Presented:
24th Annual Conference on State and Federal Appeals

June 5-6, 2014
Austin, Texas

Texas Supreme Court Update

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SUPREME COURT OF TEXAS UPDATE

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Special thanks to all the Staff Attorneys and Law Clerks at the Supreme Court of Texas for their substantial contributions.

May 1, 2013 – April 30, 2014

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SUPREME COURT OF TEXAS UPDATE

Phil Johnson
Justice
Supreme Court of Texas

I. SCOPE OF THIS ARTICLE

This article surveys cases that were decided by the Supreme Court of Texas from May 1, 2013 through April 30, 2014. Petitions granted during that time but not yet decided are also included.

II. ADMINISTRATIVE LAW

A. Exhaustion of Remedies

1. City of Hous. v. Rhule, 417 S.W.3d 440 (Tex. November 22, 2013) [12-0721].

At issue in this case is whether a workers' compensation claimant must exhaust administrative remedies before suing in district court for breach of a settlement agreement. Christopher Rhule, a firefighter for the City of Houston, suffered an on-the-job spinal injury in 1988. The City, a self-insured municipality, resolved his claims in a settlement agreement that covered Rhule's reasonable lifetime medical expenses. When the City ceased payment, Rhule brought suit in district court for breach of the agreement. A jury found in his favor. The court of appeals affirmed the trial court's judgment and denial of the City's motion to dismiss for lack of jurisdiction.

The Supreme Court reversed the court of appeals' judgment and rendered judgment dismissing the case for lack of jurisdiction. The Court explained that subject matter jurisdiction is fundamental to a court's power to decide a case. When the Legislature confers exclusive jurisdiction upon an administrative agency, a trial court lacks subject matter jurisdiction until a claimant exhausts administrative remedies. Rhule's injury occurred in 1988. The applicable statute at the time of his injury compelled a claimant with a dispute arising from a settlement agreement to first present that dispute to the Industrial Accident Board, now the Division of Workers' Compensation. Rhule's failure to do so divested the trial court of jurisdiction to decide his claim.

B. Judicial Review

1. El Paso Cnty. Hosp. Dist. v. Tex. Health & Human Servs. Comm'n, 400 S.W.3d 72 (Tex. May 17, 2013) [11-0830].

This appeal raised two questions about an earlier appeal and opinion from the Supreme Court. *See El Paso Cnty. Hosp. Dist. v. Tex. Health & Human Servs. Comm'n*, 247 S.W.3d 709 (Tex. 2008). The earlier appeal concerned a suit by fourteen Texas hospitals against the Texas Health and Human Services Commission (HHSC) and its Executive Commissioner, which challenged a "cutoff date" used by the HHSC in the collection of data used to calculate Medicaid reimbursement rates for inpatient services. In that suit, the hospitals asserted two claims for declaratory relief under section 2001.038 of the Administrative Procedure Act (APA). First, they claimed that the cutoff date was an invalid "rule" because it was not adopted via the APA's formal rule-making procedures. Second, they argued that the part of the agency's appeal rule, which HHSC applied to deny them administrative relief from the cutoff date's effect on their rates, was inapplicable. The Supreme Court agreed that the cutoff date was an invalid rule and that, as a result, the appeal rule, as interpreted by HHSC to deny the hospitals' administrative appeals, did not apply. The Court declared the cutoff-date rule invalid and enjoined its enforcement.

On remand to the district court, the hospitals argued that the Supreme Court judgment enjoining the enforcement of the cutoff-date rule should apply retroactively to provide them a basis to reopen their earlier administrative appeals and to seek reimbursement for the underpayment of past Medicaid claims calculated under the invalid cutoff-date rule. HHSC responded that the injunction should only operate prospectively because the earlier administrative proceedings were concluded before the Court's injunction and could not be reopened under agency rules. The

district court agreed with the hospitals; the court of appeals agreed with HHSC. The court of appeals concluded that the Supreme Court's decision did not purport to reopen past rate determinations or closed administrative proceedings.

In considering the effect of its prior decision, the Supreme Court agreed with the court of appeals. Although the Court had previously concluded that the hospitals were entitled to a formal review with respect to individual claims data excluded by the invalid cutoff rule, it did not decide whether the hospitals could reopen past agency proceedings or obtain relief for past years. Nor had the Court expressly ordered HHSC to recalculate these hospitals' rates, although that relief was available to the hospitals prospectively under the agency's error-correction rules. The Court affirmed the judgment of the court of appeals.

C. Railroad Commission Authority

1. Tex. Coast Util. Coal. v. R.R. Comm'n of Tex., 423 S.W.3d 355 (Tex. January 17, 2014) [12-0102].

At issue in this case was whether the Railroad Commission has authority to approve a cost of service adjustment (COSA) mechanism under its general authority to set gas utility rates under the Gas Utilities Regulation Act (GURA).

CenterPoint Energy, a gas utility under GURA, sought to change the rates it charges customers in its Texas Coast Division. In order to effect these changes, CenterPoint initiated rate cases under GURA with the municipalities located in the Texas Coast Division and with the Railroad Commission for unincorporated areas. CenterPoint proposed a COSA formula that would be annually applied to adjust the amount charged to customers for gas utility services. Nine municipalities within the Texas Coast Division rejected CenterPoint's proposed rate change, and CenterPoint appealed to the Railroad Commission. The Commission approved some but not all of CenterPoint's proposed rate changes and enacted a rate that included a COSA, though not the same formula proposed by CenterPoint. The municipalities, acting together as the Texas Coastal Utilities Coalition, and several state agencies sought judicial review, arguing that the Commission exceeded its authority in approving the COSA. The trial court agreed and remanded the case back to the Commission. The court of appeals reversed, holding that because the definition of "rate" in the statute is ambiguous, and because the Railroad Commission has broad authority under GURA, the Commission did not exceed its authority by approving a formula rate.

The Supreme Court granted the Texas Coastal Utilities Coalition's petition for review and affirmed the court of appeals judgment. The Court held that GURA expressly authorizes the Commission to set gas utility rates and defined the term "rate" to include (among other things) a "practice . . . affecting the compensation, tariff, charge," etc. charged by gas utilities to their customers. Because the COSA constitutes such a "practice," the Court held that it is a "rate" that the Commission has authority to set. The Court further held that because the Commission held a full rate case and approved CenterPoint's new rate, including the COSA, it was not required to re-approve the rate each time the COSA was applied. The Court rejected the Coalition's arguments that this construction interfered with municipalities' original jurisdiction or otherwise violated GURA's rate-making requirements.

D. Texas Water Code

1. Tex. Comm'n on Envtl. Quality v. Bosque River Coalition, 413 S.W.3d 403 (Tex. September 20, 2013) [11-0737].

In this case and a companion case, *Texas Commission on Environmental Quality v. City of Waco*, 413 S.W.3d 409 (Tex. 2013), the principal issue was whether the City of Waco and the Bosque River Coalition were entitled to contested case hearings challenging amended water-quality permits allowing larger herds at dairies in the Bosque River watershed. The Bosque River Coalition, a non-profit environmental protection group, alleged that landowners downstream from a dairy would suffer pollution from dairy-cattle waste runoff. The underlying question in both cases was whether the Commission on Environmental Quality properly determined that neither the City nor the coalition was an "affected person" entitled to contested case hearings challenging the Commission's permit approvals. The Coalition argued that determining status as an

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