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The Arkansas Supreme Court Goes to War: A Sampling of Legal Issues Confronted by the Court During World War I

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Photograph of the old Supreme Court Chambers in the Arkansas State Capitol. Photo by Michael Pirnique.



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Last year, I wrote a similarly titled article discussing the Arkansas Supreme Court's jurisprudence during World War II on the occasion of the 75th anniversary of the entry of the United States into World War II. This year marks the 100th anniversary of the United States entering into World War I, the first of the Twentieth Century's catastrophic wars that brought about so much suffering, upheaval, and change. As with World War II, the Arkansas Supreme Court found itself indirectly part of World War I as it faced unique legal challenges and issues caused by the war. What follows is a sampling of cases that illustrate some of the unique challenges faced by the Court because of the "War to End All Wars."

Life Insurance

World War I had a significant impact on the insurance industry and raised many issues created by the wartime conditions and strains. The United States military suffered 53,402 battle deaths and 63,114 deaths from other causes during the war.¹ The Influenza Pandemic of 1918-1919 also ravaged the nation, killing approximately 675,000 Americans, including 43,000 who had been mobilized for the war.² This resulted in many opportunities to litigate the meaning of insurance clauses. A letter introduced into evidence in one case illustrates some of the insurers' concerns. Written on January 4, 1918, in the midst of the war, the insurer noted while discussing methods of recruiting new policyholders, "In writing this business, under present conditions, we prefer you to get as young people [sic] as you can. We are accepting business from 16 years up. The younger business we get, the better it will be for us as to our average age, and under the war conditions, women are a better risk than men between 21 and 31, unless they have been exempted from the draft."³

Many cases focused on military service exclusion clauses in life insurance policies. As just one of many examples, the case of *Benham v. Am. Cent. Life Ins. Co.* dealt with the payment of life insurance proceeds when the policy expressly excluded liability for death while engaged in military or naval service in time of war.⁴ Mr. Julius Benham, Jr., purchased \$4,000 in insurance policies from American Central Life Insurance Company on December 20, 1916. The policies contained the following provision:

Death while engaged in military or naval service in time of war, or in consequence of such service, shall render the company liable for only the reserve under this policy, unless the company's permission to engage in such service shall have been obtained and such extra premium or premiums as the company may require shall have been paid.⁵

Mr. Benham joined the aviation branch of the military in 1918. Mr. Benham contracted influenza and died during training. He was buried with military honors at Marianna, Arkansas, and was admittedly under the control of the military during the length of his illness. The insurer refused to pay the death benefit to Mr. Benham's family who brought suit. The question before the Arkansas Supreme Court was the meaning of the phrase "death while engaged in military service in time of war."⁶ The Court found that this phrase meant dying while "performing some duty in the military service."⁷ The Court found that Mr. Benham's death "was in no sense caused by performing any military service, or in consequence of being engaged in military service."⁸ The Court noted that the influenza that took Mr. Benham's life killed soldiers and citizens alike. The Court reversed the trial court and awarded the life insurance proceeds to Mr. Benham's heirs.

Accident Insurance

On March 16, 1917, Mr. Oscar L. Martin purchased an accident insurance policy.⁹ The policy provided that Mr. Martin would receive a monthly stipend from the insurer in the event he sustained "bodily injuries resulting directly, independently, and exclusively of any and all other causes, effected solely through external, violent, and purely accidental means, which shall wholly and continuously from the date of such injury disable and prevent insured from performing each and every duty pertaining to any and every kind of business, labor, or occupation."¹⁰ Mr. Martin was subsequently drafted into the Army, and a German artillery shell disabled him.

Mr. Martin sued the insurance company after it denied his claim. The Court sided with the insurance company finding that the policy only insured against an injury occurring from an unexpected event. The Court found, "It is true the insured became a soldier in the United States army by reason of the draft law after the United States had engaged in the war with Germany; but the two armies voluntarily engaged in battle, and there was a mutual design to kill and injure as many of the enemy as possible."¹¹ In affirming the trial court's denial of Mr. Martin's claim, the Court said that "it could not be said that a soldier injured by a bullet or piece of shrapnel from the enemy's gun sustained an accidental injury."¹²

Wills

The case of *Borchers v. Borchers* raised issues of holographic wills and insurance beneficiary designations. Mr. Charles Borchers, whose parents were divorced, enlisted in the United States Army and died while in the service, though the case does not specify the cause of his death.¹³ After enlisting in the Army, Mr. Borchers purchased a life insurance policy from the War Risk Bureau of the United States and named his mother as the beneficiary. He later wrote a letter to his father ending with a postscript after the signature where he wrote, "Papa, if I die for my country, I want you to receive my insurance money. Good-bye."¹⁴ After his son's death, the father claimed that the letter constituted a holographic will making him the beneficiary of the life insurance policy. Mr. Fred Borchers introduced sufficient evidence to satisfy the court that the postscript was in his son's handwriting. However, the son signed the letter before the postscript. The Court noted the requirement that every will must be subscribed by the testator at the end of the will. Since Mr. Borchers' signature on the letter to his father appeared before the postscript, the Court would not consider the letter as a holographic will and found in favor of the mother.

Landlord/Tenant Relations

In *Beeson v. La Vasque*, Mr. V. A. Beeson operated a newspaper and printing establishment in Morrilton, Arkansas.¹⁵ Mr. Beeson was drafted into the Army but wanted his business to remain in operation. On June 30, 1917, Mr. Beeson entered into a lease with Mr. Arthur La Vasque whereby Mr. La Vasque leased the newspaper and printing establishment with the understanding that Mr. La Vasque would continue the existing business operations for a term to expire upon Mr. Beeson's discharge from the Army but in no event less than one year. The lease also contemplated that Mr. La Vasque might be drafted and contained a termination clause in the event Mr. La Vasque was drafted and found a substitute tenant, though the facts do not indicate that Mr. La Vasque was ever drafted.

