



## Case Summaries November 3, 2023

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### OPINIONS

#### CONTRACTS

##### Interpretation

*U.S. Polycy, Inc., v. Tex. Cent. Bus. Lines Corp.*, \_\_\_ S.W.3d \_\_\_, 2023 WL \_\_\_ (Tex. Nov. 3, 2023) (per curiam) [[22-0901](#)]

The issue before the Court concerns whether a land-improvement contract's requirement of a further writing applies to certain improvements Polyco made. The interpretation of that provision determines whether Polyco had to obtain Texas Central's further written agreement.

Polyco sued Texas Central for breach of contract and moved for partial summary judgment on this interpretive issue. The trial court granted the motion, concluding that a further written agreement was not required. Texas Central appealed. Reviewing the issue de novo, the court of appeals applied two canons of construction—the series-qualifier canon and the last-antecedent canon—to determine the correct interpretation of the subsection of the contract provision. Because the two canons pointed in different directions, the court of appeals held that there were multiple reasonable interpretations of the contract provision and that the in-writing provision was therefore insolubly ambiguous. The court of appeals reversed and ordered a new trial where the jury would decide the meaning of the contract provision.

The Supreme Court reversed and remanded to the court of appeals for further proceedings. The Court held that the court of appeals' analysis was erroneous for two reasons: (1) the parties' disagreement about their intent is irrelevant to whether a text is ambiguous and (2) only one interpretation is reasonable in this case. The Court concluded that the multiple interpretations the court of appeals deemed reasonable are merely the parties' competing theories about the text's meaning. The Court held that the omission of an Oxford comma here, while not dispositive, reveals the lack of anything else in the text or context that would make the "in writing" requirement at the end of the relevant provision govern everything in that section. Looking to the structure and syntax of the provision, together with its incorporated exhibit, the Court concluded that the in-writing requirement only applies to certain parts of the contract provision—the last-antecedent. Because of the court of appeals' holding, however, it had no opportunity to address Texas Central's other arguments. The Court therefore remanded to the court of appeals to address those issues in the first instance.