



NEWS RELEASE
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Public Justice Joins Fight Against Health Insurer's Attempt to Seize Benefits from Personal Injury Victim

Public Justice has agreed to fight for a Washington state woman being sued by her employer's health insurance plan for the money it paid to cover her medical expenses after she was seriously injured in an auto accident.

The insurance carrier claims that Rhonda Rose, 46, must reimburse the company for 100 percent of her medical benefits despite the fact that she recovered only a small fraction of her damages in a lawsuit against the person who caused the accident due to the defendant's low insurance limits. If the company succeeds, it will walk away without paying out a penny on Ms. Rose's policy, while she is left without full compensation for her injuries.

In February, Ms. Rose's health insurance plan, which was administered through her employer, CGI Technologies and Solutions, Inc., sued both her and her attorneys in federal court in Washington for complete reimbursement of the medical expenses her insurance policy covered. The plan is funded under the Employee Retirement Income Security Act ("ERISA"), a federal law that sets minimum standards for most health insurance plans in private industry. The insurer insists that, because Ms. Rose received some compensation from the person who injured her, it is entitled to get all of its money back -- before Rose or the attorney who won her compensation are entitled to anything.

"Across the country, employer-based insurance plans have been aggressively pursuing personal-injury victims for full reimbursement of the medical expenses their insurance is supposed to cover," said Paul Stritmatter of Seattle, Public Justice co-lead counsel for Ms. Rose, a single mother of two. "In the past, these insurance plans understood that, when an innocent injury victim only recovered compensation for a fraction of her injuries from a third party, the insurance company should not benefit. But now, by sneaking new language into their contracts, the insurance plans argue that they are entitled to be paid in full, even if that leaves the victim with nothing."

The lawsuit is part of a nationwide campaign by insurance companies seeking to exploit a 2006 U.S. Supreme Court decision – *Sereboff v. Mid Atlantic Medical Services* – that allows health insurance plans to seek reimbursement for medical expenses from injured employees who receive compensation from a third party.

Before that decision, many courts held that insurance plans could not pursue reimbursement -- or “subrogation” -- because they had already been paid premiums to cover employees’ medical expenses for accident-related injuries.

If the person who caused the accident was later held accountable, the money went to the injury victim, not the insurance company. In *Sereboff*, however, the U.S. Supreme Court held that, given the presence of certain plan language, insurance plans could seek some reimbursement for medical expenses from injured employees who obtained compensation for injuries caused by third parties. What *Sereboff* did not decide is the extent of reimbursement the insurance companies are entitled to require injured employees to repay.

Now insurance companies are insisting that, whenever injury victims receive any compensation from a third party, they must repay all of their medical expenses first -- even if they owe others for uncovered expenses and have only obtained partial compensation for their injuries. Under some circumstances, this leaves injured employees worse off -- and insurance companies better off -- than if the employees had received no compensation in the first place.

“Subrogation lawsuits are the scourge of the civil justice system and a prime example of unchecked corporate greed,” said Mike Withey of Seattle, co-lead Public Justice counsel for Ms. Rose. “Health insurance plans across the country are unscrupulously raiding their beneficiaries’ recoveries in order to unjustly enrich themselves. This trend has devastating consequences for personal-injury victims, who may be stripped not only of compensation for their medical expenses, but also for lost wages and pain and suffering.”

In addition to Stritmatter and Withey, Rhonda Rose is represented by Public Justice attorneys Matthew Wessler and Leslie Brueckner, Caitlin Palacios of Washington D.C., and Michael Nelson of Seattle, Washington, who represented Ms. Rose in her lawsuit against the person who injured her. Michael Nelson’s law firm, Nelson Langer Engle PLLC, has also been named as a defendant in the case.

Read the complaint for *CGI Technologies et al., v. Rose, et al.*, at <http://www.publicjustice.net/Repository/Files/CGITechnologiesvRose-complaint.pdf>.

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Public Justice is America’s public interest law firm, supported by – and calling on -- a nationwide network of more than 3,000 of the nation’s top lawyers to pursue precedent-setting and socially significant litigation. It has a wide-ranging litigation docket in the areas of consumer rights, worker safety, civil rights and liberties, toxic torts, environmental protection, and access to the courts. Public Justice is the principal project of the Public Justice Foundation, a not-for-profit membership organization headquartered in Washington, DC, with a West Coast office in Oakland, California. The Public Justice web site address is www.publicjustice.net.