

No. 11-1186 – *American States Insurance Company v. Barbara Surbaugh, Administrator of the Estate of Gerald Kirchner*

FILED

February 6, 2013

released at 3:00 p.m.

RORY L. PERRY II, CLERK

SUPREME COURT OF APPEALS

OF WEST VIRGINIA

Justice Ketchum, concurring:

I agree with the majority opinion's conclusion: an insured cannot escape the effect of exclusions in an insurance policy due to failure to read the policy, when the exclusions are clear, unambiguous and conspicuous.

The majority opinion spent a great deal of time clearing up inconsistent, ambiguous dicta in many of our older cases. I believe we should have overruled these cases outright, and simply started over with a new bright-line syllabus reflecting the majority opinion's ultimate conclusion set forth above.