In the

United States Court of Appeals

For the Seventh Circuit

No. 24-1307

MESCO MANUFACTURING, LLC,

Plaintiff-Appellee,

v.

MOTORISTS MUTUAL INSURANCE COMPANY,

Defendant-Appellant.

Appeal from the United States District Court for the
Southern District of Indiana, Indianapolis Division.
No. 1:19-cv-04875 — **James P. Hanlon**, *Judge*.

ARGUED DECEMBER 12, 2024 — DECIDED JULY 25, 2025

Before RIPPLE, SCUDDER, and MALDONADO, *Circuit Judges*.

RIPPLE, *Circuit Judge*. Mesco Manufacturing, LLC ("Mesco") filed this action in the United States District Court for the Southern District of Indiana[1] against Motorists Mutual Insurance Company ("Motorists Mutual"), alleging that Motorists Mutual breached their contract for business insurance

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[1] The district court's diversity jurisdiction was predicated on 28 U.S.C. § 1332.

in violation of Indiana state law. The district court granted Mesco's motion for summary judgment. Motorists Mutual now appeals that determination.[2] For the reasons set forth in this opinion, we affirm the judgment of the district court.

I

BACKGROUND

A.

Mesco held a business insurance policy from Motorists Mutual that was effective from September 13, 2017 to September 13, 2018. The policy covered "direct physical loss of or damage to" the covered property "caused by or resulting from any Covered Cause of Loss."[3] Under the policy's terms, hail was a covered cause of loss but wear and tear was not. After a storm on August 25, 2018, Mesco submitted a claim for hail damage to the roofs of its manufacturing facilities in Greensburg, Indiana. These roofs were made of sheet metal, modified bitumen, and ethylene propylene diene terpolymer ("EPDM"). Motorists Mutual initially adjusted the claim for $7,806.75, but Mesco disagreed with the award and invoked the policy's appraisal provision:

> If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a

[2] Our jurisdiction is secure under 28 U.S.C. § 1291.

[3] R.54-3 at 34.

> judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. … If there is an appraisal, we will still retain our right to deny the claim.[4]

Pursuant to the appraisal provision, Mesco and Motorists Mutual chose Nick Banks and Geoff Young as their respective appraisers. The appraisers agreed that the metal roofing was hail damaged but disagreed on whether the EPDM and modified bitumen roofs were hail damaged. They therefore selected Bart Myers to serve as umpire. Before Umpire Myers could resolve the dispute, however, Motorists Mutual retained an engineer to inspect Mesco's property. The engineer determined that the modified bitumen and EPDM roofs were not hail damaged. In light of the engineer's determination, Motorists Mutual notified Mesco that those roofs "cannot be included in the appraisal process as the disagreement is not of the value of the roof coverings; rather if the roof coverings are damaged."[5]

Umpire Myers nevertheless proceeded with his inspection and concluded that the modified bitumen roofs were hail damaged, but that the EPDM roofs were not. He and Appraiser Banks signed an appraisal award for $1,020,490.32 in replacement cost value, or $894,733.82 in actual cash value. Motorists Mutual did not issue the full award, however; it issued only $265,296.21 for "the covered damages that were

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[4] *Id.* at 43.

[5] R.61-6 at 2.

awarded by appraisal,"[6] which excluded damage to the modified bitumen and EPDM roofs. On November 5, 2019, Mesco submitted a sworn proof of loss statement for the entire appraisal award, to which Motorists Mutual did not respond.

B.

On December 10, 2019, Mesco filed a complaint in the district court alleging that, under Indiana law, Motorists Mutual had breached their contract and acted in bad faith.[7] Mesco also sought a declaratory judgment that Motorists Mutual owed the entire appraisal award. The parties filed cross-motions for summary judgment on the breach of contract claim.

