The Law Offices of
METHFESSEL & WERBEL
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The Leading Insurance and Claims Attorneys

Fall 2011

CASE UPDATE

To Our Friends and Clients: Methfessel & Werbel is pleased to bring you our most recent Case Update. There are many new developments in the law and exciting news at Methfessel & Werbel. We hope this edition of our Case Update provides you with some insight as to the changing landscape in the law in both New York and New Jersey, as well as updates within the insurance community. As always, we welcome your comments, questions and feedback. As you are aware, Methfessel & Werbel considers itself an extension of the insurance industry and we would be happy to assist you with any seminar or training you require. Feel free to contact Matt Werbel at mwerbel@methwerb.com .

KATZMAN LEADS DEFENSE IN CHALLENGE TO FIRST PARTY AUTO EXCLUSIONS

Stephen Katzman, representing First Trenton Indemnity (Travelers), acted as lead defendant among many auto insurance carriers who were named in a consolidated class action suit brought by insureds who were seeking to recover for the diminished market value of the vehicles after their first party carrier paid for the costs to repair and after the vehicle was repaired to the insured's satisfaction. Counsel for the policyholders argued that an insured who offers for sale a previously-damaged and repaired vehicle must disclose the accident at the time of sale, thereby causing a diminution in value. The plaintiffs in the putative class action suit sought enhanced compensation for this anticipated drop in fair market value on account of the accident. The plaintiffs further argued that the policy provisions limiting payment to the costs to repair the vehicle with parts of like kind and quality and the specific exclusions for diminished market value were ambiguous, that the claimants had a reasonable expectation of being made whole, that the exclusions were unconscionable and that the exclusions violated public policy.

The Appellate Division rejected these arguments and ruled in favor of the carriers, distinguishing between first and third party claims, noting that being made whole is a tort concept and not a contractual concept, upholding the limit of liability provision and the specific exclusion for diminished market value in the standard ISO form.

ERIC HARRISON NAMED A "SMART LITIGATOR" BY NJ LAW JOURNAL

Eric Harrison has been named to the Litigator Board of New Jersey Law Journal for its launch of "Smart Litigator", an online research tool focused on the needs of New Jersey attorneys. The Law Journal enlisted Eric to provide content and advice on employment and civil rights litigation.

M&W SUPER LAWYERS AND RISING STARS

Once again, Ed Thornton, Bill Bloom and Eric Harrison have been elected as "Super Lawyers" for 2011 by their peers. Ed was selected in 2005, 2007, 2009 and now in 2011and Bill and Eric were selected this year as well as 2009 and 2010. Similarly, Leslie Koch has been honored with the designation of "Super Lawyer Rising Stars." Selection as a Super Lawyer is a recognition by one's peers, from both the defense and plaintiff's bar, of professionalism and the complexity and quality of matters handled. All nominations must come from someone outside the practitioner's firm.

UPDATES IN NEW JERSEY CASE LAW

LANDLORD/TENANT – NEGLIGENCE

Meier v. D'Ambose

The Appellate Division, in a published opinion in a case handled by our office, has seen fit to change 230 years of common law in New Jersey. The historic relationship between landlords and tenants has been such that a landlord who leases an entire premise to a tenant is responsible to the tenant (or third-parties) only for latent hazardous conditions known to the landlord but not disclosed at the time the premises were let. In deciding Meier v. D'Ambose, the Appellate Division held that a landlord owed a duty to inspect at least potentially dangerous items such as furnaces and flue pipes during the term of the tenancy, despite the State Fire Code not mandating periodic inspections, and despite the clear language expressed in published cases for the last 60 years. The Court held that whether a duty exists (and therefore whether a duty can be breached) is up to a court to decide, in the absence of a clear lease provision to the contrary and despite a municipal inspection at the time the property was let.

The case could take on wide implications. For example, persons who rent their home out and then move away now would seem to have a duty to have someone come into the home and periodically inspect. Just how far a court would go in determining what essential elements should be inspected is an unanswered question.

The appellate decision, overturning the grant of summary judgment in the Law Division, is the subject of a Petition for Certification taken by us to the New Jersey Supreme Court. We contend that the Appellate Division should have limited its review to deciding whether the motion judge was correct or not, and not make new law.

