

2003-2005 Harvey Kruse Victories

| Case Name | Case Type | Court | Result |
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| <u>Appeals</u> | | | |
| Anteau v. Oakland Pest Control <u>Appeal</u> | Negligence | Michigan Court of Appeals | <p>This was a misrepresentation and negligence case arising out of the alleged failure to properly perform a pre-purchase pest inspection. Plaintiff sought demolition of the home, and the cost to rebuild the home as a result of the failure to determine the existence of powder post beetles. On interlocutory appeal we obtained a ruling from the Court of Appeals dismissing the case on the basis that no cause of action existed in tort where an express contract existed governing the loss, and that plaintiff was not a third party beneficiary to the express contract.</p> |
| Auto-Owners Insurance Company v Michigan Mutual Insurance Company <u>Appeal</u> | Insurance Coverage | Michigan Court of Appeals | <p>We represented Michigan Mutual Insurance Company with whom several injured parties claimed coverage under a certificate of insurance issued by an agent for an insufficient premium under assigned risk rules. The Court of Appeals held that the fact that the insurer issued a policy after the loss, covering the date of loss, did not estop the insurer from denying coverage, and that a binder of insurance issued by an independent agent prior to the accident was not binding on the assigned risk insurer because an independent agent is an agent of the insured and because the premium required for immediate binding of risk under Michigan's assigned risk statutes had not been tendered with the application for insurance.</p> |
| Barr v Franklin River Apartments <u>Appeal</u> | Premises Liability | Michigan Court of Appeals | <p>This Court of Appeals decision affirmed our summary disposition in regard to the plaintiff's claim for injuries incurred when she slipped on a patch of ice on the sidewalk at her apartment. The trial court granted our summary disposition on the basis that that the defendant apartment had no notice of the alleged icy condition. The Court of Appeals affirmed holding that the plaintiff's claim that the defendant breached a duty by common law or by statute by failing to take reasonable steps to cure a defective condition was based on speculation and that there was no proof that the defendant had notice or knowledge of the condition.</p> |

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| Carneva v Blackledge <i>Appeal</i> | Dog Bite | Michigan Court of Appeals | This was a dog bite case in which plaintiff, a young woman with an aspiring modeling career, suffered serious, permanent raised scars. Although only seven years old, plaintiff admitted in her deposition that the dog had been "teased" by her friend, shortly before the incident. We were successful in obtaining summary disposition from the trial on the basis that plaintiff had no proof that this dog had a dangerous propensity, that plaintiff could not maintain a statutory dog bite case since the accident occurred after the dog had been provoked by teasing, and that Michigan law did not allow plaintiff to recover on a theory of attractive nuisance arising out of an attack by a dog. We obtained a successful appellate opinion upholding the trial court's ruling in its entirety. |
| Easterday v Crossings I <i>Appeal</i> | Premises Liability | Michigan Court of Appeals | This case involved a slip and fall on snow and ice in the parking lot of an apartment complex, with plaintiff suffering a fracture of her left radial head, with permanent nerve damage and loss of motion. Summary disposition granted on the open and obvious doctrine in the favor of the apartment complex, affirmed in the Michigan Court of Appeals, which agreed that ice, even when covered by snow, should be anticipated by a reasonably careful person. |
| Gladych v. New Family Homes <i>Appeal</i> | Commercial | Michigan Supreme Court | We represented New Family Homes. The Michigan Supreme Court, in reversing an established line of Michigan case law, found that the statute of limitations barred the plaintiff's claims because the plaintiff had not filed and served the complaint within the statutory period. The Court determined that the tolling provisions of the statute of limitations did not apply to extend the plaintiff's time limit for filing and serving the complaint. |
| Heydon v MediaOne <i>Appeal</i> | Commercial | Sixth Circuit Court of Appeals | Plaintiff claimed for a trespass against a company that installed television cable on utility poles running across his property without permission and in the absence of an easement. Plaintiff also asserted that the federal Cable Communications Policy Act which permits a cable company to "piggyback" on utility easements was unconstitutional. We successfully argued in the United States District Court for the Eastern District of Michigan that the court lacked jurisdiction to resolve the constitutional issue because it only arose as a defense and there was incomplete diversity of citizenship jurisdiction. The United States Court of Appeals for the Sixth Circuit affirmed. |

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| Hines v Pioneer State Mutual Ins. Co <i>Appeal</i> | Premises Liability | Michigan Court of Appeals | This was a wrongful death/premises liability suit brought against defendant Linden Square Housing Association, asserting liability for the injury and death of Jeanette D. Hines, deceased. It was alleged that Ms. Hines slipped and fell on a supposed oil patch located in the parking lot of defendant's premises. We filed a motion for summary disposition which was granted, the court holding that there was no genuine issue as to any material fact, that the plaintiff failed to bring forth any evidence, aside from speculation and conjecture, that Ms. Hines actually did fall as a result of the alleged oil patch. This decision was upheld on appeal. |
| John Psaila v C&H Design <i>Appeal</i> | Commercial | Michigan Court of Appeals | The plaintiff was an at-will employee of the Defendant and complained about failure to pay commissions for automotive stamping work. He was terminated because of his complaints for the reason that he was not owed commissions. The plaintiff filed suit alleging retaliatory termination based upon the agent commission statute MCL 600.2961. The case was tried in the Macomb County Circuit Court and the trial court denied our motions for summary disposition and directed verdict. The trial court found that the alleged violation of the agent commission statute created a public policy exception to the at-will employment of the plaintiff. The Court of Appeals found, however, that the trial court erred and that the Agent Commission Statute does not create a public policy exception to the general rule of at-will employment. The Court of Appeals remanded the case back to the Macomb County Circuit Court for entry of judgment in favor of the Defendant. |
| Keller v Humphrey Inc. <i>Appeal</i> | Products Liability | Michigan Court of Appeals | The plaintiff sustained an amputation of his left hand while operating a power press equipped with controls manufactured by our client and brought a products liability cause of action. The Court of Appeals reversed the trial court's denial of our motion for summary disposition finding there was no duty to warn based on the sophisticated user defense. |
| MacDonald v Heights Marina <i>Appeal</i> | Premises Liability | Michigan Court of Appeals | The plaintiff was killed when he was operating a snowmobile and struck a portion of the Heights Marina's dock on Houghton Lake. The trial court granting our motion for summary disposition and the Court of Appeals affirmed. |

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| McDonald v Honeywell International <u>Appeal</u> | Products Liability | Michigan Supreme Court | Summary judgment (affirmed on appeal) was obtained for Honeywell International, Inc. in this auto liability action arising under the "closed head" injury exception to Michigan's automobile liability "verbal threshold." We argued successfully that a doctor's affidavit failed to satisfy statutory requirements. Oakland County (Michigan) Circuit Court. Affirmed, Michigan Court of Appeals. Leave to Appeal denied, Michigan Supreme Court |
| Michael Gregory v Cincinnati Inc. <u>Appeal</u> | Product Liability | Michigan Court of Appeals | This was a product liability lawsuit in which the plaintiff claimed that the defendant's press brake was defectively designed and caused crushing and amputation injuries to plaintiff's right hand. The jury returned a verdict of \$1 million in favor of plaintiff. Defendant appealed to the Michigan Court of Appeals on the basis that there was no continuing duty to update the machine. The Court of Appeals granted a new trial. Plaintiff appealed to the Michigan Supreme Court. The Supreme Court agreed that there is no continuing duty on the part of the machine manufacturer and therefore agreed with the defendant that reversible error took place at the trial court level. The Supreme Court set aside the jury verdict and granted the defendant a new trial. The second trial resulted in a jury verdict for the plaintiff. The Court of Appeals reversed holding that defendant was entitled to a directed verdict. |
| Michal v. Hammer Corporation <u>Appeal</u> | Products Liability | Michigan Court of Appeals | This case was a death claim brought on behalf of the family of decedent who expired due to ingestion of over-the-counter medications containing ephedrine. We prevailed on a motion for summary disposition based on Michigan's tort reform legislation concerning liability defenses available to manufacturers of FDA approved medications. Plaintiff appealed and the Court of Appeals upheld the trial court's decision. |
| Michigan Tooling Ass'n Workers Compensation Fund v. Farmington Insurance Agency v. Wausau Insurance Companies <u>Appeal</u> | Worker's Comp | Michigan Court of Appeals | This was a claim for reimbursement of workers compensation benefits against an insurance agent when the agent had issued a certificate of insurance. The agent filed a third-party complaint against the insurance carrier who had cancelled the policy, although the agent claimed that it never received notice of the cancellation. A bench trial resulted in a judgment that the carrier was not responsible for the benefits and insurance agent was responsible. We were also successful in convincing the Michigan Court of Appeals to affirm the decision by the trial court. |

