for partial summary judgment and granted RLI's motion for summary judgment. Atlantic timely appealed.

II. STANDARD OF REVIEW

We review a district court's grant of summary judgment de novo, applying the same legal standards used by the district court. *Galvez v. Bruce*, 552 F.3d 1238, 1241 (11th Cir. 2008).

III. ANALYSIS

Under Georgia law, which governs interpretation of the Policy,[2] "insurance policies are governed by ordinary rules of contract construction." *U. S. Fid. & Guar. Co. v. Park 'N Go of Ga., Inc.*, 66 F.3d 273, 276 (11th Cir. 1995). As such, where "the terms of a written contract are clear and unambiguous, the court will look to the contract alone to find the intention of the parties." *Magnetic Resonance Plus, Inc. v. Imaging Sys. Int'l*, 543 S.E.2d 32, 34 (Ga. 2001) (citation and quotations omitted). And because "the intent of the parties" is the "cardinal rule of construction," *id.*, clear and

[1] The district court found meritorious an additional contractual argument advanced by RLI justifying denial of coverage which we need not discuss in this opinion because we affirm the denial of coverage based on the Delay Warranty alone.

[2] The parties below disputed whether New York or Georgia law applied, but the district court held that Georgia law applied and neither party disputes that holding on appeal.

unambiguous contractual language will bind the parties. *See Bd. of Comm'rs of Crisp Cnty. v. City Comm'rs of City of Cordele*, 727 S.E.2d 524, 527 (Ga. Ct. App. 2012) (if "the language is clear and unambiguous . . . the contract is enforced according to its plain terms."); *Talcott Resol. Life & Annuity Ins. Co. v. Hadden*, 2022 WL 4230860, at *2 (11th Cir. Sept. 14, 2022) ("Under Georgia law . . . the parties are bound by the plain and unambiguous terms of the contract.") (citing *Buckner v. Buckner*, 755 S.E.2d 722, 726 (Ga. 2014)).

Atlantic has never disputed that the damage caused to the blood plasma resulted from its delayed shipment. And the Policy's Delay Warranty plainly excludes coverage "for loss of market or for loss, damage or deterioration arising from delay," regardless of the cause of the delay. So the plain terms of the Policy preclude holding RSI liable to cover the damage incurred by the delayed shipment of plasma.

Atlantic resists this conclusion on three grounds, none of which persuades us to deviate from the Delay Warranty's plain language.

First, Atlantic argues that the Endorsement, which provides broad coverage for "deterioration . . . including spoilage, *from any cause* which shall arise during the insured voyage," (emphasis added) preempts the Delay Warranty and obligates coverage for damage from delayed shipment. Atlantic primarily relies on *Ross v. Stephens*, where the Supreme Court of Georgia held that "[t]he terms of [ ] an endorsement take precedence over printed portions

of the policy *in conflict* therewith." 496 S.E.2d 705, 708 (Ga. 1998) (emphasis added).

The problem for Atlantic is that the Endorsement and the Delay Warranty do not conflict. True, the Endorsement's broad "from any cause" language can, in isolation, be interpreted to implicitly encompass damages caused by a delay, but Georgia rules of contract construction "require [us] to consider the policy as a whole . . . and to interpret each provision to harmonize with each other." *ALEA London Ltd. v. Woodcock*, 649 S.E.2d 740, 745 (Ga. Ct. App. 2007). Here, the Paramount Warranties provision unambiguously provides that the Delay Warranty cannot be "superseded by *any* other provision . . . unless such other provision refers *specifically* to the risk excluded by these warranties and *expressly* assumes the said risks." (emphasis added). The Endorsement makes no specific reference to delay and nowhere expressly assumes the risks caused by a delayed shipment—it therefore does not supersede the Delay Warranty. And because we are to harmonize the Endorsement with the Delay Warranty, the only possible interpretation of the Endorsement's general "from any cause" language is that it impliedly excepts damage specifically caused by delays. *See S. Tr. Ins. Co. v. Mountain Express Oil Co.*, 828 S.E.2d 455, 458 (Ga. Ct. App. 2019) ("A policy which is susceptible to two reasonable meanings is not ambiguous if the trial court can resolve the conflicting

interpretations by applying the rules of contract construction." (citation and quotations omitted)).[3]

Second, Atlantic argues that it was still reasonable for it to assume that the Endorsement's broad "from any cause" language covered damage from delays, citing testimony from a purported "RLI agent"[4] which Atlantic claims reflected the intention of the parties to include coverage for delays within the Endorsement.

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[3] Atlantic also attempts to argue that a separate provision in the COI indicates that the Endorsement supersedes the Delay Warranty. The relevant provision states:

> This insurance covers against "All Risks" of physical loss or damage from any external cause irrespective of percentage, but excluding nevertheless the risks of War, Strikes, Riots, Seizure, Detention and other risks excluded by the Nuclear/Radioactive Contamination Exclusions clause, the F.C. & S. (Free of Capture and Seizure) Warranty and the S.R.&C.C. (Strikes, Riots and Civil Commotions) Warranty of this policy, except to the extent that such risks are specifically covered by endorsement.