REMITTITUR – DAMAGES

In He v. Miller, 199 N.J. 538, 539, the New Jersey Supreme Court has issued an important ruling on remittitur. In recent years, Appellate Division opinions have tried to take the trial courts out of the remittitur business. However, the Supreme Court has affirmed that it is a useful tool in denying a new trial motion, requiring the plaintiff to consent to a reduced award or consent to a new trial on damages.

The Court was careful to advise trial courts that they should not merely substitute their own opinion, holding that remittitur is reserved for the unusual case that shocks the judicial conscience. Trial courts are instructed to compare high awards to similar damage cases, but also to include its "feel of the case" which is sometimes made outside of jury presence, as well as to include its own extensive experience in similar cases.

While exactly which cases would be subject to remittitur and what factors would be important in any one particular case are difficult to pin down, the Supreme Court made it clear that the purpose of remittitur is to reduce a verdict to the highest figure that could be supported by the evidence, and generally the Supreme Court is advising trial courts that while jury verdicts are entitled to a great deal of deference and the analysis must be approached with a great deal of caution, runaway verdicts should always be reviewed.

PERMITTING ILLEGAL ALIEN TO SUE FOR LOST WAGES

Igor Kalyta, et al v Versa Products, Inc

The United States District Court for the District of New Jersey has issued an unpublished opinion which, if accepted by the Third Circuit or state courts, could significantly change the right of undocumented aliens to assert lost wage claims.

Presently, the general consensus is that undocumented aliens cannot make a lost wage claim for future lost wages in a personal injury case. The reasoning behind this is the 1986 Federal Immigration Reform Act.

In Igor Kalyta, et al v Versa Products, Inc the U.S. District Court reasoned to the contrary, despite what would seem to be clear sentiment in a United States Supreme Court case, Hoffman v. NLRB.

The Supreme Court had noted that under federal law, it is impossible for an undocumented alien to obtain employment in United States without either the alien or the employer directly violating the law. The District Court distinguished this case, stating that there was no indication that the plaintiff participated in any illegal act, such as fraudulently obtaining documents in someone else's name or altering his own documents, and without that, the Court found no reason not to compare his situation to worker's compensation, which would allow for future lost wages. Note there is no New Jersey Supreme Court case on this exact fact pattern, although the New Jersey Supreme Court has stated that a plaintiff who presents false information and is fired on that basis cannot bring a lost wage claim. Therefore, the District Court held that in a typical personal injury action, an undocumented alien is entitled to make a future lost wage claim.

This does not necessarily alter the landscape in every case. Any economic loss expert may be challenged on the ground that since the plaintiff is an illegal alien, there is no assumption of future work, making any estimate of future lost wages speculative.

CONSTRUCTION - STATUTE OF REPOSE

Port Imperial Condominium Association v. K. Hovnanian

In a case with potentially wide implications, the Appellate Division, in a published opinion, Port Imperial Condominium Association v. K. Hovnanian, held that the 10-year statute of repose (which requires filing a Complaint within 10 years of substantial completion of work), precludes construction defect claims against subcontractors who completed their improvements more than 10 years before the filing of Complaint against them, regardless of when the injury occurred or when the cause of action otherwise accrued. In this case, defendants were sued because plaintiff's condominium project was slowly sinking into the Hudson River. The Appellate Division held that any negligence would have occurred at the time of construction, starting the clock to run, rejecting the argument that the occurrence occurred when repairs had to first be undertaken. The plaintiff had contended that the settlement of buildings, which was noticed years earlier, created merely expensive and inconvenient repairs, not functional impairment. The Court disagreed with the plaintiff's interpretation, holding that settlement of a building is not merely a hazardous condition, but a functional impairment with consequential economic loss. Accordingly, defendants' motion was granted.

PIP REIMBURSEMENT PRIORITY

Effective January 31, 2011, the Legislature amended the PIP reimbursement statute to give priority to an injured policyholder's bodily injury claim. The insurer's claim for reimbursement "shall be subject to" its insured's bodily injury claim and shall be paid only after satisfaction of that claim, up to the tortfeasor's policy limit. This statute effectively overturns the 2009 Supreme Court decision in Fernandez v. Nationwide.

