

STATE OF MICHIGAN
COURT OF APPEALS

LEVINE, BENJAMIN, TUSHMAN, BRATT,
JERRIS & STEIN, P.C.,

UNPUBLISHED
January 15, 1999

Plaintiff-Appellant/Cross-Appellee,

v

No. 204156
Ingham Circuit Court
LC No. 97-085681 AZ

CONSUMER & INDUSTRY SERVICES
DEPARTMENT, KATHLEEN WILBUR,
DIRECTOR, CONSUMER AND INDUSTRY
SERVICES DEPARTMENT, WORKERS'
DISABILITY COMPENSATION BUREAU, and
JACK WHEATLEY, DIRECTOR, WORKERS'
COMPENSATION DISABILITY BUREAU,

Defendants-Appellees/Cross-
Appellants.

Before: Doctoroff, P.J., and Sawyer and Fitzgerald, JJ.

PER CURIAM.

Plaintiff appeals as of right the order granting defendants' motion for summary disposition pursuant to MCR 2.116(C)(8). Defendants cross-appeal, asserting that summary disposition should also have been granted pursuant to MCR 2.116(C)(4) and (C)(5). We affirm.

Plaintiff law firm represents employee claimants before defendant Workers' Disability Compensation Bureau (Bureau). Plaintiff was notified by the Bureau that, effective January 1, 1997, it would not process any applications for mediation or hearing, or any employee's report of claim forms, unless the applications or reports were completed on Bureau forms that had been revised to contain the following statement:

Making a false or fraudulent statement for the purpose of obtaining or denying benefits can result in criminal or civil prosecution, or both, and denial of benefits.

Plaintiff filed a complaint against defendants and a petition for injunctive relief to prevent defendants from using the forms containing the warning language. Plaintiff alleged that neither the Bureau nor the Department of Consumer and Industry Services was authorized by the Workers' Disability Compensation Act (WDCA), MCL 418.101 *et seq.*; MSA 17.237(101) *et seq.*, to add the language to the forms required to be completed by applicants for benefits under the WDCA. Defendants filed a motion for summary disposition pursuant to MCR 2.116(C)(4), (C)(5), (C)(8), and (C)(10). The trial court, after determining that it had jurisdiction over the case and without specifically deciding whether plaintiff had standing to sue, granted defendants' motion for summary disposition under MCR 2.116(C)(8), finding that the Bureau's revision of its forms fell within its statutory authority under the WDCA.

The purpose of standing requirements is to ensure that only those who have a substantial interest will be allowed to come into court and complain. *Rogan v Morton*, 167 Mich App 483, 486; 423 NW2d 237 (1988). In order to have standing, a party must demonstrate a substantial interest and a personal stake in the outcome of the controversy. *House Speaker v State Administrative Bd*, 441 Mich 547, 554; 495 NW2d 539 (1993).

Here, plaintiff asserted that it had standing based upon (1) economic injury due to potential loss of business due to clients opting not to file workers' compensation claims because of the warning language, and (2) possible malpractice liability resulting from difficulties in advising clients because the warning language is "overbroad and vague." In support of its argument that potential claimants under the WDCA will be deterred from filing legitimate claims because of the warning language on the forms, plaintiff submitted to the trial court the affidavit of Attorney Barrie R. Bratt, which averred that he had been told in confidence by potential workers' compensation claimants that they were afraid to file claims because of the warning language on the form. Bratt further stated that a client he currently represents advised Bratt that he would be afraid to initiate a workers' compensation claim using the form containing the warning language.

However, plaintiff has not alleged that any particular client has been deterred from filing a legitimate¹ claim under the WDCA that has resulted in an economic loss for plaintiff. Plaintiff merely asserts hypothetical injuries that are not sufficient to convey standing to plaintiff. See, e.g., *Michigan Bell v Public Service Comm*, 214 Mich App 1, 5-6; 542 NW2d 279 (1995). Similarly, plaintiff's vulnerability to malpractice liability again constitutes nothing more than hypothetical injury. Consequently, plaintiff's hypothetical allegations of economic injury and malpractice claims are insufficient to confer standing to state a claim for injunctive relief.

In light of our conclusion, we need not evaluate whether summary disposition was also appropriate pursuant to MCR 2.116(C)(8).

Affirmed.

/s/ Martin M. Doctoroff

/s/ David H. Sawyer

/s/ E. Thomas Fitzgerald

¹ While it is possible that plaintiff may lose business as a result of the warning language, such loss of business is likely to be the result of a client rethinking the truthfulness of his claim.