

COA Opinion: Antisuit injunctions are not entitled to Full Faith and Credit, but a court should abstain from taking a case that implicates such an order

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On January 4, 2011, the Michigan Court of Appeals issued a published opinion in *Hare v Starr Commonwealth Corp*, No. 291476. In that case, the trial court granted summary disposition for the garnishee on the ground that a New York antisuit injunction (that protected the garnishee from lawsuits during a period of rehabilitation) was entitled to full faith and credit. The Court of Appeals affirmed on other grounds, holding that a court faced with an antisuit injunction should abstain from taking the case on “grounds similar to those underlying the doctrine of forum non conveniens.”

Plaintiff’s decedent was a special needs child who was placed in a foster home by Star Commonwealth Corp. In 2000, while in foster care, the child drowned. Plaintiff sued the foster parent and obtained a default judgment for \$350,000.

Plaintiff then filed a garnishment action against Frontier Insurance Co., which insured and indemnified the foster parent. Frontier moved for summary disposition on the ground that the claim was barred by a New York “order of rehabilitation,” entered in 2001, which purported to bar all legal actions against Frontier to allow Frontier to rehabilitate its capital. Under New York Insurance Law, the courts of New York may enter such an order when it is in the best interest of an insurance company’s policyholders, creditors, and the general public. Frontier contended that the order was entitled to full faith and credit under Michigan’s common law. The trial court agreed, and it granted Frontier’s motion for summary disposition.

On appeal, the Court of Appeals held that the circuit court erred by ruling that the antisuit provisions of the New York order of rehabilitation were entitled to full faith and credit. It nevertheless upheld the result on other grounds.

First, the Court held that the portion of the New York antisuit injunction order that purports to prevent all claims against Frontier is outside the ambit of full faith and credit. The Court further held that an antisuit injunction is not entitled to recognition and enforcement on the basis of comity.

Nevertheless, the Court upheld the trial court’s grant of summary disposition for Frontier. The Court held that “the circuit court should have abstained from the present controversy, deferring to the courts of New York on grounds similar to those underlying the doctrine of forum non conveniens.” The Court noted that New York insurance law is complex and that the purpose of New York’s rehabilitation process is to protect insolvent insurers. It then held that the trial court should have abstained from hearing the garnishment action against Frontier and dismissed the matter, thereby deferring to the courts of New York State on grounds similar to those underlying the doctrine of forum non conveniens.