

# Tennessee Litigation Update (2)

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## “Party In Interest” and Declaratory Judgment

On October 16, 2019, the Tennessee Supreme Court filed the opinion of *Tennessee Farmers Mutual Ins. v. DeBruce*.<sup>[i]</sup> The Court addressed the issue of whether a claimant was entitled to participate in a declaratory judgment action brought by the insurance company against an insured to challenge coverage in a pending tort suit. The claimant had sued the insured defendant in a separate action, but the claimant did not have a judgment against the insured defendant. The Tennessee Supreme Court held the claimant was not a necessary party to the declaratory judgment action because claimant did not have a real interest in the coverage issues involved in a declaratory judgment action when the claimant did not have a judgment against the insured.<sup>[ii]</sup>

The claimant (Wright) and the insured defendant (DeBruce) were in an automobile accident in 2012. In 2013, Wright sued DeBruce in Hamilton County Circuit Court. De Bruce was not served until 2014. He did not notify his insurance company of the lawsuit and steadily refused over the course of the litigation to cooperate with the insurance company in providing him a defense. As a result of his lack of cooperation, Tennessee farmers filed a declaratory judgment action seeking dismissal of the duty to defendant and/or indemnify based on the lack of cooperation. The declaratory judgment action was filed in March 2015.<sup>[iii]</sup> DeBruce did not answer or otherwise plead in the declaratory judgment lawsuit, and the Trial Court granted a default judgment in favor of Tennessee Farmers. In March 2017, Wright filed a motion under Tenn. R. Civ. P. 60 to set aside the default judgment, arguing she was an indispensable party to the declaratory judgment action. The Trial Court denied her motion, ruling she was merely an incidental beneficiary of the contract between the insurance company and its insured.

On appeal, the Tennessee Court of Appeals reversed the Trial Court, holding that the Trial Court did not have subject matter jurisdiction without Wright because she had a sufficiently direct interest in the outcome to make her a necessary party.<sup>[iv]</sup> The Court of Appeals relied on older case law to hold drivers are subject to mandatory insurance requirement, and as such, Wright had a sufficiently direct interest in the outcome of the declaratory judgment action.<sup>[v]</sup>

In addressing the Declaratory Judgment Act, Justice Sharon Lee, writing for the Court, pointed out the Act states all persons shall be made parties if they have any claim or interest in the declaration, "...and no declaration shall prejudice the rights of persons not parties to the proceedings..."[\[vi\]](#) The Court further addressed the law requires parties be joined when the "their absence from the action could cause recurring litigation on the same subject ...."[\[vii\]](#) In other words if the controversy cannot be determined and all issues and rights concluded by those who are parties, you have to join in the party(ies) that would allow the Trial Court to conclude the matter. If not, the Trial Court does not have subject matter jurisdiction to decide the matter.

Moreover, parties "remotely affected" do not have to be joined in a declaratory judgment action. [\[viii\]](#) In determining the issue of who is an "interested party," necessary to the declaratory judgment action, the Court discussed the language of T.C.A. sec. 29-14-107(a) (2012), quoted above. Essentially, a "necessary" party must have **an interest that would be affected** by the declaration AND no declaration shall prejudice those **rights.... (Emphasis added)**. The Court held "[declaratory relief will be granted only to parties who have a real interest in the litigation **and when the case involves present rights that have accrued under presently existing facts.**"[\[ix\]](#)

The Court distinguished between intended beneficiaries of a contract, rather than incidental beneficiaries. The court held that a nonparty can become an intended beneficiary if the claimant has a judgment against the insured, and in those situations, can even file a direct suit against the insurance company. However, Tennessee is not a direct action state in standard tort situations. For example, a plaintiff cannot simply sue a defendant's insurance company directly in an automobile accident situation where defendant commits, or is alleged to have committed a tort against the plaintiff. Since neither the insurance contract nor Tennessee law creates such a direct beneficiary relationship. "On the other hand, a claimant whose interest has not been reduced to a judgment against an insured has a remote interest that has not accrued into a real interest in the insurance policy."[\[x\]](#)

The decision regarding whether a nonparty should be joined in a declaratory judgment action depends on whether a justiciable controversy and standing has occurred. Since this is most often a factual issue as well, care should be taken to determine the nature of the relationship and whether any present right are affected. The "promise" of a "possible but not guaranteed right" is not enough to mandate joinder in a declaratory judgment action, but *DeBruce* also recognizes time and circumstance can change the analysis as well.

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[\[i\]](#) No. E2017-02078-SC-R11-CV, 2019 Tenn. LEXIS 452\* (Tenn., October 16, 2019.)

[\[ii\]](#) Id., at \*13.

[\[iii\]](#) Id., at \*4-\*6.

[\[iv\]](#) Id., at \*7.

[\[v\]](#) See, Commercial Casualty Ins Co. v. Tri-State Transit Co. of Louisiana, 177 Tenn. 51, 146 S.W.2d 135 (Tenn. 1941).

[\[vi\]](#) Id. At 87-\*8, quoting T.C. A. sec. 29-14-107(a) (2012).

[\[vii\]](#) Id., at

[\[viii\]](#) Id. At \*9.

[\[ix\]](#) Id., at \*9, quoting, Dobbs v. Guenther, 846 S.W.2d 270, 275 (Tenn. Ct. App. 1992).

[\[x\]](#) Id., at \*12.

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