

>> THE COURT WILL NOW TAKE UP  
THE LAST CASE ON THE DOCKET,  
LABORATORY CORPORATION OF  
AMERICA V. DAVIS.  
COUNSEL?

>> THANK YOU, MR. CHIEF JUSTICE,  
AND MAY IT PLEASE THE COURT, MY  
NAME IS KATE STETSON.

I AM ARGUING ON BEHALF OF THE  
PETITIONERS, SHERIDAN AND LAB  
CORP., AND I'VE RESERVED FIVE  
MINUTES FOR REBUTTAL.

THE RESPONDENT IN THIS CASE,  
PATTI DAVIS, FILED A CLASS  
ACTION LAWSUIT AGAINST LAP CORPS  
AND SHERIDAN WHEN SHE RECEIVED  
BILLS THAT SHOULD HAVE BEEN  
ISN'T TO HER EMPLOYER'S  
INSURANCE CARRIER.

MS. DAVIS BROUGHT THAT LAWSUIT  
UNDER THE FLORIDA CONSUMER  
COLLECTION PRACTICES ACT, AND  
HER ARGUMENT WAS THAT BECAUSE  
THE STATE'S WORKER'S  
COMPENSATION LAW PROHIBITS  
PROVIDERS FROM BILLING EMPLOYEES  
DIRECTLY FOR MEDICAL TREATMENTS,  
THAT SHERIDAN AND LAP CORP. HAD  
VIOLATED THE FCCPA IN SENDING  
THEIR BILLS TO HER RATHER THAN  
TO HER EMPLOYER'S CARRIER.  
BUT THIS COURT RECOGNIZED SOME  
TIME AGO IN SANDERS V. CITY OF  
ORLANDO THAT THE STATE'S  
WORKER'S COMPENSATION LAW  
CONTAINS A BROAD EXCLUSIVE  
JURISDICTION PROVISION, AND IT'S  
SECTION 440.1311C WHICH SAYS,  
AMONG OTHER THINGS, THAT THE  
DEPARTMENT HAS-- AND I'LL  
QUOTE-- EXCLUSIVE JURISDICTION  
TO DECIDE ANY MATTERS CONCERNING  
REIMBURSEMENT, CLOSED QUOTE.

>> COUNSEL, LET ME ASK YOU THIS.  
JUST A VARIATION ON THE FACTS  
HERE.

SAY THIS ALL WENT THE WAY IT  
WENT EXCEPT THAT MS. DAVIS  
ACTUALLY PAID THE BILL.  
SHE PAID THE PROVIDER.

SO MAYBE SHE WASN'T REPRESENTED BY AN ATTORNEY AND SHE THOUGHT, WELL, I'VE GOT TO PAY IT. AND THEN LATER SHE FOUND OUT THAT THAT WAS WRONG, THAT IT WAS, IT WAS AN ILLEGAL-- THE SENDING OF THE BILL TO HER WAS CONTRARY TO LAW, AND SHE SOUGHT TO GET IT BACK.

IS THERE A MECHANISM FOR THE DEPARTMENT TO ADJUDICATE HER CLAIM TO GET THAT MONEY BACK?

>> MY UNDERSTANDING, MR. CHIEF JUSTICE, IS THAT IN CIRCUMSTANCES WHERE THE EMPLOYEE HAS MISTAKENLY PAID A MEDICAL BILL THAT SHOULD HAVE BEEN CHanneled TO THE INSURANCE CARRIER, THAT THAT ACTUALLY GOES THROUGH THE OFFICE OF THE JUDGE'S OF COMPENSATION CLAIMS. BECAUSE AT THAT POINT, THE EMPLOYEE IS BASICALLY SEEKING A RETURN OF MONEY, SO THAT'S OVER IN THAT KIND OF CATEGORY OF CLAIMS.

>> WELL, SO THAT WOULD NOT-- SO THIS, THIS MATTER ABOUT THE DEPARTMENT HAVING EXCLUSIVE JURISDICTION TO DECIDE ANY MATTER CONCERNING REIMBURSEMENT WOULD NOT APPLY TO THAT.

>> I THINK IT WOULD NOT APPLY TO THAT ONLY BECAUSE OF THE BREAKDOWN BETWEEN WHAT THE JUDGES OF COMPENSATION CLAIMS HAD AUTHORITY OVER AND WHAT THE DEPARTMENT HAS AUTHORITY OVER. THE JUDGES OF COMPENSATION CLAIMS, OF COURSE, DO HAVE PARTICULARIZED AUTHORITY OVER CERTAIN ASPECTS OF THE WORKER'S COMPENSATION SCHEME--

>> WELL, THE CIRCUIT COUNTS HAVE PARTICULARIZED AUTHORITY OVER THE CLAIMS OF THE FCCPA, ISN'T THAT CORRECT?

>> I WOULD DESCRIBE THEM AS HAVING PRIORITY, BUT JUST BECAUSE THAT STATUTE EXISTS, I

THINK THAT JUST BEINGS THE QUESTION ABOUT WHETHER THIS--  
>> WELL, WHAT I'M, I STRUGGLE HERE WITH UNDERSTANDING HOW THE CIRCUIT COURT CAN BE OUSTED OF JURISDICTION UNDER THIS PROVISION RELATED TO EXCLUSIVE JURISDICTION TO DECIDE MATTERS VESTED IN THE DEPARTMENT IF IT'S A MATTER THAT'S NOT, THAT CAN'T BE ADJUDICATED BY THE DEPARTMENT.

IT SEEMS LIKE THE REFERENCE TO EXCLUSIVE JURISDICTION WOULD HAVE TO BE PREMISED ON AN UNDERSTANDING THAT THE DEPARTMENT ACTUALLY HAS JURISDICTION OVER THE PARTICULAR MATTER THAT IS GOING TO BE DECIDED.

>> NO, I'D LIKE TO BE VERY CLEAR, MR. CHIEF JUSTICE. MS. DAVIS DIDN'T PAY ANY MONEY. HER COMPLAINT--

>> WELL, I UNDERSTAND THAT. I UNDERSTAND THAT. BUT IT'S THE SAME, IT'S ESSENTIALLY THE SAME QUESTION. IT'S ABOUT THE RELATIONSHIP OF THE AUTHORITY OF THE DEPARTMENT TO ADJUDICATE MATTERS THAT ARE SPECIFICALLY UNDER DISPUTE BETWEEN THE PROVIDER AND THE EMPLOYEE WHICH IS NOT, WHICH YOU'VE SORT OF CONCEDED THEY DON'T REALLY HAVE.

WHEN I LOOK AT THE STATUTE UP IN 11A, IT CONTEMPLATES THAT SOMETIMES A PROVIDER IS GOING TO RECEIVE A PAYMENT THAT THEY SHOULDN'T RECEIVE, AND-- BUT IT SPECIFICALLY PROVIDES THAT THE HEALTH CARE PROVIDER HAS RECEIVED PAYMENT FROM A CARRIER FOR SERVICES THAT WERE IMPROPERLY BILLED.

IT MUST RETURN THOSE PAYMENTS TO THE CARRIER.

THERE'S NO SIMILAR PROVISION WITH RESPECT TO AN EMPLOYEE

WHO'S IMPROPERLY BILLED, IS THERE?

>> THERE IS, INDEED, AND IT'S CONTAINED IN THE RULES, CHIEF JUSTICE CANADY.

IF YOU LOOK AT THE RULES THAT, UNDER WHICH THE DEPARTMENT EXECUTES ITS AUTHORITY UNDER 440.1311A, EXACTLY THE STATUTE THAT YOU'RE TALKING ABOUT, RULE 69L-34.001 SPECIFICALLY DEFINES A VIOLATION OF THE STATUTE AS, AND I QUOTE, COLLECTING OR RECEIVING PAYMENT FROM AN INJURED WORKER IN VIOLATION OF THE STATUTE.

