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NEWSLETTER

June 2005

Vol. II

No. 7

This report of the work of our firm for the first six months of 2005 includes a consistent record of successes for carriers and insureds every month of the winter and spring, but perhaps more importantly, one of these cases was selected to be included within the list of the 50 most important decisions decided in 2005 by the Virginia Lawyers Weekly. Two other decisions were given front page attention in the respected Maryland state-wide legal publication, The Baltimore Daily Record.

It bears repeating, we believe, to emphasize that we are a firm that concentrates on litigation; on trials and appeals as compared to other law firms that are more transactionally oriented. Thus while our legal expertise lies primarily in the area of insurance law and practice, work we have principally done over the past thirty-five (35) years, we view our task for insurers and their insureds as resolving disputes at the lowest possible costs but in the context of knowing civil procedure and trial/appellate practice. Put another way, we do not compromise cases at the last moment in fear of trials nor are we other than aggressive in filing timely motions to resolve cases quickly. And part of our success in mediating and settling appropriate cases is that we carry with us the reputation and capability to effectuate, if necessary, our arguments at the negotiation level to good results in court.

In January, a troublesome case by a litigious tenant in the District of Columbia reached a climax when the Superior Court called a halt to previous litigation. Despite

our motions to dispose of the case summarily, the court earlier had resisted what we believed to be persuasive factual and legal arguments favoring our insured. Ultimately, it seemed that the Judge took a hard look at the merits and at a hearing, after listening to extended arguments by the other side, entered judgment in favor of our management company client.

In February, the federal district court in Norfolk, Virginia, after detailed briefing, entered a declaratory judgment as to lack of coverage on a policy issued by our carrier client to a restaurant in the Tidewater area. A bar fight had broken out, continued outside the restaurant, and resulted in a bystander being injured by a person unrelated to the restaurant. While the policy involved included an exclusion for claims related to altercations on the premises, the insured believed the unusual circumstances of this plaintiff's injury off site, involving a non-employee, fell outside the exclusion. We argued the policy language reached this particular occurrence and, in a detailed opinion, the court agreed in every particular. As mentioned above, the state-wide lawyers' newspaper not only prominently published this opinion at the time it was reported, but subsequently listed it as one of the most important cases decided in the first half of this year. Given that this case was on remand from the U. S. Court of Appeals for the Fourth Circuit who had ruled that the federal court was the proper forum of declaratory relief sought by a carrier related to a state court proceeding in Virginia, the district court decision turned into a double

victory for insurers through our firm's efforts.

In March, an accountant malpractice claim filed in the Circuit Court for Howard County Maryland, was finally resolved on our motion for Summary Judgment. Thirteen wealthy investors had joined together to seek recovery of poorly advised, failed investments that, with interest, reached eight million dollars. Policy coverage, while short of that amount, was also in the millions of dollars. The scandal involving Price Waterhouse and the increasing number of cases filed against accounting firms made our insured an attractive target. Some twenty two depositions were taken around the country in order to perfect the record and set the stage for a dispositive motion; with a three week trial being the alternative. The Judge's opinion covered all claims and issues, disposing of each one with clarity, and favorably to our client. The Daily Record featured this ruling in a two page article reflecting the court's analysis of prior Maryland case law in concluding the accounting firm owed no duty to disgruntled investors who allegedly relied on its audits in investing in a start-up company that subsequently filed bankruptcy. The decision hopefully puts some restraint on litigation aimed at accountants in Maryland for the immediate future.

In April, we successfully defended a Homeowner's Association in Maryland that had been sued in Prince George's County Circuit Court by a disgruntled home owner whose property had been foreclosed on for failure to pay his Association assessments for many years. The plaintiff represented himself and bombarded us with pages upon pages of pleadings that were often nonsensical. In an attempt to bring this matter to an expeditious conclusion, we filed a motion to dismiss and we won. The court granted our motion to dismiss as to all

counts and our client received a decidedly favorable result without having to endure the time and expense of a protracted trial.

In May, the Circuit Court for Calvert County, Maryland handed another of our Homeowner Association clients a resounding victory. A member of the Association submitted plans to build an airplane hanger on his property, adjacent to a small landing field. However, the structure that he began building was astoundingly different than his submitted plans indicated. In fact, the project became so large, that it became known as the "BWI South." Our client sued the property owner to force him to comply with his original plans. The Court granted our motion for Summary Judgment and permitted us to file a motion to recover our attorneys' fees and costs in this case; a remedy which is unusual. Needless to say, this was an impressive and relatively unexpected benefit for our client. It was reported on the front page of the Daily Record.

In June a number of our cases resolved favorably including a Virginia federal court two million dollar attorney malpractice claim against an insured client as well as a successful all day and night mediation, again involving claims exceeding a million dollars. The latter resulted in plaintiff accepting a modest payment and the defendant insured avoiding litigation entirely. But the most interesting matter concerned a suit brought against a client insurer by a plaintiff's attorney seeking to force the carrier to negotiate settlement. Apparently this tactic has become attractive to some high-powered plaintiff firms of late in the District of Columbia where this case was filed and allowed by the trial court to proceed. When assigned the defense we immediately moved to dismiss. The opposing firm's senior partner after reading our brief called to indicate the pleading would be dismissed. That result followed.

Again it is hoped this quick resolution may have some salutary impact on similarly inclined plaintiff firms.

It has been a busy and full six months for our firm. Not every case can be disposed of by settlement or motion. But aggressive response to every dispute clearly increases the chances of a good result at substantial cost savings. This is a course we have always followed and the above results prove its wisdom.