

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

December 18, 2007

Before

Hon. RICHARD D. CUDAHY, *Circuit Judge*

Hon. MICHAEL S. KANNE, *Circuit Judge*

Hon. DIANE S. SYKES, *Circuit Judge*

Nos. 05-2038 & 05-2416

MEDICAL PROTECTIVE COMPANY,
Plaintiff-Appellant,

v.

HYUN KIM, TERRY JENNINGS,
EARL H. JENNINGS, and ILLINOIS
INSURANCE GUARANTY FUND,
Defendants-Appellees.

Appeal from the United States
District Court for the
Southern District of Illinois.

No. 02 C 4121

G. Patrick Murphy,
Judge.

O R D E R

Medical Protective Company (“MedPro”) has petitioned for panel rehearing for the limited purpose of clarifying our remand instructions regarding the district court’s order awarding damages, costs, and attorney’s fees under the Illinois Insurance Code, 215 ILL. COMP. STAT. 5/155.

In our November 13, 2007 opinion, we vacated the district court’s order awarding penalties pursuant to section 5/155, but our remand instructions referred only to the award of costs and attorney’s fees under the statute. But our holding that the district court abused its discretion by imposing penalties under section 5/155 necessarily means the district court’s award of statutory damages (as well as costs and attorney’s fees) is vacated.

Accordingly, the final paragraph of the opinion is amended to read:

For the foregoing reasons, the judgment of the district court is AFFIRMED, with the exception of the award of damages, costs, and attorney’s fees under section 5/155; we VACATE that aspect of the judgment and remand for entry of an amended judgment consistent with this opinion.