RULE 69L34.003 PROVIDES THAT A PERSON SUCH AS MS. DAVIS CAN REPORT A VIOLATION OF THE WORKER'S COMPENSATION LAW TO THE DIVISION'S OFFICE OF MEDICAL SERVICES, AND IT SPECIFICALLY IDENTIFIES AS ONE PIECE OF SUPPORTING DOCUMENTATION THAT THAT PERSON CAN ATTACH COPIES OF COLLECTION LETTERS SENT TO THE INJURED WORKER FROM THE PROVIDER OR A COLLECTION AGENT ACTING ON BEHALF OF THE PROVIDER SEEKING PAYMENT FOR COVERED MEDICAL SERVICES.

SO THERE'S REALLY NO DISPUTE, YOUR HONOR, IN THIS CASE THAT REIMBURSEMENT IS PAYMENT FOR COVERED MEDICAL SERVICES.

THE ONLY DISPUTE BETWEEN THE PARTIES IS WHETHER THAT WORD, REIMBURSEMENT, SOMEHOW ATTACHES ONLY TO REQUEST FOR PAYMENT BETWEEN THE PROVIDER--

>> LET ME-- OKAY.

LET ME ASK YOU ANOTHER QUESTION, AND THEN I'LL GIVE MY COLLEAGUES A CHANCE TO ASK THEIR QUESTIONS. YOU'RE TALKING ABOUT REIMBURSEMENT.

NOW, IF-- LET ME GIVE YOU A HYPOTHETICAL RELATED TO THE ORDINARY USE OF THAT TERM. IF MY DAUGHTER WHO IS AWAY AT

COLLEGE TELLS ME THAT SHE RECEIVED A BILL FROM HER PHYSICIAN AND ASKS SHOULD SHE PAY IT, I'M NOT GOING TO SAY, YEAH, GO AHEAD AND REIMBURSE THE DOCTOR.

I MIGHT SAY TO HER YOU CAN PAY IT, AND I WILL REIMBURSE YOU. THAT'S THE WAY THAT TERM IS ORDINARILY USED IN THAT CONTEXT. SO I JUST, I'M STRUGGLING TO UNDERSTAND HOW, HOW THIS, HOW A PAYMENT, A BILL FROM MY PROVIDER IS A DEMAND FOR-- TO THE PATIENT WHO RECEIVED THE SERVICES IS A DEMAND FOR REIMBURSEMENT OR THAT THE PAYMENT MADE AFTER SUCH A DEMAND WOULD BE A REIMBURSEMENT PAYMENT.

THAT JUST DOESN'T SEEM TO BE THE WAY THE ENGLISH LANGUAGE IS USED.

>> I THINK, FIRST OF ALL, UNFORTUNATELY SOMETIMES IN THE WORKER'S COMPENSATION AND HEALTH ARENAS THE ENGLISH LANGUAGE IS USED IN PARTICULARIZED WAYS, AS WE KNOW.

BUT SECOND AND MORE IMPORTANT, YOU KNOW, A REQUEST FOR REIMBURSEMENT-- IF WE ALL AGREE, AS WE DO, THAT A REQUEST FOR REIMBURSEMENT RUNNING FROM A PROVIDER OR TO A CARRIER, YOU PAY ME FOR X, THERE IS NOTHING DIFFERENT IN QUALITY BETWEEN THAT REQUEST AND THE REQUEST TO THE EMPLOYEE.

>> WELL, I DON'T UNDERSTAND THAT ARGUMENT AT ALL.

>> SO--

>> THERE'S A CLEARLY ESTABLISHED SENSE THAT REIMBURSEMENT INCLUDES INDEMNIFICATION, THINGS SUCH AS THAT.

SO THERE WAS A THIRD PARTY INVOLVED.

AND THAT IS NOT THE SAME AS THE DEMAND FOR PAYMENT FROM THE

PERSON WHO RECEIVED THE SERVICES.

I JUST, I DON'T--

>> LET ME, LET ME TRY TO GO AT THIS ANOTHER WAY THEN, MR. CHIEF JUSTICE.

AND I'D REFER YOU TO 440131Q WHICH IS THE DEFINITION OF REIMBURSEMENT DISPUTE, AND I'D LIKE YOU TO CONSIDER IT NEXT TO 440.133G.

AND I'LL START WITH 1Q. ARE REIMBURSEMENT DISPUTE MEANS ANY DISAGREEMENT BETWEEN A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY AND CARRIER CONCERNING PAYMENT FOR MEDICAL TREATMENT.

THAT IS THE DEFINITION OF A DISPUTE ABOUT REIMBURSEMENT, A DISPUTE OVER PAYMENT FOR MEDICAL TREATMENT.

TURN TO 440.133G.

THE EMPLOYEE IS NOT LIABLE FOR PAYMENT FOR MEDICAL TREATMENT. SO IN THIS STATUTE-- AND THIS IS SOMETHING THAT I THINK ACTUALLY MR. GOWDY AND I LARGELY AGREE ON, IT'S JUST A QUESTION OF WHO THE X AND Y ARE WHEN YOU TALK ABOUT X PAYING Y, A REIMBURSEMENT IN THE STATUTE IS A REIMBURSEMENT FOR PAYMENT. AND IF WE'RE GOING TO PLAY THE EXERCISE THAT MR. GOWDY DOES IN BRIEF, WE CAN LOOK AT THE NUMBER OF TIMES THAT A PAYMENT TO A PROVIDER IS DISCUSSED IN TALKING ABOUT--

>> MS. STETSON, EXCUSE ME, COULD I GO IN A DIFFERENT DIRECTION AND TALK ABOUT THE FCCPA UNDER WHICH THIS PLAINTIFF SUED? YOU RECOGNIZE THAT THAT HAS A CIVIL REMEDIES PROVISION IN IT, 559.77, IS THAT CORRECT?

>> IT DOES HAVE A CIVIL REMEDIES PROVISION, YES.

>> THAT WAS THE BASIS FOR SUIT, IS THAT CORRECT?

>> YES.

>> OKAY.

IT SAYS THAT ANY PERSON WHO FAILS TO COMPLY WITH ANY PROVISION OF 559.72 WHICH DEFINES THE UNFAIR DEBT COLLECTION PRACTICES IS LIABLE FOR ACTUAL DAMAGES AND FOR ADDITIONAL STATUTORY DAMAGES AS THE COURT MAY ALLOW.

WITH A LIMIT, TOGETHER WITH COSTS AND REASONABLE ATTORNEY'S FEES.

AND THEN IT GOES ON TO THEM COMPLAINT A CLASS ACTION LAWSUIT.

THAT CORRECT?

>> YES, THAT IS ALL CORRECT.

>> OKAY.

AND IT'S CLEAR FROM THE STATUTE AND UNAMBIGUOUS, YOU KNOW, ANY PERSON THAT YOUR CLIENT WOULD FIT WITHIN THAT, THEY WOULD BE SUBJECT TO THIS SUIT IF THEY, ACCORDING TO OR THIS STATUTE, IF THEY VIOLATED THE TERMS OF 559.72, IS THAT WHAT THE STATUTE SAYS?

>> THERE I THINK I HAVE TO START PARTING WAYS WITH YOU, JUSTICE LAWSON.

>> ISN'T THAT WHAT THIS STATUTE SAYS?

LET'S NOT LOOK AT ANY OTHER STATUTE.

SHE'S I SUING UNDER THIS STATUTE.

>> I WOULD AGREE THAT MY CLIENT WOULD BE ANY PERSON.

