

# BUSINESS

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## HEALTHCARE

# MDs cleared to sue insurers for pay

■ **More than a half-million physicians are told they can finally go forward in their lawsuit against the nation's major health insurers.**

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In a major development that 600,000 doctors have been waiting almost a year for, the Eleventh Circuit Court of Appeals ruled Wednesday that the doctors can pursue a class-action lawsuit that charges the major health insurers with engaging in a racketeering, criminal conspiracy to delay or deny them payment.

"This is huge," said Harley Tropin, co-lead counsel for the doctors and more than a dozen state medical associations that are suing the insurers Humana, UnitedHealthcare, PacificCare, Prudential and Wellpoint.

Two other insurance firms, Aetna and Cigna, have reached settlements valued at \$470 million and \$540 million, respectively.

The insurance companies had appealed a class-action certification made by U.S. District Judge Federico Moreno in Miami in September 2002.

## HEALTHCARE

# Court OK's doctors' suit against medical insurers

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Among other arguments, the insurers had said the lawsuit could be financially disastrous. The appellate judges shrugged off that idea.

"It would be unjust to allow corporations to engage in rampant and systematic wrongdoing and then allow them to avoid a class action because the consequences of being held accountable for their misdeeds would be economically ruinous," Judge Gerard Tjoelat wrote.

The central complaint of

the doctors and medical associations is that the insurers used similar computerized programs that automatically stalled or denied payment.

The three appellate judges affirmed the racketeering class action but recommended that Moreno "reconsider the precise scope of the classes" and reversed his class-action certification of most of the state-law claims.

In a prepared statement, the insurers applauded the ruling on the state claims.

"With respect to the federal claims, we continue to

believe that these claims are not appropriately handled as a class action," said Kent Jarrell, a spokesman for the insurers. "Ultimately, with respect to these federal claims, we are confident that we will win at trial based on both the heightened standard of proof and the evidence."

Speaking for the doctors, Tropin said the bulk of the case was still intact.

"This will allow the 600,000 doctors and the medical associations to finally bring the case to a jury and Judge Moreno," he said. "The

trial is scheduled to begin next March, but the appellate judges warned that Moreno has a complicated road ahead.

"Given the number of parties involved in this case, it threatens to degenerate into a Hobbesian war of all against all," he added. "Nevertheless, we feel that the district court, a veritable Leviathan, will be able to prevent the parties from regressing to a state of nature. One can only hope that, on remand, the proceedings will be short, though preferably not nasty and brutish."