

News

Volume VIII - Issue 1 - Winter 2011

Table of Contents

01 | Firm Announcements

01 | The Rise In Claims Against Attorneys Over Title Issues In South Carolina

03 | Liability Coverage For Breach Of Contract

05 | CCS Practice Area Spotlight: Insurance Coverage & Bad Faith Litigation

05 | 2011 Partner and Of Counsel Announcements

06 | Recent Victories

07 | Community Involvement

07 | Presentations & Publications

ANNOUNCEMENTS

Atlanta Office Plans Move to One Ninety One Building

We are excited to announce we will be moving our Atlanta office to One Ninety One Peachtree Tower in the middle of 2011. Our new space will be two blocks from our existing space in Peachtree Center, which will allow us to remain in the downtown area where we have serviced our clients for the past forty years. A formal announcement of our address change will be sent as the move approaches.

Charleston Office Expanding Space

We are pleased to announce that we have expanded our current office space in Charleston, SC. We will now occupy more than 17,000 square feet of space in the Carolina First Center at 40 Calhoun Street in downtown Charleston. Our Firm has had consistent growth in Charleston

and this expansion will accommodate our needs for many years.

Trucking & Transportation Practice Group Launches Blog

Led by Partner Gary Lovell, Carlock Copeland's Trucking & Transportation Litigation Practice Group has launched a new blog designed to provide legal updates, opinions, and relevant information on the transportation industry to our clients and friends. Read the latest news at www.SoutheasternTruckingDefense.com

4 CCS Attorneys Selected In The 2011 Edition of Best Lawyers®

We are proud to announce that four of our attorneys were selected by their peers in five categories of legal expertise in the 2011 edition of Best Lawyers®.

- Tom Carlock - Commercial Litigation, Medical Malpractice, & Personal Injury Litigation
- Kent Stair - Construction Litigation & Legal Malpractice
- Joe Kingma - Legal Malpractice
- Dan McGrew - Medical Malpractice

The Rise In Claims Against Attorneys Over Title Issues In South Carolina

By: Andrew W. Countryman and David W. Overstreet

A bi-product of the economic downfall over the past couple of years has been claims by title companies against closing attorneys over title issues discovered after closings. In South Carolina, most

closing lawyers serve as agents for title insurance companies that sell title policies to lenders and purchasers for real estate transactions. In these situations, the lawyer and title insurance company enter into an agreement that allows the lawyer to write title commitments to buyers and lenders at closings. At each closing, the agent accepts a premium from the purchaser/lender, a portion of which is forwarded to the title company, and a portion of which the lawyer retains. In many other states, title agents are not necessarily lawyers but are apparently being pursued just as much these days.

Over the years, real estate lawyers and title companies generated significant business for one another in South Carolina. As a result, when a title issue arose after a closing and a purchaser/borrower made a claim on the title policy, the title company was likely to handle the claim and move forward, often without turning to the lawyer for indemnification. From the title company's perspective, this was part of the cost of doing business, and business was generally good based on the number of closings taking place and premiums being collected.

However, when the real estate market crashed, the number of title insurance premiums collected slowed drastically while claims increased. As a result, title insurance companies began turning to closing attorneys for indemnification following title claims more frequently. In fact, in South Carolina, title companies often now attempt to involve the closing

lawyer on the front end before the title company even pays the title claim.

Governing Law

South Carolina courts have identified five steps in a residential real estate closing that must be conducted by or under the direct supervision of a licensed lawyer, including performing the title search/certifying title and recording the title and mortgage.¹ Lawyers who fail to properly perform/supervise these steps have been sanctioned. Ethics opinions exist that discuss instruction, review, and correction of a non-lawyer's work as satisfying the supervision requirement.

Although certain cases help define the unauthorized practice of law and the standard of care for real estate lawyers, title companies have begun to use these guidelines to support their arguments that lawyers should be responsible for many title issues that arise after closings. Although title companies actually provide the first party coverage on these claims, they have started aggressively pursuing the lawyers/agents to handle these title issues as they arise or face a lawsuit later for indemnification under the agency agreement.

Negligence

In South Carolina, the fact that a lawyer is incorrect as to the ultimate marketability of title to real estate does not establish that he or she was negligent.² Liability arises where the attorney *negligently* certifies title.³ Unfortunately, little case law exists describing what a lawyer must do to meet the standard of care in certifying title. In light of the lack of specifics, the general negligence standard applies, which provides that the standard of care is what a reasonable lawyer would do under the same or similar circumstances.