I THINK PERHAPS WHERE I'D HAVE TO START PARTING WAYS WITH YOU IS WHETHER THIS IS A CONSUMER DEBT WHICH IS NOT A QUESTION THAT'S IN THIS CASE.

THE POINT THAT I WOULD MAKE THOUGH, JUSTICE LAWSON--

>> BUT THE ALLEGATION IS THAT YOUR CLIENT FAILED TO COMPLY WITH THE PROVISION OF 559.72, CORRECT?

>> THAT IS CORRECT.  
AND THAT'S EXACTLY THE  
ALLEGATION THAT THE PLAINTIFF IN  
EINHORN-- GO AHEAD.

>> AND THE STATUTE SAYS THAT IF  
THE COURT'S GOING TO ADJUDICATE  
THIS, YOU WOULD AGREE THAT  
THERE'S NO PROVISION IN 440 OR  
ANYWHERE ELSE FOR ANYBODY OTHER  
THAN CIRCUIT COURT TO ADJUDICATE  
ACTION UNDER 59.77, CORRECT?

>> THERE IS NO PROVISION IN THE  
WORKER'S COMPENSATION LAW FOR A  
COURT TO ADJUDICATE--

>> NO, FOR ANYBODY ELSE.  
FOR THE DEPARTMENT OF FINANCE  
CAN'T AUTHORIZE THE STATUTORY  
DAMAGES, ATTORNEY'S FEES FOR A  
VIOLATION OF THE DEBT  
COLLECTION.

>> THAT'S CORRECT AND THAT'S OUR  
POINT.

YES.

>> OKAY.

BUT THERE'S A STATUTE THAT SAYS  
THAT THE CIRCUIT COURT CAN  
ADJUDICATE THAT CLAIM, CORRECT?

>> THERE IS.

THE GENERAL DEBT COLLECTION  
STATUTE DOES SAY THAT, YES.

>> WAS THE PLAINTIFF SEEKING  
REIMBURSEMENT FOR ANYTHING IN  
THAT ACTION, OR WAS THE  
PLAINTIFF SEEKING THE STATUTORY  
DAMAGES, COURT COSTS AND OTHER  
DAMAGES OUTLINED IN THE CIVIL  
REMEDIES PROVISION?

>> IN THIS ACTION, I THINK THE  
PLAINTIFF WAS BRINGING A CLASS  
ACTION ON BEHALF OF HERSELF--

>> BUT WAS REIMBURSEMENT FOR  
ANYTHING AN ISSUE?

>> NO, BECAUSE--

>> NO.

ALL RIGHT.

SO WHY IS WHAT THE TERM  
REIMBURSEMENT IN A DIFFERENT  
STATUTE MEANS IF THE PLAINTIFF  
BROUGHT A CLAIM UNDER THIS ACT  
FOR THE STATUTORY DAMAGES

PROVIDED IN THIS ACT AND MADE ALL THE ALLEGATIONS THAT THIS STATUTE SAYS CONSTITUTE CAUSE OF ACTION FOR DAMAGES UNDER THIS ACT IN.

>> BECAUSE, JUSTICE LAWSON, OF THAT BROAD EXCLUSIVE JURISDICTION LANGUAGE THAT I MENTIONED.

IT SAYS ANY MATTER CONCERNING REIMBURSEMENT.

IT DOESN'T SAY ANY MATTER CONCERNING REIMBURSEMENT WHERE THE REIMBURSEMENT HAS BEEN MADE.

>> OKAY.

AREN'T WE SUPPOSED TO HARMONIZE THE LAW, HARMONIZE VARIOUS STATUTES RELATED TO ONE ANOTHER.

>> THIS.

>> ABSOLUTELY, YES.

>> AND I'M STRUGGLING UNDERSTANDING WHY WHEN ONE STATUTE IS CLEAR AND UNAMBIGUOUS AND GIVES EVERYBODY WHO'S SUMMIT TO AN UNFAIR PRACTICES ACT AGAINST ANYBODY WHO VIOLATES THE ACT, WE WOULD BE-- IT WOULD SEEM TO IF WE'RE GOING TO HARMONIZE THESE STATUTES, THIS WOULD HAVE TO BE AS EXPRESS AND CLEAR AS IN 559 SUCH AS A WORKER'S COMPENSATION, YOU KNOW, SOMEONE WHO'S SUBJECT TO WORKER'S COMPENSATION BENEFITS CANNOT TAKE ADVANTAGE OF THE CIVIL REMEDIES PROVISION IN 559. THEY JUST ARE OUT OF LUCK AND ARE SUBJECT TO CONSUMER DEBT COLLECTION, UNFAIR CONSUMER DEBT COLLECTION PRACTICES.

I MEAN, WHY WOULDN'T A SPECIFIC EXEMPTION BE NECESSARY TO IGNORE THE PLAIN LANGUAGE OF 559.77 WHICH OBVIOUSLY GIVES A REMEDY?

>> FOR A COUPLE DIFFERENT REASONS, JUSTICE LAWSON.

THE FIRST THE WORKER'S COMPENSATION LAW AND THE EXCLUSIVE JURISDICTION WHICH GIVES THE DEPARTMENT

JURISDICTION OVER MATTERS CONCERNING REIMBURSEMENT. THAT WAS IN PLACE LONG BEFORE THIS COURT RECOGNIZES AND UNDERSTANDS THE DOCTRINE OF REPEAL.

NOTHING IN THE FDCA ACTS TO DEPRIVE THE DEPARTMENT OF THE EXCLUSIVE JURISDICTION IT HAS OVER THE MATTER OF REIMBURSEMENT.

>> THE LAWSUIT IS A MATTER CONCERNING AN UNFAIR DEBT COLLECTION PRACTICE OR STATUTORY DAMAGES THAT HAVE NOTHING TO DO WITH THE REIMBURSEMENT OR ANYTHING RELATED.

>> THAT IS PRECISELY THE ARGUMENT THE PLAINTIFF IN EINHORN MADE, WHICH WE SITE ON PAGE 25 OF THE INITIAL BRIEF, BROUGHT AN FDCA CASE AGAINST HER HEALTH INSURER CLAIMING THE HEALTH INSURER HAD OVERSHOT A LEAN THAT IT WAS ENTITLED TO UNDER THE MEDICARE ACT AND WHAT THE COURT IN EINHORN HELD WAS BECAUSE THE MEDICARE ACT SPECIFICALLY CHANNELS THOSE TYPES OF COMPLAINTS THROUGH ADMINISTRATIVE PROCEDURE THE COURT DID NOT HAVE JURISDICTION. IT LACKED JURISDICTION TO ADMINISTER THAT.

>> HOW TO THE DIFFERENT STATUTE CHANNEL COMPLAINT THAT YOUR CLIENT VIOLATED THE UNFAIR DEBT COLLECTION PRACTICES ACT ANYWHERE OTHER THAN CIRCUIT COURT?

>> THE POINT YOU AND I ARE JOINING ISSUE ON HIS YOU ARE FRAMING THIS CASE AS THE PLAINTIFF PREVIEWED.

>> IN YOUR COMPLAINT UNDER THE STATUTE.

>> OUR POINT IS WHATEVER LABEL YOU PUT ON THIS YOU CAN CALL IT A DEBT COLLECTION CASE AND YOU CAN BRING THE CLAIM UNDER THE

FDCPA AS THE PLAINTIFF DID IN  
EINHORN.

WHAT THIS IS AT BOTTOM IS A  
MATTER CONCERNING REIMBURSEMENT  
BECAUSE THIS COMPLAINT IS ABOUT  
MISS DAVIS GETTING A BILL THAT  
SHOULD HAVE BEEN SENT TO  
EMPLOYER'S INSURANCE CARRIER.  
THAT IS A MATTER.

