RECENT COURT DECISIONS

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FEDERAL LAW PREEMPTS STATE REGULATION PROHIBITING INSURANCE SALES BY BANKS

Barnett Bank of Marion County v. Bill Nelson, Florida Insurance Commissioner, Supreme Court Case No. 94-1837, March 26, 1996

The Supreme Court held that federal banking law preempts a state law that prohibited banks from selling most lines of insurance. Federal law allows national banks to act as insurance agents in localities with fewer than 5,000 people (12 U.S.C., Sect. 92). Barnett Bank of Marion County, a national bank subsidiary of Barnett Banks, Inc., purchased an insurance agency in Belleview, Florida, with the purpose of marketing insurance to existing and potential customers in Florida.

The Florida Department of Insurance issued an immediate final order within days of the bank's purchase. The order prohibited the sale of all insurance by the bank-owned company, except the sale of credit life and credit disability, because such activities were prohibited by Florida law. The district court and eleventh circuit court both upheld the Department's actions. The U.S. Supreme Court reversed.

The district court and the eleventh circuit found the Florida law (section 626.988 F.S.) regulates the business of insurance because it protects policyholders. Thus, under the terms of the McCarran-Ferguson Act, federal law must yield to the state statute. The eleventh circuit found that section 92 neither specifically related to the business of insurance, nor specifically required that an apparently conflicting state law be preempted because of the McCarran-Ferguson Act's special insurance-related anti-preemption rule, which provides that federal law will not preempt a state law enacted "for the purpose of regulating insurance" unless the federal statute specifically relates to the business of insurance. Thus, McCarran-Ferguson acts as an inverse preemption statute.

The Supreme Court disagreed and wrote, "the McCarran-Ferguson Act's anti-preemption rule does not govern in this case, because the federal statute specifically relates to the business of insurance." This conclusion was based upon the language of the acts and the purposes taken together.

In sum, the question before the court was whether the federal statute that permits national banks to sell insurance in small towns preempted the state statute that prohibited such activity in Florida. The court considered both ordinary preemption principles and the special federal anti-preemption rule. The Supreme Court found that the special anti-preemption rule did not apply and that, under ordinary preemption principles, the federal statute preempts the state statute. Therefore, the state statute's prevention of the national bank from selling insurance in small towns is not allowed.

TRAUMA RESULTING FROM SEXUAL HARASSMENT NOT COMPENSABLE UNDER WORKERS' COMPENSATION LAW

Liberty Correctional Institute v. Yon, 21 Fla. L. Weekly D656 (Fla. 1st DCA, March 13, 1996)

In this case, the petitioner worked in the file room at Liberty Correctional Institute. She filed a claim for workers' compensation benefits which she predicated on a repetitive trauma theory arguing that she had been subjugated to sexual harassment from 1990 to 1992. She indicated that there were several episodes of sexual touching. Expert testimony at the hearing before the judge of compensation claims indicated that the petitioner was suffering from depression and post-traumatic stress disorder and fibromyalgia. Her condition was described as pain infliction syndrome caused by sleep disturbance and intense mental, psychological, and emotional stress experienced from the job situation.

The judge of compensation claims found that the actions constituted an "accident" and thus were compensable under the workers' compensation statute. The Liberty Correctional Institute appealed. The First District Court of Appeal reversed. The court found that the harassment amounted to a "mere touching" and therefore was not compensable. The court wrote, "though emotionally traumatizing, claimant's experience does not equate in a legal sense for purposes of coverage under Chapter 440, with those cases involving physical injuries that have been found to be causative factors in the ensuing mental or nervous injuries." The case hinges on the definition of accident. The statutory definition provides that an accident is an unexpected or unusual event or result happening suddenly. However, the definition specifically excludes "a mental or nervous injury due to stress, fright, or excitement only."

The court noted that the workers' compensation statute is to be constructed liberally and over time the courts in Florida have done so. However, where no physical injury has occurred as a result of sexual harassment, the judge erred in finding that the claim was compensable.