

COURT OF APPEALS OF TEXAS, THIRTEENTH DISTRICT, CORPUS
CHRISTI–EDINBURG

Stephen Pruski v. Texas Windstorm Insurance Association

No. 13-21-00167-CV · No. 13-21-00167-CV · Decided February 23, 2023

SUMMARY

The Thirteenth Court of Appeals of Texas held that Texas Insurance Code § 2210.575(e) requires an action under the Texas Windstorm Insurance Association Act to be presided over by a judge appointed by the Judicial Panel on Multidistrict Litigation. Because no such appointment occurred, the trial judge lacked authority to render judgment, making the summary judgment void. The court reversed and remanded with instructions to vacate the judgment and conduct further proceedings.

CASE DETAILS

COURT	Court of Appeals of Texas, Thirteenth District, Corpus Christi–Edinburg
WRITING FOR THE COURT	Clarissa Silva; Justice Longoria; Justice Silva; Justice Lionel Aron Peña Jr.
JURISDICTION	Texas
DECIDED	February 23, 2023
DOCKET	13-21-00167-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a traditional summary judgment granted in favor of Texas Windstorm Insurance Association in an action seeking recovery for denied portions of a windstorm insurance claim.
STANDARD OF REVIEW	Questions of statutory interpretation are reviewed de novo, with the court enforcing the plain meaning of statutory text as informed by context. The opinion also reviewed the summary judgment ruling, but the judicial-authority issue was dispositive.
PRECEDENTIAL VALUE	Published intermediate appellate opinion
PARTIES	Stephen Pruski v. Texas Windstorm Insurance Association

TOPICS

- insurance coverage
- statutory interpretation
- summary judgment
- appellate procedure
- civil procedure

PRACTICE AREAS

insurance law

civil procedure

appellate procedure

statutory interpretation

summary judgment

QUESTIONS PRESENTED

1. Whether Texas Insurance Code section 2210.575(e) requires every action brought under the TWIA Act to be presided over by a judge appointed by the Judicial Panel on Multidistrict Litigation.
2. Whether the statutory judge-appointment requirement is mandatory and restrictive of a trial court's authority, or instead is a waivable venue-type requirement.
3. Whether a judgment rendered by a trial judge who was not appointed under section 2210.575(e) is void.

HOLDINGS

1. Section 2210.575(e)'s requirement that a TWIA Act action 'shall be presided over by a judge appointed by the [MDL Panel]' is mandatory and requires appointment of the presiding judge by the MDL Panel.
2. Pruski did not waive the statutory appointment requirement by failing to timely request that the MDL Panel appoint a judge because section 2210.575 does not require him to make such a request.
3. Because the presiding judge was not appointed by the MDL Panel as required by section 2210.575(e), the judge lacked authority to render judgment and the summary judgment was void.

KEY QUOTATIONS

"An action brought under this subsection shall be presided over by a judge appointed by the [MDL Panel] designated under [§] 74.161, Government Code." (at 5)

"We therefore conclude § 2210.575(e) denotes mandatory action inconsistent with discretion." (at 12)

"Having concluded such provision is mandatory and restrictive of a judge's authority to preside over TWIA Act suits, we must also conclude the presiding judge was without authority to render judgment in this cause." (at 12)

FACTUAL BACKGROUND

Pruski's condominium in Corpus Christi was damaged by Hurricane Harvey in August 2017 and was insured under a TWIA hail and windstorm policy. He filed claims on August 28 and December 12, 2017; TWIA accepted coverage in part but denied coverage for drywall on perimeter walls and ceilings. After providing notice of intent to sue and pursuing litigation under the TWIA Act, Pruski challenged the authority of the presiding judge because the Judicial Panel on Multidistrict Litigation had not appointed that judge as required by Texas Insurance Code section 2210.575(e).

PROCEDURAL HISTORY

Pruski sued TWIA after it accepted coverage in part but denied coverage for alleged drywall damage to perimeter walls and ceilings following Hurricane Harvey and a subsequent rainstorm. Pruski's own traditional summary-judgment motion was denied. The trial court granted TWIA's traditional motion for summary

judgment and ordered that Pruski recover nothing. Pruski appealed, challenging the trial judge's authority and the summary judgment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must vacate and set aside the judgment and conduct further proceedings consistent with the opinion.

CASES CITED

- In re Tex. Windstorm Ins. Ass'n Harvey Litig., No. 19-0472, at *1 (Tex. Jud. Pan. Mult. Lit. July 10, 2020) (per curiam)
- Hegar v. Health Care Serv. Corp., 652 S.W.3d 39, 43 (Tex. 2022)
- In re D.S., 602 S.W.3d 504, 514 (Tex. 2020)
- City of Fort Worth v. Pridgen, 653 S.W.3d 176, 183 (Tex. 2022)
- Hous. & Cmty. Servs., Inc. v. Tex. Windstorm Ins. Ass'n, 515 S.W.3d 906, 909 (Tex. App.—Corpus Christi—Edinburg 2017, no pet.)
- Tex. Windstorm Ins. Ass'n v. Boys & Girls Club of Coastal Bend, Inc., No. 13-19-00429-CV, 2020 WL 6072624, at *2 (Tex. App.—Corpus Christi—Edinburg Sept. 24, 2020, pet. denied) (mem. op.)
- In re Deepwater Horizon Incident Litig., 387 S.W.3d 127, 128 (Tex. Jud. Pan. Mult. Lit. 2011)
- In re Farmers Ins. Co. Wind/Hail Storm Litig. 2, 506 S.W.3d 803, 804 (Tex. Jud. Pan. Mult. Lit. 2016)
- Perryman v. Spartan Tex. Six Capital Partners, Ltd., 546 S.W.3d 110, 131–32 (Tex. 2018)
- Tex. Dep't of Pub. Safety v. Scanio, 159 S.W.3d 712, 714 (Tex. App.—Corpus Christi—Edinburg 2004, pet. denied)
- S.C. v. M.B., 650 S.W.3d 428, 436 (Tex. 2022)
- In re Champion Indus. Sales, LLC, 398 S.W.3d 812, 820–21 (Tex. App.—Corpus Christi—Edinburg 2012, orig. proceeding)
- Off. of the Att'y Gen. of Tex. v. C.W.H., 531 S.W.3d 178, 183 (Tex. 2017)
- Dubai Petroleum Co. v. Kazi, 12 S.W.3d 71, 74–75 (Tex. 2000)
- Comm'n for Law. Discipline v. Schaefer, 364 S.W.3d 831, 836 (Tex. 2012) (per curiam)
- San Patricio County v. Nueces County, 492 S.W.3d 476, 488 (Tex. App.—Corpus Christi—Edinburg 2016, pet. denied)