MICHIGAN SUPREME COURT

Insurance Institute of Michigan v. Commissioner, Financial & Insurance Services, Department of Labor & Economic Growth

Insurance Institute of Michigan · No. SC: 137400; SC: 137407; COA: 262385; Barry CC: 05-000156-CZ · Decided May 7, 2009

SUMMARY

The Michigan Supreme Court granted applications for leave to appeal from an August 21, 2008 Court of Appeals judgment concerning challenges to administrative insurance rules. The Court identified issues involving declaratory relief, statutory judicial-review procedures, the scope of the administrative record, and the validity, constitutionality, and rulemaking authority underlying the challenged rules, and granted expedited consideration.

CASE DETAILS

COURT	Michigan Supreme Court
WRITING FOR THE COURT	Marilyn Kelly, Chief Justice; Michael F. Cavanagh; Elizabeth A. Weaver; Maura D. Corrigan; Robert P. Young, Jr.; Stephen J. Markman; Diane M. Hathaway
JURISDICTION	Michigan
DECIDED	May 7, 2009
DOCKET	SC: 137400; SC: 137407; COA: 262385; Barry CC: 05-000156-CZ
DISPOSITION	other
PROCEDURAL POSTURE	The Michigan Supreme Court granted the parties' applications for leave to appeal the Court of Appeals' August 21, 2008 judgment and directed briefing on specified administrative-law, judicial-review, and constitutional issues.
PRECEDENTIAL VALUE	The order grants leave to appeal and identifies issues for briefing; it does not state merits holdings.
PARTIES	Commissioner, Financial & Insurance Services, Department of Labor & Economic Growth, Insurance Institute of Michigan, Hastings Mutual Insurance Company, Farm Bureau General Insurance Company, Frankenmuth Casualty Insurance, Walter Stafford, Jr., Michael Flohr, Michigan Insurance Coalition, Citizens Insurance Company of America v. Insurance Institute of Michigan, Hastings

Mutual Insurance Company, Farm Bureau General Insurance Company, Frankenmuth Casualty Insurance, Walter Stafford, Jr., Michael Flohr, Michigan Insurance Coalition, Citizens Insurance Company of America, Commissioner, Financial & Insurance Services, Department of Labor & Economic Growth

TOPICS

administrative procedure act | rulemaking | judicial review of agency action | administrative law | appellate jurisdiction

PRACTICE AREAS

administrative law | insurance law | appellate procedure | constitutional law

QUESTIONS PRESENTED

1. Whether, under section 64 of the Administrative Procedures Act, MCL 24.264, plaintiffs could bring an original declaratory-judgment action in circuit court without first requesting a declaratory ruling from the defendant.
2. Whether section 244(1) of the Insurance Code, MCL 500.244(1), provides the exclusive means of seeking judicial review of rules promulgated by the defendant.
3. Whether judicial review of the challenged administrative rules is limited to the administrative record prepared during the public-hearing process under section 104(3) of the Administrative Procedures Act, MCL 24.304(3).
4. Whether the challenged administrative rules violate plaintiffs' due process rights, are valid and enforceable under the Insurance Code, are arbitrary and capricious, or exceed the defendant's rulemaking authority.

FACTUAL BACKGROUND

Plaintiffs challenged administrative rules promulgated by the Commissioner, Financial & Insurance Services, Department of Labor & Economic Growth. The Supreme Court's order identified questions concerning the availability of an original declaratory-judgment action, the exclusive method for judicial review under the Insurance Code, the scope of review and administrative record, and the rules' validity, arbitrariness, constitutional adequacy, and statutory authorization.

PROCEDURAL HISTORY

The circuit court case was reviewed by the Michigan Court of Appeals, which entered judgment on August 21, 2008. The parties sought leave to appeal in the Michigan Supreme Court. On May 7, 2009, the Supreme Court granted the applications, granted expedited consideration, scheduled the case for argument and submission during the October 2009 session, and invited amicus briefs.

DISPOSITION

other

CASES CITED

- Michigan Ass'n of Home Builders v. Michigan Department of Labor & Economic Growth, 481 Mich. 496 (2008)

OPINION

Insurance Inst of Mich v. Comm Office of Financial & Ins Serv

PER CURIAM.

Order Michigan Supreme Court Lansing, Michigan May 7, 2009 Marilyn Kelly, Chief Justice 137400 Michael F. Cavanagh 137407 Elizabeth A. Weaver Maura D. Corrigan Robert P. Young, Jr. INSURANCE INSTITUTE OF MICHIGAN, Stephen J. Markman HASTINGS MUTUAL INSURANCE Diane M. Hathaway, COMPANY, FARM BUREAU GENERAL Justices

INSURANCE COMPANY, FRANKENMUTH

CASUALTY INSURANCE, WALTER

STAFFORD, JR., and MICHAEL FLOHR,

Plaintiffs-Appellees, and

MICHIGAN INSURANCE COALITION and

CITIZENS INSURANCE COMPANY OF

AMERICA,

Intervening Plaintiffs-Appellees, v SC: 137400

COA: 262385

Barry CC: 05-000156-CZ

COMMISSIONER, FINANCIAL & INSURANCE

SERVICES, DEPARTMENT OF LABOR &

ECONOMIC GROWTH,

Defendant-Appellant. ____/

INSURANCE INSTITUTE OF MICHIGAN,

HASTINGS MUTUAL INSURANCE

COMPANY, FARM BUREAU GENERAL

INSURANCE COMPANY, FRANKENMUTH

CASUALTY INSURANCE, WALTER

STAFFORD, JR., and MICHAEL FLOHR,

Plaintiffs-Appellants, and

MICHIGAN INSURANCE COALITION and

CITIZENS INSURANCE COMPANY OF

AMERICA,

Intervening Plaintiffs-Appellants, 2 v SC: 137407

COA: 262385

Barry CC: 05-000156-CZ

COMMISSIONER, FINANCIAL & INSURANCE SERVICES, DEPARTMENT OF LABOR & ECONOMIC GROWTH,

Defendant-Appellee. ____/ On order of the Court, the applications for leave to appeal the August 21, 2008 judgment of the Court of Appeals are considered, and they are GRANTED. The parties shall include among the issues to be briefed: (1) whether, under § 64 of the Administrative Procedures Act, MCL 24.264, the plaintiffs were permitted to bring an original declaratory judgment action in the circuit court without having first requested a declaratory ruling from the defendant; (2) whether § 244(1) of the Insurance Code, MCL 500.244(1), provides the exclusive means of seeking judicial review of rules promulgated by the defendant; (3) whether judicial review of the challenged administrative rules was limited to the administrative record prepared during the public hearing process, see § 104(3) of the APA, MCL 24.304(3), and Michigan Assoc of Home Builders v Michigan Dep't of Labor and Economic Growth, 481 Mich 496 (2008); and (4) whether the challenged administrative rules (a) violated the plaintiffs' due process rights, (b) were valid and enforceable under the Insurance Code, (c) were arbitrary and capricious, or (d) exceeded defendant's rulemaking authority. The motion for expedited consideration is considered, and it is GRANTED. The Clerk of the Court is directed to place this case on the October 2009 session calendar for argument and submission. The Insurance and Indemnity Law Section of the State Bar of Michigan, the American Insurance Association, the Michigan Consumer Federation, and the National Consumer Law Center are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae. I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court. May 7, 2009 ____ p0430 Clerk

Retrieved from lawtools.ai · https://lawtools.ai/cases/state/michigan-michigan-supreme-court/2009/insurance-institute-of-michigan-v-commissioner-financial-dmsrehw7