

**REPRESENTATIVE CASES MEDIATED AND ARBITRATED IN THE FOLLOWING AREAS:**

CONTRACT *ET ALIA* (PAGE 1); ENVIRONMENTAL (PAGE 3); CONSTRUCTION (PAGE 3); EMPLOYMENT (PAGE 4); TORT, PERSONAL INJURY/PRODUCTS LIABILITY (PAGE 6); MALPRACTICE (PAGE 8); INSURANCE COVERAGE AND BAD FAITH ISSUES (PAGE 9); FRANCHISE & AUTOMOTIVE MANUFACTURER/DEALER DISPUTES (PAGE 10); ICANN DISPUTES (PAGE 10) CLASS ACTIONS (PAGE 10); BANKRUPTCY (PAGE 10); UM/UIM & INTERPLEADER (PAGE 10)

CONTRACT & COMMERCIAL DISPUTES

- Interpretation of fine-dining restaurant concession lease with major city, claims for utilities and counterclaims for lost profits;
- Disputed interpretation of a promise to re-purchase stock grants from a corporate suite executive who alleged constructive discharge of his employment;
- Claim for overpayments, discovered during audit, by behavioral health care managed care organization from one of its network providers;
- Claim for royalties and accounting under Paid-Up Oil & Gas lease;
- Suit for commissions from sale of 150 acre, \$10.5 million property with oil and gas rights;
- Breach of contract, tortious interference with contract arising out of failure to pay \$3.5Million fee upon \$60Million purchase of company to serve as platform for new cash management business model, where purchased company introduced by plaintiff to defendant;
- Dispute over ownership of concept, web graphics and code created by employee of not-for-profit while on leave of absence from employer;
- Allocation of profits in highly emotionally charged break-up of \$10million real estate partnership where partners were life and business partners;
- Embezzlement by employee of \$1.4million from employer through use of bank accounts created by employee using LLC doing business as employer;
- Dispute raising unfair trade practices by national franchisees' association against franchisor;
- Patent infringement, misappropriation of trade secrets, unfair business practices/unfair competition claim by manufacturers of patented bed purchased by US Department of the Navy;
- Breach of warranty in sale of 45 tons of feed product for veal calves containing prohibited whey substance, causing severe market price drop in value of veal calves fed with product;
- Claim for reimbursement for managed behavioral health services to eligible medical assistance recipients enrolled in commercial health plan;
- Dispute over interpretation of Basket Maximum Loss Provision in Large Risk Alternative Rating and Insurance Program Agreement;
- Alleged unlawful cancellation of contract requiring uninterrupted commissions from revenue from placement of county prison system telephone system for inmates;
- Software licensing dispute seeking rescission between IT companies;
- Rescission of sale of dental practice;

- Claim of system failure by NASD broker dealer against clearing firm;
- Breach of distributorship agreement providing for entry of major American brand name product to European Union;
- Breach of contract claim by client against broker for wrongful disbursement of securities account;
- Claim for past and future management fees by charter school parent corp. from chartered school;
- Contract dispute between telemarketer and telecommunications corporation;
- Post-merger and acquisition dispute over discrepancy in inventory valuation;
- Non-performance by bank of commitment letter to buy out seven million dollar commercial mortgage due to dispute over tenant terms;
- Dispute between pharmaceutical firms regarding inclusion of placebo form of product under asset purchase agreement and manufacture and supply agreement;
- Breach of exclusive global distribution rights to software technology; failure to market technology; and misappropriation of confidential information;
- Claim for failure of software program in HMO;
- Withdrawal of senior debt commitment by bank after reliance by newly licensed TV station;
- Dispute over payout under asset purchase agreement;
- Allocation of damage award between managed care consultant and health insurer;
- Contract/fraud claim against art dealer in sale of \$550,000 work of art;
- Fee dispute over independent contractor agreement for management of nursing home facility;
- Dispute between hospital and doctor over purchase option and appraised value of medical practice;
- Total disability claim under five policies by urologic surgeon;
- Dispute involving bank trustee and insurance company over handling of reinsurance trust account;
- International dispute regarding patent license assignments and income sharing provisions of a manufacturing and distribution agreement;
- Dispute over requirements contract for custom-made graphic markings for use on agricultural equipment;
- Breach of agreement for transfer of technology, manufacturing and distribution of medical device;
- Failure of software developer to complete and perfect statistically-based sports simulation computer games;
- Software license agreement, dispute over system implementation/performance;
- Dispute over alleged infringement of copyright registrations and exclusive trade dress rights in commercial products;
- Uniform Commercial Code dispute involving violation of purchase order specifications and breach of express and implied warranties;
- Breach of warranty in sale of professional practice by disabled doctor due to failure to disclose involuntary institutionalization for substance abuse;

- Partnership break-up involving division and distribution of real estate assets, rental income and future profits; and
- Partnership dissolution involving music education in public school.

