



By: Amy L. Coryer, Esq.  
Lavery, Faherty, Young & Patterson, P.C.  
225 Market Street, Suite 304  
Harrisburg, PA 17108-1245  
(717) 233-6633  
Fax: (717) 233-7003  
e-mail: acoryer@laverylaw.com  
web: www.laverylaw.com

**Topic: Medical Providers Have Private Cause of Action for Statutorily Prescribed Interest**

***Schappell v. Motorists Mutual Insurance Company***

934 A.2d 1184, 2007 Pa. LEXIS 2444 (2007)

Date of Decision: November 20, 2007

In Schappell, Edward Schappell, D.C., a well-known chiropractor who treats patients *allegedly* injured in automobile accidents, challenged the Superior Court's determination that there is no private cause of action for interest accrued under 75 Pa.C.S. § 1716. Pursuant to the MVFRL, Dr. Schappell timely submitted bills for payment to insurers, Motorist Mutual Insurance Company, State Farm Mutual Automobile Insurance Company and GEICO. The three insurance carriers paid the bills outside of the thirty-day window established for payment of benefits by 75 Pa.C.S. § 1716. The insurance carriers, however, did not remit the twelve percent interest prescribed by Section 1716. Dr. Schappell filed three class action complaints in the Court of Common Pleas of Dauphin County against the three insurers. The complaints asserted claims of unjust enrichment and violation of the MVFRL and sought to compel the payment of interest due under 75 Pa.C.S. § 1716.

The insurers brought motions for judgment on the pleadings, arguing that there is no private cause of action for interest alone provided by 75 Pa.C.S. § 1716, or any other section of the MVFRL. The court denied the motions, holding that the MVFRL does provide a private cause of action for interest only. The insurers petitioned the Superior Court for permission to file an interlocutory appeal and permission was granted. A majority of the Superior Court reversed, holding that the MVFRL does not provide a private right of action for interest.

On appeal to the Supreme Court, the Court used the three-prong test to determine whether the statute provided for a private remedy where the statutory language was not explicit. According to the test, to determine whether a statute creates a private cause of

action, a court must investigate (1) whether the plaintiff is one of the class for whose especial benefit the statute was enacted; (2) whether there is any indication of legislative intent, explicit or implicit, either to create such a remedy or to deny one; and (3) whether it is consistent with the underlying purposes of the legislative scheme to imply such a remedy for the plaintiff.

The Supreme Court stated that while the language of Section 1716 does not explicitly set forth a private cause of action for interest, when other extrinsic factors are considered through the application of the three-prong test, the intent of the General Assembly to provide a private cause of action for interest on untimely bills was revealed. In addition, the construction of Section 1716 giving a private cause of action for untimely payment of benefits is in concert with the presumptions outlined by the Statutory Construction Act that the General Assembly does not intend a result that is impossible of execution and that it intends that all of the language of a statute is to be given effect. Affording the private cause of action is the only outcome that achieved the mandates of both these presumptions.

Accordingly, the Supreme Court held that 75 Pa.C.S. § 1716 provides a private cause of action to medical providers for interest accrued on untimely payment of benefits.