Almost every real estate attorney hires title abstractors to perform the title

work for closings. The lawyer pays the abstractor a fee, and the abstractor goes to the courthouse for the title documents. This saves the lawyer a great deal of time and makes real estate closings profitable for him/her. Further, hornbook law states that one who employs an abstractor is justified in relying upon the truth and accuracy of the abstract or report without making an independent investigation (unless the abstract itself makes it plainly apparent there has been an omission or mistake).⁴

Lawyers need to be careful though, as there is no certification required to be an abstractor or governing body overseeing the practice of abstracting title. Lawyers should only retain experienced abstractors with whom they are familiar and whose work they trust. It is also important to only hire abstractors with errors and omissions coverage. Lawyers should also make sure to actually review the title work the abstractor provides and be on the lookout for irregularities that might point to mistakes in the title work or title issues. Lawyers that take these steps have stronger arguments that they met the standard of care in the certification of unmarketable title if an issue arises down the road.

Agency Agreement

The foundation for any claim against a closing lawyer by a title company is the agency agreement. The first step in analyzing a lawyer's potential liability is dissecting the language of the agency agreement. These agreements almost always provide that the title company has the right to seek indemnification from the title agent (closing lawyer) for title claims the company pays resulting from an act or omission of the lawyer. However, these indemnification provisions often do not refer to any standard of care, potentially making the lawyer responsible regardless of whether a claim was the result of the lawyer's negligence.

It can be difficult to argue against contractual indemnity under these circumstances. If the language of the agency agreement leaves little wiggle room, the defense to a contractual indemnity cause of action should focus on the lawyer's relationship with the title company, desire to resolve the claim amicably, and any third parties that might be responsible.

Prior to the real estate crash, title companies would often accept a discounted sum if they ever actually sought indemnification or contribution from title agents. Today, however, many title companies seek to recover their entire loss, including attorney's fees and costs incurred in dealing with the title claim. They are much less willing to pay title claims up front and/or cut deals. This makes developing the lawyer's defenses in the early stages of a claim very important.

In South Carolina, the fact that a lawyer is incorrect as to the ultimate marketability of title to real estate does not establish that he or she was negligent.² Liability arises where the attorney negligently certifies title.³

Expert Affidavit Statute

In South Carolina, one way to do this is to employ the S.C. Code § 15-36-100, *et seq.*, the expert affidavit statute. This provision requires plaintiffs filing professional negligence claims against

licensed South Carolina professionals to file an affidavit of an expert witness along with the complaint. A lawsuit filed by a title company may or may not include a specific cause of action of negligence, but it will almost always include a cause of action for equitable indemnity. This sounds in negligence, which arguably provides a basis to apply the affidavit statute.

Regardless of whether a motion will actually lead to dismissal, filing one can be beneficial in these situations. While the statute has proven to have little teeth in actually getting cases dismissed, we have seen courts apply it to require plaintiffs to retain experts in these type of cases. Of course, experts are usually expensive, so filing the motion could motivate an otherwise stubborn title company to address the cost/benefit analysis of litigation early on. The title company may then argue that the claim is only for indemnification, not negligence. However, asserting that negligence is not an issue could bring malpractice coverage into doubt. This is, therefore, a dangerous position for the title company to take and is usually avoided.

Third-Party Claims

In South Carolina, the title company's claims are really only against the lawyer (title agent), as the title company is not usually in privity with the abstractor. As a result, even if the title issue is the result of a mistake by the abstractor or other third party, the title company has little reason or motivation to seek recovery against that third party. The lawyer, however, is in privity with the abstractor and should be prepared to bring third-party claims as a result. This is why it is very important for real estate lawyers to only use abstractors with E & O coverage.

Resolution Road Map

When dealing with clear title issues, it is important to gain an early understanding

of the parties and potential parties involved. These days, realize that the title company may look primarily, if not solely, to the lawyer or title agent for recovery. As attorney for the lawyer, it is necessary to get the abstractor and others (hopefully other insurance carriers) involved early. While resolution of these claims used to involve negotiations between the carrier for the lawyer and the title company after the title company paid the insured, title companies today are less willing to pay the claims up front.