The district court granted Mesco's motion for summary judgment. In the court's view, the "right to deny" clause of the appraisal provision did not give Motorists Mutual the "unrestricted right to deny" Mesco's claim.[8] The court relied primarily on *Villas at Winding Ridge v. State Farm Fire & Casualty Co.*, 942 F.3d 824 (7th Cir. 2019), where we determined that a "substantively identical appraisal provision" was "binding and unambiguous."[9] The district court further explained that if *Villas* did not control, it would reach the same conclusion under Indiana law, which refrains from construing contract terms in a way that renders them redundant. The

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[6] R.61-7 at 2.

[7] Later in the proceedings, the parties voluntarily dismissed with prejudice the bad faith claim.

[8] *Mesco Mfg., LLC v. Motorists Mut. Ins. Co.*, No. 19-cv-04875, 2023 WL 403974, at *4 (S.D. Ind. Jan. 25, 2023).

[9] *Id.* (citing *Villas at Winding Ridge v. State Farm Fire & Cas. Co.*, 942 F.3d 824, 828, 830–31 (7th Cir. 2019)).

court concluded that because Mesco had complied with all policy terms in submitting its sworn proof of loss and no exceptional circumstances justified setting aside the appraisal award, Motorists Mutual had breached the insurance contract by not paying the full award. The district court later denied Motorists Mutual's motion for reconsideration. Motorists Mutual timely appealed.

II

DISCUSSION

A.

We review the district court's grant of summary judgment de novo. *Jones v. Lamb*, 124 F.4th 463, 467 (7th Cir. 2024). Summary judgment is appropriate if "there is no genuine dispute as to any material fact" and the moving party "is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "As this case involved cross-motions for summary judgment, our review of the record requires that we construe all inferences in favor of the party against whom the motion under consideration was made." *Emps. Mut. Cas. Co. v. Skoutaris*, 453 F.3d 915, 923 (7th Cir. 2006).[10] Accordingly, we review the record in the light most favorable to Motorists Mutual and draw all reasonable inferences in its favor.

The parties agree that Indiana law applies to the present case. Therefore, "our role is to apply Indiana law as we predict the Indiana Supreme Court would today." *AXIS Ins. Co. v. American Specialty Ins. & Risk Servs.*, 111 F.4th 825, 830 (7th Cir. 2024). Under Indiana law, unambiguous insurance policy

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[10] *Accord Accident Fund Ins. Co. of America v. Custom Mech. Constr., Inc.*, 49 F.4th 1100, 1105 (7th Cir. 2022).

language is given "its plain and ordinary meaning." *Ebert v. Illinois Cas. Co.*, 188 N.E.3d 858, 864 (Ind. 2022). Ambiguous insurance policies, in contrast, "are construed strictly against the insurer," especially "where the language in question purports to exclude coverage." *State Farm Mut. Auto. Ins. Co. v. Jakubowicz*, 56 N.E.3d 617, 619 (Ind. 2016). Moreover, "when construing the language of an insurance policy, a court 'should construe the language … so as not to render any words, phrases or terms ineffective or meaningless.'" *Id.* (quoting *Wert v. Meridian Sec. Ins. Co.*, 997 N.E.2d 1167, 1170 (Ind. Ct. App. 2013)).

B.

Under Indiana law, when parties voluntarily submit to an appraisal, they are bound by the appraisal award absent exceptional circumstances such as manifest injustice, fraud, collusion, or misfeasance. *See FDL, Inc. v. Cincinnati Ins. Co.*, 135 F.3d 503, 505 (7th Cir. 1998).[11] First, Motorists Mutual submits that the appraisal award is not binding because Umpire Myers exceeded the proper scope of an appraisal. Second, Motorists Mutual maintains that it properly exercised its right to deny coverage after the appraisal. We will address each issue in turn.

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[11] *See also Villas*, 942 F.3d at 830; *Atlas Constr. Co., Inc. v. Indiana Ins. Co., Inc.*, 309 N.E.2d 810, 813 (Ind. Ct. App. 1974) ("Generally, a court will not interfere with an appraisal award but, to the contrary, will indulge in every reasonable presumption to sustain it in the absence of fraud, mistake, or misfeasance." (quoting *Lakewood Mfg. Co. v. Home Ins. Co. of New York*, 422 F.2d 796, 798 (6th Cir. 1970))).