#### ENVIRONMENTAL

- Class action seeking \$30 Million in damages for contamination of water table, damages for health-monitoring, diminution in property values, providing clean water source and loss of well water use/annoyance
- Allocation between Responsible Parties of \$2 million dollar US EPA claim for SuperFund clean-up;
- Interpretation of self-exoneration clause in contract for abatement of asbestos containing materials in renovated urban apartment building;
- Assessment against Deferral Notes issued in Stock Purchase Agreement due to burden of hazardous waste [methylene chloride, hexavalent chromium, arsenic] clean-up;
- Underground spill of petroleum contaminating soil and groundwater under 20 acre shopping center, requiring remediation and impacting real estate value;
- Purchase and attempted residential development of 69 acres subject to Federal Wetlands Act;
- Contamination of water table due to run off from interstate highway construction project;
- Devaluation of 60 acres of developable land upon discovery of disposed battery casings; and
- Remediation of soil contamination after failure to detect contamination in removal and closure of underground diesel fuel storage tanks

#### CONSTRUCTION

- Coating claim, roof water- retention claim, and shoring claim in connection with addition to embassy;
- Damage claim for failure of exterior insulation and finish system on residential high rise;
- Acceleration damages claim by general contractor against precast concrete subcontractor for failure to keep contract schedule;
- Multi-contractor dispute arising from construction of Liberty Place, a major Philadelphia business and retail center;
- Condominium association suit against declarant developer of historic building to condominiums, alleging \$5 million of construction defects;
- Dispute between subcontractors in construction of Marriott Hotel;
- Mold contamination in dormitories, failure to maintain and inspect central HVAC;
- Building structure collapse, failure of spandrel beam weighted with precast concrete flooring;
- Upheaval of shopping center due to use of slag as backfill;
- Foundation settlement on Department of General Services project for State Agency, excavation and backfill issues;

- Dispute between owner of \$40 million home and New York, London and Paris interior design firm;
- Property damage to mid-town NYC high-rise commercial structure due to blasting;
- A high stakes, in terms of financial exposure and working relationships, pre-litigation dispute between a private school, its contractors, designers and insurance carriers due to collapse of outdoor ice hockey arena;
- Home owner association action against architect, developer and general contractor for cracking of walls and ceiling due to erosion and subsidence of soils in condominium project;
- Dispute between City, general contractor and subcontractors over reconstruction of historically registered 19th century urban water works;
- Design failure of HVAC in 5000 square foot, \$4million Jersey Shore home;
- Improper curb cut and site design dispute involving owner, architect, environmental design company and general contractor;
- Gas line explosion demolishing historic church and adjacent structures;
- Suit by school involving structural engineer, architect, soils engineer and soils mover based on improper backfill resulting in deflection of retaining wall;
- Failure of ninth level of multi-story parking garage attached to hospital, leading to dispute between owner, general contractor and concrete subcontractor; and
- Dispute involving \$300,000 state Department of Environmental Regulation fine for failure to obtain stream relocation permit and siting of berm without obtaining code-mandated variance.
- Dispute between subcontractor and general contractor over approval for use of sub-base material and bituminous concrete after subsidence of parking lot.