In light of this, a better result is often achieved by orchestrating a combined payment to the policy holder on behalf of the lawyer, title company, and abstractor or other third parties early on. Of course, it is very important to demand from the onset that participation in settlement negotiations on behalf of the lawyer will only happen if the title company agrees to release the lawyer for all present and future claims related to the closing, including indemnification pursuant to the agency agreement. ♦

1. *State v. Buyers Service*, 357 S.E.2d 15 (S.C. 1987); *Doe v. McMaster*, 585 S.E.2d 773 (S.C. 2003); and *Doe Law Firm v. Richardson*, 636 S.E.2d 866 (S.C. 2006).
2. *Bass v. Farr*, 434 S.E.2d 274, 315 S.C. 400 (1993).
3. *Id.* citing *Cianbro Corp. v. Jeffcoat & Martin*, 804 F.Supp. 784 (D.S.C.1992).
4. Larsen, Sonja, "Liabilities of Abstractors," *Corpus Juris Secundum*, 1 C.J.S. Abstracts of Title § 16.



David W. Overstreet
Partner, Charleston Office
Commercial Litigation
General Liability
Health Care Litigation
843.266.8203
doverstreet@carlockcopeland.com



Andrew W. Countryman
Associate, Charleston Office
Commercial Litigation
Construction Litigation
Health Care Litigation
843.266.8225
acountryman@carlockcopeland.com

Liability Coverage For Breach Of Contract

By: Charles M. McDaniel, Jr.

While it is generally believed that Commercial General Liability Policies do not afford coverage for a breach of contract cause of action, there is no Appellate Court decision holding that, "as a rule, . . . a breach of contract can never constitute an occurrence." *Allstate Insurance Co. v. Mary E. Harkleroad*, 2010WL 2076941 (S.D. Ga.) Thus, the question becomes when, if ever, a claim for breach of contract can require a defense and indemnification under an insurance policy where the trigger for coverage is dependent upon an occurrence, resulting from an unexpected happening, rather than through intention or design?

The analysis begins with the allegations of the complaint, but must also include the attendant circumstances of the loss, as counsel for the plaintiffs are often artful in drafting the pleadings. Under Georgia law, generally, where the complaint does not assert any claims upon which there would be insurance coverage, the insurer is justified in refusing to defend the insured's lawsuit. *Great American Insurance Co. v. McKemie*, 244 Ga. 84, 85-86, 259 S.E.2d 39 (1979). However, it is also recognized that "when a complaint on its face shows no coverage, [if] the insured notifies the insurer of factual contentions that would place the claim within the policy's coverage, due consideration must be given to the insured's factual contentions. *Colonial Oil Industry, Inc. v. Underwriters Subscribing to Policy Nos. T031504670 and T031504671*, 268 Ga. 561, 562 (1997)." *Harkleroad, Id.*, at *4.

In *Harkleroad*, Allstate filed a declaratory judgment action under a landlord policy and an umbrella policy issued to Lester A. Claxton, Sr. and Lester A. Claxton, Jr. The underlying cause of action filed

by Ms. Harkleroad arose out of the sale of residential real estate where Ms. Harkleroad alleged the Claxtons breached their contractual duty to transfer the residential property in a good and marketable condition. The essence of the suit was that the Claxtons allegedly provided false statements on the seller's real estate disclosure form provided during the sale of the home. A year or so after closing, Ms. Harkleroad began renovations and uncovered substantial structural damage.

Allstate's declaratory judgment action asserted, first, that the Harkleroad claim did not arise from an occurrence, and second, even if the underlying allegations constituted an occurrence, certain exclusions within the two policies precluded coverage. While Allstate was ultimately successful in its declaratory judgment action based upon the exclusions, the Court's holding on the breach of contract allegation is instructive.¹

The Allstate policies afforded coverage for bodily injury, personal injury, or property damage arising from a covered occurrence. As with the standard CGL policy, "occurrence" was defined as "an accident during the policy period, including continued and repeated exposure to substantially the same harmful conditions during the policy period, resulting in bodily injury, personal injury or property damage..." *Harkleroad, Id.* at *4-5. Further, the term accident was not defined under the terms and conditions of the policy, so the trial court turned to Georgia law, which defines 'accident' in the insurance context as "an event which takes place without ones foresight or expectation or design." *O'Dell v. St. Paul Fire & Casualty Ins. Co.*, 223 Ga. App. 578 at 580 (1996). *Harkleroad, Id.* at *5. Analyzing the terms and conditions of the policy, the trial court held that the "breach of contract claims remain, as they potentially allege an occurrence under the coverage

provision." *Harkleroad, Id.* at *6.