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| Munoz vs. BASF <i>Appeal</i> | Premises Liability | Michigan Court of Appeals | <p>We represented BASF in this slip and fall matter. We filed a motion for summary disposition in the trial court based upon the open and obvious defense. The trial court denied our motion and we filed for leave with the Court of Appeals under the expedited docket. The Court of Appeals accepted leave and ruled in favor of BASF holding that Plaintiff should have known that based upon her observations of a light drizzle in the morning and one inch of snow at lunchtime, ice would have formed under the snow in BASF's parking lot. The Court of Appeals reversed the lower court and granted summary disposition to BASF. The Plaintiff suffered significant injuries arising out of the slip and fall requiring four surgeries and resulting in permanent disability. Her case mediated for \$350,000.00.</p> |
| Pioneer State Ins. Co. v Titan Ins. Co <i>Appeal</i> | Insurance Coverage | Michigan Court of Appeals | <p>This case involved a pedestrian, who was struck by a van owned by an insured of Pioneer, but which was not among the automobiles covered by Pioneer's policy. Summary disposition was granted in favor of our client, Titan Insurance Company, the assigned claims carrier. This was the first appellate case in Michigan holding that the insurer of the owner or registrant of a motor vehicle involved in the accident is responsible for first-party benefits even where the motor vehicle is not listed as a "covered auto" in a policy of the owner or registrant.</p> |
| Pioneer State Mutual Insurance Company v. Moran Oldsmobile-Cadillac-GMC Truck <i>Appeal</i> | Property Damage | Michigan Court of Appeals | <p>This case involved a \$320,000 property damage fire loss claim alleged to have resulted from faulty repairs by our client. The plaintiff subrogee insurance company retained three experts. At depositions, two experts rendered no opinion against the dealership. The expert plaintiff was relying upon was proved categorically errant and false in his allegations. Plaintiff's counsel then attempted to "reinvent" his liability claims with one of his original two experts rendering differing opinions in response to defendant's motion for summary judgment. After the third hearing on our motion for summary judgment, the trial court granted our motion, finding that plaintiff's theories were based on speculation and conjecture. The Court of Appeals upheld the ruling.</p> |

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| Rihani v Greeley & Hansen of Michigan, LLC | Construction Accident | Michigan Court of Appeals | Our client, Greeley & Hansen, was a subcontractor on a construction project at a water pumping station reservoir. The plaintiff was employed as an engineer by another subcontractor. The plaintiff was injured when he fell into an unguarded sump pit within the pumping station reservoir. The plaintiff's settlement demand was \$3.25 million. The trial court denied our motion for summary disposition that Greeley & Hansen, as a subcontractor, had no duty to provide a safe worksite for employees of other contractors and the Court of Appeals reversed and held that we were entitled to dismissal as a matter of law. |
| | | | <u>Appeal</u> |
| Robinson v Allied | Insurance Coverage | Michigan Court of Appeals | This case involved a declaratory action for property damage under a homeowner's insurance policy. The lower court denied summary disposition, and in so ruling, held that one-year statute of limitations contained in homeowner insurance policies was in violation of Michigan statute. The Court of Appeals (No. 247375 and 251003, decided August 3, 2004), reversed the trial court, and entered summary disposition in favor of the defendant, upholding the one-year statute of limitation provisions in homeowner insurance policies. |
| | | | <u>Appeal</u> |
| Sarafopoulos v Romp | Third Party Auto | Michigan Court of Appeals | We obtained a summary disposition from the trial court on the basis that the plaintiff's claim was barred because the plaintiff was more than 50% at fault in causing the accident although the defendant was ticketed. The Court of Appeals affirmed our summary disposition holding that the plaintiff, based on her testimony and the photos of the intersection, had to have entered the center left turn lane "early" and was therefore illegally driving in the center left turn lane when the defendant entered 15 Mile Road from a parking lot, was waved across two lanes of traffic, stopped before entering the left turn lane to cross it and then as he entered the center left turn lane his vehicle was struck by the plaintiff's vehicle. The Court of Appeals agreed with the trial court that it was "impossible" for the plaintiff to have entered the left turn lane at the appropriate location without violating the statute, MCL 257.647, due to the location of the accident which occurred "before" the location of the entry point to the center left turn lane. The court also agreed with our argument that the plaintiff had absolutely no proof or evidence of any negligence on the part of the defendant. The Court of Appeals ruled that as a matter of law the plaintiff was more than 50% at fault in causing the accident which barred her claim pursuant to MCL 500.3135(2)(b). |
| | | | <u>Appeal</u> |

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| Sturlese v AlliedSignal, Inc. <u>Appeal</u> | Products Liability | Louisiana Supreme Court | We achieved complete victory for Honeywell International in \$15.5 million personal injury, paralysis claim involving the crash of an “ultra light” recreational aircraft. Cameron Parish (Louisiana) District Court. Affirmed, Louisiana Third Circuit Court of Appeals. Certiorari denied, Louisiana Supreme Court |
| Sturlese v. Six-Chuter, Inc. <u>Appeal</u> | Product Liability | Louisiana Court of Appeals | In this product liability case arising out of the use of a powered parachute Plaintiff sought recovery for paraplegia and sought over \$15 million. Representing the manufacturer of an automotive seatbelt, we obtained judgment notwithstanding the verdict from the trial court on the basis that the use of an automotive seatbelt in a powered parachute was not reasonably foreseeable. In a published decision, the Louisiana Court of Appeals affirmed this result. |
| Tekonsha Engineering company, Inc. and Theodore Bargman Company v. C.W. Industries, I <u>Appeal</u> | Commercial | 6th Circuit Court of Appeals | The U.S. Court of Appeals for the 6th Circuit affirmed the grant of summary judgment to C.W. Industries by the U.S. District Court for the Western District of Michigan in this claim for recall damages in excess of \$1.5 million. Representing C.W. Industries we were able to prevail on motion by establishing that our component electric switch met all applicable industry standards and contract requirements and there was no evidence it was defective despite argument that our own testing demonstrated that the switch failed to perform acceptably under conditions intended to simulate those encountered by plaintiffs' application identified after the sale. The case was mediated for \$350,000. |

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| Varilease Technology Group, Inc. v Michigan Mutual Insurance Company <u>Appeal</u> | Insurance Coverage | Michigan Court of Appeals | <p>This was a suit brought by the plaintiff Varilease Corporation in Wayne County Circuit Court against Michigan Mutual claiming coverage and a defense for an underlying claim filed by Unisys against Varilease in the U. S. District Court in Arizona seeking a multi-million dollar recovery for copyright infringement and trademark infringement for alleged misappropriation of proprietary diagnostic software and manuals used to perform maintenance for Unisys main frame computers. The claim for insurance coverage also included a claim for defense costs in excess of 1.3 million dollars. The Wayne County Circuit Court granted summary disposition in favor of Varilease and against Michigan Mutual, holding that Michigan Mutual had breached its duty to defend. The trial court did not rule on the duty to provide coverage because the underlying matter was still pending and there had not been a determination of the basis of liability of Varilease to Unisys in the underlying action. We filed an Application for Leave to Appeal to the Court of Appeals on behalf of Michigan Mutual which was granted. We then proceeded to argue the case on appeal on the basis that there was no coverage or duty to defend pursuant to the CGL policy, because there was no "advertising injury". The Court of Appeals agreed issuing a six-page opinion holding that the allegations of copyright infringement and trademark infringement did not constitute an "advertising injury" as defined by the policy, and Michigan Mutual had no liability to provide coverage or a defense.</p> |
| Walker v. Family Dollar <u>Appeal</u> | Premises Liability | Michigan Court of Appeals | <p>This was a premises liability case. Plaintiff testified that he tripped over a box and slipped on a piece of cardboard. We moved for summary disposition based on lack of notice and the open and obvious defense. The court granted our motion for summary disposition upon finding a lack of notice as a matter of law.. The finding was upheld by the Michigan Court of Appeals. Plaintiff has applied for leave to the Michigan Supreme Court.</p> |

