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NOTES & COMMENTS

Purpose, Prudence, and Path: Reevaluating the Primary Jurisdiction
Doctrine in the Context of Opioid Litigation
Abby Cunningham.....1

The primary jurisdiction doctrine is a judicially created discretionary tool which allows a court to halt proceedings in an action where a regulatory agency's interpretation of an issue within the matter is sin qua non to the full and final determination of the case. The doctrine first took shape in the early years of the 20th century and continues to be used today. The contours of the doctrine, however, have remained somewhat indistinct; its purposes of promoting uniformity, utilizing agency expertise, and promoting a proper working have not always been considered; and courts have failed to properly implement the doctrine. Establishing definite doctrinal boundaries and application principles is a paramount concern. The doctrine is applicable in almost any litigation context as long as an issue within the matter comes under the authority of a regulatory body. Civil plaintiffs, and commercial defendants, will be best served by establishing clear guidelines for the doctrine's use. This Note discusses the origins of the doctrine; reaffirms its core purposes; illustrates its current amorphous and borderless shape by analyzing the doctrine against the backdrop of the current wave of opioid litigation; and suggests a method courts should use to properly apply the doctrine.

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