In reaching this decision, the trial court examined the testimony of the Claxtons with respect to their preparation of the disclosure document. Before the sale of the home, the Claxtons undertook improvements and repairs to the interior and exterior of the home, including replacing floor boards where water damage existed. The Claxtons, however, asserted in the disclosure document that they had no knowledge of any past or present damage to the property caused by infiltration of pest, termites, dry rot or other wood destroying organisms. The disclosure document also indicated the Claxtons were not aware of any termites/ pest control reports or treatments for the property being done in the previous five years. The Claxtons testified that while they misrepresented the history of mold and termite issues, the failure to disclose was not intentional but merely a "mistake." As a result of this testimony, the court held that the error with respect to the disclosure form, "could arguably be found to constitute gross negligence, [and] as gross negligence does not require intentionality, it could qualify as an occurrence under the policy." *Harkleroad, Id.* at *6.

In reaching its decision, the Court of Appeals declined to extend the holdings of two Court of Appeals decisions where liability coverage was not found for an underlying breach of contract cause of action. In *Georgia Farm Bureau Mutual Ins. Co. v. Hall County*, 262 Ga. App. 810, 586 S.E.2d 715 (2003) the Court of Appeals held no coverage was owed where the conduct of the insured constituted an intentional act. In *Hall County*, the insured owned property which was the subject of a condemnation proceeding. Within three days of the condemnation petition having been filed, but before transfer of title, the insured sold timber cutting rights to a third party, which extended for a period long after the time title would pass to the State pursuant

to the condemnation. The insured was not afforded coverage for the suit by the third party when the third party was directed to cease removing timber from the property and sued the insured for his damages.

Secondly, in *Custom Planning and Development, Inc. v. American National Fire Insurance Co.*, 270 Ga. App. 8, 606 S.E.2d 39 (2004), citing *Hall County*, the Court of Appeals held, "occurrence does not mean a breach of contract, fraud, or breach of warranty from the failure to disclose material information." *Custom Planning* at 10, 41. However, as *Harkleroad* noted, *Custom Planning* involved an arbitration proceeding whereby the homeowner received an award for damages against the insured builder, resulting from a breach of implied warranty and of contract, but not for alleged damages to other property resulting from the breach of implied warranty and of contract. The insured's declaratory judgment action, thus, resulted in no coverage, as negligence was excluded as the basis for liability, and there was no damage to property other than the work itself. *Id.* 11, 42. The Appellate Court further held, for coverage under a CGL policy to extend to faulty workmanship the allegations must arise due to negligence and not breach of contract or implied warranty, and must cause damage to property other than to the work itself.

The *Harkleroad* Court declined to extend the holdings from *Hall County* and *Custom Planning* beyond their specific facts and bar coverage under the policy simply because the suit alleged breach of contract. Although *Harkleroad* involved a landlord policy, the lessons of the decision seem to extend to CGL policies, as the definition of "occurrence" under the policies is similar. Therefore, it is likely a court would utilize similar reasoning with a CGL policy, and not bar coverage simply on the basis the underlying cause of action alleges breach of contract. A court would explore the

2011 Partner and Of Counsel Announcement

basis of the underlying cause of action to determine the cause for the breach of contract, when deciding whether there is coverage. ♦

1. The trial court quickly dispensed with the claims for fraud and misrepresentation with entire want of care, as well as punitive damages because these allegations can only result from intentional conduct and thus, cannot constitute an occurrence.



Charles M. McDaniel, Jr.
Partner, Atlanta Office
General Liability
Construction Litigation
Trucking & Transportation Litigation
404.221.2206 phone
cmcdaniel@carlockcopeland.com

CCS Practice Area Spotlight:

Insurance Coverage & Bad Faith Litigation

Since the Firm's inception over four decades ago, Carlock Copeland has been advising and defending insurers in the increasingly complex, high-stakes legal challenges confronting the insurance industry.

Carlock Copeland's Insurance Coverage and Bad Faith Litigation subgroup integrates a thorough understanding of the insurance industry, from policy formation to claims handling, with comprehensive litigation and trial skills, and is recognized as a regional leader within the insurance industry. Our attorneys are dedicated to providing prompt, efficient and accurate representation; they are also recognized for incorporating innovative and cost-effective measures to meet its client's goals and committed to assisting the insurance industry in managing its risks by effectively and efficiently guiding insurers through myriad facets of third party, property, arson and fraud and bad faith coverage matters.

