

COA Opinion: Joinder of all potentially liable parties is not required in workers' compensation actions

1. September 2010 By Julie Lam

Plaintiff worked as a painter on the Mackinac Bridge for over 25 years, for various employers. Plaintiff was working for Allstate Painting Company, Inc. (Allstate) in May 2005 when he injured his right knee. Plaintiff filed a petition seeking benefits from Allstate, which did not have workers' compensation insurance. Although the magistrate granted Plaintiff an open award of benefits against Allstate, Plaintiff was unable to collect. Subsequently, Plaintiff filed this action seeking benefits from defendants Mackinac Bridge Authority (the Authority) and American Painting Company, Inc. (American Painting) under Section 171 of the Workers' Disability Compensation Act (WDCA), the statutory employment provision. MCL 418.171. The magistrate applied *res judicata*, or claim preclusion, to dismiss Plaintiff's claim against the Authority and American Painting because the magistrate concluded Plaintiff could have brought his Section 171 claim in his earlier action against Allstate. The Workers' Compensation Appellate Commission (WCAC) affirmed the magistrate's dismissal in a 2-1 decision. In *Bennett v. Mackinac Bridge Authority*, No. 287628, the Court of Appeals reversed the decision of the WCAC and remanded the case to the magistrate for reinstatement. The Court of Appeals concluded that application of the doctrine of *res judicata* in this case to bar Plaintiff's Section 171 claim against defendants would subvert the intent of the Legislature because it would, in effect, read a rule of mandatory party joinder in Section 171. The Court of Appeals explained that the Legislature has, in other provisions, required the joinder of parties or prescribed methods for compelling the joinder of parties, and neither provision exists in Section 171. Thus, the Court of Appeals determined that an injured employee may bring separate workers' compensation actions against a direct employer and statutory employer under Section 171 without having to join all potentially liable parties in a single action.