IN THE CIRCUIT COURT OF CASS COUNTY, MISSOURI

GENERAL CASUALTY COMPANY OF WISCONSIN,	)	
Plaintiff,	)	
v.	)	No.
JESSE ALAN YOAKUM, individually and doing business as JESSE YOAKUM WELL DRILLING, Serve at: 26221 S. State Route D. Cleveland, MO 64734	)	Division ______
and	)	
JESSE YOAKUM, JR., Serve at: 26219 S. State Route D. Cleveland, MO 64734	)	
and	)	
JS YOAKUM EXCAVATION AND CONSTRUCTION, LLC, Service upon: Registered Agent Marie Ann Yoakum 26219 S. State Route D. Cleveland, MO 64734	)	
and	)	
GEORGE MCCORKELL, Serve at: 6590 Hunter Lane Joplin, MO 64804	)	
Defendants.	)	

PETITION FOR DECLARATORY JUDGMENT

COMES NOW Plaintiff GENERAL CASUALTY COMPANY OF WISCONSIN (hereafter, "GCCW"), by and through counsel, and for its Petition for Declaratory Judgment against Defendants, JESSE ALAN YOAKUM; JESSE YOAKUM WELL DRILLING; JESSE YOAKUM, JR.; JS YOAKUM EXCAVATION AND CONSTRUCTION, LLC; and GEORGE MCCORKELL, alleges as follows:

NATURE OF CLAIM

1. This is an action for declaratory judgment, brought pursuant to Chapter 527.020 of the Missouri Revised Statutes, seeking a determination of the rights and obligations of the parties under an insurance policy with respect to the underlying lawsuit styled as *George McCorkell v. JS Yoakum Excavation and Construction, LLC et al.,* Case No. 25CA-CC00095, in the Circuit Court of Cass County, Missouri ("Underlying Lawsuit"). A true and accurate copy of the Original Petition filed in the Underlying Lawsuit is attached hereto as Exhibit A.

2. GCCW issued the Commercial Insurance Policy, number BPK0000039-04, to Jesse Yoakum Well Drilling ("JYWD") for the period from August 21, 2022 to August 21, 2023 ("Policy"). A true and accurate copy of the Policy is attached hereto as Exhibit B.

3. Defendants Jesse Alan Yoakum ("Yoakum Sr.") and JYWD submitted the Underlying Lawsuit to GCCW seeking defense and indemnity coverage under the Policy.

4. Plaintiff thus seeks a declaration that, under the terms and conditions of the Policy, it does not owe any obligation to defend or indemnify Yoakum Sr., JYWD, or any other party with respect to the claims asserted in the Underlying Lawsuit.

PARTIES, JURISDICTION AND VENUE

5. GCCW brings this action for declaratory judgment to determine issues in an actual controversy concerning the respective rights and obligations of the parties under the Policy.

6. GCCW is domiciled in Wisconsin with its principal place of business in Sun Prairie, Wisconsin.

7. Upon information and belief, Yoakum Sr. is an individual whose primary residence is located in Cass County, Missouri.

8. JYWD is a sole proprietorship with its principal place of business in Cass County, Missouri.

9. Upon information and belief, Jesse Yoakum, Jr. ("Yoakum Jr.") is an individual whose primary residence is located in Cass County, Missouri.

10. Upon information and belief, JS Yoakum Excavation and Construction, LLC ("JSYEC") is a limited liability company incorporated in Missouri, whose members are domiciled in Cass County, Missouri.

11. Upon information and belief, George McCorkell is an individual domiciled in Newton County, Missouri.

12. Yoakum Jr., JSYEC and McCorkell are parties to the Underlying Lawsuit and therefore are named as necessary parties to the extent their rights may be impacted by the outcome of these proceedings.

13. Upon information and belief, jurisdiction and venue are proper pursuant to *McCrackin v. Mullen*, 701 S.W.3d 868 (Mo. banc Dec. 23, 2024) because the Underlying Lawsuit is currently pending before this Court in Cass County, Missouri.

THE UNDERLYING LAWSUIT

14. On or about March 10, 2025, McCorkell filed the Underlying Lawsuit seeking damages in connection with well-drilling work performed by Yoakum Sr. and JYWD between

June 2022 and August 23, 2022 and excavation work performed thereafter by Yoakum Jr. and JSYEC on or before February 2, 2023. (Ex. A).