For more information on this practice area, please contact Charles M. McDaniel, Jr. at cmcdaniel@carlockcopeland.com. ♦

We are pleased to announce that Kathy A. Carlsten, Cheryl H. Shaw, and Sarah E. Wetmore have been named Partners. Additionally, Broderick W. Harrell has been named Of Counsel.



Kathy A. Carlsten concentrates on professional liability defense and transportation law. Her experience includes a wide range of malpractice, commercial, construction and trucking cases. She began her career as a Law Clerk to the Honorable A. Victor Rawl, Judge for the Ninth Circuit. Kathy also served as a prosecutor in the Ninth Circuit Solicitor's Office in Charleston, South Carolina for two years. She has tried numerous cases in the South Carolina Courts. She received her J.D. from University of South Carolina School of Law and her B.S. from University of South Carolina.



Cheryl H. Shaw concentrates her practice in the construction litigation practice group, where she provides consultation to design professionals in the areas of professional design malpractice, risk management, and general commercial claims. In this capacity, she has represented design professionals in a wide range of claims relating to negligent design, contract administration, and construction management in litigation, arbitration, and mediation proceedings. Cheryl is responsible for all phases of case management, including development of cost effective defense strategies, and has represented clients in cases ranging from multi-million dollar developments to single family residential construction. A significant part of Cheryl's practice is also devoted to client consultation regarding professional service agreements. She received her J.D. from Suffolk University Law School and her B.A. from the University of Maine.



Sarah E. Wetmore's practice focuses on general civil litigation, at both the state and appellate level, where she has significant trial experience. She provides clients with exceptional legal services in the areas of insurance defense, personal injury defense, professional liability defense and construction litigation. She is the Past President of the Charleston Lawyers Club, an organization celebrating fifty years of fostering events that focus on the camaraderie of the local bar. The firm proudly supported Sarah in her notable 2009 run for election as a Circuit Court Judge, which was only defeated by one vote in the South Carolina General Assembly. She received her J.D. from Wake Forest University School of Law and her B.A. from Wake Forest University.



Broderick W. Harrell concentrates his practice in the health care litigation and construction litigation practice groups, where he represents healthcare providers and design professionals in complex litigation. He also represents various companies in construction, general liability and premises liability matters. Broderick has litigation experience in the State and Appellate Courts of Georgia and North Carolina. Additionally, Broderick is active in organizing and serving as a speaker for continuing education programs and he contributes to publications for professionals, officers and directors. He received his J.D. from the University of North Carolina and his B.B.A. from Howard University.

Summary Judgment Obtained in United States District Court

Lee C. Weatherly and D. Gary Lovell were successful in obtaining summary judgment in United States District Court for a private organization providing health care to a correctional institution in Lexington County, South Carolina. Plaintiff was the estate of an inmate at the Lexington County Detention Center who committed suicide by hanging in 2007. Following the inmate's death, Plaintiff filed an action against, among others, the correctional healthcare organization pursuant to 42 U.S.C. § 1983. However, Lee argued that Plaintiff failed to bring forth any evidence that the private health care organization had a specific written or unwritten "policy or custom" that caused injury to the inmate, as is required to bring a cause of action against an organization under 42 U.S.C. § 1983. Lee also argued that Plaintiff failed to set forth any specific allegations against the private health care organization which rose to the level of deliberate indifference to the inmate's medical needs. The Judge found these arguments persuasive and ruled that the Plaintiff had failed to bring forth sufficient evidence to oppose the motion, dismissing the 42 U.S.C. § 1983 claim with prejudice. For more details on the case, contact Lee at lweatherly@carlockcopeland.com or Gary at glowell@carlockcopeland.com.

Novel Application of In Pari Delicto Yields Summary Judgment for Lawyer

On November 17, 2010, Shannon Sprinkle and Joe Kingma defeated claims by a recently divorced husband against a lawyer who at one time had represented both husband and wife. The husband claimed that the lawyer, while representing both the husband and the wife, drafted a divorce agreement which was adopted and made a part of the divorce decree. He claimed that there was a "side deal" to give parcels of land back to him after the divorce was final. The trial judge based his grant of summary judgment on the terms of the executed settlement agreement and his unwillingness to collaterally attack the divorce decree which had not been vacated. Additionally, the judge ruled that the husband's assertions amounted to a confession

of an attempt to defraud his creditors. "The principal that a plaintiff who has participated in wrongdoing may not recover damages resulting from the wrongdoing," in *pari delicto*, is a common defense in accounting malpractice cases, but is seldom seen in attorney malpractice cases. This result may be appealed, so check back for further developments.