Arbitrations and Trials

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| Beta Foundry Equipment v. Die Temp | Commercial | USDC | We represented Plaintiff in this breach of contract, tortious interference with contractual relations, and tortious interference with perspective advantage case in a dispute over the sale of industrial equipment. The case was tried in federal court jury in Grand Rapids and the jury returned a verdict 58% higher than we asked for in closing argument. We suggested that the jury return a verdict of between \$36,000 and \$43,000 on the contract claim and a similar amount on the tort claims and the awarded \$36,000 for breach of contract and \$100,000 for tortious interference for a total of \$136,000. |
| | | | <u>Trial</u> |
| Commonwealth Insurance vs. Gleason Construction Company | Commercial | USDC | This involved a business loss claim advanced by Commonwealth Insurance as subrogee of Creative Solutions. The claim arose out of damage to underground fiber optic cable which was struck by Gleason Construction during the course of its boring operation in Washtenaw County. Our firm defended Gleason Construction and, in filing our Answer we named the facility locating company, SM&P as a non-party at fault. SM&P was added as a party Defendant by the Plaintiff. The case was tried before Judge Denise Page Hood. The jury found in favor of Commonwealth Insurance and awarded damages in the amount of \$109,000.00 as against SM&P for negligence and violation of The Protection of Underground Facilities Act. The jury rendered a verdict of no cause for action in favor of our client, Gleason Construction. |
| | | | <u>Trial</u> |
| Inman v Jareau | Auto Negligence | Genesee County Circuit Court | This was an automobile negligence action wherein we represented the defendant in plaintiff's claimed back and neck injuries with very lengthy treatment. The case mediated for \$50,000. At trial the defendant admitted fault for the accident and defended on the basis of no proximate cause. We were successful in obtaining a jury verdict of no cause of action. The jury felt that the plaintiff's injuries were not related to the subject accident. |
| | | | <u>Trial</u> |

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| Kimberly Russo v Herman Miller, Inc <u>Trial</u> | Products Liability | Wayne County Circuit Court | <p>This was a product liability claim in which Kimberly Russo alleged negligent design and manufacture of an office chair. Ms. Russo claimed that while working as a reservationist at Northwest Airlines that she was using the Herman Miller chair when the chair broke and suddenly threw her backwards causing the herniation of two cervical vertebrae. She also alleged that the injury resulted in certain bulging discs. Ms. Russo claimed that the injuries were permanent and resulted in a partial disability, which forced her to leave her job. Her economist testified that she sustained economic damages of almost \$3 million. The case was defended on the basis that the chair was not negligently designed or manufactured, met the applicable NASI/BIFMA Code and that the chair was abused and misused. After an eight day trial the jury returned a verdict in favor of our client, Herman Miller, Inc.</p> |
| Letica v Dimax Leasing <u>Trial</u> | Commercial | Oakland County Circuit Court | <p>This case involved claims for breach of contract and conversion for \$50,000 worth of jewelry that was allegedly stolen from the plaintiff's home while house cleaning services were being performing. At the end of Plaintiff's proofs, the Court directed a verdict for our client and determined that there was no evidence that our client's employee ever had possession of the jewelry or exerted "domain" over the jewelry.</p> |
| Mark Thaqi v Nationwide Insurance Company <u>Trial</u> | No-Fault | Macomb County Circuit Court | <p>We achieved a no cause of action jury verdict in a claim for no-fault benefits filed against our client defendant Nationwide Insurance Company. The plaintiff was the owner of a restaurant in Detroit involved in a motor vehicle accident. He claimed that because of injuries sustained in the accident, he was no longer able to work at the restaurant, and that his sales dropped. By use of plaintiff's own financial records, we showed that although there may have been a drop in gross receipts, there was no loss that could be attributed to the accident such as additional labor costs incurred or reduced hours of operation. We also elicited testimony that plaintiff did not save cash register tapes, and paid himself in cash from the safe, casting doubt that his financial records were reliable.</p> |
| Prudential Property and Casualty Insurance Company v. Mondello Prudential Property and Casualty Insurance Company v. Mondel <u>Trial</u> | Insurance Coverage | St. Clair County Circuit Court | <p>This was a declaratory action that we brought on behalf of the insurance carrier for the homeowner. A young woman had facial scarring after being attacked by a dog that was owned by the son of the named insured. Following a bench trial, the Court ruled that there was no insurance coverage and, accordingly, the carrier did not have to defend or indemnify its insured.</p> |

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| Rivard v Kia Motors America <i>Trial</i> | Product Liability | 42-1st District Court | Plaintiff sued Kia Motors America for breach of warranty and violation of Michigan's Lemon Law arising out of the purchase of a new Kia Sorrento. Our firm represented Kia Motors. This matter was tried before a jury in the District Court. The jury found in favor of Kia Motors holding that Kia did not breach its warranty and that Plaintiff's vehicle did not have a defect or condition which substantially impaired its use or value. We were awarded case evaluation sanctions covering Kia's trial costs and attorney fees. |
| Rodriguez v ASE Industries, Inc <i>Trial</i> | Products Liability | Wayne County Circuit Court | This was a product liability claim in which the plaintiff was scalped when her hair became entangled in a conveyor during the course of her employment. Plaintiff claimed that the defendant manufactured the conveyor and failed to provide adequate guards, devices and warnings. |
| Rodriguez v Titan Insurance Co. <i>Trial</i> | No-Fault | Genesee County Circuit Court | This was a first party personal insurance protection case wherein we represented defendant Titan in a wage loss claim. Plaintiff asserted that he was entitled to two years lost wages based upon a significant leg injury. The trial of the case before Judge Judith Fullerton resulted in a no-cause of action with the plaintiff receiving no damages. We focused on plaintiff's weak work history and the jury determined that the plaintiff did not supply sufficient evidence that he would have obtained wages but for the accident. |
| Sam Daoud v Modern Products <i>Trial</i> | Products Liability | USDC | Plaintiff Daoud sustained fractures of two fingers of his left hand from a snow thrower designed and manufactured by our client. The Plaintiff alleged that heavy, wet snow clogged the snow thrower discharge chute and that when he used his left hand to clear the snow that he made inadvertent contact with the snow thrower impeller. Mr. Daoud claimed that the snow thrower was defectively designed and failed to include warnings and a cleanout tool. We denied that the snow thrower was defectively designed or that it lacked sufficient warnings and asserted that the Plaintiff was negligent and caused his own injury. Further, we contested plaintiff's allegations of \$1.5 million in economic loss for medical expenses, lost wages and loss of services. A unanimous jury verdict was returned that our client not negligent and therefore we were entitled to a judgment of "no cause for action." |

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| Thon & Associates v AWI <i>Arbitration</i> | Commercial | AAA | This case involved a claim for past due commissions on the sale of wheels to automobile manufacturers by a large wheel manufacturer based in South Africa. Following a week-long trial before a three-member American Arbitration Association commercial panel, our client was awarded \$831,000 for past due commissions, a \$100,000 statutory penalty under Michigan's Sales Representatives Act, and attorney fees. |
| Washington v. Nationwide Mutual Fire Insurance Company <i>Trial</i> | Insurance Coverage | Wayne County Circuit Court | In this insurance coverage dispute plaintiff alleged breach of contract, consumer protection act violations, bad faith, and payment for a vehicle allegedly taken from their home while they slept. Prior to trial, we obtained summary disposition of all claims of Bad Faith and violations of the Consumer Protection Act, and the Insurance Code. At trial, we obtained a verdict of no cause of action in favor of NWI, establishing that there was no "loss" under the policy. |
| Wingard v Nutro Corporation <i>Trial</i> | Products Liability | Saginaw County Circuit Court | This products liability lawsuit involved a 42-year-old man who was killed during the course of his employment when he was caught between a barrier guard and a moving portion of a paint line conveyor. He was married and the father of four children. His estate alleged that the conveyor was not properly guarded and was therefore defective. The case was defended on the basis that the machinery was properly guarded, that the decedent bypassed the guard, and that the deceased's use of a controlled substance was the proximate cause of the accident. After a four-week trial, the jury returned a verdict of no cause for action in favor of our client. |