NJM v. Holger Trucking

NJSA 39:6A-9.1 allows insurers who have provided personal injury protection benefits to seek reimbursement from certain tortfeasors within two years of "the filing of the claim". The dispute in this case, NJM v. Holger Trucking, centered on whether the claim is considered filed when an insured first requests reimbursement for PIP benefits or when the insured submits a claim form requested by the insurer.

The Appellate Division held that the trigger date is when the insured submits a completed claim form to the insurer. The Court reasoned that this is the only submission that provides the nature of the accident and injuries, identification of the care provider, information about other automobiles garaged in the household, etc. Thus, even if a carrier has notice of an accident, such as by a telephone call, the two year limitations period does not begin running until the completed claim form is submitted to the insurer.

Perez v. Farmers Mutual of Salem County

The Appellate Division, ruling in Perez v. Farmers Mutual of Salem County, held that the insurer of a church van is not required to provide PIP benefits because the van is not an "automobile" as defined under the PIP statute. The van was insured under a commercial automobile insurance policy, but the policy did not provide PIP coverage. The Court held that the 15 passenger van in this case was not owned by an individual or husband and wife who resided in the same household, therefore it was not an "automobile" and the insurer was not required to provide PIP benefits.

INSURANCE - COVERAGE

Electric Insurance Company v. Estate of Marcantonis.

The United States District Court, Judge Irenas, guided by principles of New Jersey state court decisions, granted summary judgment to a homeowner's carrier against whom claim was made when the insured murdered his ex-girlfriend and then committed suicide, the claim being brought by the estate of the ex-girlfriend.

The homeowner's policy provided coverage for "occurrences", with an excess policy providing coverage for "accidents" resulting in bodily harm.

Judge Irenas noted that New Jersey Courts look to whether the alleged wrongdoer intended or expected to cause an injury. If not, the resulting injury is considered accidental, even if the act that caused the injury was intentional. While this often requires an inquiry into the actor's subjective intent, when incidents are particularly reprehensible, the intent to injure can be presumed from the act.

The estate of the murderer argued that it had produced a psychiatric expert report creating a genuine issue of fact whether the actions were intentional. Judge Irenas noted that the expert pointed to no facts other than the murder itself to support a conclusion of mental derangement. The record otherwise established that the actor carefully planed and carried out the murder, therefore granting summary judgment under the terms of the insurance contract, as no reasonable fact finder could conclude that the defendant did not intend or expect to cause an injury to his ex-girlfriend.

C.S. v. NJM

In an unreported opinion, the Appellate Division has affirmed a trial court in the matter of C.S. v. NJM. NJM's insured brought a declaratory judgment action seeking a ruling that NJM had a duty to defend and indemnify her in a personal injury action brought by her ex-boyfriend, who alleged that he contracted the herpes simplex virus from her and that this would not have occurred if she had informed him she was a carrier of the virus. The motion judge concluded the alleged conduct was reprehensible and the resulting injury was presumed to be intended or expected and not the result of an accident or occurrence.

This is another example of intentional conduct being presumed from the reprehensible nature of the act, precluding coverage under an "occurrence" definition.

TORTS – NEGLIGENCE

Ferreira v. Payless Shoes

In an unpublished trial level opinion by Judge Vena in Essex County, Ferreira v. Payless Shoes, the Court held that a plaintiff who did not make a timely claim against a public entity and therefore was barred from making such a claim, would forfeit whatever percentage of negligence would otherwise be attributable to the public entity. The remaining defendant will be permitted to allocate fault to the absentee former third party defendant.

The public entity was brought into the case on a Third Party Complaint, which typically need not satisfy the notice of claim requirements of the Tort Claims Act. Breaking with precedent, Judge Vena granted summary judgment

on a late notice of claim theory to the City, and further held that any percentage of negligence the defendant was able to prove against the non-participating public entity would reduce the plaintiff's recovery. This is the rationale used when plaintiff does not file a timely affidavit of merit in professional liability cases, but has only been used once before, at the trial level, in this context.

If the case is not settled we expect that an appeal will be filed. We will keep you posted of any further developments on this issue.