Defense Verdict in Obstetrical Malpractice Trial Affirmed by Georgia Court of Appeals

The Georgia Court of Appeals affirmed a defense verdict in a brain damaged baby case handled by Tom Carlock and Eric Frisch. The case was tried to a defense verdict after more than five weeks of testimony. On appeal, the issues included whether the trial court properly limited the amount of time the injured child was present in the courtroom. In a case of first impression in Georgia, the Court held that the trial court has the discretion to limit a plaintiff's presence in the courtroom in cases involving severe neurological injuries.

Defense Verdict in Medical Malpractice Case Involving Pain Management Specialist

On September 30, 2010, Wade Copeland and Lee Atkinson obtained a verdict in favor of the Defendant doctor and her anesthesia service in an action tried in the State Court of Gwinnett County. The Plaintiff claimed that the doctor, who is a pain management specialist, unnecessarily and inappropriately performed a cervical epidural injection for a condition known as atypical facial pain. The Plaintiff, who had no prior problems with her left side, ended up having a significant disability to her left hand which became totally disabled. She also had significant permanent injuries to both her left arm and her left leg. The Plaintiffs contended that the doctor negligently injected medicine into the spinal cord itself. The Plaintiff also contended that the procedure should have never been performed and that it was performed at the wrong level in the spinal cord. The defense acknowledged that there had been an injury to the Plaintiff's left hand resulting from the needle striking the spinal cord, but this was a risk of the procedure and not a breach of the standard of care. The Defendant and the defense experts agreed that if medicine was injected into the spinal cord that it would

have been a breach of the standard of care. The Plaintiffs had incurred over \$90,000 in medical expenses with the prospects of approximately \$400,000 in future medicals and claimed another \$500,000 in future lost wages. Prior to trial, the Plaintiff's attorney made a "non-negotiable" demand of \$1.5 million that was rejected. The attorney asked the jury to return a verdict for \$6 million in his final argument. The trial took nine days and the jury deliberated for nine hours before returning its verdict for the Defendants.

Defense Verdict in Dog Bite Case

Jason Hammer represented a dog owner sued in Cobb County State Court after his Chow mix bit a next door neighbor. It was undisputed that the dog's rabies vaccinations were not current and the Plaintiff underwent \$12,000 worth of rabies shots in addition to internal and external sutures to repair the bite wound to his forearm. The case was defended primarily on liability. Although the Plaintiff claimed the dog jumped the owner's fence, Defendant presented the Plaintiff's ex-fiancée, who testified that she witnessed the incident and saw Plaintiff reach over the fence to pet the dog when the bite occurred. The jury returned a verdict in favor of the Defendant in less than an hour.

8th Amendment Excessive Force / Deliberate Indifference Defense Verdict

Adam Appel was successful in obtaining a defense verdict after a three day trial in United States District Court, Northern District of Georgia, Atlanta Division, on behalf of his Correctional Officer client in an Excessive force and deliberate indifference to an inmates serious medical needs case. The Plaintiff, an inmate, alleged that three correctional officers used excessive force against him during the intake process resulting in a dislocated shoulder which required surgical repair. The inmate also alleged that the correctional officers denied his request for medical attention after the alleged use of excessive force. The correctional officers denied the inmates claim that they used force against him or that he requested medical attention. The plaintiff did require surgical repair to his shoulder, however, the defendants argued that the Plaintiff had a preexisting condition that resulted in a dislocation from the application of minimal force. The parties agreed to a bench

trial before Judge Orinda Evans. Judge Evans entered a Verdict for all defendants on July 28, 2010. The case is Willie Waters v. Bennie Parnell, Lt. F.E. Wiley and Durane Carter.

City Attorney Granted Summary Judgment Against Mayor's Allegations of Malicious Prosecution

Shannon Sprinkle, John Bunyan, and Joe Kingma achieved summary judgment for a City Attorney faced with allegations of malicious prosecution filed in Federal Court. The Mayor had been indicted on two counts of violating his oath of office after engaging in questionable transactions involving City funds and endangering a community development grant due to conflicts of interest. After that indictment was dismissed based on the technical invalidity of a City Ethics Ordinance, the Mayor sued the City Attorney, City Manager, and former and current City Council members.