1.

Motorists Mutual submits that pursuant to Indiana law, an appraisal may only determine the amount of loss, "without regard to liability or causation."[12] Motorists Mutual is correct that an appraiser may not decide an issue of liability because that issue is a legal question reserved for the courts. *See Atlas Constr. Co., Inc. v. Indiana Ins. Co., Inc.*, 309 N.E.2d 810, 813 (Ind. Ct. App. 1974) ("In matters of strict appraisal, as here, it is only the amount of the loss which is fixed. Other possible issues such as liability are not determined.").[13] However, whether a roof is hail damaged is a separate question from whether hail damage or the replacement thereto is covered under a policy. And, importantly, the Indiana courts have not addressed squarely whether appraisers may consider the separate issue of causation. *See Shifrin v. Liberty Mut. Ins.*, 991 F. Supp. 2d 1022, 1037 (S.D. Ind. 2014) (collecting cases). Motorists Mutual would have us read into *Atlas Construction Co., Inc., v. Indiana Insurance Co., Inc.*, 309 N.E.2d 810 (Ind. Ct. App. 1974) a pronouncement that appraisers may not consider causation. We are not persuaded, however, because in *Atlas*, the covered property was completely destroyed by fire. *Id.* at 812. Therefore, the appraiser did not have to attribute the damage to different causes.

Motorists Mutual also invites our attention to *Shifrin v. Liberty Mutual Insurance*, 991 F. Supp. 2d 1022 (S.D. Ind. 2014), in

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[12] Appellant's Br. 13.

[13] *See also* 15 Jordan R. Plitt et al., *Couch on Insurance* § 212:13 (3d ed. 2024) ("Under a typical appraisal clause, the only issue to be determined by the appraiser is the amount of the loss. Consequently, questions concerning policy defenses or coverages are not to be addressed by the appraisers.").

support of its contention. In *Shifrin*, the district court held that the insurer could invoke the policy's appraisal provision even though issues of causation remained. *See id.* at 1038. In doing so, the court quoted from an Iowa district court opinion stating that most courts hold "that the appraisers should stick to dollar amounts and stay away from making findings about causation or coverage." *Id.* (quoting *Mapleton Processing, Inc. v. Soc'y Ins. Co.*, No. C12-4083, 2013 WL 3467190, at *22 (N.D. Iowa July 10, 2013)).[14] But the central issue in *Shifrin* was the availability, as opposed to the scope, of an appraisal. We are not convinced by this dictum. Moreover, the *Shifrin* court recognized later in its opinion that "[a]ppraisal can be a useful tool … even where issues of causation may necessarily mix in with issues of loss." *Id.*

Like the district court, we instead find *Villas* to be most instructive. In that case, the parties disputed the extent of hail damage to the insured's roofs. *See Villas*, 942 F.3d at 828. The insured's appraiser believed that the shingles on thirteen roofs needed to be entirely replaced. *Id.* at 828–29. Unable to agree on an estimate, the parties' appraisers chose an umpire, whose proposed award included a "20% repair allowance for roofing shingles on 13 buildings." *Id.* at 829. Because the replacement shingles would not match the existing shingles, the insured asked the umpire to modify his award to fully replace thirteen roofs. *Id.* The umpire declined, noting that he was to consider the "presence of damage to the shingles," not "matching issues [that] are in the realm of policy coverage

[14] The Iowa Supreme Court has since held that appraisers may decide causation when determining the amount of loss. *See Walnut Creek Townhome Ass'n v. Depositors Ins. Co.*, 913 N.W.2d 80, 91 (Iowa 2018) ("[W]e conclude factual causation issues may be decided through the appraisal process.").