RESIDENTIAL SIDEWALK - SNOW AND ICE

A divided Supreme Court has affirmed the Appellate Division in holding that a condominium complex that is residential in nature does not have a duty to maintain the abutting public sidewalk. The Court took this opportunity to repeat that there has been no reason since the original commercial/residential distinction announced 30 years earlier to upset the well established and longstanding difference in the duties imposed on residential versus commercial property owners. In deciding Luchejko v. City of Hoboken, the Court also noted that Hoboken had an ordinance mandating that property owners remove ice and snow from the sidewalks, but the Court noted that this local ordinance did not create a right of action to an individual citizen; municipal ordinances do not create a tort duty, as a matter of law.

The Court also noted that at common law, since property owners had no duty to clear ice and snow, if an owner decided to remove the snow, the owner would not be liable to an injured person unless in the act of clearing the snow, a new element of danger or hazard other than one caused by natural forces was added. Simply, a melting and refreezing is not a new element of danger. Please note that the landscaping entity servicing the condominium sidewalk would not be granted immunity, and in fact settled with the plaintiff.

UPDATES IN NEW YORK CASE LAW

INSURANCE LAW – BAD FAITH

In 2008 the Court of Appeals issued two cases which expanded the scope of first party bad faith in New York: Bi Economy Mkt v. Harleysville, 10 NY3d 187 and Panasia Estates, Inc v Hudson Ins Co 10 NY3d 200. Although there have been no reported appellate decisions involving these cases, there have been trial court decisions which have been liberal in allowing insureds to pursue extra-contractual damages. In Carden v Allstate, Inc, 30 Misc 3d 479 (Sup. Ct Westchester Cty 2010), there was a dispute over valuation. Allstate intially offered $265,000 on a claim which was later appraised at $832,000. The Court ruled Allstate acted in bad faith as a matter of law and allowed the insured to pursue ALE claims beyond the policy limitations.

In Rodriquez v. Allstate, 2011 WL 3502773 (Sup Ct Kings Cty 2011), the Court addressed an auto theft claim which Allstate failed to pay, without explanation, after several years of investigation. Although dismissing the punitive damages claim, the Court permitted the insured to pursue her claim that she had almost $20,000 in lease payments for a car she no longer had while Allstate sat on her claim. The Court also left open the possibility of counsel fees as consequential damages. We can expect the Courts to continue to be liberal in allowing consequential damages claims as an element of damages in breach of insurance contract claims and thus we can anticipate an expansion of extra-contactual damage claims arising out of New York first party claims.

CIVIL PRACTICE – SUMMARY JUDGMENT

Yung Tung Chow v. Reckitt & Colman, 17 NY3d 29 (2011), is essentially a case dealing with quirks in New York summary judgment law. It is a products liability case where plaintiff was injured using lye. Defendant moved for summary judgment indicating that plaintiff misused the product contrary to instructions. The Court of Appeals reversed the grant of summary judgment. The Court held that defendant did not meet its burden of establishing that the product was reasonably safe and that plaintiff's conduct was the sole proximate cause. In an interesting dissent, Judge Smith addressed the procedural issues. On a summary judgment motion, the burden is on the mov-

ing party to make out a prima facie case of entitlement to relief. If the burden is not met, the opposition papers are not even addressed. In this case Judge Smith pointed out that if the same proofs were presented at trial, the trial judge would be compelled to dismiss the case as plaintiff would not be able to meet its burdens. However, on this type of summary judgment motion, the plaintiff has no burden, the burden is on the moving defendant. Thus a case that may not survive a directed verdict may survive a motion for summary judgment.

WORKPLACE INJURY CLAIMS – THIRD PARTY CLAIMS AGAINST WORKERS COMPENSATION CARRIERS

In Merchants Mutual Ins Co. v New York State Insurance Fund 85 Ad3d 1686 (4th Dept 2011), the commercial liability carrier for the third party defendant employer sought recovery on a settlement from the State Fund under its 1B coverage. Because it was a death case, a common law contribution claim was viable along with a contractual indemnification claim. The State Fund resisted the claim because of its exclusion for contractual indemnification. The Court held the fact that there was contractual indemnification did not mean that the State Fund coverage was inapplicable. Thus when a claim involves a grave injury, it is possible to involve the workers compensation carrier in the claim because of the common law contribution or indemnification claims.

