

JUL 13 2009

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

INTERSTATE FIRE & CASUALTY )  
COMPANY, an Illinois Corporation, )

No. 07-56538

Plaintiff-counter-defendant – )  
Appellant, )

D.C. No. CV-06-00593-VAP(OP)

**MEMORANDUM\***

v. )

PACIFIC EMPLOYERS )  
INSURANCE COMPANY, a )  
Pennsylvania corporation, )

Defendant-cross-defendant – )  
Appellee, )

v. )

REPUBLIC WESTERN )  
INSURANCE COMPANY, an )  
Arizona corporation, )

Plaintiff-intervenor. )

INTERSTATE FIRE & CASUALTY )  
COMPANY, an Illinois Corporation, )

No. 08-55402

Plaintiff-counter-defendant – )  
Appellant, )

D.C. No. CV-06-00593-VAP(OP)

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\*This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.



1074–75 (9th Cir. 2000) (per curiam); Anderson v. Allstate Ins. Co., 630 F.2d 677, 680–81 (9th Cir. 1980).

For the reasons stated by the district court in its excellent “Order (1) Granting Defendant Pacific Employers Insurance Company’s Motion for Summary Judgment and (2) Denying Plaintiff Interstate Fire and Casualty Company’s Cross-Motion for Summary Judgment” filed August 28, 2007, we hold that the bus in question was leased to Interstate’s insured without operators in the course of Pacific’s insured’s business<sup>1</sup> and that the provisions of Cal. Ins. Code § 11580.9(b) apply here.

AFFIRMED.

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<sup>1</sup>As the district court pointed out, at and before the time of the accident the language was somewhat different, which caused an ambiguity. See Sentry Select Ins. Co. v. Fid. & Guar. Ins. Co., 46 Cal. 4th 204, 206–07, 205 P.3d 1084, 1085, 92 Cal. Rptr. 3d 639, 640–41 (2009). However, the legislature later eliminated that ambiguity. See id.