

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Cutchin v. Robertson

No. No. 20-1437, United States Court of Appeals for the Seventh Circuit (February 3, 2021)

SUMMARY

The Seventh Circuit certified two questions to the Indiana Supreme Court regarding the Indiana Medical Malpractice Act (MMA) and Patient's Compensation Fund. First, whether the MMA prohibits the Fund from contesting the Act's applicability after a claimant has settled with a qualified healthcare provider for the provider's maximum liability. Second, whether the MMA applies to claims by individuals who did not receive medical care from the provider but were injured as a result of the provider's negligence in treating a patient. The case arose from a wrongful death action where the plaintiff's wife and daughter were killed by a driver allegedly impaired by prescribed medications, and the plaintiff sought excess damages from the Fund after settling with the driver's healthcare providers.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	Rovner; Sykes; Flaum
JURISDICTION	Federal
DECIDED	February 3, 2021
DOCKET	No. 20-1437
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from the district court's grant of summary judgment in favor of the Fund.
PRECEDENTIAL VALUE	Published
PARTIES	Jeffrey B. Cutchin, as Personal Representative of the Estates of Claudine D. Cutchin and Adelaide E. Cutchin v. Stephen W. Robertson, Commissioner of the Indiana Department of Insurance, Administrator of the Indiana Patient's Compensation Fund

TOPICS

- medical malpractice
- statutory interpretation
- appellate procedure
- civil procedure
- insurance coverage

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Indiana Medical Malpractice Act prohibits the Patient's Compensation Fund from contesting the Act's applicability after a claimant concludes a court-approved settlement with a covered health care provider.
2. Whether the Indiana Medical Malpractice Act applies to claims brought against qualified providers by individuals who did not receive medical care from the provider but who are injured as a result of the provider's negligence in treating someone else.

KEY QUOTATIONS

"The Act specifies that in resolving what damages, if any, should be paid by the Fund, 'the court shall consider the liability of the health care provider as admitted and established.' Ind. Code § 34-18-15-3(5)." (5)

"The Act defines the term 'patient' as: 'an individual who receives or should have received health care from a health care provider, under a contract, express or implied, and includes a person having a claim of any kind, whether derivative or otherwise, as a result of alleged malpractice on the part of a health care provider.' Ind. Code § 34-18-2-22." (19)

"Because existing Indiana case law does not supply sufficient guidance on two questions that are crucial to the resolution of this appeal, we certify these questions to the Indiana Supreme Court, pursuant to Circuit Rule 52 and Indiana Appellate Rule 64." (1)

FACTUAL BACKGROUND

On February 2, 2017, Sylvia Watson, under the influence of prescribed medications, ran a red light and struck a vehicle driven by Claudine Cutchin, killing her and her daughter Adelaide. Jeffrey Cutchin, as representative of their estates, sued Watson's healthcare providers for negligence in failing to warn Watson about the dangers of driving while on medication. The providers settled for \$250,000, the maximum individual liability under the Indiana Medical Malpractice Act. Cutchin then sought excess damages from the Indiana Patient's Compensation Fund, which denied coverage on the ground that the MMA did not apply to third-party claims.

PROCEDURAL HISTORY

Cutchin filed a malpractice claim against healthcare providers and sought excess damages from the Patient's Compensation Fund. The Fund intervened and argued that the Indiana Medical Malpractice Act did not apply. The district court agreed and entered summary judgment for the Fund. Cutchin appealed.

DISPOSITION

other

CASES CITED

- Madison Ctr., Inc. v. R.R.K., 853 N.E.2d 1286 (Ind. Ct. App. 2006)

- Weldon v. Universal Reagents, Inc., 714 N.E.2d 1104 (Ind. Ct. App. 1999)
- Putnam Cnty. Hosp. v. Sells, 619 N.E.2d 968 (Ind. Ct. App. 1993)
- Wisniewski v. Bennett, 716 N.E.2d 892 (Ind. 1999)
- Johnson v. St. Vincent Hospital, Inc., 404 N.E.2d 585 (Ind. 1980)
- Smith v. Pancner, 679 N.E.2d 893 (Ind. 1997)
- Murphy v. Mortell, 684 N.E.2d 1185 (Ind. Ct. App. 1997)
- Dillon v. Callaway, 609 N.E.2d 424 (Ind. Ct. App. 1993)
- Rimert v. Mortell, 680 N.E.2d 867 (Ind. Ct. App. 1997)
- J.L. v. Mortell, 633 N.E.2d 300 (Ind. Ct. App. 1994)
- Robertson v. B.O., 977 N.E.2d 341 (Ind. 2012)
- Dillon v. Glover, 597 N.E.2d 971 (Ind. Ct. App. 1992)
- Atterholt v. Herbst, 902 N.E.2d 220 (Ind. 2009)
- Atterholt v. Robinson, 872 N.E.2d 633 (Ind. Ct. App. 2007)
- Terry v. Cmty. Health Network, Inc., 17 N.E.3d 389 (Ind. Ct. App. 2014)
- Goodwin v. Yeakle's Sports Bar & Grill, Inc., 62 N.E.3d 384 (Ind. 2016)
- Control Techs., Inc. v. Johnson, 762 N.E.2d 104 (Ind. 2002)
- Johnson v. Jacobs, 970 N.E.2d 666 (Ind. Ct. App. 2011)
- Cram v. Howell, 680 N.E.2d 1096 (Ind. 1997)
- Webb v. Jarvis, 575 N.E.2d 992 (Ind. 1991)
- Manley v. Sherer, 992 N.E.2d 670 (Ind. 2013)
- Manley v. Sherer, 960 N.E.2d 815 (Ind. Ct. App. 2011)
- Preferred Professional Insurance Co. v. West, 23 N.E.3d 716 (Ind. Ct. App. 2014)
- G.F. v. St. Catherine Hospital, Inc., 124 N.E.3d 76 (Ind. Ct. App. 2019)
- Tarasoff v. Regents of Univ. of Cal., 551 P.2d 334 (Cal. 1976)
- Midtown Cmty. Mental Health Ctr. v. Estate of Gahl by Gahl, 540 N.E.2d 1259 (Ind. Ct. App. 1989)
- Spangler v. Bechtel, 958 N.E.2d 458 (Ind. 2011)
- Ind. Patient's Comp. Fund v. Winkle, 863 N.E.2d 1 (Ind. Ct. App. 2007)
- Thompson v. Cope, 900 F.3d 414 (7th Cir. 2018)
- Sue Yee Lee v. Lafayette Home Hosp., Inc., 410 N.E.2d 1319 (Ind. Ct. App. 1980)
- Tammi v. Porsche Cars N.A., Inc., 536 F.3d 702 (7th Cir. 2008)
- McKesson v. Doe, 141 S. Ct. 48 (2020)
- United States v. Franklin, 895 F.3d 954 (7th Cir. 2018)
- Bernstein v. Bankert, 733 F.3d 190 (7th Cir. 2013)
- State Farm Mut. Auto. Ins. Co. v. Pate, 275 F.3d 666 (7th Cir. 2001)

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