INSURANCE COVERAGE – LATE NOTICE DEFENSE

Insurance Law 3420 was amended to provide that for policies issues after January 17, 2009, the insurance carrier would be required to show prejudice in order to assert a late notice defense. However, for policies issued before that date, New York's traditional "no prejudice" rule continues to apply. see Zimmerman v. Peerless Insurance Co., 85 Ad3d 1021 (2nd Dept 2011). Cases involving the amended statute do not seem to have found their way into the reported decisions and we will continue to follow for same

SETTLEMENTS – MEDICAL LIENS

In 2009 the Legislature passed a law intended to curb medical liens. GOL 5-535 states that in any settlement, it is presumptive that no amount of the funds paid is for reimbursement of medical expenses. However, it has been held that the Statute only applies to settlements, not to trials thus a lien is only wiped out with a settlement, not a verdict. Rizzo v. Mosely, 30 Misc 3d 773 (Sup Ct. Westchester Cty 2010). The Court of Appeals has pointed out that the collateral source rule, CPLR 4545, only applies to verdicts, not settlements, Fasso v. Doerr, 12 NY3d 80 (2009). Unlike New Jersey, which held that one of the purposes of the collateral source rule was to protect liability carriers, the Court of Appeals focused on rising health care costs and seems tilted towards the health insurer. Although the trend is towards eliminating the health insurance liens, it may take some time to get the procedural steps cleanly outlined. It is to be further noted that New York places the burden of establishing the collateral source on the defendant and it is a rather high standard of reasonable certainty. see Kihl v. Pfeffer, 47 AD 3d 154 (2nd Dept. 2007); Staats v. Wegmans Food Markets, 63 AD3d 1573 (4th Dept 2009)

CASE RESULTS

In May of 2011, **Stephen R. Katzman** successfully defeated the claim of a Neptune homeowner, who was believed to have set fire to his home, by establishing, with the help of a computer forensic analyst, that the insured submitted computer altered documents in violation of the "Fraud" provision of the insurance policy.

Bill Bloom tried a negligent supervision case in Camden County in February of this year. Plaintiff, a 6th grader at the time, claimed that while unsupervised in gym class, he attempted to leg press six hundred pounds. While attempting this, he felt a pop in his mid-back and a burning sensation down his legs. He was diagnosed him with a thoracic herniation, and he underwent a series of injections without improvement. Now 17 year old claimant alleged significant residual. Through a review of all medical records, we were able to show that the claimant suffers from a developmental condition unrelated to trauma, that there was a more than normal delay in treatment, and no eyewitness testimony. Plaintiff's $650,000 demand withered away in trial and the matter settled for $25,000.

Eric Harrison and **Jennifer Herrmann** obtained summary judgment in an educational civil rights case in which the plaintiff, a young disabled student with a history of behavioral outbursts, sued on account of the school staff's use of restraint to protect the student from harming himself or others. Federal Judge Hayden agreed that the plaintiffs failed to exhaust their administrative remedies requiring a dismissal of the claims on June 30, 2011.

Bill Bloom obtained summary judgment on a sidewalk fall-down case in Middlesex County in May 2011. Plaintiff claimed he was walking in the side yard of the insured's property when he was caused to fall as a result of a hole or uneven ground shrouded by overgrown grass. Plaintiff suffered a significant leg fracture which resulted in three surgeries. Through careful discovery, including aerial photographs and surveys, we were able to establish that the fall occurred not on the insured's property but on the neighboring property.

Martin McGowan tried a case in Monmouth County before Judge BelBueno Cleary on June 15-16, 2001, which had been previously arbitrated at a value of $240,000. The claimed injury was a trifibular cartilage tear of the dominant wrist. We contended that there was no tear, only a sprain, which had resolved. A jury found that the plaintiff sustained an injury causally related to the accident, but awarded no damages. Plaintiff's motion for new trial was denied.

Paul Endler was granted summary judgment on August 8, 2011, seeking rescission in the procurement of the policy. The insured's daughter struck and killed a pedestrian. She was never listed on the policy as a driver, even though she regularly drove, but had no license. The underinsured motorist carrier had brought a cross-motion for summary judgment, which was denied.