#### EMPLOYMENT AND LABOR

- Reverse Title IX claim against university by ethnic male student suspended for sexual assault on white female student, charging failure of due process;
- Claim for credit for years of service and attendant ERISA benefits upon transfer to new employer;
- Whistle blower claim by nurse in mental health facility, terminated by her employer for accessing patient records;
- ERISA §510 claim by executive of Fortune 100 company for Executive Severance Plan benefits;
- Failure to pay overtime in violation of FLSA;
- Fact-finding in school district sexual harassment claim;
- Fact-finding in and mediation of dysfunctional professional behavioral conflicts between doctors and nurses in community hospital;
- Title VII racial harassment, discrimination and retaliation claim against regional railroad employer;
- Enforcement of non-compete against account executive in biotechnology and pharmaceutical executive search firm;
- Termination of Physician-In-Charge of hospital medical practice;

- Bank president's claim for unvested stock options after separation from employment;
- Negotiation of removal of tenured full professor from academic department at college;
- Whistle blower complaint by IT Senior Network Engineer, alleging he was severed from employment for reporting black mold, averred by University that severance was for insubordination;
- Retaliatory firing for serving as a witness in complaint filed under Sarbanes-Oxley;
- ADEA claim by former head of security of a Fortune 500 company;
- Age discrimination and retaliatory firing charge by Ph.D. in University's Department of Social Services;
- Claim by tenured faculty member under the Americans With Disabilities Act for failure to accommodate Multiple Sclerosis;
- Denial of tenure to university hospital physician in Dept. of Psychiatry;
- Gender discrimination in university business school;
- De-listing of disciplined physician from Preferred Provider Organization roster;
- Sexual harassment, constructive discharge and battery claims by assembly line specialty worker;
- Sexual harassment claim by employee in national food franchise;
- Gender and religious discrimination, interference with contractual relationship claims surrounding termination of tenured chairman of department nuclear medicine;
- ADA claim to EEOC by union member major newspaper mail-room employee for failure to accommodate diabetes;
- ADA claim by IT director for failure of hospital to accommodate IBS syndrome;
- Hostile environment claim by two female employees of regional utility company;
- Age discrimination claim by 61 year old parts manager terminated from auto dealership;
- Age discrimination claim by manager fired for favoritism shown to female employee;
- Sexual harassment claim by Human Resources Director against president and major shareholder of family owned business;
- Claim for \$500,000 severance benefits by executive terminated after executive entered plea agreement with U.S. Attorney;
- Age discrimination claim by 55 year old skilled long-term employee for negative review;
- Denial of benefits to manager under ERISA governed change in control plan after merger;
- Long-term manager's claim for continuing employment in Fortune 1000 company after downsizing;
- Wrongful termination claim by department manager employed under written contract;

- Sexual harassment by chain restaurant manager;
- Sexual harassment and retaliation claim by hotel chain employee;
- Claim for reinstatement and back pay by banquet manager fired for rumored drug use;
- Reverse race discrimination and scapegoating charge by machine operator;
- Sex, disability and age discrimination claim by psychiatrist against medical university;
- Discrimination claim by female partner terminated from law firm;
- Sex and race discrimination charge by executive against national bank;
- ADA claim against United States Air Force by civilian employee;
- Disputed obligation(s) of terminated manufacturer's representative;
- ADA claim by blind employee of against not-for-profit corporation;
- Age discrimination claim by terminated department head of publishing house;
- *Quid pro quo* sexual harassment and hostile environment claim against obstetrician/gynecologist clinic director;
- Wrongful discharge of executive in employment-at-will state violating implied terms of employment contract;
- Age discrimination claim by female newscaster against news network;
- Sexual harassment claim by college intern; and
- On referral from USDC, Eastern District Pennsylvania, sexual harassment and retaliatory termination claim by female assembler.

#### TORT, PRODUCTS LIABILITY, WRONGFUL DEATH AND PERSONAL INJURY

- Public figure libel case [losing side of breach of contract action libeled attorney who represented winner];
- Alleged liability of brokerage firms due to inappropriate investments, in one case, of the \$500,000 savings of a retired couple, and, in another case, a \$2.5 million divorce settlement;
- President and Chairman of Board suit against corporation for defamation and malicious prosecution;
- Cessna Silver Eagle plane crash death of father and son due to defective gearshaft part;
- Death of father and son, wife/mother surviving as amputee, in action against construction company, trucking company and Department of Transportation;
- Electrocution of child at private resort and conference facility;
- Death of retarded 21-year old woman in custody of residential care facility;
- Death of driver in sudden acceleration of vehicle due to failure of manufacturer to install shift interlock device;
- Electrocution of electrician in flash fire ignited by air conditioning compressor;

