

SUPREME COURT OF ALABAMA

Zurich Insurance Co. v. International Refining & Manufacturing Co.

67 So. 3d 870 (Ala. 2011) · Decided January 14, 2011

SUMMARY

The Alabama Supreme Court granted International Refining's petition for a writ of mandamus and directed the Jefferson Circuit Court to transfer Zurich's declaratory-judgment action to the Fayette Circuit Court. The court held that venue was proper in Fayette County under Alabama Code § 6-3-7(a) (1) because a substantial part of the events giving rise to the insurance-coverage dispute occurred there. The court also concluded that venue was determined at the commencement of the action and that the underlying Bell Carr litigation was central to the declaratory-judgment claim.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Stuart, Justice; Cobb, Chief Justice; Lyons, Justice; Bolin, Justice; Murdock, Justice
JURISDICTION	Alabama
DECIDED	January 14, 2011
DISPOSITION	writ_granted
PROCEDURAL POSTURE	International Refining petitioned for a writ of mandamus directing the Jefferson Circuit Court to transfer Zurich's declaratory-judgment action to the Fayette Circuit Court. The Alabama Supreme Court granted the petition and issued the writ.
STANDARD OF REVIEW	Mandamus is an extraordinary remedy requiring a clear legal right to the requested order, an imperative duty accompanied by refusal to perform, lack of another adequate remedy, and properly invoked jurisdiction. In venue matters, the petitioner must make a clear showing of error, and review is limited to facts before the trial court.
PRECEDENTIAL VALUE	Published Alabama Supreme Court opinion; precedential.
PARTIES	International Refining and Manufacturing Company, Inc. v. Zurich Insurance Company, Zurich American Insurance Company of Illinois, American Zurich Insurance Company

TOPICS

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forum non conveniens

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QUESTIONS PRESENTED

1. Whether Ala. Code § 6-3-7(a)(1) permits venue in Fayette County for Zurich's declaratory-judgment action against International Refining even though International Refining was not qualified to do business and did not do business in Alabama.
2. Whether a substantial part of the events giving rise to the declaratory-judgment action occurred in Fayette County based on the underlying toxic-exposure litigation and Zurich's alleged duty to defend and indemnify.
3. Whether International Refining established a clear legal right to transfer the action through a petition for a writ of mandamus.

HOLDINGS

1. Section 6-3-7(a)(1) applies in determining venue for an action against a corporation regardless of whether the corporation is doing business in Alabama.
2. Fayette County was a proper venue because a substantial part of the events giving rise to Zurich's declaratory-judgment action occurred there.
3. International Refining established a clear legal right to have the declaratory-judgment action transferred from Jefferson Circuit Court to Fayette Circuit Court, warranting mandamus relief.

KEY QUOTATIONS

“The writ of mandamus is an extraordinary remedy; it will not be issued unless the petitioner shows” (at 873)

“A plain reading of § 6 — 3—7(a)(1), Ala.Code 1975, requires the conclusion that it applies to determining proper venue in actions against a corporation regardless of whether the corporation is doing business in this State.” (at 874)

“The act giving rise to Zurich’s declaratory-judgment action against International Refining is not the initiation of the contractual relationship between Zurich and International Refining; instead, it is Zurich’s desire to be relieved of any obligation to defend and/or to indemnify International Refining in the Bell Carr litigation.” (at 876)

“Venue is to be determined at the commencement of an action.” (at 877)

FACTUAL BACKGROUND

International Refining was named as a defendant in toxic-exposure litigation brought by former employees of an Arvin plant in Fayette County. Zurich issued International Refining three general-liability policies covering 1990 through 1993 and provided a defense in the Fayette County litigation. After prior rulings narrowed the claims,

Zurich sought a declaration in Jefferson County that it had no continuing duty to defend or indemnify International Refining. The underlying litigation, alleged exposure, and requested defense were all connected to Fayette County.

PROCEDURAL HISTORY

Zurich filed a declaratory-judgment action in Jefferson Circuit Court seeking a declaration that it had no continuing duty to defend or indemnify International Refining in the Bell Carr toxic-exposure litigation pending in Fayette Circuit Court. International Refining moved to transfer the action to Fayette County under Ala. Code § 6-3-7(a)(1), alternatively invoking forum non conveniens. After the Jefferson Circuit Court denied the motion, International Refining sought mandamus relief in the Alabama Supreme Court.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The Jefferson Circuit Court was directed to vacate its order refusing to transfer the declaratory-judgment action and to enter an order transferring the action to the Fayette Circuit Court.

CASES CITED

- Carr v. International Refining & Manufacturing Co., 13 So. 3d 947, 955 (Ala. 2009)
- Ex parte Inverness Constr. Co., 775 So. 2d 153, 156 (Ala. 2000)
- Ex parte Gates, 675 So. 2d 371, 374 (Ala. 1996)
- Ex parte Pfizer, Inc., 746 So. 2d 960, 962 (Ala. 1999)
- Ex parte Children's Hosp. of Alabama, 931 So. 2d 1, 5-6 (Ala. 2005)
- Ex parte Finance America Corp., 507 So. 2d 458, 460 (Ala. 1987)
- Ex parte Kane, 989 So. 2d 509, 511 (Ala. 2008)
- Ex parte De Vega, 65 So. 3d 886, 891 (Ala. 2010)
- Vulcan Materials Co. v. Alabama Insurance Guaranty Ass'n, 985 So. 2d 376, 381-82 (Ala. 2007)
- DeKalb County LP Gas Co. v. Suburban Gas, Inc., 729 So. 2d 270, 275-76 (Ala. 1998)
- Blue Cross & Blue Shield v. Nielsen, 714 So. 2d 293, 296 (Ala. 1998)
- IMED Corp. v. Systems Eng'g Assocs. Corp., 602 So. 2d 344, 346 (Ala. 1992)
- Ex parte Carlton, 867 So. 2d 332, 338 (Ala. 2003)
- Ex parte Ford Motor Credit Co., 561 So. 2d 244, 246 (Ala. Civ. App. 1990)
- Ex parte Employers Insurance of Wausau, 590 So. 2d 888, 892-93 (Ala. 1991)
- Strickland v. Trion Group, Inc., 463 F. Supp. 2d 921, 925 (E.D. Wis. 2006)
- Ex parte Kia Motors America, Inc., 881 So. 2d 396, 401 (Ala. 2003)
- Ex parte Pike Fabrication, Inc., 859 So. 2d 1089 (Ala. 2002)

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