15. In his Original Petition, McCorkell alleges that Yoakum Sr. first came to the property located at 22419 Farlin Road, Parker, Kansas, 66072 (the "Farm") on or about June 17, 2022 at which time he conducted a seismic electric water survey at a charge of $2,500.00 and concluded there was "water everywhere." (Ex. A, ¶¶14-18).

16. McCorkell alleges that Yoakum Sr. returned to the Farm to drill the well on or about August 23, 2022 in exchange for payment of $14,555.00. (Ex. A, ¶19).

17. At that time, Yoakum Sr. allegedly drilled 205 feet, attached a pump and told McCorkell that the water was salty but if he let the water run for a week the "salt would clear up." (Ex. A, ¶19).

18. It is alleged that Yoakum Sr. performed a sample test several weeks later and informed McCorkell that a "small, under the kitchen sink" filtration system would be required. (Ex. A, ¶21).

19. It is alleged that Yoakum Sr. referred McCorkell to Pure Water Oasis, Inc. for the "under the sink" filtration system but when McCorkell contacted Pure, he was informed that Yoakum Sr. "does this all the time." (Ex. A, ¶¶21-22).

20. At that time, McCorkell allegedly discovered that Yoakum Sr. regularly "drills too deep, resulting in contaminated water for the customer and then tells them it is a small easy fix under the sink". (Ex. A, ¶22).

21. The Original Petition alleges customers are actually forced to have concrete holding tanks installed, at significant expense, in order for the necessary filtration system to work. (Ex. A, ¶23).

22. Yoakum Sr. allegedly referred McCorkell to his son's company, JSYEC, to perform the necessary excavation work. (Ex. A, ¶23).

23. On or about February 2, 2023, Yoakum Jr. allegedly contacted McCorkell regarding the excavation work and performed same in exchange for $15,700.00, of which McCorkell paid a deposit of $8,200.00. (Ex. A, ¶24).

24. McCorkell alleges he never received the concrete holding tanks manufactured for the Farm despite Yoakum Jr. having excavated a large hole beside the well the same day. (Ex. A, ¶¶24-28).

25. When he contacted the manufacturing company about the concrete holding tanks for the Farm, McCorkell was reportedly informed that they "had not paid their bills and that they were not letting them have any more credits" and that "it would be a six-month waiting period for any tanks ordered at that point." (Ex. A, ¶28).

26. Despite numerous attempts to contact Yoakum Jr. and Yoakum Sr., McCorkell alleges that he has not received any further communication from them and they have not made any effort to complete the work for which they were paid on the Farm. (Ex. A, ¶29).

27. In the Underlying Lawsuit, McCorkell asserts causes of action for breach of contract, fraudulent inducement to contract, unjust enrichment, and violations of the Missouri Merchandising Practices Act based on his assertions that he paid for "a well that is not usable". (Ex. A, ¶¶27-29).

THE POLICY

28. The Policy was in effect from August 21, 2022 to August 21, 2023 and provides a Commercial General Liability Coverage Part with liability limits of $1 million per "occurrence" and $2 million in the aggregate. (*See generally,* Ex. B).

29. The Policy's Bodily Injury & Property Damage Liability Insuring Agreement provides the following, in pertinent part,

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. […]

b. This insurance applies to "bodily injury" and "property damage" only if:

(1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(2) The "bodily injury" or "property damage" occurs during the policy period; and

(3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who Is an Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part.[…]

(Ex. B, CG 00 01 04 13, Page 1 of 16).

30. Section II. (WHO IS AN INSURED) provides if the Named Insured is designated in the Declarations as an organization other than a partnership, joint venture or limited liability company, then "[y]our 'executive officers' and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders." (Ex. B, CG 00 01 04 13, Page 9 of 16).

31. "Property damage" is defined by the Policy as:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

(Ex. B, CG 00 01 04 13, Page 15 of 16).

32. "Occurrence" is defined by the Policy to mean "…an accident, including continuous or repeated exposure to substantially the same general harmful conditions." (Ex. B, CG 00 01 04 13, Page 15 of 16).

33. Exclusion l. (Damage To Your Work) excludes coverage for "property damage" to "your work" arising out of it or any part of it and included in the "products- completed operations hazard". (Ex. B). Exclusion l. (Damage To Your Work) does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor. (Ex. B, CG 00 01 04 13, Page 5 of 16).

34. Exclusion m. (Damage To Impaired Property or Property Not Physically Injured) provides the Policy shall not apply to:

> "Property damage" to "impaired property" or property that has not been physically injured, arising out of:
>
> **(1)** A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
>
> **(2)** A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.
>
> This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

(Ex. B, CG 00 01 04 13, Page 5 of 16).

