

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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TRUSTEES OF THE OPERATING ENGINEERS  
LOCAL 324 HEALTH CARE PLAN, TRUSTEES  
OF THE OPERATING ENGINEERS LOCAL 324  
PENSION FUND, TRUSTEES OF THE  
OPERATING ENGINEERS LOCAL 324 RETIREE  
BENEFIT FUND, TRUSTEES OF THE  
OPERATING ENGINEERS LOCAL 324  
VACATION AND HOLIDAY FUND OF  
MICHIGAN, TRUSTEES OF THE OPERATING  
ENGINEERS LOCAL 324 JOINT  
APPRENTICESHIP TRAINING FUND,  
TRUSTEES OF THE OPERATING ENGINEERS  
LOCAL 324 INDUSTRY ADVANCEMENT  
FUND, and TRUSTEES OF THE OPERATING  
ENGINEERS LOCAL 324 LABOR-  
MANAGEMENT FUND,

Plaintiffs-Appellants,

v

FEDERAL INSURANCE COMPANY,

Defendant-Appellee.

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UNPUBLISHED  
July 9, 1996

No. 180037  
LC No. 94-407148-CZ

Before: Smolenski, P.J. and Holbrook, Jr. and F.D. Brouillette,\* JJ.

PER CURIAM.

Plaintiffs appeal as of right the grant of defendant's motion for summary disposition pursuant to MCR 2.116(C)(7). We affirm.

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\* Circuit judge, sitting on the Court of Appeals by assignment.

Midwest Bridge Company (Midwest) entered into a contract with the Michigan Department of Transportation to perform work on certain roads located in Genesee County.

Subsequently, Midwest entered into a subcontract with B & J Construction Company, whose employees were members of plaintiffs' union.

Pursuant to the public buildings and public works act, MCL 570.101 *et seq.*; MSA 26.321, *et seq.*, Midwest was required to secure a bond for payment of subcontractors and for payment of materials and supplies furnished and used. Midwest secured the bond from defendant, Federal Insurance Company. Pursuant to a collective bargaining agreement with the union, B & J Construction Company was required to make contributions to plaintiffs for employee fringe benefits earned by employees who performed work for B & J Construction Company. Plaintiffs claim B & J Construction Company failed to make the required contributions.

Plaintiffs brought suit pursuant to the public buildings and public works act to recover \$12,755.65, which represents the delinquent contributions plus liquidated damages authorized by the collective bargaining agreement. Both parties filed motions for summary disposition. The trial court granted defendant's motion on the ground that plaintiffs did not have standing to sue under the public buildings and public works act.

MCL 570.104; MSA 26.324 provides that the bond required by MCL 570.101; MSA 26.321 "may be prosecuted and a recovery had . . . by any person, firm, or corporation to whom any money shall be due and payable on account of having performed any labor or furnished any materials or supplies in the erection, repairing, or ornamentation" of any public building or public work.

On appeal, plaintiffs argue that they qualify as a person, firm, or corporation to whom money is due for work performed on the highway project and that, therefore, they may bring suit under the statute. We disagree.

The primary goal of judicial interpretation of statutes is to give effect to the intent of the Legislature. *Vugterveen Systems, Inc v Olde Millpond Corp*, 210 Mich App 34, 44; 533 NW2d 320 (1995) lv gtd \_\_\_ Mich \_\_\_; 1996 Mich LEXIS 1063 (Docket Number 102988, issued 5/22/96). The Legislature is presumed to have intended the meaning it plainly expressed. *Id.* If a term is not defined by the Legislature, the term's ordinary meaning must be applied. *Popma v Auto Club Insurance Ass'n*, 446 Mich 460, 469-470; 521 NW2d 831 (1994).

The Legislature chose to specify that only a person, firm, or corporation who performed work or furnished supplies on a highway project could bring suit on the bond. Clearly, plaintiffs do not qualify as a person, firm, or corporation who performed work on the highway project when the ordinary meaning of those terms is employed. There is no indication that the Legislature intended to allow anyone other than the actual person or entity who performed the work to bring suit on the bond.

Plaintiffs' argument that a construction of MCL 570.104; MSA 26.324 that prohibits plaintiffs from bringing suit under the statute violates the equal protection clauses of the United States and

Michigan constitutions was not raised in the trial court. Therefore, the issue is not properly preserved for appeal, and will not be addressed by this Court. *Booth v University of Michigan Bd of Regents*, 444 Mich 211, 234; 507 NW2d 422 (1993).

Affirmed.

/s/Michael R. Smolenski  
/s/ Donald E. Holbrook, Jr.  
/s/ Francis D. Brouillette