

Joseph Tambellini, Inc. v. Erie Insurance Exchange

Year: 2020

Court: Supreme Court of Pennsylvania

Case Number: 52 WM 2020

In its brief, UP weighed in to argue against a homogenous, one-size-fits-all judicial resolution for business interruption (BI) claims resulting from Governor Tom Wolf’s emergency order regulating activities of business and persons in Pennsylvania. UP first argues that the proposed consolidation would limit the options and contractual as well as constitutional rights of other policyholders who may not necessarily find the county of consolidation accessible or preferable. Further, it is unlikely that consolidating all COVID-19-related BI cases “in one County before a judge or group of judges” would result in an expedited and satisfying resolution. Second, due to the lack of uniformity across each insurance policy’s terms, conditions, endorsements, and exclusions, it is unlikely that findings in Tambellini’s case would be broadly applicable to other claims made under materially different policies. Third, the unique circumstances of each policyholder’s business and claim further weaken any potential applicability of decisions in Tambellini’s case, fundamentally tied to the wording in Tambellini’s purchased policy, to other claims made by substantially different businesses with different policies operating at different levels of activity and experiencing differing degrees of COVID-19 exposure. Further, because Tambellini’s application does not include a bad faith claim, the court’s findings in Tambellini’s case could have limited or no applicability to other policyholders’ bad faith claims. Fourth, considering that many policyholders are likely to suffer BI losses for a prolonged period and the contractual nature of coverage disputes between private parties, Tambellini’s case differs from those rare instances in which this Court has exercised its Extraordinary Jurisdiction and King’s Bench powers to provide immediate and sufficient relief, frequently as a remedy to government action. This Court has never invoked such powers in the context of having one contract’s interpretation set precedent for numerous different contracts.

This brief was drafted pro bono by John N. Ellison of Reed Smith LLP

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