Atlantic notes that this provision lists out every Paramount Warranty as excluded from the coverage but makes no mention of the Delay Warranty. The Delay Warranty's absence from this provision, Atlantic contends, creates ambiguity as to whether the Delayed Warranty applies. We disagree. The Policy is clear that the Delay Warranty applies unless another provision "refers specifically" to it and "expressly assumes" its risks. The *absence* of any reference to the Delay Warranty in this COI provision listing certain warranties excluded from coverage is not akin to a provision *specifying* that the Delay Warranty is inapplicable.

[4] RLI disputes that the individual quoted by Atlantic was RSI's agent, but, as we explain, Atlantic's argument fails regardless.

This argument conflicts with black-letter Georgia contract law. As we explained above, when "the terms of a written contract are clear and unambiguous, the court will look to the contract alone to find the intention of the parties." *Magnetic Resonance*, 543 S.E.2d at 34 (citation and quotations omitted). The Paramount Warranties provision unambiguously provides that the Delay Warranty is only superseded by *specific* reference and the Endorsement does not specifically reference the Delay Warranty; it is the plain language of those provisions that binds the parties and evinces their intentions, not purported extra-contractual conversations about the scope of coverage. "Where the language of the contract is plain, unambiguous, and capable of only one reasonable interpretation, no other construction is permissible." *Barranco v. Welcome Years, Inc.*, 579 S.E.2d 866, 870 (Ga. Ct. App. 2003) (citation and quotations omitted). So it was not reasonable for Atlantic or RSI's purported agent to read the Endorsement as extending coverage to damage caused by delayed shipment.

Third, Atlantic argues that the Endorsement does in fact specifically reference (and therefore supersede) the Delay Warranty. It points out that the Paramount Warranties provision provides that the Delay Warranty cannot be superseded unless another provision refers specifically to the "*risk* excluded by [it] and expressly assumes th[ose] said *risks*," and that the Delay Warranty excludes from coverage "damage or deterioration arising from delay." Taking these provisions together, Atlantic interprets "risk" in the Paramount Warranties provision to refer to the possibility of loss or damage from the deterioration contemplated in the Delay

Warranty and claims that the Warranty's reference to "delay" is merely the "cause" of the contemplated risk of deterioration. Atlantic then points to the language in the Endorsement providing coverage for "deterioration/decay" of insured goods to conclude that the Endorsement specifically references the "risk" excluded by the Delay Warranty and therefore supersedes it.

While creative, Atlantic's argument cannot be squared with a reasonable interpretation of the Policy. The only reasonable interpretation is that the "risk" excluded from coverage by the Delay Warranty is the risk that delay may cause damage to the insured goods. Thus, the name "*Delay* Warranty." Atlantic's alternative interpretation—that the Delay Warranty "covers the risk of deterioration"—renders the Warranty incoherent. If the Delay Warranty's excluded risk is deterioration of the insured goods and delay is merely the immaterial cause of that risk, there would be no reason for the Delay Warranty to clarify that the Warranty applies "whether such delay be caused by a peril insured against or otherwise." But if the risk excluded from coverage is damage or deterioration from a delayed shipment, it makes good sense for the Delay Warranty to clarify that the exclusion applies no matter how the delay manifests. *See R&G Invs. & Holdings, LLC v. Am. Fam. Ins. Co.*, 787 S.E.2d 765, 770 (Ga. Ct. App. 2016) ("[A] party's proposed interpretation of a provision in an insurance contract is not reasonable and should be rejected if it would render a portion of the contract meaningless."). And because the Endorsement does not

specifically include that excluded risk of delay, it does not supersede the plain terms of the Delay Warranty.[5]

IV. CONCLUSION

For the reasons stated, we affirm the district court's grant of summary judgment for RSI and denial of partial summary judgment for Atlantic.

AFFIRMED.

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[5] Atlantic also summarily argues that because delay was not necessarily the sole cause of the blood plasma's spoilage, the Policy still requires coverage based on the contributing causes'—poor packaging, failure to instruct the shipper to maintain proper temperature—role in the loss of the plasma. Atlantic bases this argument on a COI provision stating that "[t]his insurance covers against 'All Risks' of physical loss or damage from any external cause irrespective of percentage . . . ." It somehow interprets the clause "irrespective of percentage" to modify "external cause" and to mean that "so long as any covered cause contributed in any way to the loss, RSI is obligated to provide coverage[.]" We agree with the district court that the correct interpretation of this provision is that "irrespective of percentage" modifies "physical loss or damage," *i.e.*, that the provision obligates RLI to cover damage to insured goods regardless of how small a percentage of the insured goods were lost or damaged.