Motions for Summary Disposition or Judgment

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| <p>A. G. Construction v American Steel Stair</p> <p><u>Motion for Summary Disposition</u></p> | <p>Commercial</p> | <p>Oakland County Circuit Court</p> | <p>This was a multi-million dollar claim for damages resulting from the collapse during construction of an addition to the Square Lake Racquet Club. We obtained a summary disposition for one of the allegedly involved contractors on the basis that the claim for damages was barred by the waiver of subrogation agreement in the construction contract.</p> |
| <p>Abbott v. Rekucki</p> <p><u>Motion for Summary Disposition</u></p> | <p>Premises Liability</p> | <p>Oakland County Circuit Court</p> | <p>This was a premises liability claim in which the plaintiff fell from a landing that, in violation of codes, had no guard rail, and suffered a severe shoulder and arm fracture resulting in a completely reversed shoulder that required re-breaking of the shoulder and instrumentation of the shoulder. Plaintiff's demand was for policy limits of \$500,000.00. We obtained summary disposition on the basis that plaintiff was a licensee and knew or should have known of the danger.</p> |
| <p>Ace Insurance Co. v. Total Yacht Management</p> <p><u>Motion for Summary Disposition</u></p> | <p>Insurance Coverage</p> | <p>USDC</p> | <p>In this insurance coverage action, defendant sought insurance coverage under a comprehensive general liability policy after the underlying claimant was arrested because the boat the defendant/insured rented to the claimant was not properly registered. The claimant had sought relief under theories of negligence, misrepresentation, and breach of contract, and specifically claimed to suffer physical manifestations of injury as a result of his imprisonment and alleged over \$750,000.00 of damages. We were successful on our motion for summary judgment that coverage was excluded under both the bodily injury and personal injury portions of the policy.</p> |
| <p>Alee v. Quintanilla</p> <p><u>Motion for Summary Disposition</u></p> | <p>Automobile Negligence</p> | <p>Oakland County Circuit Court</p> | <p>In this automobile negligence action plaintiff claimed back and neck injuries with very lengthy treatment, and suffered a significant scar on the head. We obtained summary disposition on claims of threshold neck and back injury and permanent disfigurement.</p> |

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| American Automobile Insurance v Wausau Underwriters Insurance Company <u>Motion for Summary Judgment</u> | Insurance Coverage | USDC | <p>This was a claim by American Auto Insurance that it was entitled to contribution of \$1,000,000 from Wausau Underwriters Insurance Company to an underlying settlement of \$3,700,000 million dollars resulting from a trucking accident. American Auto Insurance argued that Wausau issued a policy of insurance to the underlying defendant Hazen Transport, Inc. which provided \$1,000,000 liability coverage and had provided notice of issuance of the policy to the FMCSA, pursuant to the Federal Motor Carrier Safety Regulations, and had failed to provide notice of cancellation of the coverage to the FMCSA when the policy terminated, and thus the coverage still applied. We responded with a motion for summary judgment on behalf of Wausau on the basis that according to the Federal Motor Carrier Safety Regulations, the fact that Wausau had failed to provide notice that its policy had expired was irrelevant to the subsequent carrier when the subsequent carrier had issued a replacement policy. the court agreed with our argument and granted summary judgment in our favor that American Automobile Insurance was not entitled to make any recovery from Wausau Underwriters Insurance Company.</p> |
| Amy McDaniel v Barger Petroleum <u>Motion for Summary Disposition</u> | Premises Liability | Monroe County Circuit Court | <p>This case involved a premises liability theory where plaintiff slipped on oil and/or other substances at a gas station. She broke her right wrist and hand and had improper healing of the fractures. The hand and wrist healed at an angle. A motion for summary disposition was filed on the issues of lack of notice and open and obvious. The Monroe County Circuit Court granted the motion for summary disposition on the issue that the oil and other liquid were open and obvious.</p> |
| Anderson v. GMAC <u>Motion for Summary Disposition</u> | No-Fault | Oakland County Circuit Court | <p>In this automobile negligence action plaintiff claimed back and neck injuries with very lengthy treatment. We obtained summary disposition on claims of threshold neck and back injury.</p> |

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| Arnold Grinblatt v A&A Driving School | Personal Injury | Wayne County Circuit Court | This case involved a 43-year-old man stricken with multiple sclerosis who claimed that A&A Driving School negligently evaluated him for modification to his motor vehicle. The plaintiff claimed that his condition resulted in leg spasms. Mr. Grinblatt alleged that A&A failed to consider his leg spasms while evaluating him for the motor vehicle modifications. He claimed that he had leg spasms, unintendedly pressed the accelerator, lost control of his vehicle and crashed. He alleged that he sustained personal injuries as a result of the crash. Further, he claimed that A&A should have recommended that the accelerator be disconnected. The case was defended on the basis that A&A properly recorded the plaintiff's medical history in its records and that its counselor recommended the correct vehicle modifications and therefore owed no further duty to the plaintiff. The court agreed with our analysis and granted our motion for summary disposition. |
| | | | <u>Motion for Summary Disposition</u> |
| Asplundh v Liberty Mutual and Detroit Edison | Insurance Coverage | Monroe County Circuit Court | This was a declaratory complaint which we filed to determine whether Asplundh Construction was entitled to insurance coverage for an underlying wrongful death claim pursuant to an OCIP purchased by Detroit Edison. The underlying claim alleged that the plaintiff's decedent's death was caused by equipment mounted on a trailer left near the side of a highway. We argued that the equipment constituted "mobile equipment" as defined by the policy and thus covered by the OCIP CGL policy, while Detroit Edison and its insurer argued that it was a vehicle and thus entitled to coverage under Asplundh's auto policy and not covered by Detroit Edison's OCIP. We filed a motion for summary disposition arguing that the equipment was "mobile equipment" and thus covered by the OCIP. The trial court agreed and granted summary disposition holding that Asplundh was entitled to coverage and a defense under Detroit Edison's OCIP and that Asplundh's auto policy did not apply. |
| | | | <u>Motion for Summary Disposition</u> |
| Auto Club v Bass Pro Shop | Property Damage | 50th District Ct | This was a claim for property loss by Auto Club's insured while the property was being repaired at a Bass Pro repair shop. The case dismissed on our motion for summary disposition on the basis the claim was barred by the release language on the work order, that Bass Pro was not responsible for theft. |
| | | | <u>Motion for Summary Disposition</u> |