- Wrongful death action alleging theories of product liability against manufacturer, and negligence against inspection agent in burn death of plant worker in explosion of pressure vessel;
- Death of young mother and four year old daughter, husband/father surviving, due to carbon monoxide poisoning from furnace;
- Death and survival actions arising from malfunction of crawl space heater resulting in destruction of house and fatal burns to father/husband;
- Death of plumber overcome by toxic fumes from sulfuric acid;
- Death of invalid due to burns and smoke inhalation in course of robbery and arson committed by attending health care professional from licensed agency;
- Death of adolescent male in swimming hole drowning on private property;
- Death of adolescent female in boating accident at private club premises;
- Death of industrial worker in explosion of sterilization enclave;
- Death of restaurant chef in motor vehicle accident, involving suit against state transportation agency in process of re-paving state highway;
- Drowning of deaf, blind and profoundly retarded young woman in the care of not-for-profit custodial institution;
- §1983 civil rights action against police department for out-of-policy high speed chase resulting in deaths of occupants of chased car;
- Sexual abuse of 11-year old altar boy by Catholic parish priest;
- Sexual solicitation and rape of 11 year old girl by school swim coach;
- Sexual abuse of freshman plebe in military school by upper classmen;
- Sexual abuse of freshman by private high school basketball coach;
- American in Tunisia who became a C4 incomplete quadriplegic in touring accident, tour bus colliding with flock of goats;
- Lawn mower back-over of three year old child requiring total amputation of left foot and medial partial amputation of right;
- Civil rights §1983 action by paraplegic and permanently psychologically disoriented young woman passenger in car involved in high speed chase by municipal police department;
- College student rendered quadriplegic diving into swimming pool at private graduation party at motel;
- High school student paralyzed in performing improper racing dive into shallow end of pool at school district swim meet;
- Ninety convention guests made ill at hotel by bacterially contaminated drinking water;

- Multiple plaintiffs sued dairy egg producers and restaurant for salmonella poisoning;
- Severe crush injury and partial amputation of distal phalanx [thumb] left hand;
- Legionnaires Disease outbreak from improper cleaning/maintenance of hospital cooling towers;
- Industrial site accident in application of a geosynthetic membrane alternative daily cover at solid waste landfill;
- Permanent facial scarring of child due to melt down of plastic container, alleging product liability and failure to warn;
- Sizzler Restaurant personal injury claims by assignment from United States Bankruptcy Court in Sizzler Chapter 11 proceeding;
- Destruction of warehouse due to spontaneous combustion of improperly cured /packaged red peanut skins;
- Destruction of residence and personal injury husband/wife from gas explosion due to failure to lock gas line riser;
- Injury to concert violinist performing at restaurant; and
- Inoperable disc injury suffered by worker instructed to climb down manhole and ladder detached from wall.

#### MALPRACTICE ISSUES: LEGAL, ACCOUNTING & MEDICAL

##### ACCOUNTING MALPRACTICE

- Actuarial malpractice in termination of Defined Benefit Employee Pension Plan;
- Failure of securities broker to disclose risks in highly leveraged Variable Universal Life policy;
- Valuation under Rev. Rul. 59-60 of intertwined closely held corporations subsequent to leveraged buy-out;
- Detrimental reliance by lender on financial statement prepared by certified public accounting firm which overvalued assets of borrower;
- CPA misinterpretation of application of Subchapter T of the Internal Revenue Code, and attending regulations, resulting in IRS audit of and assessment against agricultural cooperative;
- Improper formula used to value manufacturer inventory, leading to overvaluation and reliance by major lender, default of manufacturer on line of credit forcing manufacturer into Chapter 11 reorganization, followed by suit by manufacturer against accounting firm; and
- CPA failure to detect on-going embezzlement by law firm manager of firm receivables.

##### LEGAL MALPRACTICE

- Failure of attorney to understand and/or advise client of terms of Joint Tortfeasor Release which reduced \$2.5 million verdict to \$400,000;
- Failure of attorney to advise client that General Release barred ERISA claim for long term disability;
- Failure to discover value of privately owned companies in marital dissolution;
- Attorney malpractice for failure to register stock offering;



- Attorney malpractice at criminal trial of client by failure to present expert testimony, resulting in guilty verdict and imprisonment of client;
- Failure of attorney to perfect registration of trademark of female singing group, resulting in rival group registration of name; and
- Attorney malpractice founded on irreconcilable conflict of interest.

