

Law360 Insurance Authority: Insurers Can't Reargue In Ex- Xerox Unit Coverage Row

A Delaware court remained steadfast Thursday in its decision to set aside a verdict finding an ex-unit that paid Texas a \$236 million Medicaid fraud-related settlement tried to defraud its insurers into providing coverage, rejecting the insurers' request for a reargument. Delaware Superior Court Judge Mary Johnston stood by her decision from almost a year ago, telling AIG and other insurers in the case that she "did not overlook a controlling precedent or legal principle, or misapprehend the law or the facts in a manner affecting the outcome of the decision."

In a decision unsealed in March, the insurers said Judge Johnston incorrectly granted a new trial to Conduent State Healthcare LLC because she did so based on several reasons Conduent never argued and which AIG and other insurers for Conduent did not have a chance to argue against.

The insurers asked the court for a reargument "to address crucial legal premises underlying its extraordinary decision to nullify the jury's verdict for defendants in this case, which 12 jurors unanimously reached in less than two hours."

Judge Johnston had set aside a jury verdict finding that Conduent tried to defraud its insurers into covering part of its settlement with Texas by having the state attorney general allocate the settlement to claims covered under its policies and then hiding its actions from its insurers.

The judge held that AIG counsel improperly referred to a press release by the Texas attorney general's

office after the court ruled it was not admissible due to it being “replete with factual conclusions about issues that were hotly-disputed at trial.” However, the use of the press release by AIG’s counsel was in line with what the judge had allowed, the insurer said in its motion.

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