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| Baker v Honeywell International, Inc <u>Motion for Summary Disposition</u> | Toxic Tort | Jackson County Circuit Court | This suit had 33 claims for asbestos related disease arising out of employment at a wheel factory. We filed a motion for summary disposition claiming that the employer was a sophisticated user of asbestos-containing products since another division actually manufactured such products itself. Judge Nelson agreed and dismissed six cases in their entirety and partially dismissal in 27 others based on our argument. |
| Barr v Franklin River Apartments <u>Motion for Summary Disposition</u> | Premises Liability | Oakland County Circuit Court | Plaintiff claimed that she tripped and fell on a patch of ice while walking on a sidewalk leading from her apartment to a dumpster. The plaintiff sustained a fractured ankle requiring surgery and insertion of a plate and screws. At deposition we determined from the plaintiff that the patch of ice she slipped on was "black ice". We filed a motion for summary disposition on the basis that the defendant apartment had no notice of the condition. Our motion for summary disposition was granted on the basis that the defendant had no notice of the condition and that the statute, MCL 554.139, regarding maintenance of the premises did not apply. |
| Belous v Nationwide <u>Motion for Summary Disposition</u> | Insurance Coverage | Ingham County Circuit Court | This was a suit on behalf of the insured's wife who sustained severe brain damage from a motorcycle accident allegedly caused by her husband. Plaintiff sought a determination regarding the validity of the household exclusion in the Nationwide automobile liability policy. We were successful in obtaining a summary disposition that the household exclusion was valid and enforceable and reduced the available liability coverage to \$20,000. |

| Case Name | Case Type | Court | Result |
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| Bennigan's v Liberty Mutual <u>Motion for Summary Disposition</u> | Insurance Coverage | Genesee County Circuit Court | <p>This was a declaratory action wherein Bennigan's asserted that it was to be an additional insured under a policy issued by defendant Liberty Mutual Insurance Company to the restaurant's managing company. We represented Liberty Mutual. Bennigan's was an additional insured under a general liability policy issued to the management company but was not an additional insured under the management company's liquor liability policy issued by Liberty Mutual. A dramshop judgment in the amount of \$3,000,000 was entered against Bennigan's and Bennigan's asserted that Liberty Mutual failed to add Bennigan's as an additional insured under the managing company's liquor liability policy. They asserted reformation of the liquor policy and claimed that Liberty Mutual should be estopped from denying coverage because they initially gave a defense to Bennigan's. Plaintiff focused on testimony that the Liberty Mutual in-house agent was directed to add Bennigan's as an additional insured under the liquor policy and failed to do so. The accident happened 10 weeks later. We achieved Summary Disposition on behalf of Liberty Mutual ruling that there was no coverage because of the language of the policy, which required strict avenues to add insureds.</p> |
| Bills v. Midwest Land Supply, Inc., and Midwest Bowie Sales, Inc <u>Motion for Summary Disposition</u> | Products Liability | Genesee County Circuit Court | <p>This suit was a claim for products liability brought by plaintiff who suffered loss of fingers and internal connective tissue upon accidental placement of his hand into the drive mechanism of a commercial landscaping machine. We obtained summary disposition in favor of our clients, together with an award of costs.</p> |
| Blackshear v United Way <u>Motion for Summary Disposition</u> | Premises Liability | Oakland County Circuit Court | <p>This was a premises liability claim in which the minor plaintiff was injured after a fall from playground equipment at an elementary school. We were successful in our motion for summary disposition that United Way had no liability for the alleged injury which did not occur during a United Way program.</p> |

| Case Name | Case Type | Court | Result |
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| Boca and Wolfe v Nationwide Insurance Company <u>Motion for Summary Disposition</u> | No-Fault | Macomb County Circuit Court | <p>We represented Nationwide with regard to two claims arising from the same pedestrian accident. Boca was struck as a pedestrian by a vehicle operated by Wolfe. Boca claimed that she was entitled to uninsured motorist benefits from Nationwide because she resided with her daughter, the estranged spouse of a Nationwide named insured. Wolfe claimed that he was entitled to indemnity and defense from Nationwide because although the motor vehicle he was driving was not listed on the policy, it was a "newly acquired" vehicle for which coverage was available under the policy. The court granted our motion for summary disposition on Boca's claim finding that to be insured under the policy, clear and unambiguous policy language required that she be a resident relative of the named insured. The court also granted summary disposition to Nationwide as to Wolfe's claim because (1) he possessed the vehicle 60 days prior to transfer of title, making him a statutory "owner" of the vehicle and, (2) the Nationwide "newly acquired vehicle" provision required that for the provision to apply, all other vehicles in the insured's household be insured by Nationwide, which they were not.</p> |
| Citizens Insurance, Subrogee of Thomas Dekar v. Kohler Company <u>Motion for Summary Disposition</u> | Products Liability | Oakland County Circuit Court | <p>Summary disposition was granted on plaintiff's claim for negligent manufacturing and breach of warranty, based on a statute of limitations defense. Plaintiff claimed damages in excess of \$200,000, asserting that insurance proceeds were paid for repair of the subrogor's home, and alleging that the damage was caused by a faulty toilet manufactured by the defendant. The court applied the four-year statute of limitations for UCC warranty claims rather than a six-year statute of limitations as suggested by plaintiff, in this matter where no conclusive case law on point was available for determining the applicable limitations period, because plaintiff brought claims in conjunction with the federal Magnuson-Moss Warranty Act. That act has no specified limitations period, but the court agreed that, under those circumstances, the statute of limitations for the state claim most analogous to that made under the federal Act would apply, when it agreed to apply the four-year statute suggested by us.</p> |

| Case Name | Case Type | Court | Result |
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| Damerow v. Comerica <u>Motion for Summary Disposition</u> | Personal Injury | Oakland County Circuit Court | Plaintiff slipped and fell on "black ice" while attempting to use an ATM machine. We successfully defended the case under the open and obvious doctrine on plaintiff's admissions that he was familiar with black ice and had observed the lot to be wet in appearance, along with his arguments charging defendant with constructive knowledge of the ice because of past weather conditions, which were argued to be equally attributable to him. On this latter point, the plaintiff's ability to see that the lot was "wet" combined with his knowledge of freezing temperatures in the days leading up to the accident conclusively established that the lot's frozen condition was readily observable to him and any other person so situated upon less than casual inspection. The Court granted our motion for summary disposition. |
| Davis- Spiller v GMAC Insurance <u>Motion for Summary Disposition</u> | Other | Wayne County Circuit Court | In this suit for injuries incurred while plaintiff's vehicle was being repossessed, we obtained a summary disposition for GMAC on the basis that it had no liability for the alleged incident. |
| DeWulf v Allied <u>Motion for Summary Disposition</u> | No-Fault | Isabella County Circuit Court | This was a suit for first-party no-fault benefits, including extensive medical expenses, wage loss and household services. Summary disposition was granted for our client Allied, on the basis that the plaintiff was not a resident of her parents' household at the time of the accident. The trial court analyzed the criteria set forth in Workman v DAIE, 404 Mich 477 (1979), and agreed that the factors enunciated in Workman resulted in a conclusion that the plaintiff was not a "resident relative" of her parents' home. |
| Dodd v. Wheel-To-Wheel, Inc. <u>Motion for Summary Disposition</u> | Premises Liability | Oakland County Circuit Court | The plaintiff was permanently disabled after falling down a flight of stairs at his worksite. We argued that this was a dual employment situation under Michigan law, and thus the plaintiff had to establish an intentional tort. We were successful in obtaining summary disposition when the court ruled that the plaintiff could not prove the elements of an intentional tort |

| Case Name | Case Type | Court | Result |
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| Donajkowski v Lincoln Pines Resort <u>Motion for Summary Disposition</u> | Premises Liability | Montcalm County Circuit Court | Plaintiff asserted injuries after falling from a ladder while operating a chainsaw trimming branches on a tree in a common area of the defendant's resort. Plaintiff sustained facial bone fractures, a punctured lung, broken collarbone and shattered vertebrae in his back. Summary disposition was granted in favor of the resort on the basis that there is no evidence of a condition that posed an unreasonable risk of harm to the plaintiff. |
| Dubowsky v General Motors Corporation and Commercial Contracting Corporation <u>Motion for Summary Disposition</u> | Construction Accident | Wayne County Circuit Court | This was a construction accident claim were plaintiff claimed he suffered a serious knee injury after being struck by a hi-lo while performing electrical work on behalf of a subcontractor at the General Motors Poletown Plant. We were successful in obtaining a dismissal of the claim against our client, Commercial Contracting Corporation, on the basis that the hi-lo did not belong to Commercial Contracting and that Commercial Contracting did not control or otherwise supervise the area where the accident occurred. |
| Elder v. Nationwide Mutual Fire Insurance Company <u>Motion for Summary Disposition</u> | Insurance Coverage | USDC | In this insurance coverage dispute plaintiffs sought coverage for underlying claims of misrepresentation during the sale of a home. We successfully obtained summary judgment that the claims were not covered under the standard form homeowner's policy |
| Ellis v Cairns <u>Motion for Summary Disposition</u> | Other | Ingham County Circuit Court | Four minor plaintiffs, through their parents, filed a suit claiming sexual and physical abuse against two school teachers. Our office represented both teachers on claims that they had sexually molested handicapped students over a one-year period of time. Numerous depositions were taken and the court granted summary disposition based upon no material questions of fact, that there was no credible evidence implicating the teachers and that the plaintiffs could not comply with the requirements to circumvent governmental immunity. |
| Elvira Williams v Nationwide <u>Motion for Summary Disposition</u> | No-Fault | Wayne County Circuit Court | We represented Nationwide in a claim for uninsured motorist benefits brought by a pedestrian who was struck on a sidewalk by a rental car. The court granted Nationwide's motion for summary disposition finding that language in the Nationwide's policy that a self-insured vehicle is not considered uninsured, by definition, was clear and unambiguous. |

