

The Supreme Court of the State of Louisiana

**MICHAEL L. THOMASSIE AND LINDA A.
THOMASSIE**

No.2020-C-01229

VS.

**AMEDISYS LA AQUISITIONS, LLC D/B/A
METRO PREFERRED HOME CARE, AN
AMEDISYS COMPANY**

IN RE: Estate of Michael L. Thomassie - Applicant Plaintiff; Linda A. Thomassie - Applicant Plaintiff; Applying For Writ Of Certiorari, Parish of Livingston, 21st Judicial District Court Number(s) 149,881, 1st Circuit Court of Appeal, Number(s) 2019 CA 0173 C/W 2019 CA 0174;

January 20, 2021

Writ application granted. See per curiam.

WJC

JDH

SJC

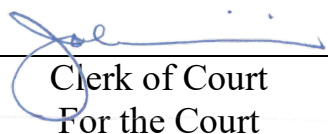
JTG

JBM

PDG

Weimer, C.J., would grant and docket.

Supreme Court of Louisiana
January 20, 2021


Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2020-C-01229

MICHAEL L. THOMASSIE AND LINDA A. THOMASSIE

VERSUS

**AMEDISYS LA ACQUISITIONS, LLC D/B/A METRO PREFERRED
HOME CARE, AN AMEDISYS COMPANY**

**APPLYING FOR SUPERVISORY WRIT TO
THE FIRST CIRCUIT COURT OF APPEAL**

PER CURIAM*

WRIT GRANTED. The amount paid by Tricare for Michael Thomassie’s medical expenses is a collateral source subject to the collateral source rule. The collateral source rule precludes evidence of payments received from an independent source from admission at trial against the tortfeasor to mitigate, reduce, or avoid liability. *Bozeman v. State*, 2003-1016 (La. 7/2/04) 879 So. 2d 692, 698; La. Code Evid. art 409. This prevents the tortfeasor from benefiting from the victim’s foresight in purchasing insurance or other benefits. *Id.* To determine whether Tricare is a collateral source requires an analysis of the facts in light of two considerations. First, whether classifying Tricare as a collateral source will further the primary goal of tort deterrence. Second, whether the victim, by having a collateral source available as a source of recovery, either paid for the benefit or suffered some diminution in his patrimony because the benefit was available so that he is not reaping a windfall or double recovery. *Bozeman*, 879 So. 2d at 700; *Bellard v. American Central Insurance Co.*, 2007-1335 (La. 4/18/08), 980 So. 2d 654, 669; *Cutsinger v. Redfern*, 2008-2607 (La. 5/22/09), 12 So. 3d 945, 953.

“The major policy reason for applying the collateral source rule to damages has been, and continues to be, tort deterrence. The underlying concept is that tort

damages can help to deter unreasonably dangerous conduct. Tort deterrence has been an inherent, inseparable aspect of the collateral source rule since its inception over one hundred years ago.” *Bozeman*, 879 So. 2d at 700. The collateral source rule applied to these facts has a deterrent effect. The Patient Compensation Fund intervened in place of the tortfeasor Amedisys. The Patient Compensation Fund’s resources derive from annual charges on healthcare providers, such as Amedisys. These annual charges are calculated by an actuarial study that considers the healthcare provider’s past and prospective loss and expense experience. La. R.S. 40:1231.4(A)(2). The negative financial effects of adverse claims motivates healthcare providers like Amedisys to avoid unreasonably dangerous conduct. Applying the collateral source rule here furthers the policy goal of tort deterrence.

The second consideration is whether the victim paid for the benefit or suffered some diminution in his patrimony so no actual windfall or double recovery results. It is undisputed Mr. Thomassie made annual payments to Tricare to obtain coverage. Additionally, Mr. Thomassie provided military service to this country. We find Mr. Thomassie diminished his patrimony to obtain Tricare benefits.

The lower courts erred in finding the Tricare payments are not a collateral source. Both factors, tort deterrence and diminution of patrimony, support application of the collateral source rule. For these reasons, we reverse the lower court’s judgment and grant partial summary judgment to plaintiff declaring the collateral source rule applies to the value of medical services provided. The case is remanded for further proceedings consistent with this order.