SUPREME COURT WILL NOT HEAR REDLINING CASE

National Mutual Insurance Agency v. Cisneros, 52 F.3d 1351 (6th Cir. 1993), Cert. Denied Feb. 20, 1996, Case no. 95-714

The United States Supreme Court has refused to hear a lower court decision that held the Fair Housing Act authorizes the Department of Housing and Urban Development (HUD) to issue a regulation that stipulated that refusing to provide property insurance for dwellings or providing insurance differently because of race, color, religion, sex, handicap, familial status, or national origin was "prohibited sale and rental conduct."

The Supreme Court denied a petition for writ of certiorari, which is an order to a lower court to send to the higher court the record of the case. The refusal to hear the case has no precedential effect, however, and the lower court decision stands. This case is discussed in the September 1995 issue of the *Journal of Risk and Insurance.*

Like the *Barnett Bank* case, the issue before the court was whether federal law preempted state law. The special insurance-related anti-preemption rule of the McCarran-Ferguson Act was again analyzed. Unless the federal law specifically relates to the business of insurance, federal law cannot impair a state insurance law.

The district court and circuit court found that the Fair Housing Act governed the business of property insurance and that McCarran-Ferguson did not preempt regulation of insurance under the Fair Housing Act. Thus, the HUD regulation prohibiting discrimination in providing property insurance for dwellings is valid.

STATUTORY CONCLUSIVE PRESUMPTION THAT AN INJURY WAS OCCASIONED PRIMARILY BY THE INTOXICATION OF THE EMPLOYEE WAS VIOLATIVE OF THE CONSTITUTIONAL RIGHT TO DUE PROCESS

Hall v. RCCHI America, Inc., 21 Fla. L. Weekly D690 (Fla. 1st DCA, March 19, 1996)

Prior to his employment, the injured employee had signed documents saying that he agreed to a pre-employment drug and alcohol screening and to a random and/or indiscriminant screening for drugs and alcohol. Three weeks after beginning work, the employee and a co-worker were performing construction work on concrete forms. The claimant's co-worker tripped over the steel form and jabbed the employee in the back of the head with a piece of equipment that they were carrying. The claimant was taken to a physician for treatment. The claimant's urine was analyzed for drug use and marijuana metabolites were found. The claimant admitted that he had smoked marijuana five days earlier.

The applicable law provides that an injury in a drug-free workplace to an employee who has a positive confirmation of a drug shall be presumed to have