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NEWSLETTER

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The past six months of 2004 continued to reflect successful handling of insurance defense for a variety of carriers and insureds over a broad range of claims. We have consistently aimed at perfecting the ability to effectively handle professional liability, personal injury, product liability, errors and omissions, non-profit organizations, environmental, inland marine, casualty, commercial liability and various specialty line exposures. While some may say this is unusual for a five member firm, the past 35 years have shown a record of cases won in this range of disciplines with a consistency testifying to competence. Added to this record is our ability to prepare and try cases of some complexity in these disparate areas of the law, whether torts or contract, in the three jurisdictions where we traditionally have practiced - - Maryland, Virginia, and the District of Columbia. Consequently, in looking back over nearly four decades of this work, we are clearly not reluctant to stress for old clients, as well as new, our competence and interest in doing the best possible work for the lowest cost in all areas of insurance claims litigation.

None of this optimistic evaluation means much if results are lacking, of course, and the period covered by this report selects from dozens of cases each month that seem to best reflect our ability to achieve favorable decisions in disputes involving a wide range of claims; both at settlement, trial, and on appeal.

In July, the Maryland Court of Special Appeals decided a case that had been earlier concluded at the Circuit Court

level in favor of our attorney client and a number of other lawyers sued by a dissatisfied claimant who believed he had been the recipient of many outrages at the hands of his own attorneys, their partners, the other side, and its attorneys. A lawyer himself, this plaintiff intended to vindicate his position whatever the cost in time and money. He so proceeded and ultimately died in the attempt. All proved in vain at the Circuit Court level where the defendants collectively won on summary judgment. The deceased's estate proceeded with an appeal and the higher court concluded that the trial judge had got it wrong as to summary disposition as to some claims as to all but one of the defendants. That single exception, was our client who prevailed across the board. As a result, the other half dozen defendants and their insurers can look forward to more years of back and forth with determined adversaries while our lawyer and his carrier have closed their books on this nasty mess of a case.

In August, we faced a two million dollar claim against a non-profit in the District of Columbia, involving constitutional issues that experience has shown take much time and effort to resolve. We aggressively filed motions to dismiss the case as lacking in merit and not only did the trial court grant such relief on the papers, but the D.C. Court of Appeals so acted as well in granting the little used mechanism of appellate summary disposition. So in a relatively short time, a case crammed with challenging claims of constitutional deprivation was decided favorably to our community organization client at very

modest costs incident to both trial and appeal.

In September, an odd circumstance presented in Virginia when the first of two cases involving the suicide of a psychiatrist went to trial against a non-insured, but involving the testimony, crucial as it turned out, of our insured witnesses. Had the result been favorable to the decedent's estate, a promised second suit was to be filed immediately against our insured organization and its staff. We took some pains to properly prepare each of our witnesses. This effort paid off nicely. The Circuit Court struck the evidence of the estate and entered judgment for the defendant. Given the powerful and accurate testimony of our people, no second suit was ever filed; a tribute to good lawyering up front saving time and money later.

In October, we tried a case mentioned earlier in our June 2003 Newsletter related to environmental hazard claims resulting from oil spill fumes contaminating both business and residential premises. This case had been non-suited once before and plaintiff's attorney disbarred. However, the plaintiff obtained new counsel and claiming quality of life impairment, as well as other wrongs, he proceeded to seek redress before a jury in the Alexandria, Va. Circuit Court. The case predictably involved a battle of the experts as to the extent of any claimed atmospheric degradation and then the physical consequences to plaintiff. While we felt confident cross examination by plaintiff's experts showed lack of substance to his claims in both areas, the Court ultimately struck the evidence and entered judgment for our defendant insured management company on the separate issue of absence of any meaningful standard of care evidence. Not to be dissuaded, the plaintiff has filed an appeal; an undertaking whose prospects we believe to be doubtful.

In November, we encountered a complaint by a condominium unit owner to the D.C. Human Rights Commission alleging discrimination. But instead of the race discrimination claims we had often effectively dealt with in the past in various courts, our insured Association of Unit Owners now faced a claim of physical disability. The truly troublesome aspect of a proceeding before this Commission is the time it has historically taken to go through the administrative procedures involved, as well as the likelihood of staff receptivity to any discrimination allegations. But in this case, and given our experience with the agency, we filed very precise and direct submissions pointing out the flaws in the complainant's case. It worked! The agency entered a finding of no cause. And presently, the matter has been dropped without the filing of any appeal.

Finally, in December in Virginia we quickly resolved by settlement a rear end auto claim for \$500 once the plaintiff was exposed to discovery it did not want to deal with. While our insured's liability seemed certain, and the value of the case well above the sum accepted, we undertook to drive home to counsel for the other side that whatever he obtained after trial would be eaten up in discovery costs. While the case was a small one, the practice of aggressive efforts short of trial to settle problematic cases proved its worth once again. Indeed, we settled a number of such bad liability cases over the previous six months employing just such techniques. In one case in Maryland, a disabled person had fallen down an unguarded flight of stairs, breaking both legs and ultimately expiring. The case appeared even worse when the insured admitted liability in reports to the State and the State's own investigation likewise concluded the insured to be at fault. Yet we filed numerous motions in limine to preclude admission of such reports as well as other harmful documents/testimony.

Experienced counsel for plaintiff's estate admitted in negotiations that he believed these motions when heard at trial would succeed. As a result, the case settled very favorably to the insured and its insurer.

The above are but a few of the highlights of the past half-year. We lost no cases, resolved many favorably, and our worst result was a mistrial. We believe these consistently good results reflect our experience and commitment to our insureds and insurers with particular fidelity. This has been our established process for 35 years and it continues.