

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

TUESDAY  
February 27, 1996

MERIT DOCKET

96-9. Duryee v. Am. Druggists' Ins. Co.

This cause originated in this court on the filing of a complaint pursuant to Section 3 of Sub.H.B. No. 374. It was dismissed sua sponte on January 24, 1996. On consideration of relator's motion to vacate or to reconsider or clarify the order of dismissal,

IT IS ORDERED that relator's motion to vacate or to reconsider the order of dismissal is denied.

IT IS FURTHER ORDERED that relator's motion for clarification of the order of dismissal is granted.

Section 3 of Sub.H.B. No. 374 provides that "[a]ny action challenging the validity of Section 3903.42 of the Revised Code, as amended by this act, or the application of the provisions of that section to a claim filed in a liquidation proceeding, shall be brought exclusively in the Supreme Court of Ohio."

However, relator is not challenging the amended statute or application of its provisions to the pending liquidation proceedings. Instead, relator desires court approval to apply the amended statute. In the absence of any challenge, R.C. 3903.42, as amended, does not require action by this court prior to application of the statute to pending liquidation proceedings. Therefore, Section 3 does not vest the court with jurisdiction over relator's mandamus action. Based on the foregoing, relator's cause was dismissed.

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.