



# Condon & Cook, LLC

## Newsletter

June, 2016

*We are pleased to advise you of Condon & Cook's recent achievements.*

Jury Verdict – Material Misrepresentation

### Not Guilty Verdict – Material Misrepresentation

In September, 2014, Pete Schoonmaker and Matt Cook obtained a not guilty verdict in a first-party claim arising from frozen and burst pipes. The underlying water loss was legitimate, but the Plaintiff submitted altered emergency plumbing receipts as part of her claim. The jury returned a defense verdict based concluding that the Plaintiff had forged the receipts in order to recover the amount of her \$1,000 policy deductible. The Plaintiffs sought total damages of \$56,000.00.

Jury Verdict – Tort

### Not Guilty Verdict – Tort

Jury Verdict – Workers Compensation

In October, 2014, Mark Ruda obtained a defense verdict in a tort case. At issue was whether the Plaintiff caused the rear end collision, the extent of injury, and the extent of medical treatment. The jury deliberated less than one hour.

Defense Wins – Plaintiff Walks Out During Trial

### Not Guilty – Workers Compensation

Not Guilty Verdict- Vandalism/Fraud

In November, 2014, Daniel Woods successfully defended a multi-unit residential property owner in a worker's compensation claim. The worker sustained a leg fracture and asserted the property owner was liable under the Illinois Workers Compensation Act. After a full trial and arbitrators' finding in favor of the property owner, the insured worker appealed the decision. The Industrial Commission affirmed the findings in favor of the property owner.

\$910,000 Insurance Fraud Judgment

### Defense Wins – Plaintiff Walks Out During Trial

Not Guilty Verdict-Motor Vehicle

In November, 2014, Mark Ruda successfully obtained a favorable result in a tort case. While the first of two Plaintiffs was being cross-examined, an objection was noted to a line of questions concerning the identity of an individual that both Plaintiffs previously admitted they knew. This person had called the Defendant moments before the accident and asked a number of questions about the Defendant's business. The truck Defendant who was driving had the businesses' name and telephone number prominently displayed on the sides and back of the truck. After the objection was overruled, Plaintiff's counsel consulted with Plaintiff and the Plaintiff walked off the stand and both Plaintiffs left the courthouse. The case was dismissed with prejudice.

Defense Verdict-Property Damage

First District Appellate Court – Summary Judgment Affirmed

Second District Appellate Court—Dismissal With Prejudice Affirmed

Summary Judgment – Theft/Vandalism Claim

Summary Judgment – Snow Removal

Summary Judgment – Water Loss

### Not Guilty Verdict – Vandalism/Fraud

In January, 2015, Pete Schoonmaker obtained a defense verdict in a first-party/vandalism claim asserted by the insureds. The Plaintiff's Proof of Loss claimed damages in excess of \$250,000. We successfully argued that the Plaintiff's made material misrepresentations in the presentation of the claim and intentionally staged the vandalism loss. The jury deliberated less than two hours.

### **\$910,000 Insurance Fraud Judgment**

In March, 2015, Pete Schoonmaker and Matt Cook successfully defended a first-party arson case in the Circuit Court of Cook County. Once the underlying suit was dismissed, we secured a judgment in the amount of \$910,000.00 in a third-party action against the named insured's father under the Illinois Insurance Fraud Act based upon his intentional conduct in causing the fire.

### **Not Guilty Verdict – Motor Vehicle**

In September, 2015 Paul Festenstein obtained a defense verdict in a taxicab vs. bicycle tort case. At issue was whether the Plaintiff was at fault for riding his bicycle the wrong way on a one way street and then entered the intersection without stopping. The jury deliberated for less than 35 minutes!

### **Defense Verdict – Property Damage**

In January, 2016, Scott Gillman obtained a defense verdict in a third-party property damage lawsuit filed by a high-end dress maker against a concrete cutting firm whose work created dust in the building which housed the dressmaking business. The Plaintiff's Proof of Loss to its own insurer for the property damage and business interruption was in excess of \$900,000.00. We successfully obtained a verdict of \$624,687.00 which was reduced to a net verdict against Mr. Gillman's client of \$41,000.00 after application of set-offs from prior settlements in the case, including monies paid by the concrete cutting firm and property owner to the Plaintiff's insurer in a companion subrogation case.

### **First District Appellate Court – Summary Judgment Affirmed**

In September, 2014, Guy Conti obtained summary judgment when the First District Appellate Court affirmed the trial court's summary judgment in favor of the Defendant carrier based upon the suit limitation period in a homeowner's policy which barred the mortgagee from recovery following a fire loss.

### **Second District Appellate Court—Dismissal With Prejudice Affirmed**

In October, 2015, the Second District Appellate Court affirmed an Order Daniel Woods obtained which dismissed the Plaintiff's spoliation counts against an insurer premised upon the alleged removal of evidence from the scene of a building fire in which the Plaintiff sustained significant personal injuries.

### **Summary Judgment - Theft/Vandalism Claim**

In August, 2014, Guy Conti obtained summary judgment for an insurer in litigation arising from the denial of a theft and vandalism claim under a condominium owner's policy. We argued that the policy did not provide coverage to real property or personal property resulting from theft or burglary and also asserted a defense founded upon a 90 day vacancy/occupancy provision contained in the policy. The trial court agreed that our client was entitled to judgment as a matter of law.

### **Summary Judgment – Snow Removal**

In November, 2014, Scott Gillman achieved summary judgment in the Circuit Court of Cook County on behalf of a snow management business accused of negligent salt spreading in a case involving a slip and fall of a construction worker at an active construction site.

### **Summary Judgment – Water Loss**

In March, 2015, Matt Cook obtained summary judgment in the Circuit Court of Cook County in a first-party homeowner's water loss. Plaintiffs submitted a claim seeking the costs of repairs for their basement following a rainstorm. Plaintiffs argued that water escaped from a flood control system due to a mechanical breakdown. Condon & Cook successfully argued that the water loss was caused by an overflow of ground water from a sump pump, which was excluded from coverage afforded under the policy.