>> SORRY TO INTERRUPT AND  
WELCOME TO OUR COURT.  
IT SEEMS LIKE YOUR ARGUMENT IS  
ALMOST LIKE A PREEMPTION  
ARGUMENT AND YOU ARE ASKING US  
TO READ THE ELEVENTH THE PASSAGE  
YOU'RE RELYING ON LITERALLY BUT  
IF YOU LOOK AT THE ACT ITSELF OR  
EVEN THIS SECTION WHERE IT TALKS  
ABOUT THE EMPLOYEE MADE APPEAL  
TO A JUDGE FOR REIMBURSEMENT  
WHEN THE EMPLOYER OR CARRIER AND  
IN 12 YOU HAVE THIS 3-MEMBER  
PANEL WHICH IS NOT THE  
DEPARTMENT.

IT IS AIDED BY THE DEPARTMENT  
BUT IS NOT THE DEPARTMENT.  
WITHIN THIS PROVISION ITSELF WE  
HAVE EXAMPLES OF OTHER ENTITIES  
MAKING DECISIONS ABOUT MATTERS  
THAT ARE ABOUT REIMBURSEMENT SO  
IT SEEMS YOU'RE ASKING US TO  
READ THE 11 C PHRASE LITERALLY  
WHEN IT CAN'T BE READ LITERALLY  
AND MAKE THE ACT MAKE SENSE.  
THE ISSUE IS DOES THIS CASE  
INVOLVED A DECISION ABOUT A  
MATTER OF THE TYPE EXCLUSIVELY  
FOR THE DEPARTMENT.

>> THE ANSWER IS THAT WHILE  
THERE ARE INSTANCES WHERE THE  
WORKERS COMPENSATION ISSUE IS  
CHANNELED BY THE WORKERS  
COMPENSATION STATUTE INTO A  
DIFFERENT PLACE SO YOU CAN READ  
EXCLUSIVE JURISDICTION TO DECIDE  
MATTERS OF REIMBURSEMENT, WITH  
THAT IN MIND BECAUSE IT IS IN  
THE SAME STATUTE THE EMPHASIS  
SHOULD NOT BE ON DECIDE.  
THE EMPHASIS IS ANY, CONCERNING,

AND REIMBURSEMENT.  
ANY AS THE COURT RECOGNIZED  
MEANS ANY, CONCERNING IS VERY  
BROAD AND REIMBURSEMENT MEANS  
PAYMENT FROM ONE PERSON TO  
ANOTHER.

THAT IS WHAT THE STATUTE  
SPECIFICALLY SAYS IN THE TWO  
PROVISIONS I MENTIONED EARLIER.  
REIMBURSEMENT MEANS PAYMENT FOR  
MEDICAL SERVICES RENDERED.

>> THIS IS A PROCESS OF WHO  
DECIDES THINGS.

IS THERE ANYTHING SUBSTANTIVELY  
IN THE WORKER'S COMP. LAW THAT  
WOULD SUGGEST THAT ESSENTIALLY  
TO THE EXTENT THE DEPARTMENT CAN  
POLICE, IMPROPER BUILDING OR  
THAT SORT OF THING, THOSE  
REMEDIES ARE THE ONLY ONES IN  
THIS CONTEXT, THE REMEDY THAT  
MIGHT BE FOUND ELSEWHERE.

IT SEEMS ALMOST A SORT OF FIELD  
PREEMPTION THINGS THAT WE WOULD  
HAVE TO BUY INTO MORE SO, THE  
REASONS THAT I LAID OUT.

>> I'M COGNIZANT I MAY BE EATING  
INTO MY REBUTTAL TIME.

>> YOU HAVE EXHAUSTED IT.

IF YOU WILL ANSWER THIS QUESTION  
BRIEFLY, EVEN THOUGH THE TIME  
HAS BEEN DONE NONETHELESS WE DO  
3 MINUTES OF REBUTTAL TIME.

>> THE ANSWER TO YOUR QUESTION  
LIES IN SANDERS IT SELF.

I DON'T THINK THIS CASE IS  
PROPERLY DESCRIBED AS A  
PREEMPTION CASE, NOT THE WAY IT  
HAS BEEN FRAMED OR THE TRIAL  
COURT ADDRESS THIS WHEN THEY  
ADDRESS THE ISSUE.

IT IS THE JURISDICTIONAL CASE  
AND AS THE COURT SET ITS  
STANDARDS, EVERY ARTICLE 5 COURT  
WHO LOOKED AT THIS ISSUE HAD  
NOTED THE BROAD EXCLUSIVE  
JURISDICTION PROVISION IN THE  
WORKERS COMPENSATION STATUTES.

I DON'T THINK YOU NEED ANY MORE  
MAGIC OR MASS THAN THAT.

THE ANSWER LIES IN THE PLAINTEXT OF THE STATUTE WAS WHEN THE DEPARTMENT HAS EXCESSIVE JURISDICTION OVER ANY MATTERS ABOUT REIMBURSEMENT AND THIS IS A REQUEST REIMBURSEMENT FOR MEDICAL SERVICES THE DEPARTMENT HAS EXCLUSIVE JURISDICTION. THANK YOU FOR YOUR INDULGENCE.

>> COUNSEL.

>> MAY IT PLEASE THE COURT.  
BRYAN GOWDY ON BEHALF OF MISS DAVIS.

THE KEYWORD IS REIMBURSEMENT. IT IS A PAYMENT BUT NOT EVERY PAYMENT IS A REIMBURSEMENT JUST AS EVERY POODLE IS A DOG BUT NOT EVERY DOG IS A POODLE.

LET'S COMPARE REIMBURSEMENT WITH OTHER WORDS USED FOR PAYMENT. FOR EXAMPLE, DISBURSEMENT.

THE ORDINARY WAY THESE WORDS ARE COMMONLY USED DIFFER, BOTH MEAN A PAYMENT IN SOME SENSE AND DISBURSEMENT, WITH ITS LATIN AND FRENCH ROOTS MEANT PAYMENT FROM A PURSE OCCURS WHEN ONE PARTY, USUALLY FROM A FUND PAYS THE SECOND PARTY FOR GOODS OR SERVICES OR LEGAL OBLIGATION OR SOME PARTICULAR PURPOSE.

IN CONTRAST, THE WORD HERE, REIMBURSEMENT WHICH AT LATIN AND FRENCH ROOTS MEANS PENDING TO A PURSE OCCURS WHEN A THIRD-PARTY INDEMNIFIES A SECOND PARTY FOR GOODS OR SERVICES OR PAYMENT THAT THE SECOND PARTY PREVIOUSLY PROVIDED TO THE FIRST PARTY.

THE CENTRAL FLAW IN THE PROVIDER'S ARGUMENT IS THAT BASED ON THEIR OWN SENSE OF THE WORD AND NOTHING ELSE THEY ASSUMED EVERY USE OF THE WORD PAYMENT IS A REIMBURSEMENT.

>> WHAT IS THE SENSE OF THE WORD CONCERNING?

>> I AM SORRY.

>> ANY MATTER CONCERNING.

>> ANY CONCERNING IS BROAD AND

THAT IS NOT WHAT THE DEBATE IS.  
>> YOU DON'T DENY THE CLAIM IN THIS PARALLEL IN THE FCC, FOR PART OF THAT ESTABLISHING THE CARRIER HAD THE REIMBURSEMENT OBLIGATION, NOT YOUR CLIENT AND THE DEBT COLLECTOR KNEW THAT AND THAT MADE IT IMPROPER ETC.. THERE IS NO WAY YOU CAN DECOUPLE THE REIMBURSEMENT ISSUE.

>> I DON'T ENTIRELY AGREE. I WILL PART WAYS WITH YOU PARTLY ON THAT.

