

MSC: Brewer v. A.D. Transport Express

12. May 2010 By John Bursch

In a 5-2 decision issued yesterday, the Michigan Supreme Court ruled that recent changes to Michigan workers' compensation law should not be applied retroactively. *Brewer v. A.D. Transport Express, Inc.*, No. 139068, involved application of 2008 PA 499, which amended MCL § 418.845 to expand the Workers' Compensation Agency's jurisdiction over out-of-state injuries. In an opinion authored by Justice Corrigan and joined by Justices Cavanagh, Young, and Markman, the Court held that the statutory text does not manifest the Legislature's intent to apply the amendment to antecedent injuries. Moreover, the amendment did not fall within an exception for remedial or procedural amendments that may apply retroactively, because the amendment created a new legal burden and potentially enlarged existing substantive rights. Chief Justice Kelly concurred in the result only. Justices Weaver and Hathaway dissented, explaining that rather than deciding the case's merits following oral argument on the application for leave to appeal, the Court should have granted leave for full briefing and argument.