

# No double-dipping on medical injury compensation: High court

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Maryland physicians, thanks to a recent state high court ruling, won't be targets for patients seeking money for injuries for which other sources have already compensated them.

The Litigation Center of the American Medical Association and State Medical Societies and the Maryland State Medical Society filed an amicus brief in the case, urging the court to uphold the state's long-standing "One Satisfaction Rule" that ensures a plaintiff is paid just once for his or her losses.

Without that protection, "Maryland law will encourage plaintiffs to file multiple, successive lawsuits seeking compensation for some of all of the same injuries. Doctors and medical facilities may be looked upon as deep pockets for additional funds even after a plaintiff has, through settlements, already received compensation for their alleged injuries," the Litigation Center brief told the justices.

In an April 29 ruling in *Gallagher v. Mercy Medical Center Inc.*, the Court of Appeals of Maryland—the state's highest court—ruled Michele Gallagher could not go forward with a medical malpractice lawsuit she filed against a hospital where she was treated after a car crash. The court said she agreed to, and received, a settlement from her auto insurance company for medical bills for which she was now seeking money from Mercy Medical Center.

## Court: No evading earlier rulings

After being rear-ended in a 2011 car crash, Gallagher underwent two reconstructive breast surgeries. After the second surgery in 2012, she developed cellulitis and received intravenous antibiotics through a peripherally inserted central catheter (PICC) line.

When the PICC line was inserted, Gallagher's brachial artery was punctured, requiring surgery and outpatient treatment, court documents show. She initially sued the other car's driver and her own insurance company, State Farm, saying that her policy compensated her for "bodily injuries and

losses sustained due to the negligence of an underinsured motorist.” Bills related to her second surgery, cellulitis treatment, PICC line procedure, vascular surgery and her treatment after the PICC line procedure were part of that lawsuit.

She settled with the other car’s driver and proceeded with her lawsuit against State Farm. She ultimately settled that lawsuit in 2015 for \$125,000 after the trial’s opening arguments. In 2016, Gallagher then filed a medical malpractice claim against Mercy, alleging the hospital was vicariously responsible for negligent medical care she received during the PICC line procedure.

The trial court said State Farm already compensated Gallagher for the damages she sought from Mercy, so the lawsuit couldn’t go forward. She challenged that decision, arguing that she wasn’t completely and fully compensated because before she settled with State Farm the trial court for that case said she couldn’t enter belatedly produced documents into evidence, which included medical bills relating to the PICC line procedure.

The Court of Appeals of Maryland in April said that still didn’t allow her to now sue Mercy over those damages.

“If we were to accept [Gallagher’s] approach, it would mean she could evade the consequences of her discovery sanction,” the justices wrote.

Gallagher also argued that not being allowed to enter the bills into evidence was part of her decision to settle. But the court said that, too, is an invalid reason to go forward with another claim.

“She weighted her claim’s value against the risk of placing her fate in the hands of the jury,” the court decision says. “Where, as here, petitioner enters into an entirely voluntarily settlement for all of the injuries that she sustained, she cannot ask the court to conduct a post hoc appraisal of the value of her claims.”

If the court had gone the other way, the Litigation Center brief says, plaintiffs would have been incentivized to file multiple lawsuits for the same injury.

“Physicians and their insurers, facing a lengthy and expensive process that will include the need for expert witnesses, may be compelled to settle these claims regardless of whether a doctor shares any responsibility for a plaintiff’s injury even when a plaintiff has already received full compensation for the alleged harm,” the brief told the court. “It is this type of double recovery and waste of judicial resources that the One Satisfaction Rule is intended to prevent.”