35. Exclusion a. (Expected or Intended Injury) provides the Policy does not apply to "bodily injury" or "property damage" expected or intended from the standpoint of the insured. (Ex. B, CG 00 01 04 13, Page 2 of 16).

COUNT I – DECLARATORY RELIEF
The Underlying Lawsuit Does Not Trigger Coverage Under The Policy

36. GCCW restates and realleges Paragraphs 1 through 35 of this Complaint, as though fully set forth herein.

37. The Underlying Lawsuit seeks damages for failure to provide a functioning well on the Farm.

38. McCorkell asserts claims against Yoakum Sr. and JYWD for drilling too deeply resulting in salty and contaminated water and for representing that the installation of an "under the sink" filtration system would correct the issue.

39. McCorkell asserts claims against Yoakum Jr. and JSYEC for excavating the hole beside the well for the concrete holding tanks for the filtration system but failing to complete the installation.

40. Yoakum Sr. and JYWD submitted the Underlying Lawsuit for coverage under the Policy.

41. McCorkell specifically alleges that Yoakum Jr. "was an agent of [JSYEC]" at all times relevant to the Underlying Lawsuit. (Ex. A, ¶ 6). Yoakum Jr. and JSYEC do not qualify as insureds under the Policy.

42. The claims against Yoakum Sr. and JYWD are for damages associated with faulty or defective workmanship as a result of drilling the well too deep on the Farm resulting in salty and contaminated water requiring additional costs to excavate and install a filtration system.

43. The claims against Yoakum Sr. and JYWD are not damages for "property damage" caused by an "occurrence" as required by the Policy's Bodily Injury & Property Damage Liability Insuring Agreement.

44. Accordingly, the Policy does not provide any coverage for the claims in the Underlying Lawsuit, or for fees, costs or other expenses associated therewith.

WHEREFORE, Plaintiff GCCW prays the court for entry of an order granting the following relief:

(a) declaring the respective rights and obligations, or lack thereof, of the parties under Policy;

(b) declaring that Plaintiff does not have any obligation to defend or indemnify defendants for any judgment or settlement, costs or fees, or other damages or expenses of any kind under the Policy; and,

(c) awarding any and all other relief as the Court may deem to be appropriate and just in the premises.

COUNT II – DECLARATORY RELIEF
In The Alternative, Exclusion l. (Damage To Your Work) Would Bar Any Coverage For The Underlying Lawsuit

45. GCCW restates and realleges Paragraphs 1 through 35 of this Complaint, as though fully set forth herein. The allegations in this count are made in the alternative, and without prejudice to the allegations made elsewhere in this Complaint.

46. To the extent the requirements of the Policy's Bodily Injury & Property Damage Liability Insuring Agreement were satisfied, Exclusion l. (Damage To Your Work) would exclude any coverage for "property damage" to "your work" arising out of it or any part of it and included in the "products- completed operations hazard".

47. "Products-completed operations hazard" is defined, in relevant part, as "'bodily injury' and 'property damage' occurring away from premises you own or rent and arising out of 'your product' or 'your work' … Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed." (Ex. B, CG 00 01 04 13, Page 15 of 16).

48. The Policy defines "your work" as "[w]ork or operations performed by you or on your behalf" and "[m]aterials, parts or equipment furnished in connection with such work or

operations", including "[w]arranties or representations made at any time with respect to the fitness, quality, durability, performance or use of 'your work'." (Ex. B, CG 00 01 04 13, Page 16 of 16).

49. In the Underlying Lawsuit, McCorkell seeks damages from Yoakum Sr. and JYWD for failing to provide a functioning well on the Farm as originally promised because of drilling too deeply.

50. Yoakum Sr. and JYWD's drilling work on the Farm was complete as of August 23, 2022.

51. Yoakum Sr. performed JYWD's drilling work on the Farm without using any subcontractors.

52. Accordingly, Exclusion l. (Damage To Your Work) applies as an absolute bar to any coverage under the Policy's Bodily Injury & Property Damage Liability Insuring Agreement.

WHEREFORE, Plaintiff GCCW prays the court for entry of an order granting the following relief:

(a) declaring the respective rights and obligations, or lack thereof, of the parties under the Policy;

(b) declaring that Plaintiff does not have any obligation to defend or indemnify Yoakum Sr. or JYWD, or any other party in the Underlying Lawsuit, under the Policy; and,

(c) awarding any and all other relief as the Court may deem to be appropriate and just in the premises.