issues which are not a part of this appraisal process." *Id.* We affirmed the district court's grant of summary judgment to the insurer. We held that it was proper for the umpire to decide the amount of hail damage to the roofs. *See id.* at 831. In doing so, he did not "mistakenly determine[] the scope of the loss." *Id.* Instead, he "resolved the dispute that the parties presented to him: namely, the amount of hail damage to the roofing shingles on 13 buildings." *Id.* Nor did the coverage dispute regarding matching shingles—with which the umpire properly declined to get involved—negate the appraisal award. *See id.*

As it was proper in *Villas* for the umpire to decide the amount of hail damage to the roofs, it was proper for Umpire Myers to decide the amount of hail damage to Mesco's roofs.[15] We reach this conclusion because the existence and extent of hail damage are factual questions that can be resolved by an umpire. To issue his appraisal award, an umpire necessarily must differentiate between damage that is caused by ordinary wear and tear and damage that is caused by hail. *See Phila.*

[15] Motorists Mutual's attempts to distinguish *Villas* are unpersuasive, though *Villas* does differ factually from the present case in a few immaterial respects. First, the *Villas* insurer was satisfied with the appraisal award, which found minimal hail damage, and paid it in full. 942 F.3d at 829. In contrast, Motorists Mutual was dissatisfied with the appraisal award, which found extensive hail damage, and paid only a portion of it. Regardless, the parties to both cases contested the cause of the damage that prompted the appraisals. Second, in *Villas*, the insured expanded the scope of its lawsuit, seeking to hold the insurer responsible for replacing the shingles on all its buildings, instead of just the thirteen that were the focus of the appraisal. *See id.* at 829–31. The consistency with which Motorists Mutual has asserted that only the metal roofing was hail damaged does not render this assertion true, nor does it overcome the binding appraisal award to the contrary.

Indem. Ins. Co. v. WE Pebble Point, 44 F. Supp. 3d 813, 818 (S.D. Ind. 2014) ("[I]t would be extraordinarily difficult, if not impossible, for an appraiser to determine the amount of storm damage without addressing the demarcation between 'storm damage' and 'non-storm damage.' To hold otherwise would be to say that an appraisal is never in order unless there is only one conceivable cause of damage.").[16]

Our holding aligns us with the growing number of courts, both state and federal, that have permitted appraisers to decide causation.[17] We also preserve the appraisal provision's

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[16] *See also TMM Invs., Ltd. v. Ohio Cas. Ins. Co.*, 730 F.3d 466, 474 (5th Cir. 2013) ("[A]ppraisal panels are within their rights when they consider whether damage was caused by a particular event or was instead the result of non-covered pre-existing perils like wear and tear."); 15 *Couch on Insurance* § 210:42 n.1 ("An appraisal necessarily includes some causation element, because setting the amount of loss requires appraisers to decide between damages for which insurance coverage is claimed from damages caused by everything else.").

[17] *See, e.g.*, *TMM Invs.*, 730 F.3d at 474–75; *BonBeck Parker, LLC v. Travelers Indem. Co. of America*, 14 F.4th 1169, 1181 (10th Cir. 2021) (concluding that an appraisal panel could decide the cause of loss); *CIGNA Ins. Co. v. Didimoi Prop. Holdings, N.V.*, 110 F. Supp. 2d 259, 264 (D. Del. 2000) ("[I]n the insurance context, an appraiser's assessment of the 'amount of loss' necessarily includes a determination of the cause of the loss, as well as the amount it would cost to repair that which was lost."); *Quade v. Secura Ins.*, 814 N.W.2d 703, 704 (Minn. 2012) ("[T]he phrase 'amount of loss,' as it relates to the authority of the appraiser under the policy, unambiguously permits the appraiser to determine the cause of the loss."); *State Farm Lloyds v. Johnson*, 290 S.W.3d 886, 893 (Tex. 2009) ("Any appraisal necessarily includes some causation element, because setting the 'amount of loss' requires appraisers to decide between damages for which coverage is claimed from damages caused by everything else."). *See generally* Ashley Smith, Comment, *Property Insurance Appraisal: Is Determining Causation Essential to Evaluating the Amount of Loss?*, 2012 J. Disp. Resol. 591, 599.