#### MEDICAL MALPRACTICE

- As referee in Reliance Liquidation, contention that therapeutic radiation to treat Hodgkins disease caused cerebellar paraneoplastic degeneration, triggering malpractice coverage issued to hospital;
- Craniectomy and removal of brain stem meningioma in 53 year old male corporate executive, subsequent death due to undetected cerebral hemorrhage;
- Alleged failure to identify compartment syndrome in right lower extremity, following urethral stricture surgery, causing necrosis of calve muscles and requiring their surgical removal;
- Labial burn by early activation of cautery tool in course of hysterectomy, causing continuing pain and loss of consortium;
- Surgery on child's left leg with subsequent vascular deterioration requiring above the knee amputation of left leg;
- Multiple back surgeries resulting in permanent paralysis of patient;
- Emotional trauma resulting from sexual involvement of psychologist with patient;
- Failure to detect cervical cancer in PAP smear, subsequent death of thirty-two year old mother;
- Misreading of PAP smear slides, failure to detect cervical cancer for two years and destruction of slides in violation of federal law;
- Diagnosis of radiation colitis and subsequent surgeries and colostomy when proper diagnosis contended to be Crohn's disease treatable by steroids; and
- Misdiagnosis of vasculitis, failure to do proper diagnostic tests to locate embolizing atrial myoma causing stroke in 30 year old male.

#### INSURANCE COVERAGE DISPUTES AND BAD FAITH ISSUES

- Declaratory judgment determining event triggering coverage obligations of carrier for additional insured;
- Allocation of punitive damage settlement award between worker's comp carrier and medical consulting corporation;
- Declaratory judgment action determining whether a single deductible covers "interrelated wrongful acts" or whether each act is subject to its own deductible;
- Urologist's claim under five disability policies for inability to perform complex surgeries due to medical condition;
- Reservation of rights/declination of coverage in attorney malpractice action:
- False representation of no UIM coverage, 3 ½ year delay, arbitration award on UIM claim of \$925,000;
- Acknowledgment of liability but failure to make any offer of settlement in UM case;

- Bad faith action against carrier for calculated delay in offering full value of first party claim; and
- Bad faith offer after resolution of UIM claim.

#### ICANN DISPUTES

- Arbitrated domain name disputes.

#### FRANCHISE & MOTOR VEHICLE MFG/DEALER DISPUTES

- Franchisee suit for failure of franchisor to offer right of first refusal on second franchise and unfair competition;
- Vehicle manufacturer/dealer dispute before Board of Vehicle Manufacturers alleging fraudulent advertising, sales practices, and accounting violations;
- Permanent arbitrator of disputes arising under franchisor/franchisee national class action settlement;
- Triggering of franchisor right of first refusal on offer of sale of shares by sole shareholder;
- Protest of RV dealer for failure of manufacturer to accept revocation of acceptance of top-of-the-line RVs;
- Protest of intention to terminate car and truck dealership agreement;
- Protest of establishment of new motor vehicle dealership; and
- Protest of buy/sell and relocation of automobile dealership;
- Protest of siting of new dealer eroding market share of existing dealer.

#### CLASS ACTION

- Mediator & arbitrator in national class action alleging fraudulent sales practices in the placement of life insurance.

#### BANKRUPTCY

- Mediator in 11 U.S.C. Section 547 preference avoidance actions.

#### UM/UIM CASES

- Service as neutral in 3 person arbitration panels hearing uninsured and under-insured motorist claims.

#### INTERPLEADER ACTIONS

- Mediator interpleader action, four claimants to death insurance proceeds.

#### COURT APPOINTMENTS

- Discovery Master, *Commonwealth v. TAP et alia*, Average Wholesale Pricing multi-district suit against multiple major pharma companies doing business in PA
  - Referee, *Reliance Insurance Company Liquidation*
  - Judge Pro Tem, *Commerce Court Philadelphia*
  - Special Master, *E-Discovery Panel for the US District Court for the Western District of Pennsylvania*
  - Mediator, *US Bankruptcy Court for the District of Delaware*
  - Mediator, *US Court of Appeals for the Federal Circuit*
  - Arbitrator & Mediator, *USDC Eastern District of Pennsylvania*