

IN THE SUPREME COURT OF TEXAS

=====
No. 08-0751
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TEXAS MUTUAL INSURANCE COMPANY, PETITIONER,

v.

TIMOTHY J. RUTTIGER, RESPONDENT

=====
ON PETITION FOR REVIEW FROM THE
COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS
=====

JUSTICE WILLETT, joined by JUSTICE GUZMAN, concurring.

I join all but Part V of the Court’s opinion, which addresses whether the Texas Workers’ Compensation Act precludes Ruttiger’s common-law “good faith and fair dealing” claim. On this point, the Court is divided 4-3-2. JUSTICE JOHNSON (joined by three colleagues) contends the TWCA’s comprehensive regime removes any basis for allowing *Aranda*-type suits.¹ CHIEF JUSTICE JEFFERSON (joined by two colleagues) responds that such suits are limited but not abrogated, noting the TWCA (1) eliminates certain bad-faith claims, meaning others survive, and (2) limits exemplary damages in “good faith and fair dealing” suits specifically, meaning other damages remain

¹ ___ S.W.3d at ___.

recoverable.² My view (shared by JUSTICE GUZMAN) is decidedly agnostic: As the court of appeals never addressed this issue,³ I would remand it rather than resolve it.

Don R. Willett
Justice

OPINION DELIVERED: August 26, 2011

² ___ S.W.3d at ___ (Jefferson, C.J., dissenting).

³ 265 S.W.3d 651, 667 n.22 (not reaching the issue given the affirmance of Insurance Code liability).