On July 1, 1918, Mr. La Vasque abandoned the property, resulting in the discontinuation of the newspaper and the serious deterioration of the machinery and fixtures. Mr. Beeson was discharged from the Army on August 19, 1919, and sued

Mr. La Vasque for breach of the lease. Mr. La Vasque argued that the lease was invalid because the term was too indefinite to be capable of enforcement. While recognizing the general law that a lease with an indefinite term is invalid, the Court found that the term was not too indefinite given the circumstances under which the lease was entered. The Court found that Mr. Beeson's "military service was bound to terminate, either by his discharge from the army or by his death."¹⁶ The Court recognized that Mr. Beeson could have theoretically chosen to stay in the Army for an indefinite time after the war but found that the "unusual circumstances existing at the time" made it evident that the parties intended for the term to last just through the pendency of the war.¹⁷ The Court noted "the necessity of every one [sic] within the draft age making provision for the continuance of his business during the period of his service in the army."¹⁸ The Court reversed the trial court's decision in favor of the tenant and remanded for a trial on the merits Mr. Beeson's claims for damages.

Wartime Regulations

Wartime regulations complicated the otherwise ordinary contract dispute between a seller and buyer of apples in the case of *C.H. Robinson Co. v. Hudgins Produce Co.*¹⁹ Hudgins accepted an offer to purchase a carload of apples for \$526.40 plus freight charges. The apples that arrived were rotten, most likely because they froze during the trip to Arkansas.

Hudgins attempted to reject the shipment of ruined apples, but a county administrator in Texarkana informed the company that "under the rules and regulations of the United States government during the war with Germany, they would have to accept the apples in order to conserve the food value of the shipment."²⁰ Hudgins complied with the regulation, paying \$408.13 for shipping and the \$526.40 purchase price. Hudgins was able to sell the apples for salvage to cover most of the shipping charges. Hudgins sued the vendor for the price paid for the apples and was awarded a judgment of \$526.40 plus interest. The Arkansas Supreme Court upheld the verdict, finding no error in the instructions of the trial court regarding the law applicable to the conduct of Hudgins when forced by the wartime regulation to accept the damaged shipment of apples.

Shortages

In an example of the war having a tangential impact on more routine cases, the wartime shortages played a role in the divorce case of *Koehler v. Koehler*. In this case, Mrs. Mary Koehler sued for divorce from her husband, Mr. Robert Koehler.²¹ Mrs. Koehler alleged that she suffered both mental and physical abuse from Mr. Koehler. Mr. Koehler denied the allegations but counterclaimed for an annulment on the grounds that Mrs. Koehler fraudulently concealed that she was afflicted with syphilis at the time of the marriage. Mr. Koehler admitted to knowing that his wife had gonorrhea at the time of their marriage but denied knowledge that she had syphilis. The question in the case became when Mr. Koehler gained knowledge of her affliction. Evidence was introduced that a doctor treating Mrs. Koehler approached Mr. Koehler to discuss her treatment approximately a year before the divorce proceedings were initiated. The doctor explained to Mr. Koehler that the war had caused a shortage in the medicine needed to treat Mrs. Koehler's syphilis. This discussion, triggered by the wartime shortage of syphilis medicine, established a timeline for Mr. Koehler's knowledge of his wife's disease.

Since he continued to live with her for a year after unequivocally knowing her condition, Mr. Koehler forfeited any argument that he was entitled to an annulment, which meant that he was responsible for a property settlement with Mrs. Koehler.

Conclusion

These are just a few of the cases and issues that confronted the Arkansas Supreme Court during World War I, which, like World War II, impacted nearly every facet of life. World War I and II radically changed the world, and the Arkansas Supreme Court's jurisprudence was also heavily impacted. We should not forget the impact those wars had on Arkansas' lawyers and judges as we mark the 75th anniversary of World War II and the 100th anniversary of World War I.

Endnotes:

1. https://www.va.gov/opa/publications/factsheets/fs_americas_wars.pdf (accessed 11-29-16).
2. <https://virus.stanford.edu/uda/> (accessed 11-29-16).
3. *N. Am. Union v. Oliphint*, 141 Ark. 346, 217 S.W. 1, 5 (1919).
4. All references in this section are to

- Benham v. Am. Cent. Life Ins. Co.*, 140 Ark. 612, 217 S.W. 462 (1919).
5. *Id.* at 463.
 6. *Id.*
 7. *Id.*
 8. *Id.*
 9. All references in this section are to *Martin v. People's Mut. Life Ins. Co. of Jonesboro*, 145 Ark. 43, 223 S.W. 389 (1920).
 10. *Id.* at 390.
 11. *Id.*
 12. *Id.*
 13. All references in this section are to *Borchers v. Borchers*, 145 Ark. 426, 224 S.W. 729 (1920).
 14. *Id.* at 729.
 15. All references in this section are to *Beeson v. La Vasque*, 144 Ark. 522, 223 S.W. 355 (1920).
 16. *Id.* at 356.
 17. *Id.* at 357.
 18. *Id.* at 356-57.
 19. All references in this section are to *C.H. Robinson Co. v. Hudgins Produce Co.*, 138 Ark. 500, 212 S.W. 305 (1919).
 20. *Id.*
 21. All references in this section are to *Koehler v. Koehler*, 137 Ark. 302, 209 S.W. 283 (1919). ■

