



Cutchin v. Robertson (Ind. S. Ct.)

Topics Covered: Professional Liability, Tort Reform

Outcome: Favorable

Issue

The issue in this case was whether Indiana's Medical Malpractice Act (MMA) applies to claims brought by third parties who were not treated by the provider.

AMA Interest

Medical liability reform is a high legislative priority for the AMA, and the AMA opposes lawsuit abuse against physicians.

Case Summary

The plaintiff's wife and daughter were killed in an automobile accident. Plaintiff alleged that the driver who caused the accident, Ms. Watson, was impaired by prescribed medications. The plaintiff filed a malpractice suit against Ms. Watson's health care providers, charging them with negligence for an alleged failure to warn Ms. Watson that she should not be driving, given the motor and cognitive effects of those medications.

After the providers and their malpractice insurer agreed to a settlement, the plaintiff sought further relief from Indiana's Patient's Compensation Fund ("the Fund"), which acts as an excess insurer. The Fund refused to provide any additional settlement amount, arguing that the claims were outside of the scope of the MMA.

In March 2020, the federal district court agreed with the Fund's argument, and it granted summary judgment to the Department of Insurance, which administers the Fund. The plaintiff appealed to the Seventh Circuit Court of Appeals. In February 2021, the Seventh Circuit determined that unsettled questions of Indiana law regarding the MMA might benefit from further direction by the Indiana Supreme Court. Thus, the federal court asked the Indiana Supreme Court to address whether the MMA applies to claims brought against qualified providers for individuals who did not receive medical care from the provider, but who are injured because of the provider's negligence in providing medical treatment to someone else.

On June 30, 2021, the Indiana Supreme Court ruled that the MMA applies to the plaintiff's claims because they involved alleged provider negligence, which is the outcome supported by the Litigation Center brief.

Litigation Center Involvement

The Litigation Center and the Indiana State Medical Association filed an *amicus* brief explaining why the MMA should cover claims involving medical negligence to third parties.

Indiana Supreme Court Brief