

CLASS ACTION BLOG

Declaratory Judgment Class Action Ruling Vacated for Lack of Standing

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A GEICO insured injured in a car accident assigned his Florida PIP (Personal Injury Protection) benefits to his chiropractor. The chiropractor would have been entitled to recover \$10,000.00 assuming the insured was diagnosed with an emergency medical condition (EMC), but was otherwise limited to \$2,500.00 in benefits. GEICO paid the chiropractor \$7,311 in PIP benefits, even though there was no EMC finding. Unsatisfied, the chiropractor filed a declaratory judgment class action against GEICO seeking a declaration that GEICO was required to pay the chiropractor the full \$10,000.00. Several months after suit was filed and more than two years after the accident, the insured “obtained an EMC medical diagnosis.” After denying the motion to remand the case “for lack of Article III standing,” the court granted summary judgment in favor of the chiropractor. GEICO then appealed arguing that the chiropractor lacked standing. The Eleventh Circuit panel concluded that the chiropractor had no standing and for that reason vacated the judgment and directed the district court to remand the case to Florida state court.

This case was made more complex than necessary because the plaintiff chiropractor and defendant GEICO swapped arguments between the district court and appeals court levels. In the district court, GEICO argued that there was Article III standing in order to maintain the federal forum. However, on appeal GEICO argued there was no Article III standing. In the district court, the chiropractor argued there was no standing in his motion to remand, but after winning summary judgment argued on appeal that there was Article III standing. Although the majority and concurring judges agreed there was no standing, their analysis differed.

The majority relied on earlier Eleventh Circuit precedent on standing for the proposition that “injury in the past... does not support a finding of an Article III case or controversy when the only relief sought is a declaratory judgment.” The Eleventh Circuit had also ruled that the Article III case or controversy requirement was part of the Declaratory Judgment Act which “provides that a declaratory judgment may only be issued in the case of an actual controversy.” In fact, earlier Eleventh Circuit cases had ruled that Article III’s standing requirement is satisfied only when a plaintiff seeking declaratory judgment alleges “facts, from which it appears that there is a ‘substantial likelihood that he will suffer injury in the future.’” In class action cases, at least one of the plaintiffs seeking to be a class representative had to have Article III standing for the case to proceed. That is true “even if the persons described in the class definition would have standing themselves to sue.” Furthermore, the standing has to be present when the plaintiff files his complaint.

According to the majority opinion, there could not be a future case or controversy because GEICO had paid all of the benefits to which the plaintiff chiropractor was entitled as of the time suit was filed. The Florida “No Fault” statute required GEICO to pay \$2,500.00 whereas GEICO had paid the chiropractor over \$7,000.00. The majority noted that the chiropractor had intentionally “tailored its complaint to *avoid* alleging future injury (as it did with the money damages).” In fact, in its motion to remand plaintiff stated that he “*does not make any claim in the complaint that there is a risk of future injury.*” In a footnote, the majority noted that future injury wasn’t alleged because the chiropractor wanted to avoid federal jurisdiction, exactly the opposite position taken on appeal.

The concurring judge would have stopped her analysis by simply reviewing the allegations of the complaint. In her view, Eleventh Circuit precedent required “the plaintiff to prove a substantial likelihood of future harm.” Because plaintiff failed to allege any substantial likelihood of future harm in his Rule 23(b)(2) action seeking a declaratory judgment, she thought the inquiry should end there. That said, all judges on the panel agreed that the plaintiff chiropractor lacked Article III standing. That ruling required the summary judgment in its favor to be vacated and the case remanded to Florida state court.