



Ross Silverman Discusses Some of the Biggest Illinois Court Decisions in 2020 with *Law360*

December 24, 2020

Partner and chair of Katten's Insurance and Health Care Fraud Litigation Department Ross Silverman was quoted in an article in *Law360* discussing some of the biggest court decisions that took place in Illinois in 2020.

In particular, Ross commented on the Illinois Supreme Court's ruling this year in *State ex. rel. Leibowitz v. Family Vision Care*, upholding the constitutionality of Illinois' Insurance Claims Fraud Prevention Act (the Act) and broadly interpreting who qualifies as an “interested person” with standing to bring an action under the Act. In November, Illinois justices rejected an argument made by the defendant — an optometry practice — that an “interested person” under the Act with standing to bring a claim should be limited to parties who were directly injured by the acts of insurance fraud prohibited by the Act.

According to Ross, the ruling, which stated that the defining characteristic of an “interested person” is someone who discloses material evidence of wrongdoing and the person's involvement in the litigation rather than “a personal claim, status or right affected by the fraud,” resolves a longstanding legal question, and if the court's decision had been different, it would have limited standing under the Act to insurance companies, which are typically the only parties directly injured by insurance fraud.

“There's a high societal cost to insurance fraud, so why not encourage people who have information on who's doing it to come forward with it when you consider the alternative, which is to not have statutes like this and to have a lot of people who have this information do nothing with it?” Ross said.

The court also rejected the optometry practice's claim that the Act was unconstitutional since the state had given private citizens the right to enforce violations of its criminal laws without suffering any direct damages as a result of such violations. Ross said this ruling was equally significant because it further incentivizes whistleblowers to come forward with information about parties engaged in acts of insurance fraud and could motivate the state to pass similar laws that empower private citizens to

reveal information about parties engaged in violations of state laws prohibiting other kinds of criminal activity beyond insurance fraud.

“If you're committing insurance fraud, the last thing you want is the state to incentivize people to come forward with evidence of the fraud.”

Read, “[Biggest Illinois Decisions of 2020](#),” in its entirety.

CONTACTS

For more information, contact your Katten attorney or any of the following attorneys.



Ross O. Silverman

+1.312.902.5240

ross.silverman@katten.com