



NEWS RELEASE

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Public Justice Wins Legal Fight against Health Insurer's Attempt to Seize Benefits from Injury Victim, Third Circuit Rejects 'Windfall'

Noting that "equity abhors a windfall," the Third Circuit Court of Appeals held Wednesday that an employer-based health insurance plan is not entitled to 100% reimbursement of medical expenses when an injured employee recovers only a portion of his or her damages in a lawsuit against a third party.

The ruling in [U.S. Airways v. McCutchen](#) is the first in the country to place clear limits on self-funded, employer-based insurers' ability to recover medical expenses from injury victims. Two other federal courts of appeals have ruled in favor of insurers. Over 100 million employees nationwide are covered by the plans, so the ruling has far-ranging implications.

"This decision will stop insurers from having their cake and eating it too," said lead counsel Matt Wessler of Public Justice, who appealed the case to the Third Circuit. "Employees pay premiums to insurers expecting that, in exchange, the insurer will pay their medical expenses if they are ever injured. Allowing insurers to then seize those medical expenses from an injury victim, especially when the victim has recovered only a fraction of his total damages, is deeply unfair. This is unquestionably a landmark victory for employee rights and against insurer greed."

The case involved James McCutchen of Pennsylvania, a U.S. Airways mechanic who was left permanently disabled by a car accident in 2007. After McCutchen recovered a small amount of compensation from the driver who caused the accident, the insurer demanded full repayment of the nearly \$67,000 it had paid in medical expenses.

In denying the insurer's claim against McCutchen, the Court held that allowing full reimbursement would be "inappropriate" and "inequitable," contrary to the Employee Retirement Income Security Act, and would leave McCutchen "with less than full payment for his emergency medical bills" while creating a "windfall" for the insurer.

With Wednesday's ruling, the trial court will determine how much relief would be fair under the circumstances.

The decision is a triumph in [Public Justice's ongoing battle](#) against a nationwide campaign by insurance plans to strip injured employees of their tort recoveries.

Public Justice is currently handling a similar case, [CGI v. Rose](#), in the U.S. Court of Appeals for the Ninth Circuit.

Public Justice Senior Attorney Leslie Brueckner is co-lead counsel in the case. Paul Hilko of Rosen Louik & Perry is trial counsel.

Read the opinion for *US Airways v. McCutchen* [here](#).

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