

ESTATE OF CHAD CASEY

v.

J.C. MILLIKEN AGENCY, INC.

Submitted on Briefs January 27, 2011

Decided February 8, 2011

Panel: ALEXANDER, LEVY, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

The Estate of Chad Casey appeals from a judgment of the Superior Court (Washington County, *Cuddy, J.*) granting J.C. Milliken Agency, Inc.'s motion to dismiss Casey's¹ complaint alleging negligence and requesting a declaratory judgment. The Estate argues that (1) Casey was a third party beneficiary of an insurance contract between J.C. Milliken and Casey's employer; (2) J.C. Milliken was negligent in adding the truck Casey was driving when he was involved in an accident to an insurance policy with a lower uninsured motorist coverage limit; and (3) J.C. Milliken owed a duty of care to Casey. Because Casey did not originally allege a breach of contract action against J.C. Milliken and our case law does not allow a third party to recover in tort for a breach of contract, *see Stull v. First American Title Ins. Co.*, 2000 ME 21, ¶¶ 15-17, 745 A.2d 975, 981, the court properly granted J.C. Milliken's motion to dismiss. We therefore do not reach the Estate's remaining claims or the issues raised in J.C. Milliken's cross-appeal.

The entry is:

Judgment affirmed.

¹ Chad Casey died while this appeal was pending.

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