

NORTH DAKOTA SUPREME COURT

Ward County Farm Bureau v. Poolman

2006 ND 42 (N.D. 2006) · No. No. 20050170 · Decided February 23, 2006

SUMMARY

The Supreme Court of North Dakota affirmed the denial of a writ of mandamus sought by Ward County Farm Bureau and Jim Lee against the state Insurance Commissioner. The court held that the Commissioner’s order required Nodak Mutual Insurance Company to review, but not adopt, recommendations concerning director nominations, and therefore the plaintiffs lacked a clear legal right to the requested relief.

CASE DETAILS

COURT	North Dakota Supreme Court
WRITING FOR THE COURT	Maring; Vande Walle; Crothers; Sandstrom; Ronning Kapsner
JURISDICTION	North Dakota
DECIDED	February 23, 2006
DOCKET	No. 20050170
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from district court judgment denying request for writ of mandamus
STANDARD OF REVIEW	Abuse of discretion
PRECEDENTIAL VALUE	precedential
PARTIES	Ward County Farm Bureau, Jim Lee v. Jim Poolman, State of North Dakota

TOPICS

- administrative law
- insurance
- remedies
- appellate procedure
- corporate governance

PRACTICE AREAS

- Administrative Law
- Insurance Law
- Civil Procedure

QUESTIONS PRESENTED

1. Whether the district court erred in refusing to issue a writ of mandamus compelling the Insurance Commissioner to direct the insurance company to implement specific bylaw recommendations

HOLDINGS

1. The Bureau did not demonstrate a clear legal right to the performance sought, because the Commissioner's order only required a 'review' of the bylaws, not adoption of the specific recommendations.

KEY QUOTATIONS

“'Review' means 'to examine or study again ... to go over or examine critically or deliberately.'” (at 425)

FACTUAL BACKGROUND

Ward County Farm Bureau, a non-profit corporation with policyholder members, objected to changes in Nodak Mutual Insurance Company's bylaws regarding director nominations. After a market conduct examination, the Insurance Commissioner ordered Nodak to review its bylaws on nominations to allow multiple candidates for open board seats. Nodak reported a full review but did not change its bylaws. The Bureau sought mandamus to compel the Commissioner to force implementation of the examiner's recommendations.

PROCEDURAL HISTORY

Bureau sought writ of mandamus to compel Insurance Commissioner to direct Nodak Mutual Insurance Company to implement certain bylaw recommendations. District court dismissed the action. Bureau appealed.

DISPOSITION

affirmed

CASES CITED

- Nodak Mut. Ins. Co. v. Ward County Farm Bureau, 2004 ND 60, 676 N.W.2d 752
- Edinger v. Governing Authority of Stutsman County Corr. Ctr. and Law Enforcement Ctr., 2005 ND 79, 695 N.W.2d 447
- Kouba v. Hoeven, 2004 ND 185, 687 N.W.2d 491