

En Banc Sixth Circuit: No Disgorgement of Profits in ERISA Benefits Denial Claim

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The U.S. Sixth Circuit Court of Appeals recently held that a disability plan participant was not entitled to disgorgement of an insurance company's profits when the participant had recovered on his wrongful denial of benefits claim. The *en banc* Sixth Circuit reversed a prior panel's opinion that held the participant could recover both for the value of unpaid disability benefits plus approximately \$3.8 million in profits the insurance company earned on the unpaid amounts. The Sixth Circuit reasoned that equitable relief under ERISA, such as disgorgement of profits, is a "catch all" remedy only available where a participant is not otherwise made whole under another of ERISA's remedial provisions. Here, the participant had been made whole by recovering the unpaid disability benefits plus his attorneys' fees. Accordingly, to permit him to also recover the insurance company's profits would result in a double recovery. The Sixth Circuit's *en banc* opinion can be found [here](#). For a summary of the Sixth Circuit's prior opinion, please see our newsletter post [here](#).