Ed Thornton tried a matter in Mercer County this July, in which the judge directed a liability verdict against the insured, who caused a rear-end hit with a loaded dump truck. It was agreed that the plaintiff has suffered a herniated thoracic disc, but the issue was whether the plaintiff could prove that the herniated disc came from the accident or not. By getting each and every medical record of the plaintiff, including her chiropractor's records from California, notations as to pre-existing back difficulties were uncovered, which plaintiff conveniently forgot to show to their examining physician. The jury awarded the plaintiff's husband no money and awarded the plaintiff less than the arbitration award, which had been rejected by the plaintiff.

Timothy Fonseca has been successful in securing two summary judgments for public entities this summer, one for the Vineland Board of Education based on the argument that they were not negligent and if they were negligent, such negligence was not a proximate cause of the accident in June. In the second, he secured a summary Judgment for the Woodbridge Board of Education in July based on a Brooks analysis of the significance (or lack thereof) of plaintiff's injuries in July 2011.

Jennifer Herrmann recently received three favorable decisions from the Commissioner of Education over the summer months.

In the first, the Commissioner agreed with our statutory interpretation arguments to hold that terminated employees do not have a right to receive a statement of reasons or have a hearing before the Board of Education ("Donaldson hearing"). These rights are statutorily conferred on non-renewed employees, but the Commissioner found that terminated employees do not hold the same rights.

The second case involved the Commissioner's approval of a school district disciplinary policy. The district had implemented a policy wherein students could be suspended from extracurricular activities for conduct that occurred off of school grounds and outside of school activities. Previously, the Commissioner had determined the policy to be overly broad in violation of statute. The district therefore revised the policy to add the language of the statute which in essence stated that the conduct occurring outside of school must be sufficiently related to the orderly functioning of the school in order to be punishable by the school district. The Administrative Law Judge ruled in favor of the petitioner, finding that the policy was still overly broad. We appealed with the Commissioner who found that the policy was statutorily compliant.

The third case involved two separate rulings by the Commissioner that we anticipate will be useful in future motions to dismiss. The Commissioner held that the statute of limitations on claims surrounding an employee's non-renewal for budgetary reasons begins running when she learns of the non-renewal, not when she subsequently learns that the non-renewal may have been for reasons other than the budget. Where an employee has the statutory right to a statement of reasons for her non-renewal or a hearing before the Board of Education and fails to exercise those rights, she cannot claim that she did not know about her injury. The Commissioner also held that an employee does not state a claim for an "arbitrary and capricious" failure to hire without asserting and proving violation of a statutorily or constitutionally conferred right.

Ed Thornton tried a falldown matter in Hudson County, the plaintiff alleging a fall on ice on a commercial sidewalk, alleging herniated discs of the lumbar and cervical spines. Ed cross examined plaintiff and her doctor on prior claims and medical records, presented an IME doctor who denied any aggravation or new injury and the jury awarded the plaintiff only unreimbursed medical bills, declining to award any money for pain, suffering, or permanent injury.

Bill Bloom tried a case in Middlesex County involving a three vehicle chain-reaction rear-end hit on the New Jersey Turnpike. The plaintiff, driving the lead vehicle, claimed that Bill's client, driving a large pick-up truck rear-ended her at a high rate of speed and then was pushed into her a second time as a result being struck in the rear by a third vehicle being operated by the co-defendant. Bill's client asserted that he brought his vehicle to a stop without hitting the plaintiff and was simply pushed into her vehicle by the co-defendant. Plaintiff claimed an aggravation of a preexisting neck and low back condition which resulted in six spine surgeries, including multiple cervical and lumbar fusions with resulting complications including a permanently paralyzed vocal cord (plaintiff being a semi-professional choir singer) and a drop foot. Plaintiff's life care plan expert opined that the plaintiff would require over $600,000 in future life expenses including two additional fusions. Well before trial, co-defendant deposited his policy limits of $100,000. Plaintiff's demand as against Bill's client was $1,000,000. Bill defended the case on both liability and damages. As to liablity, Bill relied on the testimony of his client, as well as, property damage photographs of the vehicles, and prior inconsistent statements made by the plaintiff regarding how the accident occurred. On damages, Bill raised an issue as to the causal relationship of the claimed injuries given plaintiff'a prior history and evidence suggesting ongoing complaints as of the time of the accident. The jury returned a no cause in favor of Bill's clients. As to the co-defendant, the jury entered an award of only $278,000.

