

# ***Condon & Cook, LLC*** ***Recent Achievements***

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## **Headlines**

\$4.1 Million Insurance Fraud Judgment

Summary Judgment-Rescission

Summary Judgment-Judicial Estoppel

Summary Judgment-Mortgagee Claim



We are pleased to advise of the following successful results achieved by Condon & Cook, LLC on behalf of our clients.

### **\$4.1 Million Insurance Fraud Judgment**

On August 31, 2012, Condon & Cook, LLC achieved a judgment of \$4.1 million dollars in the Circuit Court of Cook County in a civil recovery suit filed under the Illinois Insurance Fraud Statute. The suit followed the investigation and denial of a complex commercial claim involving a staged water loss. Post judgment proceedings are continuing.

### **Summary Judgment- Rescission**

On November 8, 2012, Condon & Cook, LLC prevailed on a Complaint for Declaratory Judgment seeking rescission of a homeowners policy. The purchaser of a house under an installment contract applied for a homeowners insurance policy stating that he had purchased the property for an amount equivalent to the balloon payment due on the date of closing. Although the closing was scheduled, it never occurred. Condon & Cook, LLC convinced the trial court that the misrepresentations on the policy application were material because the insurer would not have issued a homeowners policy if it knew that the closing had not yet occurred. Coincidentally, our client also insured the seller under a landlords policy. Thus, our ability to prevail on the rescission avoided a dispute as to the parties' respective insurable interests in the property at the time of the fire.

### **Summary Judgment - Judicial Estoppel**

On January 11, 2013, Condon & Cook, LLC achieved summary judgment in a lawsuit based upon the denial of coverage for the theft of scheduled jewelry. Nine months prior to the submission of the claim, the insured filed for Chapter 7 bankruptcy in which she failed to disclose the existence

and value of the scheduled jewelry. The claim was investigated and denied based upon both misrepresentation and judicial estoppel. The trial court agreed that the Plaintiff was barred from recovery under her homeowners policy based upon the concept of judicial estoppel. This result is significant in that it manifests the growing acceptance of Illinois courts to apply the concept of judicial estoppel following a bankruptcy discharge.

### Summary Judgment - Suit Limitation Applied to Mortgagee

On January 14, 2013, Condon & Cook, LLC prevailed in a mortgagee suit against our client under a homeowners policy. The property sustained fire damage in October, 2006. The mortgagee was aware of the fire as of August. Nevertheless, the mortgagee did not submit a claim until April, 2009. In opposition to our Motion for Summary Judgment, the mortgagee argued that our client was required to notify it about the denial of the named insured's claim and that the failure to do so tolled the suit limitation provision contained in the policy. In addressing our Motion for Summary Judgment, the trial court determined that there was no provision in the policy that required the insurer to notify the mortgagee about the denial of the named insured's claim, and the court also ruled that the mortgagee had not filed suit within the time period stated in the suit limitation clause of the policy.

If you have any questions concerning these cases or would like further information about our firm, please do not hesitate to contact the undersigned.

Sincerely,



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