

PUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

In Re: HOWARD DELIVERY SERVICE,  
INCORPORATED,

*Debtor.*

HOWARD DELIVERY SERVICE,  
INCORPORATED,

*Debtor-Appellee,*

v.

ZURICH AMERICAN INSURANCE  
COMPANY,

*Movant-Appellant.*

AMERICAN HOME ASSURANCE  
COMPANY; HARTFORD FIRE INSURANCE  
COMPANY; THE TRAVELERS INDEMNITY  
COMPANY,

*Amici Supporting Appellant.*

No. 04-1136

On Remand from the  
Supreme Court of the United States.  
(S. Ct. No. 05-128)

Argued: October 28, 2004

Decided: March 24, 2005

Decided on Remand: September 29, 2006

Before NIEMEYER, KING, and SHEDD, Circuit Judges.

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Affirmed and remanded by published per curiam opinion.

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### COUNSEL

**ARGUED:** Margaret Mary Anderson, LORD, BISSELL & BROOK, Chicago, Illinois, for Appellant. Richard McMaster Francis, BOWLES, RICE, MCDAVID, GRAFF & LOVE, P.L.L.C., Charleston, West Virginia, for Appellee. G. Eric Brunstad, Jr., BINGHAM MCCUTCHEN, L.L.P. for Amici Supporting Appellant. **ON BRIEF:** Hugh S. Balsam, Timothy S. McFadden, LORD, BISSELL & BROOK, Chicago, Illinois, for Appellant. Heather G. Harlan, BOWLES, RICE, MCDAVID, GRAFF & LOVE, P.L.L.C., Charleston, West Virginia, for Appellee.

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### OPINION

PER CURIAM:

In our opinion dated March 24, 2005, we held that Zurich American's claim for unpaid workers' compensation insurance premiums was entitled to priority under 11 U.S.C. § 507(a)(4). *See Howard Delivery Serv., Inc. v. Zurich Am. Ins. Co. (In re Howard Delivery Serv., Inc.)*, 403 F.3d 228 (4th Cir. 2005). The Supreme Court reversed our judgment and remanded the case for further proceedings consistent with its opinion. *Howard Delivery Serv., Inc. v. Zurich Am. Ins. Co.*, No. 05-128 (U.S. June 15, 2006). For the reasons given by the Supreme Court, we now affirm the judgment of the district court denying priority under 11 U.S.C. § 507(a)(4) for Zurich American's claim for unpaid workers' compensation insurance premiums. *See also Howard Delivery Serv.*, 403 F.3d at 241 (Niemeyer, J., dissenting). The case is remanded for further proceedings.

*AFFIRMED AND REMANDED*