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News

TEXAS SUPREME COURT OVERRULES ARANDA; ELIMINATES COMMON LAW BAD FAITH CLAIMS AGAINST WORKERS' COMPENSATION CARRIERS

Newsbrief

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On Friday, the Texas Supreme Court decided *Texas Mut. Ins. Co. v. Ruttiger*, No. 08-751, 2011 WL2361697, --- S.W.3d --- (Tex. June 22, 2012), withdrawing and superseding its opinion from last August, when the Court decided that worker's compensation insurers are not subject to statutory claims for unfair settlement practices under the Texas Insurance Code. In its original opinion, the Court did not reach the question regarding whether common law bad faith claims were still viable in the worker's compensation context following the legislature's wholesale revision of the Texas worker's compensation scheme in 1989.

The Texas Supreme Court granted the motions for rehearing filed by both Ruttiger and Texas Mutual Insurance Company ("TMIC"), overruled *Aranda v. Insurance Co. of North America*, 748 S.W.2d 210 (Tex. 1988), and held that an injured employee may not assert a common-law claim for breach of the duty of good faith and fair dealing against a workers' compensation carrier. As it did in its original opinion, the Texas Supreme Court also held that claims against workers' compensation insurers for unfair settlement practices may not be made under the Texas Insurance Code, but claims under the Texas Insurance Code may be made against those insurers for misrepresenting provisions of their policies, although in this case the Court found no evidence the insurer did so.

In overruling *Aranda* and holding that workers' compensation claimants may not assert a common-law claim for breach of the duty of good faith and fair dealing, the Court examined the reasons for its holding in *Aranda* to allow such a claim outside the workers' compensation dispute resolution system: (1) the disparity of bargaining power between compensation insurers and employees, (2) the exclusive control that an insurer exercises over processing of claims, and (3) arbitrary decisions by carriers to refuse to pay or delay payment of valid claims leave the injured employees with no immediate recourse. The Court concluded the Legislature substantially remedied those deficiencies with its revisions to the Act in 1989 such that the Act effectively eliminated the need for a judicially imposed cause of action outside the administrative processes and other remedies in the Act.

The Court also determined that the provisions of the current version of the Workers' Compensation Act, as amended by the Legislature in 1989, indicate legislative intent that its provisions for dispute resolution and remedies for failing to comply with those provisions in the workers' compensation context are exclusive of those in section 541.060. Likewise, the Court found the Legislature did not intend for workers' compensation claimants to have a cause of

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action against the carrier under the general provision of section 542.003 related to a carrier's failure to adopt and implement reasonable standards for prompt investigation of claims arising under its policies.

The Court concluded section 541.061, on the other hand, was not at odds with the dispute resolution process of the workers' compensation system. Section 541.061, which prohibits misrepresentations of insurance policies, did not specify that it applies in the context of settling claims. Nevertheless, the Court ruled there was insufficient evidence to support a finding that TMIC misrepresented its policy in this case as Ruttiger had not pointed to any untrue statement made by TMIC regarding the policy or any statement about the policy that misled him. The dispute between Ruttiger and TMIC was over whether Ruttiger's claim was factually within the policy's terms – whether he was injured on the job. Thus, while the Court disagreed with TMIC's assertion that Ruttiger's claim under section 541.061 was precluded by the Workers' Compensation Act, it agreed with TMIC's legal sufficiency challenge to the evidence supporting a finding based on section 541.061.