WE CLEARLY ARE RELYING ON PARAGRAPH 3G WHICH SAYS THE EMPLOYEE IS NOT LIABLE FOR PAYMENT FOR MEDICAL TREATMENT OR SERVICE.

THE PROBLEM MY OPPONENT HAS IS SHE WANTS TO LINK THAT USE OF PAYMENT IN 3G WITH HOW IT IS USED WHICH IS WHERE WE ARE TALKING ABOUT A REIMBURSEMENT DISPUTE.

IN THAT CONTEXT IN ONE Q IT IS CLEARLY TALKING ABOUT BETWEEN A PROVIDER AND A CARRIER.

>> THE WEAKEST PART OF YOUR ARGUMENT, IF YOU ACCEPT REIMBURSEMENT, THE DISPUTE, CONSUMER PROTECTIONS RELATE, CASE LAW, THE BRIEF TALKS ABOUT HOW THE WORD CONCERNING HIS BROAD, THE REIMBURSEMENT TO THE CARRIER AND PROVIDER AT ITS HEART.

IT IS AN ESSENTIAL ASPECT.

>> THAT IS NOT ENTIRELY TRUE, UNDER 55.72 INCLUDING CLAIMS HERE.

THE CHIEF JUSTICE BEAT ME TO IT WITH THIS HYPOTHETICAL, IF MISS DAVIS PLAYED THE BILL AND THEN LATER LEARNED THE CARRIER PAID THE BILL, IF THE CARRIER REFUSED TO REIMBURSE OR REFUND TO BE ACCURATE A NATURAL THING COMMON-LAW CLAIM FOR UNJUST ENRICHMENT.

>> WOULD IT BE TO PICK UP THE

PHONE AND CALL THE DEPARTMENT AND SAY I WAS IMPROPERLY BILLED AND WANTS TO GET MY MONEY BACK? IT IS CLEAR THAT WHETHER THIS IS AN EXCLUSIVE REMEDY OR NOT, IF YOU JUST DRAW A CIRCLE AROUND THE WORKER'S COMP. SYSTEM ITSELF THE RULES IN THE STATUTE ACCOUNT FOR THIS PROBLEM.

WE DON'T WANT TO INVENT A CONSUMER PROTECTION LAW OR COMMON-LAW ACTION.

>> LOTS OF EXAMPLES WILL AND REMAIN -- UNDERMINE YOUR POINT. SURPRISE THE -- IF HE DECIDED TO THREATEN THE PAYMENT, THAT WOULD BE ACTIONABLE NOT ONLY UNDER THE SEC PA BUT UNDER COMMON LAW IN CONNECTION WITH IT.

UNDER THE PROVIDERS READING 41.311 SEE.

>> IT DOES GET TO THE QUESTION IS THIS WITHIN THE WAY THE STATUTE USES DECISIONS ABOUT MATTERS CONCERNING REIMBURSEMENT, IT IS A GARDEN-VARIETY DISPUTE WITHIN THE WORKER'S COMP. SYSTEM, DON'T NEED TO GET INTO HYPOTHETICALS ABOUT PEOPLE THREATENING OUTSIDE OF WORKER'S COMP. CONTEXT. IS THIS THE TYPE OF DISPUTE IN THIS PROVISION.

>> THE PROVIDERS GIVING IT A CLOSE ON THESE OTHER ACTIONS. THE MATTER CONCERNING REIMBURSEMENT, PROVIDER WERE TO THREATEN FORCE TO COLLECT A PAYMENT, AND UNLAWFUL PAYMENT, UNDER PROVIDERS READING WOULD BE A MATTER CONCERNING REIMBURSEMENT.

>> COULD I ASK YOU, IS THERE ANY DISPUTE WHO SHOULD HAVE PAID THIS BILL, WHO IS SUPPOSED TO PAY THIS BILL?

IS THIS AN ISSUE OR IS IT ESSENTIALLY CONCEDED?

>> WE ARE IN A MOTION FOR JUDGMENT, I WOULD HOPE PROVIDERS

WOULD CONCEDE THAT.

I HAVE TO REVIEW THE ANSWER  
WHETHER THEY ADMITTED THAT ARE  
NOT.

THE ANSWER SHOULD BE THERE  
SHOULD BE NO DISPUTE.

YOU CAN ASK MY OPPONENT ON THAT.  
WE ARE EARLY IN THIS CASE.

>> FOR THE LEGAL QUESTION IT  
DOESN'T MATTER.

THERE ARE SITUATIONS IF CARE  
ISN'T AUTHORIZED IN ADVANCE IT  
IS NOT PER SE WRONG FOR  
SOMETHING THAT COULD BE  
IMPLICATED IN WORKER'S COMP.

WHERE THERE COULD PROPERLY BE A  
BILL SENT TO VACATION.

YOU CAN'T GET AWAY FROM THE NEED  
TO PROVE THIS CLAIM, YOU HAVE TO  
DIG INTO THE WORKER'S COMP. LAW  
AND FIGURE OUT WHO IS  
RESPONSIBLE.

IT MAY BE OBVIOUS IN SOME CASES  
BUT STILL HAS TO BE DECIDED.

>> WE ARE NOT TRYING TO RUN AWAY  
FROM THE FACT THAT THE CLAIM  
INVOLVES WORKER'S COMP. LAW.

IF MISS DAVIS WAS NOT AN INJURED  
WORKER AND WAS GOING TO SEE A  
PROVIDER, INDEPENDENCE, THE  
PROVIDER MIGHT HAVE A LEGITIMATE  
DEBT SO I AGREE WITH YOU ON THAT  
BUT THE QUESTION HERE IS WHETHER  
AN EXECUTIVE BRANCH AGENCY IS  
ALL OF A SUDDEN GOING TO HAVE  
JURISDICTION ADJUDICATORY  
JURISDICTION TO DECIDE A DISPUTE  
BETWEEN MISTER DAVIS, THE  
INJURED WORKER, AND THE  
PROVIDER.

>> WITH THE OTHER SIDE WOULD  
SAY, THEY ARE NOT SAYING THE  
DEPARTMENT WILL DECIDE CONSUMER  
PROTECTION ACTION IN RESPONSE TO  
JUSTICE LAWSON'S QUESTION, AND  
APPLY THE STATUTE.

THAT TYPE OF DISPUTE, AND THIS  
TYPE OF BUILDING ISSUE, -

>> THAT THE PROBLEM WITH THE  
ARGUMENT.

THEY ARE DECIDING DISPUTES.  
EVERYTHING ELSE IN 11 SEE THE  
OVERUTILIZATION AND PUT THE  
FORMS IN THEIR, WHEN THE  
PROVIDER IN THE CARRIER DON'T  
AGREE ON THE BILLING, THEY GO TO  
THIS PROCEDURE THE DEPARTMENT  
HAS SET UP.

IT IS AN ADJUDICATORY FUNCTION  
BUT DOESN'T HAVE ANY ROOM AT ALL  
FOR THE INJURED WORKER, IT IS  
DISINGENUOUS TO SAY THE PURPOSE,  
TO CONCLUDE MISS DAVIS FROM  
UNJUST ENRICHMENT CLAIM.

UNDER 11 SEE, TO ACTUALLY ALLOW  
CARRIERS COULD CONTEST IF  
PROVIDERS ARE OVERBILLING OR  
PROVIDERS TO SAY WE ARE NOT  
BEING PAID ENOUGH OF THE SO  
EVERYBODY ELSE GETS TO HAVE A  
DAY IN THE DEPARTMENT OTHER THAN  
COURT EXCEPT THE INJURED WORKER  
AND THAT IS NOT A REASONABLE  
READING, MATTERS CONCERNING  
REIMBURSEMENT.