| Case Name | Case Type | Court | Result |
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| Evans v Brewer Roofing and Siding Company <u>Motion for Summary Disposition</u> | Construction Accident | Washtenaw County Circuit Court | <p>This was a construction accident case in which two roofers apparently lost control of their shingle elevator, and it contacted a high power electric line resulting in their deaths. Our client was a roofing contractor which had subcontracted the job to the decedents' employer. Plaintiff alleged our client negligently ordered the roofing materials and allowed them to be delivered to a location where the anticipated use of a shingle elevator would be unreasonably dangerous because of the proximity to the electric lines. We successfully argued for summary disposition based on lack of legal duty, inapplicability of the common work area doctrine and inapplicability of the inherently dangerous activity doctrine.</p> |
| Feeley v Sheraton <u>Motion for Summary Judgment</u> | Premises Liability | USDC | <p>This suit involved a slip and fall at a resort in the Fiji Islands, with plaintiff sustaining a fractured femur. Summary judgment was granted in favor of Sheraton Corporation on the basis that the defendant did not own or operate the resort, and that no duty was owed to the plaintiff to ensure that the resort complied with the operating recommendations published by the defendant.</p> |
| Field v Preston <u>Motion for Summary Disposition</u> | No-Fault | Montcalm County Circuit Court | <p>This automobile negligence claim was for injuries allegedly consisting of headaches, neck and back pain and dislocation of the left shoulder. We successfully obtained summary disposition in favor of the defendant on the grounds that the plaintiff did not suffer a serious impairment of body function because the alleged injuries did not affect her general ability to lead her normal life.</p> |
| Finney v McCarthy <u>Motion for Summary Disposition</u> | Premises Liability | Midland County Circuit Court | <p>This premises liability action against our client, McCarthy Building Company, a general contractor, alleging a slip and fall on a natural accumulation of snow/ice in a common area on the construction site was dismissed based on the defense that the snow/ice condition was open and obvious and free of special aspects. Plaintiff argued that the defense was not available to a general contractor for construction site liability. Plaintiff was a foreman for a subcontractor and alleged to have sustained permanent disabling knee and back injuries.</p> |

| Case Name | Case Type | Court | Result |
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| Finney v. McCarthy Building Companies, Inc <u>Motion for Summary Disposition</u> | Premises Liability | Midland County Circuit Court | This case involved a middle-aged, skilled construction worker who slipped and fell s at construction site resulting in permanent disability according to a consensus of physicians' opinions. We filed a motion for summary disposition asserting that conditions relating to the fall were open and obvious. Plaintiffs' counsel alleged that the open and obvious doctrine should not apply to construction law situations. After two hearings, the trial court granted our motion for summary disposition. Plaintiffs appealed but the plaintiffs' case was subsequently dismissed based on a nuisance contribution to a "global" worker's compensation settlement. |
| Franz, et. al. v R.L. Golder, Inc. <u>Motion for Summary Disposition</u> | No-Fault | Macomb County Circuit Court | This negligence/nuisance action was filed by over 30 plaintiffs against over 50 defendants, asserting that a road construction project in St. Clair Shores, Michigan, along Jefferson Avenue, caused various structural damages to nearby homes. We filed a motion for summary disposition on behalf of our client, arguing that the claims were barred by the No Fault Act. The plaintiffs agreed to dismiss our client with prejudice prior to the hearing. |
| Fry v Automobile Protection Corporation <u>Motion for Summary Disposition</u> | Commercial | 53rd Judicial District Court | This case involved a breach of contract claim. We were successful in obtaining summary disposition on plaintiff's claim that certain repairs made to her automobile were covered under her extended service contract purchased through our client. |
| Garrison v Amerisure <u>Motion for Summary Disposition</u> | Insurance Coverage | Genesee County Circuit Court | This was a declaratory action wherein we represented defendant Amerisure where the plaintiff sought insurance coverage for a consent judgment of \$250,000 for claims of racial intimidation, trespass and ethnic intimidation. We were successful in obtaining summary disposition on the basis that there was no coverage for these claims because there was no "occurrence" and based upon the exclusion for violation of a penal law. |

| Case Name | Case Type | Court | Result |
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| GEM Industrial vs. Sunoco <u>Motion for Summary Judgment</u> | Commercial | USDC | In this matter we represented GEM Industrial on a counterclaim filed by Sunoco arising out of repairs to a hydrogen furnace located at Sunoco's Toledo Refinery. In addition to replacement damages, Sunoco sought consequential damages of approximately \$3,000,000.00. Sunoco filed a Motion for Partial Summary Judgment. We answered with our own motion for partial summary judgment arguing that Sunoco's claims for consequential damages were excluded per the contract. The court addressed Sunoco's arguments in the alternative. Initially the court pointed out that the terms of the contract were clear and unambiguous and were therefore binding. Alternatively, the court held that even if the terms of the contract required explanation, the affidavits which we submitted on behalf of GEM's controller and the former Sunoco contract manager were uncontraverted. The court denied Sunoco's motion and granted our motion striking Sunoco's claim for consequential damages. |
| Glidden v Valais <u>Motion for Summary Disposition</u> | Commercial | Ingham County Circuit Court | We filed a third party action for defense costs and indemnity stemming from the underlying case of MacLauchlan v The Glidden Company. The issue was whether the landlord, Valais Family Limited Partnership, owed any type of defense or indemnity to Glidden for an allegation of improper snow removal. Valais continually denied any request for defense costs or indemnity, and we filed a motion for summary disposition, which was granted by the court along with costs and attorney fees. |
| GMAC v Kline <u>Motion for Summary Disposition</u> | Insurance Coverage | Oakland County Circuit Court | We filed a declaratory action to determine whether GMAC owed a duty to provide coverage and a defense to its insured for claims made against the insured in regard to alleged misrepresentations in the sale of their house. We obtained a summary disposition in favor of GMAC that it had no duty to provide coverage for the claims made in the underlying action. |
| Gojcaj v. Nationwide <u>Motion for Summary Disposition</u> | Insurance Coverage | Wayne County Circuit Court | The plaintiff passenger sought no fault and uninsured motorist benefits in relation to an alleged hit and run accident. The plaintiff brought suit against the driver of the car he was in and also against Nationwide, claiming benefits as a resident relative of his sister who was insured under a Nationwide policy. We convinced the Court that there was no coverage under the policy, and as a result the Court granted our motion for summary disposition. |

