

# Condon & Cook, LLC

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*We are pleased to advise of Condon & Cook's recent achievements and speaking engagements.*

### **\$166,000 Insurance Fraud Judgment**

In October, 2013, Pete Schoonmaker obtained a judgment in the amount of \$166,000.00 in a civil recovery action brought under the Illinois Insurance Fraud Act and Deceptive Practices Act against a defendant engaged in a premium fraud scheme. The defendant applied for a series of homeowners policies and issued fictitious checks in amounts in excess of the billed premium. The carrier issued automated refunds to the defendant who then, in turn, wrote additional fictitious checks when the premium statements were reissued. Judgment was entered under both the Insurance Fraud Act and the Deceptive Practices Act.

### **Not Guilty Verdict - Vehicle/Pedestrian Bodily Injury**

In August, 2013, Mark Ruda obtained a jury verdict in a personal injury case in which the defendant's vehicle struck the plaintiff while he was crossing the street resulting in severe injuries. The plaintiff made a policy limits demand which was rejected. The jury returned a verdict in favor of the defendant after two hours of deliberation.

### **Not Guilty Verdict - Arson/Fraud**

In October, 2013, Pete Schoonmaker obtained a not guilty verdict in a jury trial in the Circuit Court of Cook County arising from a breach of contract action filed as a result of the denial of an incendiary fire claim. The defendant asserted intentional act and fraud defenses. The jury deliberated approximately one hour before returning a defense verdict.

### **Not Guilty Verdict - Breach of Contract, Bad Faith & Consumer Fraud**

Mark Ruda recently obtained a defense verdict in a lawsuit arising from the adjustment of a fire claim. The plaintiffs asserted claims for breach of contract, bad faith, common law fraud, and consumer fraud. Plaintiffs requested requested compensatory and punitive damages, as well as legal fees. After a two week trial, the jury returned a verdict in favor of the defendant.

### **Summary Judgment - Freeze-Up Loss**

In August, 2013, Scott Gillman obtained summary judgment on behalf of an insurer which had denied a claim arising from water damage resulting from frozen and burst pipes. The trial court rendered summary judgment on both defenses asserted by the insurer based upon the freeze-up exclusion as well as the insureds' failure to utilize the insured premises as their primary residence.

#### **Not Guilty - Arbitration - SIU Bodily Injury Claim**

In October, 2013, Matt Cook obtained a not guilty decision in the arbitration of a bodily injury SIU claim involving a motor vehicle accident. The defense asserted that the accident was staged and the injuries claimed by the two plaintiffs were fabricated.

#### **Summary Judgment - Uninsured Motorist Claim**

In September, 2013, Guy Conti obtained summary judgment on behalf of an insurer arising from an uninsured motorist claim. Following the demand for arbitration, the insurer requested the claimant to submit to an Examination Under Oath and to provide an executed HIPAA authorizations. The claimant refused those request and asserted the policy provisions requiring compliance with request for unenforceable and contrary to the rules of the American Arbitration Association. The court found that the claimant's refusal to submit to an Examination Under Oath and to provide the signed HIPAA form was a breach of contract that barred the claim.

#### **Motion to Dismiss - Premises Liability**

In August, 2013, Guy Conti represented a homeowner in a premises liability claim. The plaintiff, a contractor replacing siding on a garage, sustained severe electrical burns when scaffolding came into contact with a power line. A motion to dismiss was filed arguing that the defendant owed no duty to warn of the open and obvious danger of a power line. The judge dismissed the complaint and granted plaintiff leave to file an amended complaint. Rather than filing the amended complaint, the plaintiff voluntarily dismissed the case.

#### **Declaratory Judgment - Misuse of Easement**

In May, 2013, Paul Festenstein represented a CGL insurer in a declaratory judgment action that involved a late tender of defense made by the insured 25 days after a judgment following a bench trial. The underlying dispute involved the insured's alleged misuse of a subservient easement running from the tort plaintiff's property to the defendant's property. The court granted the defendant's motion for judgment on the pleadings after we had proven, by virtue of the late notice and judgment entered against the insured, that the insurer had been severely prejudiced by the insured's untimely tender.

#### **Speeches and Seminars**

In March, 2013 Pete Schoonmaker, along with Larry Cholewin of MetLife and Fred Kruse of Hutton, Kruse and Fink, made a presentation to the PLRB National Claims Conference, entitled, "Fraudulent Additional Living Expense, Loss of Use and Business Interruption Claims."

In May, 2013, Pete Schoonmaker made a presentation to the Northern Illinois Adjuster's Association entitled, "Claim Issues Arising From Vacant or Abandoned Buildings."

In May, 2013, Pete Schoonmaker participated in a panel counsel presentation at the annual IASIU/NSPII Training Conferenssce.

Pete Schoonmaker has also been selected to make a presentation at the annual 2014 PLRB Claims Conference in Indianapolis entitled, "Vacant, Abandoned and Foreclosed Buildings."

In September, 2013, Pete Schoonmaker and Mark Ruda presented a seminar at an insurer's annual Special Investigation Unit meeting addressing bankruptcy issues and the use of the cooperation clause in automobile policies to defend against fraudulent collision, medical payment, uninsured and underinsured motorist claims.

In November, 2013, Paul Festenstein and Guy Conti presented a seminar addressing effective deposition testimony. The seminar contained practical tips on how to prepare for your deposition and deliver effective testimony.



If you have any questions about these cases and presentations, or if you would like to learn more about our firm, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Schoonmaker".

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