

Third Circuit Limits Relief Available to Welfare Plan to Appropriate Equitable Relief

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The U.S. Court of Appeals for the Third Circuit recently ruled that an employer-sponsored group health plan for employees was not entitled to full reimbursement of medical expenses that it had previously paid on behalf of a participant, even though the plan provided that the participant was required to reimburse the plan for all amounts recovered from a third party. In this case, the plan paid \$66,866 in medical expenses to the participant for injuries sustained in an automobile accident. After the participant recovered \$110,000 (after attorney's fees and other costs, a net amount of less than \$66,000) from the underinsured driver, the plan filed suit against the participant under Section 502(a)(3) of ERISA for "appropriate equitable relief" in the form of reimbursement of the full \$66,866 that it paid. Finding support in the U.S. Supreme Court's recent ruling in *Cigna v. Amara*, which authorized equitable reformation under Section 502(a)(3) of ERISA, the Third Circuit ruled that the participant could assert equitable defenses to the plan's equitable claim. Because the participant had not received a complete recovery for his injuries, the Third Circuit found that full reimbursement to the plan would not be "appropriate equitable relief" and remanded the case to the district court to determine appropriate equitable relief. This case, *US Airways, Inc. v. McCutcheon*, No. 10-3836 (3d Cir. Nov. 16, 2011), can be found [here](#).