IN MULTIPLE DICTIONARIES, IT IS  
DEFINED AS INDEMNITY, A 3 PARTY  
TRANSACTION.

IT IS INTRINSIC.

>> IT IS CLEAR IN THE WORKER'S  
COMP. LAW THEY INTERCHANGEABLY  
USE REIMBURSEMENT THROUGHOUT THE  
STATUTE.

>> I AGREE AND THAT GOES TO MY  
HYPOTHETICAL AT THE BEGINNING.  
REIMBURSEMENT IS A PAYMENT BUT  
IN THIS CONTEXT, COLLECTING  
REIMBURSEMENT FROM THE INJURED  
WORKER.

IT IS PAYMENT BEING USED IN A  
DIFFERENT SENSE.

>> IT SEEMS DIFFERENT TO ME TO  
HAVE A SITUATION WHERE THERE IS  
AN ARGUMENT WHETHER SOMETHING  
SHOULD BE COVERED UNDER WORKERS  
COMPENSATION IN THE FIRST  
SENTENCE OR A DISPUTE ABOUT THE  
AMOUNT.

IN THOSE CASES IT SEEMED THE  
STATUES WHERE IT GOES TO THE

AGENCY DECIDED BY A JUDGE,  
COMPENSATION CLAIMS WOULD DECIDE  
THOSE ISSUES BUT AS I UNDERSTAND  
THE FACTS, IT WAS COVERED BY  
WORKER'S COMP. BLUE PAST THAT  
AND THESE INSTANCES FOR DEBT  
COLLECTION TO THE COLLECTION  
AGENCY AND THREATENED THEM WITH  
THEIR CREDITS IF THEY DIDN'T  
PAY.

THAT SEEMS MORE SQUARELY UNDER  
THE CONSUMER PROTECTION STATUTE.  
IT SEEMED THOSE WERE DIFFERENT  
SCENARIOS THAN WHAT WE HAVE HERE  
MORE PROPERLY UNDER THE CONSUMER  
PROTECTION STATUTE.

>> I AGREE, THE TWO STATUTES, I  
AGREE WITH JUSTICE LAWSON,  
EASILY RECONCILED.

IF YOU GIVE REIMBURSEMENT FOR  
SENSE IT IS USED 47 TIMES IN THE  
STATUTE, IT IS ALWAYS USED TO  
TALK ABOUT WHEN A THIRD PARTY  
PAYING A SECOND PARTY TO  
COMPENSATE FOR SOMETHING THE  
SECOND PARTY PROVIDED IN TERMS  
OF GOODS OR SERVICES ARE PAY AND  
THE PROVIDERS TRY, AND NOT A  
SINGLE TIME IN THE STATUTE AND  
WILL --

>> YOU ARE READING THE STATUTE,  
THE EXCLUSIVE DISTINCTIONS FOR  
REIMBURSEMENT DISPUTES.  
AND NOT WHAT THE STATUTE SAYS.

>> I'M READING IT FOR  
REIMBURSEMENT MATTERS AND WHILE  
I GET YOUR POINT, THE POINT YOU  
MADE IS NOT SOMETHING PROVIDERS  
ARGUE AT THIS POINT BUT THERE IS  
A WHOLE HOST OF THINGS UNDER  
SUBSECTION 12 AND THE HEAD OF  
THAT PANEL IS THE CHIEF  
FINANCIAL OFFICER.

IT HAS TO DO WITH SETTING PRICES  
AND THERE'S A FOOTNOTE IN THE  
SECOND DCA OPINION THAT  
ACKNOWLEDGES THIS.

YOU HAVE REIMBURSEMENT DISPUTES  
BETWEEN PROVIDERS AND CARRIERS.  
THAT IS ONE TYPE OF

REIMBURSEMENT MATTER, THE CHIEF FINANCIAL OFFICER AND THIS PANEL WITH THE ASSISTANCE OF THE DEPARTMENT, SETS THE STATEWIDE SCHEDULE AND THAT IS HOW THE WORD REIMBURSEMENT IS USED 31 TIMES

>> SECTION 12, THAT IS NOT TALKING ABOUT -- BUT IT SEEMS LIKE WHAT YOU ARE SAYING, THE JURISDICTIONAL QUESTION ON WHETHER ONE OF THE ELEMENTS OF THE CLAIMANTS IS DISPUTED OR NOT.

THAT DOESN'T SOUND RIGHT.

>> I'M NOT SAYING THAT.

I DISAGREE WITH YOUR HONOR TO SAY SECTION 12 IS NOT PART OF THE DEPARTMENT'S PURVIEW.

THERE IS A 3-MAN MEMBER PANEL CREATED THAT CONSISTS OF THE CHIEF FINANCIAL OFFICER OR HIS DESIGNEE AND 2 MEMBERS APPOINTED BY THE GOVERNOR, CONFIRMATION BY THE SENATE.

AND THEN THAT PANEL DETERMINES STATEWIDE SCHEDULES OF MAXIMUM REIMBURSEMENT ALLOWANCES.

>> IT TALKS ABOUT ASSISTING ITSELF.

>> THE DEPARTMENT, THE CHIEF FINANCIAL OFFICER WHO IS HEAD OF THE DEPARTMENT, YES, THE PANEL IN THE DEPARTMENT IS MY FAIR READING OF THIS.

THE PROVIDERS --

>> NOT A JURISDICTIONAL QUESTION.

TALKING ABOUT THIS PARTICULAR CLAIM AND THE FACT THAT IT WAS UNCONTESTED BUT THAT SEEMS LIKE IT WOULD TIE WHETHER IT IS JURISDICTION OR NOT TO WHETHER THERE IS A DISPUTE AS TO WHETHER THE BILL WAS PROPERLY DONE IN THE FIRST PLACE.

>> I DON'T AGREE BECAUSE THE DETERMINATION, THE JCC OR SOME OTHER, NOT EVERY CASE IS LITIGATED BUT SOME OF THE

DETERMINATION WORKER'S COMP. BENEFITS ARE AVAILABLE, THAT WILL DETERMINE THE ISSUE. IF IT TURNS OUT MISS DAVIS WASN'T AN INJURED WORKER AND SHE MADE IT ALL UP OR SOMETHING, WE WOULD BE LITIGATED IN THE COURT. I GO BACK TO THE PROVIDERS ARGUMENT WOULD MEAN PROVIDERS CAN IMPERSONATE LAW ENFORCEMENT AND THERE WOULD BE NO REMEDY. PROVIDERS COULD USE OR THREATEN FORCE OR VIOLENCE AND THERE WOULD BE NO REMEDY.

>> WHEN YOU MENTION THE EMPLOYEE MAKING IT ALL UP, WOULD I BE RIGHT IN UNDERSTANDING THE ARGUMENT THAT OPPOSING COUNSEL IS MAKING THAT IF YOU HAD CIRCUMSTANCES WHERE THE EMPLOYER MADE IT UP, COMMITTED FRAUD, IS A FRAUDULENT CLAIM THAT IS OBVIOUSLY RELATED TO CLAIMS FOR REIMBURSEMENT BUT ALL FRAUDULENT WOULD BE A MATTER EXCLUSIVELY IN THE DEPARTMENT'S JURISDICTION, EVEN THOUGH CRIMES WERE COMMITTED, THE PERJURED TESTIMONY OR WHATEVER ELSE.

>> THAT IS THE NATURAL END POINT FOR THE PROVIDER'S ARGUMENT. ALL THOSE THINGS WOULD GO TO THE DEPARTMENT.

>> THE DEPARTMENT ADJUDICATES THOSE THINGS.

>> THEY HAVEN'T FILED A BRIEF SUPPORTING THIS ARGUMENT THE PROVIDERS MADE.