purpose, which Motorists Mutual agrees is to "serve[] as an inexpensive and speedy means of settling disputes,"[18] by declining to substitute our judgment for that of the appraisers. *See Atlas*, 309 N.E.2d at 813 ("When, however, the award is uninfected with such unfairness or injustice, it is not to be set aside and replaced by the subjective judgment of a reviewing court.").[19]

To conclude, decisions of causation are bound up with the appraisal process. Therefore, Umpire Myers was acting within his authority when he attributed the roof damage to hail, as opposed to ordinary wear and tear, and signed a binding appraisal award based on his determination.

2.

Motorists Mutual next maintains that the "right to deny" clause in the appraisal provision permits it to deny Mesco's claim.[20] But "under *Atlas*, a party who voluntarily submits to appraisal to determine the amount due under a[n] … insurance policy is bound by the appraisal award, absent exceptional circumstances" or another policy provision that justifies denying the claim. *FDL, Inc.*, 135 F.3d at 505.[21] Motorists

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[18] Appellant's Br. 15 (quoting *Shifrin v. Liberty Mut. Ins.*, 991 F. Supp. 2d 1022, 1038 (S.D. Ind. 2014)).

[19] *See also* 16 John J. Dvorske et al., *Indiana Law Encyclopedia* § 192 (2025) ("Generally, a court will not interfere with an appraisal award but, to the contrary, will indulge in every reasonable presumption to sustain it in the absence of fraud, mistake, or misfeasance.").

[20] The provision reads, "If there is an appraisal, we will still retain our right to deny the claim." R.54-3 at 43.

[21] *See also Jupiter Aluminum Corp. v. Home Ins. Co.*, 225 F.3d 868, 875 (7th Cir. 2000) ("Under Indiana law, an appraisal is binding unless it can be

Mutual has not alleged any exceptional circumstances such as fraud, collusion, or manifest injustice that would justify setting aside the appraisal award. *See id.*; *Villas*, 942 F.3d at 828, 831 (declining to set aside an appraisal award, even when the appraisal provision contained a "right to deny" clause, because the insured had "not identified any exceptional circumstances … that would warrant setting this award aside"). Nor has it raised a defense unrelated to causation that would have warranted its partial denial of Mesco's claim. *See, e.g.*, *Skoutaris*, 453 F.3d at 925 (declining to hold an insurer to the appraisal where the insured failed to submit to an examination under oath, as required by another policy provision).[22] Instead, Motorists Mutual would have us interpret the "right to deny" clause as permitting an insurer to set aside any binding appraisal award with which it disagrees. Doing so would undercut not only the policy's plain language, which emphasizes that "[a] decision agreed to by any two will be binding,"[23] but also the purpose of the appraisal process. *See FDL, Inc.*, 135 F.3d at 505. Motorists Mutual breached the insurance contract by declining to pay the full appraisal award. It cannot

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shown that the appraisal is infected with unfairness or injustice."); 15 *Couch on Insurance* § 213.3 ("[A] party to an … appraisal agreement cannot refuse to be bound by the award merely because he or she disagrees with the … appraiser's judgment."); *Emps. Mut. Cas. Co. v. Skoutaris*, 453 F.3d 915, 924–25 (7th Cir. 2006).

[22] *See also BonBeck*, 14 F.4th at 1180 ("After the appraisal, Travelers can't rehash that finding, but it can deny the claim for a host of other reasons having nothing to do with the cause of the damage.").

[23] R.54-3 at 43.

escape the ramifications of its breach by exercising its "right to deny" Mesco's valid claim.[24]

Conclusion

The judgment of the district court is affirmed.

AFFIRMED

[24] *Id.*