| Case Name | Case Type | Court | Result |
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| Green v Sunridge Apartments <i><u>Motion for Summary Disposition</u></i> | Premises Liability | Genesee County Circuit Court | We represented defendant in a wrongful death action wherein the decedent's estate claimed that the decedent was killed by an assailant in defendant's apartment parking lot. We achieved summary disposition on the basis that the apartment complex which provided limited security was not required to anticipate and protect against criminal activity. |
| Guevara v Martinez <i><u>Motion for Summary Disposition</u></i> | No-Fault | Muskegon County Circuit Court | This suit involved a motor vehicle accident, with plaintiff sustaining injuries including a fracture dislocation of the humerus, with surgery. Summary disposition was granted on the basis that the plaintiff's injury, although objectively manifested, did not prevent the plaintiff from being able to lead a "normal life." The plaintiff's ability to return to his pre-accident physical activities including basketball, shooting pool, running, cycling, and performing yard work, demonstrated that his injury did not meet the threshold. |
| Haley v Lewis <i><u>Motion for Summary Disposition</u></i> | Third Party Auto | Wayne County Circuit Court | This was an automobile negligence action where the plaintiff was struck while crossing the street sustaining serious injuries. We were successful in obtaining summary disposition on the basis that pursuant to MCL 600.2955a the plaintiff's intoxication was the cause of the accident. |
| Hall v. Kvaerner Songer, Inc. <i><u>Motion for Summary Disposition</u></i> | Construction Accident | Jackson County Circuit Court | This was a construction accident in which a boilermaker sustained a herniated cervical disc in a fall at the job site. We obtained a summary disposition for our client by successfully arguing that the plaintiff was an employee of a company that was a wholly-owned subsidiary of our client, the construction manager for the project, and thus the action was barred by the exclusive remedy provision of the Michigan Workers Disability Compensation Act. |
| Harris v Williams Panel Brick, Inc, <i><u>Motion for Summary Disposition</u></i> | Construction Accident | Washtenaw County Circuit Court | In this construction accident case a painter fell through an improperly secured barricade on a 3rd floor patio and sustained serious foot, ankle and spinal fractures. We successfully obtained summary disposition from Judge Shelton, in favor of our client, who had worked in the involved building, and indeed the involved apartment and balcony, on the basis that there was only speculation, and no evidence, that we had modified the barricade. |

| Case Name | Case Type | Court | Result |
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| Hartford Insurance Companies v Absolute Machine Tools, Inc, <u>Motion for Summary Judgment</u> | Commercial | USDC | This was a property damage subrogation claim arising from a fire that occurred in a factory, apparently caused by operation of a machine built in Taiwan, then imported by our Ohio client and sold to the local distributor which sold it to the subrogator-owner. We obtained summary judgment based on a combination of principles including contractual limitation of actions, contractual limitations of warranty, and the economic loss doctrine. |
| Hastings v Wolverine <u>Motion for Summary Disposition</u> | Commercial | Mescota County Circuit Court | This suit was brought by the insurer of a building owner who sustained significant property damage and business interruption loss, following a flood caused by burst water pipes in its commercial building. Summary disposition was granted in favor of the general contractor on the basis that the contract between the owner and the general contractor contained a mutual waiver of subrogation clause, which prohibited the owner's insurer from pursuing any claims against the general contractor. |
| Herring v Meijer <u>Motion for Summary Disposition</u> | Other | Kent County Circuit Court | This case alleged damages as a result of a wrongful stop. Plaintiff alleged emotional distress, humiliation and embarrassment. Voluntary dismissal of Meijer was obtained on the eve of a summary disposition motion, which provided the court with evidence of plaintiff's prior apprehensions for similar thefts from retail establishments, and with video evidence demonstrating that the defendant was justified in detaining the plaintiff for questioning. |
| Hocking v. Nationwide Mutual Insurance Company <u>Dismissal</u> | No-Fault | Wayne County Circuit Court | Plaintiff sued to recoup no fault benefits. Upon our filing a motion for summary disposition citing the one-year-back provision of MCL § 500.3145(1), plaintiff stipulated to dismissal with prejudice of any and all claims for benefits that accrued more than one year before plaintiff's complaint was filed. |
| Husak v Spencer <u>Motion for Summary Disposition</u> | Premises Liability | Lapeer County Circuit Court | This premises liability action was brought against our client, a rental premises landlord, alleging a defective stairway. Summary Disposition was obtained for lack of proximate causation between plaintiff's alleged slip and fall and an alleged debilitating stroke condition that did not arise until several months after the incident |

| Case Name | Case Type | Court | Result |
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| Indiana Ins. v FFE Transportation Services, Inc <u>Motion for Summary Disposition</u> | No-Fault | 52-3 Judicial District Court | This was a property protection insurance benefits claim where the plaintiff asserted entitlement to PPI benefits after the defendant struck the plaintiff's vehicle, which was parked in the travel portion of a roadway. We filed a motion for summary disposition arguing that the plaintiff's vehicle was improperly parked, and thus, only entitled to mini-tort damages. The court granted our motion, and the case was thereafter settled for \$500.00. |
| Indiana Insurance v. FFE Transportation <u>Motion for Summary Disposition</u> | No-Fault | 52-3 District Court | This case involved a property damage claim concerning two trucks colliding on a public roadway. Plaintiff insured a disabled truck, which was parked on a roadway, in a non-parking area, blocking traffic. Defendant's vehicle struck plaintiff's vehicle. We obtained summary disposition for our client based on the "parked vehicle exception" under Michigan no-fault law. |
| Indiana Lumberman's v American Publishing Co <u>Motion for Summary Judgment</u> | Commercial | USDC | This case involved alleged breach of contract against the employer of a decedent, who failed to obtain mandatory insurance coverage for loss arising during the course of his independent contractor relationship with the defendant. Summary judgment was granted for American Publishing Company on the basis that the defendant owed no duty to the plaintiff to ensure that the independent contractor secured the insurance coverage required. |
| Inman v Nationwide <u>Motion for Summary Disposition</u> | Insurance Coverage | Jackson County Circuit Court | This claim for \$100,000 policy limits for a closed head injury sustained by the minor plaintiff in an auto accident allegedly caused by his mother. We filed a motion for summary disposition on behalf of Nationwide to enforce the policy's household exclusion. The trial court granted our motion for summary disposition holding that the policy limits were reduced to the financial responsibility law limits of \$20,000. |

| Case Name | Case Type | Court | Result |
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| Isham v Austin <u>Motion for Summary Disposition</u> | Other | Calhoun County Circuit Court | <p>This suit for catastrophic injuries was made by plaintiff as a result of a one vehicle auto accident. Suit was filed against our client, John Michael Austin, the driver of the vehicle, who died in the accident, and Peppers, Inc. d/b/a The Matterhorn for a dram shop claim. The claim was settled against Austin by the insurer for the policy limits of \$20,000. The plaintiff then accepted the \$20,000 payment, but modified the release, unbeknown to Austin's insurer, to change the releases from "John Austin and GMAC Insurance Corporation" to "GMAC Insurance Corporation, insurer of John Austin". We filed a motion for summary disposition on behalf of Austin arguing that the plaintiff had fraudulently altered the release and that it should be reformed to its original language to release Austin. The trial court agreed and granted our summary disposition holding that the release had been fraudulently altered, and that the plaintiff's response argument that the parties intended to release only GMAC Insurance was "such a contorted and illogical result" as not to establish any genuine issue of material fact. The trial court also denied the plaintiff's motion for rehearing. The result was that the entire claim was dismissed including the dram shop defendant because there had been a failure to name and retain the alleged intoxicated party.</p> |
| Jabro v Titan Ins. Co <u>Motion for Summary Disposition</u> | Bad Faith | Oakland County Circuit Court | <p>We represented Titan Insurance Company in an alleged bad faith claim for failure to settle a case within policy limits. The insured had a policy of \$100,000 and a judgment against it in the amount of \$350,000. The insured asserted bad faith on the part of Titan in failing to settle within the policy limits. Summary Disposition was achieved on behalf of Titan by showing no material question of fact as regards the circumstances of the settlement negotiations and the significant requirements a plaintiff must show to establish bad faith against an insurance company. The court's ruling was a complete vindication of all of the efforts of the insurance carrier and its retained attorney.</p> |
| Jaffray v. F. Lax Construction Company <u>Motion for Summary Disposition</u> | Commercial | Wayne County Circuit Court | <p>Dennis Jaffray filed suit against F. Lax Construction Company arising out of bathroom renovations that occurred some 10 years before suit was filed. Our firm represented F. Lax Construction. Jaffray raised various claims including misrepresentation, breach of contract, latent defect and continuous injury (arising out of the presence of mold). We filed a motion for summary disposition based upon the running of statute of limitations and the running of the statute of repose. Judge Robert Ziolkowski granting our motion ruling that all claims were barred despite Plaintiff's attempt to describe the claims as ongoing and continuous.</p> |