IF YOU WERE TO CALL THE DEPARTMENT AND ASK THEM THIS, THEY WOULD BE SHOCKED TO KNOW THEY HAVE THESE THINGS. THEY ARE NOT EQUIPPED FOR IT. WHAT THEY ARE EQUIPPED TO DEAL WITH HIS UTILIZATION AND OVERBILLING DISPUTES BETWEEN PHYSICIANS AND CARRIERS.

>> WHAT ABOUT THE POINT MADE AT PAGE 24 AND 25 OF THE INITIAL BRIEF, THE POINT WE WERE TALKING

ABOUT, THE STATUTE, WORKERS  
COMPENSATION STATUTE REQUIRES  
CARRIERS TO REPORT INSTANCES OF  
IMPROPER BILLING.

WOULD THIS BE THE CASE WHERE YOU  
DO CONTEMPLATE THIS BEING AT  
THEIR END.

I SEE YOUR THRUST, THE THRUST OF  
THE ARGUMENT, NO END POINT, READ  
THE STATUTE BROADLY AND SAY WHAT  
ABOUT A CRIME?

BUT DON'T WE TAKE FROM THE RULES  
OF THE CODE THE FACT THAT THIS  
TYPE OF DISPUTE WAS PRECISELY  
SUPPOSED TO BE BROUGHT TO THE  
ATTENTION OF THE PARTY TO MEAN  
SOMETHING?

>> I DON'T D9 THE DEPARTMENT HAS  
INVESTIGATORY POWERS, THEY CAN  
INVESTIGATE THESE THINGS, BUT  
THAT DOESN'T MEAN THEY HAVE  
ADJUDICATORY POWERS.

THIS GOES TO MY LAST ARGUMENT.  
IF YOU ACCEPT THIS, THE  
DEPARTMENT HAS ALL 3 BRANCH'S  
POWERS, THEY GET TO WRITE WILL,  
WHICH IS MAKING LAW LEGISLATIVE,  
THEY GET TO ENFORCE, DO  
INVESTIGATIONS, EXECUTIVE AND  
HAVE ADJUDICATORY POWERS AND  
WHILE WE REALLY EXPANDED SINCE  
THE NEW DEAL WHAT AGENCIES CAN  
DO, THAT SEEMS LIKE A BIT MUCH  
TO ME AND I DON'T THINK THAT'S  
WHAT THE LEGISLATURE INTENDED.  
EVERYTHING YOU ARE SAYING, I  
AGREE THE DEPARTMENT CAN  
INVESTIGATE JUST LIKE IF A  
PROVIDER COMMITTED SOME CRIMINAL  
ACTIVITY THE CHIEF JUSTICE JUST  
MENTIONED, YOU CAN CALL THE  
STATE ATTORNEY'S OFFICE AND THEY  
WOULD BE ABLE TO INVESTIGATE,  
THAT DOESN'T MEAN YOU DON'T HAVE  
A PRIVATE REMEDY FOR ANOTHER  
ASSAULT AND BATTERY.

I SEE MY TIME IS RUNNING OUT.  
I DIDN'T KNOW IF I WAS GOING TO  
GET ANY MORE.

>> OPPOSING COUNSEL WILL GET A

LITTLE MORE.

>> I AM SORRY, THE EINHORN CASE, JUDGE BLOOM FOR THE SOUTHERN DISTRICT OF FLORIDA, SINGLE JUDGE, DEALING WITH THE MEDICARE STATUTES, AND THE LANGUAGE IS SUBSTANTIALLY --

>> IT IS A CF SITE AND THE STRUCTURE OF THE ARGUMENT IS THE SAME.

IF THERE IS A STRUCTURE AS THERE IS IN THE MEDICARE LAW, WHY SHOULD WE UNDERSTAND IT TO COMMUNICATE AND INTENTION ON THE PART OF A MEANING OF THE WORDS THE LEGISLATURE ENACTED.

THIS IS A REQUIREMENT THAT YOU USE THIS DISPUTE RESOLUTION, THAT IS THE ARGUMENT.

>> MY RESPONSE IN MY ANSWER BRIEF BUT THE LANGUAGE MATTERS AND THE EINHORN CASE DOES NOT TALK ABOUT STATUTORY LANGUAGE BUT DIFFERENT LANGUAGE UNDER THE MEDICARE ACT.

SO I DON'T KNOW WHAT ELSE TO TELL YOU OTHER THAN REIMBURSEMENT, AND IT DOESN'T MAKE SENSE FROM THE PERSPECTIVE THAT WE ARE GOING TO NEED TO -- IT IS GIVING THE DEPARTMENT ADJUDICATORY AUTHORITY OVER THIS DISPUTE FOR SOMETHING IT IS NOT EQUIPPED TO DEAL WITH AND DOESN'T DEAL WITH.

IF YOU READ THEIR FORMS THEY WON'T ALLOW MISS DAVIS TO FILE A PETITION PROCESS.

IT IS OBVIOUS WHAT MATTERS IS REIMBURSEMENT DISPUTE AND EVERYTHING ELSE UNDER SUBSECTION 12 WHICH IS A DISPUTE DEALING WITH SETTING THE PRICE.

I DON'T KNOW IF THAT ANSWERS YOUR QUESTION BUT DIFFERENT LANGUAGE MATTERS AND I DON'T SEE HOW THE LANGUAGE IS SIMILAR HERE.

>> IN 5 D THEY USED THE WORD REIMBURSEMENT TO TALK ABOUT THE

EMPLOYEE WINNING FROM THE CARRIER.

YOU SAY LANGUAGE MATTERS.

>> IN 5 D, THAT IS THE ONE SLIGHTLY DIFFERENT WRINKLED BUT IT IS STILL BEING USED IN THE CONTEXT OF INDEMNITY.

WHAT IS HAPPENING THERE IS -- I AM SORRY, THE CARRIER CAN REQUIRE THE EMPLOYEE TO REIMBURSE THE CARRIER FOR THE PAYMENT IT HAD TO MAKE TO THE IM HE.

>> IT IS A NO-SHOW FEE BUT THAT IS THE MEANING OF REIMBURSEMENT BUT THE CARRIER PAYS IT AND THE EMPLOYEE HAS TO COUGH UP PART OF IT TO REIMBURSE THE CARRIER FOR THE CARRIER ALREADY PAID.

>> THE 5 D IS AN ODD REPLACEMENT BUT IT GOES BEYOND THE NO-SHOW BEAT BECAUSE YOU ARE TALKING ABOUT WITHHOLDING PAYMENT, THE EMPLOYER CARRIER, THEY ARE NOT TALKING ABOUT THE EMPLOYEE WITHHOLDING REIMBURSEMENT.

>> IS USED TWICE, ONE, I THINK I AM RIGHT ON TIME, IT USES THE WORD REIMBURSED WITH A NO-SHOW IN THE SECOND TIME IF I COULD READ THIS SENTENCE AND CONCLUDE, THE EMPLOYEE MAY APPEAL TO A JUDGE, COMPENSATION CLAIM FOR REIMBURSEMENT WHEN THE EMPLOYER OR CARRIER WITHHOLDS PAYMENT IN EXCESS OF THE AUTHORITY GRANTED BY THIS SECTION.

THE REIMBURSEMENT IS OBVIOUSLY GOING TO THE PROVIDER OR THERE ARE A FEW INSTANCES WHERE AN EMPLOYEE, THIS IS GETTING IN THE WEEDS BUT IF YOU DO YOUR FIRST EXAM, IT HASN'T BEEN APPROVED AND YOU HAVE TO PAY OUT-OF-POCKET AND THERE COULD BE SOME THINGS WITH PHARMACEUTICALS, MEDICAL DEVICES BUT IT IS CLEARLY TALKING ABOUT PAYING FOR THE SERVICES OR GOODS AND MOST IMPORTANTLY IT DOESN'T

SUPPORT THAT IS APARTMENT HAS JURISDICTION, IT IS A COMPLETE DIFFERENT AGENCY.

