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JURISDICTION - LOUISIANA

St. Tammany Parish Hospital Service District No. 2 v. Zurich American Insurance Company

United States District Court, E.D. Louisiana - March 14, 2022 - Slip Copy - 2022 WL 766318

Plaintiff St. Tammany Parish Hospital Service District alleged that, as a result of COVID-19 and governmental measures taken at both the federal and state levels, it had suffered substantial financial losses.

Plaintiff further alleges the losses it suffered and expenses it incurred are covered as "EXTRA EXPENSE" under the insurance policies provided by Defendant Zurich American Insurance Company.

Plaintiff brought this insurance coverage action for declaratory judgment and breach of contract arising from the refusal of Defendants to provide coverage to Plaintiff under a comprehensive loss policy issued by the Defendants called "The Zurich Edge Healthcare Policy": a unique policy targeting healthcare facilities with the marketing promise of "higher limits, broader coverage and greater flexibility" and which expressly provides coverage for the losses Plaintiff sustained as a result of COVID-19.

Defendants filed a Notice of Removal, invoking this Court's diversity jurisdiction under 28 U.S.C. § 1332. Plaintiff filed a motion to remand to state court, arguing complete diversity is lacking because Plaintiff is an arm of the state and that "[a]s a matter of law, an arm of the state has no citizenship and cannot be removed to federal court under 28 U.S.C. § 1332(a)." Plaintiff further argued that hospital service districts such as Plaintiff are alter egos or arms of the state "such that they are immune from suit in federal court pursuant to the Eleventh Amendment.

Defendants argued that complete diversity, and federal subject matter jurisdiction exist because Plaintiff is a citizen of the State of Louisiana and is not an arm or alter ego of the State of Louisiana.

The District Court held that:

- Louisiana's statutes and case law support the conclusion that hospital service districts such as Plaintiff are political subdivisions, and not arms of the state.
- The Court must address the question of whether Plaintiff, a political subdivision of the State of Louisiana, is a citizen of Louisiana for purposes of diversity jurisdiction.
- The Court must also determine whether Plaintiff is an arm or alter ego of the State of Louisiana.
- The Fifth Circuit takes a case-by-case approach to determining whether a state is the real party in interest in suits brought against entities which appear to be alter egos or arms of the state.
- The Fifth Circuit utilizes six factors (the "Clark Factors") to determine whether an entity is an arm of the state: (1) Whether the state statutes and case law characterize the agency as an arm of the state; (2) The source of funds for the entity; (3) The degree of local autonomy the entity enjoys; (4) Whether the entity is concerned primarily with local, as opposed to state-wide, problems; (5) Whether the entity has authority to sue and be sued in its own name; and (6) Whether the entity

has the right to use and hold property.
- The Court found that each of the six Clark factors pointed inexorably to the conclusion that Plaintiff is not an arm of the State of Louisiana. As a political subdivision that is not an arm of the state, it is a citizen of the State of Louisiana. Because neither Defendant is a citizen of the State of Louisiana, complete diversity exists in this case. Accordingly, the Court concluded it has subject matter jurisdiction over this action under 28 U.S.C. § 1332.

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