

JOSEPH F. CUNNINGHAM & ASSOCIATES
1600 WILSON BOULEVARD, SUITE 905
ARLINGTON, VIRGINIA 22209
(703) 294-6500

NEWSLETTER

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2003 was the most successful year this law firm has ever experienced. You will recall perhaps, our last Newsletter, reflecting some very positive case results through the first five months of this year. But things only got better from that point on! So it seemed appropriate to let our carriers and clients know that hard work and intelligent tactics can result in some remarkably good results.

To begin, we mentioned in our last report a variety of pending cases of interest to insurers, businesses and professionals. The first case, involving a respected Maryland accounting firm, has been continued by the Circuit Court for some two years hence. Not good for the insurer or the insured, but equally bad for the claimants. The lesson here is that massive, broad-based litigation by plaintiffs seeking millions of dollars takes too much time and money to resolve by litigation. We presently are preparing a Summary Judgment Motion to hopefully end this bogged-down exercise and expect to do so given controlling Maryland law.

Our earlier referenced efforts with the federal Equal Employment Opportunity Commission garnered good results. Two cases pending resulted in no action by that agency. One was subsequently not pursued further by the complainant and the other found no attorney and is being pursued *pro se*.

And our then pending environmental suit, presenting significant exposure to owner and insurer alike, resulted in a dismissal by plaintiff, or non-suit. The realities of a well-prepared defense

ultimately became apparent to the other side and the case was dropped. Avoiding trial saved the client and insured tens of thousands of dollars.

Turning now to new decisions over the past seven months, we begin with a Maryland insured and a personal injury claim against its Fitness Club. The plaintiff, an attractive young woman, was injured on the premises. We relied upon the exculpatory language in her contract for services with the Club and undertook extensive discovery. The plaintiff's attorney gave up and filed a Line of Dismissal.

Next, in August, we tried a case to verdict related to injury of a five year old child, suffering facial injury at her pre-school. Six witnesses testified as to responsibility of the insured school. The theories of recovery were: premises liability; negligence; breach of contract; and civil penalty under Maryland statute. It was established the child ran into a rope string in the playground by the school. Aggressive witness examination by our firm resulted in the court finding the insured to be negligent but awarded only \$750 in damages – a sum far below any reasonable offer. The case was not appealed despite the parents being unhappy with the result.

In September, a claim of lawyer malpractice was referred to Virginia Bar Counsel by a disgruntled sibling who claimed our insured attorney had a conflict of interest in representing the siblings parents, as well as engaging in other supposedly improper conduct. We helped prepare a detailed brief

to Bar Counsel, covering every aspect of the challenged activities of our insured client. Bar Counsel dismissed the complaint and no further part of it ensued.

In October, a nasty suit against a roofing company we represented in trial in the District of Columbia Superior Court was dismissed voluntarily by plaintiff's attorney after strenuous behind the scenes efforts with counsel to explicate the reason why his case would fail. The point of the exercise, of course, is to save everyone time and money (a point worth repeating again and again), with only the lawyers profiting from extended litigation. It worked here and continues to be a premise for all our case efforts from the beginning.

In November, we represented a car rental company in an auto accident case wherein its leased vehicle was driven into the rear of plaintiff's car and the resulting injuries gave rise to a suit claiming \$745,000.00 in damages. We undertook to involve the insurers of the driver and lessee of our insured's rental vehicle, and negotiate the basis for their undertaking the defense and settlement of these claims. Hard bargaining paid off. The case involved Maryland and D.C. drivers. Our rental car company was a major name in the business and thus a target defendant. Regardless, negotiations paid dividends and the errant driver's carrier finally accepted the tendered defense, ultimately settling all claims. Our insured paid nothing.

Also in November, a suit in the federal court in Virginia had targeted, among others, a community support organization that was accused of denying parent plaintiffs access to their child. The judge subsequently determined this conduct by another defendant violated the parents' civil rights

and allowed the case to proceed on grounds of Constitutional violations. Fortunately, our similarly situated community organization in the same court was voluntarily dismissed earlier this year as we had persuaded plaintiffs' counsel not to proceed with his lawsuit and dismiss as to our insured in this case. Suits of this nature are expensive and by their nature have great demands as to research, motions and hearings. Avoidance of such costs is always a positive result and here especially so, as the Court's ruling, after our insured's dismissal, suggests a long road for the remaining defendants.

Then in early December, we forced a plaintiff in Williamsburg, Virginia to dismiss a suit against our insured, a mobile home service, on grounds of untimeliness. The issue was less than clear cut, but the prospect of extensive discovery and motions by our firm when the other defendant remained passive, painted an unattractive picture for plaintiffs' attorney. He and his clients decided to leave our insured alone and proceed against other, less aggressive defendants.

Finally, and perhaps most satisfying, on Christmas Eve we received a fifteen page opinion from the Chief Judge in a Maryland Circuit Court involving a policy coverage dispute between our client, Underwriters at Lloyds, and an insured making claim under an errors & omissions policy. Coverage and a defense had been denied for a suit alleging claims precluded by the policy's terms and conditions. Suit followed promptly, and cross motions were filed after some discovery. The court considered the issues for some time but ultimately ruled in favor of Lloyds on all issue. The Underwriters thus received their arguably most favorable U.S. ruling in 2003 from this Maryland court.

If the above seems too good to be true, we must admit one defeat during the period – in a court of first instance in the Maryland countryside in December. In a bench trial, the judge disregarded testimony that our insured faced a plaintiff who was speeding, without his headlights on, and found her already in the intersection where the accident occurred. Despite this proof, he ruled for the male driver over the female. Given this obvious miscarriage, the firm has appealed *at our expense* to try and see the client and the judicial system in this small corner of the State vindicated. The point here, of course, is that we believe in our clients that we take to trial and will fight even at our own cost, to see them vindicated.

We have not listed here all the cases this firm tried to verdict, mediated and settled satisfactorily. But, the above sample of interesting decisions and good defense results may be of interest to our readers as they were to our clients.

So while we cannot report on every case, we think 2003 was a great year for all of us. We look forward to a similar good record in the coming year for our insurers, insureds and private clients.