>> 15 SECONDS.

>> I ASKED THE COURT TO REAFFIRM THE DECISION OF THE SECOND DISTRICT, REVERSING THE ORDERS BELOW THE GRANTED MOTIONS FOR JUDGMENT ON PLEADINGS AND THANK YOU FOR ALL YOUR TIME TODAY.

>> REBUTTAL.

>> I WOULD LIKE TO START WITH A COUPLE POINTS ON WHICH BRYAN GOWDY AND I AGREE.

WE AGREE THIS CLAIM ONLY EXISTS BECAUSE OF THE WORKERS COMPENSATION LAW.

THAT WAS A SERIES OF QUESTIONS THAT JUSTICE MONIZ ASKED BUT IT WAS INTO THIS DAVIS RATHER THAN THE CARRIER.

THAT IS THE BASIS OF THE CLAIM. THE SECOND THING ON WHICH WE AGREE IS LANGUAGE DOES MATTER SO IN RESPONSE TO YOUR QUESTION, IF YOU LOOK AT SUBSECTION 11 A OF 440.13, ONE OF THE THINGS THAT IS SPECIFICALLY MENTIONED IN THAT SECTION IS INSTANCES OF IMPROPER BILLING.

THE DEPARTMENT HAS THE AUTHORITY TO INVESTIGATE AND MONITOR INSTANCES OF IMPROPER BILLING AND THAT IS WHY WHEN I READ THE RULES EARLIER THIS IS THIS LANGUAGE MATTERS HERE, THEY WOULD RULE 69 L 30.4003, A PERSON LIKE MS. DAVIS MAY REPORT A VIOLATION TO THE OFFICE OF MEDICAL SERVICES AND AMONG OTHER THINGS MAY ATTACH THE COPIES OF COLLECTION LETTER SHE RECEIVED FROM THE PROVIDER OR DEBT COLLECTOR.

THERE IS NO CLEAR INDICATION THAT STATUTE AND INSTANCES OF IMPROPER BILLING, THE GOVERNMENT'S RESPONSE ABILITY FOR IT SITS EXACTLY WITHIN THE CONTEXT OF THIS CASE.

>> IN THIS CASE YOU HAD THE  
WORKER'S COMP. CARRIER PAY THE  
PROVIDER AND THEY ARE PAID.  
IN SPIITE OF THAT, THEY  
IMPROPERLY BUILD THE PATIENT,  
WHEN TOLD THEY SHOULDN'T BE  
BILLED THAT AND IT HAD BEEN PAID  
THEY IGNORED THAT, SENT IT TO A  
BILL COLLECTION, THREATENED TO  
DESTROY THEIR CREDIT AND IN FACT  
NEW THAT AND DESTROYED THEIR  
CREDIT.

THERE IS NO OTHER RECOURSE  
EXCEPT TO GO TO A STATE AGENCY  
FOR THE PATIENT.

>> THE ANSWER IS THE AGENCY,  
THERE'S RECOURSE AT THE AGENCY.  
I WANT TO MAKE SURE YOU  
UNDERSTAND THAT DOESN'T MEAN  
THERE IS NO REMEDY.

THE AGENCY HAS POWER AND  
RESPONSIBILITY IN THE INSTANCE  
YOU ARE TALKING ABOUT.

IT CAN IMPOSE SUBSTANTIAL  
FINANCIAL PENALTIES ON A  
PROVIDER.

IT CAN DISQUALIFY THE PROVIDER  
FROM PARTICIPATING IN ANY  
WORKERS COMPENSATION SERVICE  
FROM THERE ON.

IT CAN REFER THE PROVIDER FOR  
LICENSING PROCEEDINGS.

THERE ARE POWERFUL PENALTIES.

>> IF I UNDERSTAND THE LIST,  
THERE IS NO REMEDY, NO DIRECT  
REMEDY THAT WILL BE OF DIRECT  
BENEFIT TO THE PERSON WHO HAS  
BEEN INJURED.

>> THAT IS THE LAST POINT I WANT  
TO MAKE.

THE WORKERS COMPENSATION LAW IS  
DESIGNED TO BE AN EFFICIENT,  
SELF-CONTAINED APPARATUS.

ONE OF THE TRADE-OFF THAT GETS  
MADE THAT WE SEE IN THE  
STATEMENT OF LEGISLATIVE INTENT  
IS EMPLOYERS AND EMPLOYEES AND  
CARRIERS ALL HAVE SOMETHING UP.  
THERE IS A REMEDY HERE.

IT JUST DOESN'T FLOW DIRECTLY.

>> THIS WHOLE ARGUMENT ON THE PURPOSE OF WORKER'S COMP. I FIND MYSTIFYING.

THIS ADMINISTRATIVE PROCESS IS SET UP ON LITIGATION OF MATTERS, DISPUTES BETWEEN THE PROVIDERS AND CARRIERS AND ALL THOSE THINGS IN THE SCOPE OF THE STATUTE.

THIS DISPUTE ARISES FROM SOMETHING EXPRESSLY RULED OUT. SOMETHING THAT IS EXPRESSLY OUTSIDE THE WORKERS COMPENSATION, SOMETHING THAT IS PROHIBITED.

THE IDEA THAT SOMEHOW THIS, VINDICATING YOUR PROTECTION OF WORKERS COMPENSATION SYSTEM. WHAT AM I MISSING WHEN I THINK THAT?

>> WHAT YOU ARE MISSING IS THAT ARGUMENT TURNS BACK ON ITSELF. IS MISTER BRYAN GOWDY CONCEDED THE REASON THIS COMPLAINT WAS FILED, THE PROVIDER IN PROPERLY BILLED MISS DAVIS RATHER THAN AN INSURANCE CARRIERS.

>> THE TRADE-OFFS YOU TALK ABOUT WHEN YOU TALK ABOUT WORKERS COMPENSATION IS NOT IMPLICATED IN THIS ALLEGED WRONG DONE BY THE PROVIDER TO THIS PATIENT. I DON'T SEE HOW THAT IS IMPLICATED BY THE TRADE-OFFS UNDERLYING THE WORKER'S COMP. SYSTEM.

>> MY POINT WAS THIS ENTIRE SYSTEM INCLUDING EXCLUSIVE JURISDICTION PROVISION IS DESIGNED TO CAPTURE THOSE TRADE-OFFS IN ONESELF EXECUTING EFFICIENT SYSTEM.

MISS DAVIS HAD RECOURSE TO THE AGENCY IN ORDER TO BRING A COMPLAINT, GET PENALTIES AGAINST THESE PROVIDERS, DISQUALIFY THEM FROM FUTURE WORKERS COMPENSATION, THE HYPOTHETICALS WE ARE TALKING ABOUT. WHAT MISS DAVIS CHOSE TO DO WITH

SOMETHING OUTSIDE THE CAPABILITY  
OF THE ARTICLE 5 COURTS OF THE  
STATE WHICH IS TO SUE ONE OF THE  
CONSUMER COLLECTION LAWS.

MISS DAVIS HAD RECOURSE THAT WAS  
DESIGNED IN A SPECIFIC WAY.

THE RECOURSE IS EXCLUSIVE IN THE  
DEPARTMENT AND THAT IS WHERE IT  
STAYS.

THERE ARE NO FURTHER QUESTIONS.

>> THANK YOU, COUNSEL, WE THANK  
BOTH OF YOU FOR YOUR ARGUMENT IN  
THIS CASE, THAT CONCLUDES THIS.