

FILED: 13 AUGUST 2004

Liens--medical services--settlement proceeds--notice to insurer

The decision of the Court of Appeals that the trial court erred by denying plaintiff chiropractor's motion for summary judgment in an action against defendant insurer for failure to retain sufficient funds from settlement proceeds received by a pro se injured party to satisfy plaintiff's lien for medical services is reversed and remanded for the entry of summary judgment in favor of defendant insurer for the reason stated in the dissenting opinion in the Court of Appeals that the injured party's submission to defendant insurer of an HCFA health insurance claim form was insufficient to give the insurer notice that plaintiff was asserting a claim against the settlement proceeds or was otherwise asserting a lien pursuant to N.C.G.S. §§ 44-49 and 44-50.

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 157 N.C. App. 596, 580 S.E.2d 46 (2003), affirming in part and reversing in part orders entered 1 August 2001 and 30 January 2002 by Judge James R. Fullwood in District Court, Wake County, and remanding to the trial court with instructions. Heard in the Supreme Court 10 December 2003.

E. Gregory Stott for plaintiff-appellee.

Haywood, Denny & Miller, L.L.P., by John R. Kincaid, for defendant-appellant.

Patterson, Dilthey, Clay, Bryson & Anderson, L.L.P., by Mary McHugh Webb and Matthew A. Fisher, on behalf of the North Carolina Association of Defense Attorneys, amicus curiae.

PER CURIAM.

For the reasons stated in the dissenting opinion, we reverse the decision of the Court of Appeals.

REVERSED.