

**12-98 WOS V. E.M.A.**

DECISION BELOW: 674 F.3d 290

LOWER COURT CASE NUMBER: 10-1865

**QUESTION PRESENTED:**

The Medicaid Act requires participating States to seek reimbursement from third-party tortfeasors for health-care expenditures they made to Medicaid recipients who are tort victims. 42 U.S.C. §§ 1396a(a)(25), 1396k(a) (2006). To enforce that requirement when the recipient and a third-party resolve their tort dispute through judgment or settlement, North Carolina law provides that the State has a subrogation right to, and may assert a lien upon, the lesser of one-third of the recipient's recovery or the State's actual medical expenditures. N.C. Gen. Stat. § 108A-57 (2011).

The question presented is whether N.C. Gen. Stat. § 108A-57 is preempted by the Medicaid Act's anti-lien provision as it was construed in *Arkansas Department of Health & Human Services v. Ahlborn*, 547 U.S. 268 (2006), an issue on which the North Carolina Supreme Court and the United States Court of Appeals for the Fourth Circuit are in conflict.

CERT. GRANTED 9/25/2012