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C A S E A L E R T

Two No Cause Verdicts: Richard Nelke and Eric Harrison of M&W Obtain “No Cause” Verdicts in Auto Liability, Discrimination Trials

Last week two separate Morris County juries returned defense verdicts in cases tried by Methfessel & Werbel attorneys.

In Hook v. Guerin the plaintiff, a local developer, had a heated exchange with our client's employee Mr. Guerin, a township engineer who had noted deficiencies during a recent property inspection. Their argument occurred while Hook was standing outside the passenger side of Guerin's vehicle. As the conversation devolved, Mr. Guerin stated that he no longer wished to discuss the issue and that he would send Hook a letter. At that point, he rolled up his window, shifted his car from park to drive, stepped on the gas and pulled away.

The plaintiff claimed that Mr. Guerin drove over his left foot (specifically his left pinky toe), causing him to be thrown to the ground where he hit his head and lost consciousness. The police were called and responded to the scene. The plaintiff did not report that he fell, hit his head or lost consciousness. He only reported that his foot was run over. He refused medical attention. Later that evening, his wife took him to the hospital, where he did not advise the ER staff that he fell, hit his head or lost consciousness.

Approximately one week later, the plaintiff wrote an email to the responding police

officer and advised that he also hurt his elbow and wanted the officer to amend the report. He did not state that he fell, hit his head or lost consciousness. Sixteen days later he went back to the hospital for left elbow pain and once again he did not report that he fell, hit his head or lost consciousness.

At trial the plaintiff claimed that the alleged accident caused a traumatic brain injury, a tear in his left foot that required surgery, a tear in his hip that required surgery followed by a total hip replacement, a neck injury that required cervical spinal surgery, and and two strokes as a result of two of the surgeries. He claimed permanent disability and sought \$2.5 million dollars in economic damages.

Following a four-week trial, Rich Nelke convinced the jury that although Mr. Guerin was negligent at the time of the accident, his negligence was not a proximate cause of the accident.

A few days later a separate Morris County jury returned a no cause verdict in a hostile work environment/constructive discharge lawsuit, Jones v. Hanover Township. Former Hanover Police Officer Jason Jones, who at the time was the department's only police officer of color, alleged that he was subjected to a

hostile work environment and forced to resign rather than risk termination because of the color of his skin.

Officer Jones testified that he was offended by several comments of coworkers, a few of which were admitted and others which his coworkers denied having made. He did not complain about any of these comments, however, until after he received a preliminary notice of potential termination over poor job performance.

Upon receipt of an email from Jones' lawyer threatening litigation over the alleged racist comments, the township followed its attorney's advice and rescinded the proposed termination, placing Jones on paid leave while his claims of racism were investigated. The township forwarded the complaints to the Morris County Prosecutor for investigation. Following a four-month investigation, the MCPO found no wrongdoing.

After concluding its own internal investigation, the Hanover Police Department determined that while some of the offensive comments would have been made, they had no affect on the recommendation that Officer Jones be terminated for poor performance - which included failing to back up two fellow

officers who were subjected to physical harm, sleeping on the job and sitting in a squad car using social media when he should have been tending to a missing persons complainant.

Eric Harrison convinced the jury that while Jones may have experienced a hostile work environment based on the comments that offended him, the township could not be held liable because he never complained about the offensive comments until many months later when he received a notice of potential termination. The township demonstrated that it had an effective remedial mechanism to address work-related complaints and that Jones had no legitimate excuse for failing to lodge a complaint if he was truly offended by his coworkers' comments.

As judicial vacancies are filled and backed up dockets are cleared, we and our clients have experienced a return to the volume of trials that we saw prior to COVID-related shutdowns. We will continue in our efforts to settle claims that can be settled as expeditiously and cost-effectively as possible. As to those claims that cannot be settled, M&W will continue its proud tradition of zealous representation before judges and juries throughout the state.

The Methfessel & Werbel Case Alert is published solely for the interest of friends and clients of Methfessel & Werbel and should in no way be relied upon or construed as legal advice or counsel. For specific information on recent developments or advice regarding particular factual situations, the opinion of legal counsel should be sought.

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