COUNT III - DECLARATORY RELIEF
In the Alternative, Exclusion m. (Damage To Impaired Property or Property Not Physically Injured) Would Bar Any Coverage For The Underlying Lawsuit

53. GCCW restates and realleges Paragraphs 1 through 35 of this Complaint, as though fully set forth herein. The allegations in this count are made in the alternative, and without prejudice to the allegations made elsewhere in this Complaint.

54. To the extent the requirements of the Policy's Bodily Injury & Property Damage Liability Insuring Agreement were satisfied, Exclusion m. (Damage To Impaired Property or Property Not Physically Injured) would exclude any coverage for "property damage" to "impaired property" or property that has not been physically injured arising out of "a defect, deficiency, inadequacy or dangerous condition in 'your product' or 'your work'"; or "a delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms."

55. The Policy defines "impaired property", in relevant part, as tangible property, other than "your product" or "your work", that cannot be used or is less useful because "it incorporates 'your product' or 'your work' that is known or thought to be defective, deficient, inadequate or dangerous; or [y]ou have failed to fulfill the terms of a contract or agreement; if such property can be restored to use by the repair, replacement, adjustment or removal of 'your product' or 'your work' or your fulfilling the terms of the contract or agreement."

56. In the Underlying Lawsuit, McCorkell asserts that Yoakum Sr. and JYWD drilled the well too deeply resulting in salty and contaminated water.

57. McCorkell thus asserts he is entitled to damages for the failure to install a functioning well on the Farm as represented and promised at the time of contracting.

58. It is alleged that installation of a water filtration system is necessary to address the salty and contaminated water conditions and restore functionality of the well on the Farm.

59. Thus, Exclusion m. (Damage To Impaired Property or Property Not Physically Injured) would preclude any coverage for "property damage" because any such damage is to

"impaired property" that can be restored to use by the repair, replacement, or adjustment of "your work" or by fulfilling the terms of the contract or agreement.

WHEREFORE, Plaintiff GCCW prays the court for entry of an order granting the following relief:

(a) declaring the respective rights and obligations, or lack thereof, of the parties under the Policy;

(b) declaring that Plaintiff does not have any obligation to defend or indemnify Yoakum Sr. or JYWD, or any other party in the Underlying Lawsuit, under the Policy; and,

(c) awarding any and all other relief as the Court may deem to be appropriate and just in the premises.

COUNT IV – DECLARATORY RELIEF
In the Alternative, Exclusion a. (Expected Or Intended Injury) Would Bar Any Coverage For The Underlying Lawsuit

60. GCCW restates and realleges Paragraphs 1 through 35 of this Complaint, as though fully set forth herein. The allegations in this count are made in the alternative, and without prejudice to the allegations made elsewhere in this Complaint.

61. To the extent the requirements of the Policy's Bodily Injury & Property Damage Liability Insuring Agreement were satisfied, Exclusion a. (Expected or Intended Injury) would exclude coverage for any "bodily injury" or "property damage" that was expected or intended from the standpoint of the insured.

62. In the Underlying Lawsuit, McCorkell specifically alleges that Yoakum Sr. and JYWD regularly drilled wells too deep resulting in the need for installation of a filtration system at significant additional cost to customers.

63. It is alleged that Yoakum Sr. and JYWD had a practice of referring customers to Pure and JSYEC for the installation and excavation work required for a filtration system that would address the salty and contaminated water after drilling the well too deeply.

64. McCorkell also alleges that Yoakum Sr. and Yoakum Jr. have failed to respond to numerous attempts to contact them regarding the additional work necessary for a functioning well on the Farm.

65. As such, Exclusion a. (Expected or Intended Injury) would bar coverage for any "property damage" that was expected or intended from the standpoint of the insured.

WHEREFORE, Plaintiff GCCW prays the court for entry of an order granting the following relief:

(a) declaring the respective rights and obligations, or lack thereof, of the parties under the Policy;

(b) declaring that Plaintiff does not have any obligation to defend or indemnify Yoakum Sr. or JYWD, or any other party in the Underlying Lawsuit, under the Policy; and,

(c) awarding any and all other relief as the Court may deem to be appropriate and just in the premises.

WHEREFORE, for the above and foregoing Plaintiff General Casualty Company of Wisconsin prays for judgment against Defendants for its costs and reasonable attorney's fees and expenses and for such other and further relief as the Court deems just and proper.

Respectfully Submitted,

MORROW WILLNAUER CHURCH, LLC

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