Carlock Copeland filed a Motion for Summary Judgment, which the Federal Judge granted on August 27, 2010. The Court found that there was no evidence that the defendant instigated the prosecution or that he knew that a city ordinance had not been properly passed.

COMMUNITY INVOLVEMENT

Atlanta Santa Project

Asha Jackson, Renee Little, Angie Forstie, Allison Berry, and Malcha Banks participated in the 2010 Atlanta Santa Project. In the Atlanta Santa Project, judges and lawyers of the Atlanta Bar Association serve as Santa and elves for non-profit organizations and children's hospitals during the holiday season.



Santa's elves take a break for a photo op.

Feeding the Homeless

Kent Stair and a group of 80 volunteers gathered on Christmas morning to distribute 400 biscuits, 35 gallons of coffee, over 250 bottles of water, general clothing items, outerwear, socks and shoes, over 200 toiletry kits, and other miscellaneous items to the homeless population of Atlanta. A special thanks to the employees of Carlock, Copeland and Stair, Starbucks at Peachtree Battle, Publix at Peachtree Battle, Carlyle's Corporate Catering, Bennies Shoes, Chick-Fil-A, and Kroger for their donations. Please visit www.jesskamm.com/blog for additional photos.



Kent Stair, Megan Boyd and other volunteers set up tables for the event. Photo provided by Jess Kamm Photography.



Kent Stair takes a break from his duties to converse with some of the homeless. Photo provided by Jess Kamm Photography.



Jared Bruff helps out at the shoe table. Photo provided by Jess Kamm Photography.

PUBLICATIONS & PRESENTATIONS

- Partner Renee Little is scheduled to present "Emerging Trends in Trucking Litigation: New Risks, Recent Developments and What to Expect in the Year Ahead" at the 2011 American Conference Institute's Premier Forum on Defending and Managing Trucking Litigation on March 31, 2011 in Chicago, IL.

- Partner Mike Ethridge is scheduled to present at the Insurance Law from A to Z seminar hosted by the National Business Institute on February 17, 2011 in Charleston, SC.

- Partner David Overstreet was part of a panel including local lawyers and judges that will be discussing "A Lawyer Walks into a Bar...A Hands-On Discussion of Issues Facing Lawyers in the First Years of Practice" at the Charleston School of Law on December 17, 2010.

- Partner Adam Appel presented "Minimizing Damages in the Nursing Home" at the Nursing Home Workshop hosted by the Georgia Trial Lawyers Association on November 11, 2010.

- Partner Joe Kingma was a speaker at the "Keep it Short and Simple" program for trial lawyers on November 5, 2010. The State Bar of Georgia says that this day long annual event is one of its most successful programs. Joe spoke on the use of expert witnesses and the program was telecast from the Georgia Public Broadcasting Studios to 20 locations around Georgia.

- Partner Asha Jackson presented at the Georgia Access Management Association (GAMA) 2010 Annual Fall Festival and Conference on October 15, 2010.

Please visit www.CarlockCopeland.com to obtain more information on our recent victories, publications and presentations, attorney profiles and practice areas.



quarterly newsletter

CARLOCK, COPELAND & STAIR, LLP

ATLANTA, GEORGIA
2600 Marquis Two Tower
285 Peachtree Center Avenue
Atlanta, GA 30303
404.522.8220 Phone
404.523.2345 Fax

CHARLESTON, SOUTH CAROLINA
40 Calhoun Street
Suite 400
Charleston, SC 29401
843.727.0307 Phone
843.727.2995 Fax

www.CarlockCopeland.com

Return To:
Carlock, Copeland & Stair, LLP

2600 Marquis Two Tower
285 Peachtree Center Avenue
Atlanta, GA 30303

COMMENTS FROM THE EDITING TEAM

Would you like to receive the Carlock Copeland Quarterly Newsletter via email? If so, please send your name and company information to info@carlockcopeland.com

Once you send us your information, our newsletters will be delivered straight to your inbox.

We invite your comments to our editing team:

Eric Frisch, Partner
efrisch@carlockcopeland.com

Christina Walsh, Marketing Coordinator
cwalsh@carlockcopeland.com

If you would like to request additional copies or to edit your subscription information, please contact us at info@carlockcopeland.com

The CCS Quarterly Newsletter is a periodic publication of Carlock, Copeland & Stair, LLP, and should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult counsel concerning your own situation and any specific legal questions you have.