NEW ADDITIONS TO THE M&W FAMILY

The following attorneys have recently joined Methfessel & Werbel:

RICHARD A. NELKE

After graduation, Mr. Nelke obtained a clerkship with the Honorable Mark M. Russello, Bergen County Superior Court.

Following his successful clerkship, Mr. Nelke worked for a defense firm representing insurance carriers, insureds and self-insureds in the investigation and litigation of both first and third-party claims in New Jersey and New York.

LEONARD V. DON DIEGO

Leonard V. Don Diego joined the firm following a successful clerkship with the Honorable David F. Bauman, Presiding Judge of the Civil Division of the Superior Court in Monmouth County. While serving for Judge Bauman, Mr. Don Diego was in charge of managing the Judge's motion calendar and providing written opinions in preparation for oral arguments, one of which has been submitted for publication. In addition to the regular motion practice, the Judge's calendar included all environmental cases in Monmouth County.

During law school, Mr. Don Diego was on the Editorial Board of the Women's Rights Law Reporter, writing a note on the effects of domestic violence on the legal system in Mexico. After his first year was completed, he was selected by a Dean's Committee as a Student Facilitator of the innovative Minority Student Program based on academic achievement. Responsibilities included tutoring incoming first year students, and constructing Constitutional Law curriculum, which Mr. Don Diego taught in small groups after class hours. Additionally, he completed an internship with the Honorable Ira Kreizman, J.S.C. in Monmouth County, and worked as a summer associate in a general practice New Jersey firm.

Prior to law school, Mr. Don Diego served as a Congressional Intern in Washington, D.C. for Charles Dent, the Representative of the 15th District of Pennsylvania.

Mr. Don Diego is a member of the first party/property team under the supervision of Stephen R. Katzman.

JACQUELINE C. CUOZZO

Jacqueline Cuozzo joined Methfessel & Werbel after completing a judicial clerkship with the Honorable Lawrence M. Lawson, Assignment Judge of the New Jersey Superior Court in Monmouth County. Ms. Cuozzo was responsible for conducting research and drafting legal opinions on matters primarily involving zoning, planning and land use, as well as such other areas as condemnation, mortgage foreclosure and election law. Ms. Cuozzo also served as a certified mediator, assisting parties in the settlement of Special Civil claims.

As a Chancellor Scholar at Seton Hall Law, Ms. Cuozzo was a member of the Family Law Clinic and acted as Associate Comments Editor for the Seton Hall Circuit Review. During law school Ms. Cuozzo served as a judicial intern for the Honorable James Heimlich of the New Jersey Superior Court in Union County. Ms. Cuozzo was also a summer law clerk at Dughi & Hewit, P.C., where she gained experience in the areas of mass tort and commercial litigation and insurance coverage.

Ms. Cuozzo is a member of the Insurance Coverage team under the direction of Marc Dembling.

MICHAEL POREDA

Michael Poreda joined the firm's employment practices liability group in 2011 following a clerkship with the Honorable Hector R. Velazquez in the Hudson Vicinage of the Superior Court of New Jersey – Law Division, Civil Part. While serving his clerkship, he wrote legal opinions regarding the dispositions of civil motions and conducted extensive legal research on matters including employment law and civil rights. He authored the opinion in Mohammed v. Iglesia Oasis de Salvacion, which was recently recommended for publication by the Appellate Division. The opinion clarifies the law regarding sidewalk liability for not-for-profit and religious organizations.

During law school, Michael was an Editor of the Seton Hall Law Review. As part of Seton Hall's Impact Litigation Clinic, he won an appeal in the Second Circuit of the U.S. Court of Appeals on behalf of an inmate alleging Eighth Amendment violations against federal prison officials. He was a founding member of the Urban Education Law and Policy Initiative, an organization dedicated to the improvement of education of urban students. He is also a contributing writer for The National Jurist.

Michael previously worked as a summer clerk at Thompson Hine LLP in New York City and was an intern for the Honorable Brian M. Cogan of the U.S. District Court for the Eastern District of New York. Prior to law school, he taught U.S. History at Watchung Hills Regional High School.