| Case Name | Case Type | Court | Result |
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| Jeffrey v Titan | Insurance Coverage | Michigan Court of Appeals | We obtained summary disposition in favor of Titan Insurance Company in a matter involving the priority of no-fault insurers for the payment of first-party no-fault benefits. The Michigan Court of Appeals affirmed the trial court's decision in favor of Titan Insurance. |
| | | | <u>Motion for Summary Disposition</u> |
| Johnson v. The PM Group | Premises Liability | Oakland County Circuit Court | We represented The PM Group in this premises liability case. We convinced the court to dismiss all claims because the condition was open and obvious and the defendant had no notice of the allegedly dangerous condition. The court of appeals affirmed summary disposition in an unpublished case on 11-2-05. |
| | | | <u>Motion for Summary Disposition</u> |
| Jones v Nationwide | Insurance Coverage | Oakland County Circuit Court | This was a claim for \$100,000 uninsured motorist coverage as a result of a multi-vehicle accident. We filed a motion for summary disposition on the basis that the plaintiff insured's claim was barred, because the plaintiff was a full-time Michigan resident, but purchased his auto insurance policy in Ohio, and thus failed to comply with MCL 500.3101 by failing to maintain a personal protection auto policy. We argued that this in turn barred the plaintiff's uninsured motorist claim because he failed to insure his vehicle as required by MCL 500.3135(2)(c). The trial court initially denied our motion for summary disposition finding that the plaintiff's Ohio policy provided the required coverage, but then granted our motion for summary disposition on rehearing finding that the Ohio policy did not provide the coverage required by MCL 500.3101, and thus the plaintiff's claim was barred by MCL 500.3135(2)(c). |
| | | | <u>Motion for Summary Disposition</u> |
| Jones v. Coreschi | Third Party Auto | Oakland County Circuit Court | In this third party automobile negligence case, plaintiff sought recovery for neck and back injuries after significant treatment. After noting discrepancies in an affidavit filed by plaintiff's treating physician, we obtained summary disposition after successfully cross examining Plaintiff's treating physician and clarifying that there was no proof of causation |
| | | | <u>Motion for Summary Disposition</u> |

| Case Name | Case Type | Court | Result |
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| Khalil v Allstate Insurance Co. v Nationwide Mutual Fire Insurance Co <u>Motion for Summary Disposition</u> | Insurance Coverage | Wayne County Circuit Court | <p>Allstate alleged that it was entitled to recoupment and/or contribution from our client Nationwide for its payment of first party benefits to Khalil since Allstate and Nationwide were in the same order of priority for the payment of no fault first party benefits. Nationwide insured the plaintiff for the first accident and Allstate insured the plaintiff for the second accident, but neither insured Khalil for the same accident. Notwithstanding Allstate's allegations that the injuries suffered in the first accident continued during and after the second subsequent accident; thereby, making Nationwide responsible for sharing in the cost of treatment beyond the second accident date, the court held that Allstate was not entitled to recoupment under MCL 500.3115(2) since MCL 500.3114(1) provides in pertinent part that the injury must arise from "a motor vehicle accident". Since there were two different accidents, the priority provision was not applicable. Furthermore, contribution was not applicable because Nationwide was not a tortfeasor, but a party to the no fault insurance contract. The only remedy provided by the No Fault Act was for recoupment and recoupment was not applicable under the facts of this case. Thus, the court granted Nationwide's motion for summary disposition.</p> |
| Lanzo v Wayne Steel Erectors <u>Motion for Summary Disposition</u> | Commercial | Wayne County Circuit Court | <p>This suit by Lanzo Construction Company was for contractual indemnity against Wayne Steel Erectors as a result of an injury to a Wayne Steel Erector employee on the City of Detroit Leib Disinfection Facility Project on which Lanzo was the general contractor. The underlying claim was settled by Lanzo for \$125,000 and Lanzo then sought contractual indemnity from Wayne Steel. We defended on the basis that according to the testimony in the underlying case and discovery taken in the current case, including the depositions of Lanzo's superintendent and safety man, the only claims by the underlying plaintiff were based on Lanzo's sole negligence. Lanzo filed a motion for summary disposition for contractual indemnity and we filed a counter motion for summary disposition. The court agreed with our position, denied Lanzo's motion for summary disposition and granted summary disposition to Wayne Steel holding that all of the claims by the underlying plaintiff against Lanzo were for Lanzo's sole negligence and thus the contractual indemnity claim was barred by MCL 691.991.</p> |

| Case Name | Case Type | Court | Result |
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| Lasky v Realty Development Company, LLC <u>Motion for Summary Disposition</u> | Construction Accident | Wayne County Circuit Court | In this construction accident case an ironworker fell to the ground while installing steel decking between the beams on an upper floor, resulting in serious injuries to elbow and wrist. We successfully obtained summary disposition in favor of our client, Realty Development Company, LLC, on the basis that the owner had not retained control over the project, the specific construction activity was not inherently dangerous, and the necessary elements of the common wrk area doctrine were not present. |
| LeClair v Life Insurance Company of North America <u>Motion for Summary Disposition</u> | Insurance Coverage | Delta County Circuit Court | This was an action seeking recovery of accidental death and dismemberment benefits. Plaintiff was working on a scaffold when it rolled into a hole, causing it to topple whereupon the plaintiff fell to the ground, suffering paraplegia as a result of a spinal cord injury. Plaintiff brought suit seeking benefits because of the injury to his spinal cord which resulted in loss of the functional use of his legs, thus sustaining a loss of two limbs by "severance at or above the wrist or ankle". We were successful in obtaining summary disposition for our client arguing that the insured's functional loss of his legs and feet due to his spinal injury was not equivalent to the loss of both feet "by severance at or above the ankle" as contemplated by the accidental insurance policy. |
| Lemarr v Nationwide <u>Motion for Summary Disposition</u> | Insurance Coverage | Washtenaw County Circuit Court | Plaintiff, a quadriplegic as a result of an auto accident, filed a claim for no fault benefits. We obtained a summary disposition on the basis that the Nationwide policy had been cancelled for failure to timely pay premiums. |
| Levine v Nationwide <u>Motion for Summary Disposition</u> | Insurance Coverage | Kalkaska County Circuit Court | This was a claim by the Nationwide insureds, Paul and Sharon Levine, for underinsured motorist benefits, who each claimed their \$250,000 per person underinsured limit as a result of a head-on collision with the underinsured motorist. The alleged underinsured motorist had a \$300,000 single limit liability policy. There were three claimants, the Levines plus an occupant of the underinsured motorist's vehicle. We were successful in obtaining a summary disposition that although there were three claimants, and as a result the available coverage for each of these claimants would be less than \$300,000, there was "available" coverage of \$300,000 for each claimant, and this was greater than the \$250,000 per person underinsured limit of the Nationwide policy, and thus the plaintiffs were not entitled to any underinsured motorist coverage pursuant to the Nationwide policy. |

| Case Name | Case Type | Court | Result |
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| Ljukovic v Nationwide | Insurance Coverage | Macomb County Circuit Court | This suit by the plaintiff was for uninsured motorist benefits arising from a collision with an alleged hit-run driver. There was a dispute between Nationwide and the Auto Club Insurance Association regarding the claim for uninsured motorist benefits. The plaintiff was operating the Nationwide insured's vehicle when he was allegedly involved in the accident with the uninsured motorist. The plaintiff was insured by Auto Club Insurance Association for his own vehicle. The Auto Club argued that the Nationwide policy for the vehicle involved in the accident should be primary. We filed a motion for summary disposition arguing that under the "other persons" provision of the uninsured motorist coverage of the Nationwide policy, there was no coverage available under the Nationwide policy to an occupant of the insured vehicle, because he had his own insurance. The court agreed and granted summary disposition holding that the only insurer responsible was the Auto Club and that Nationwide had no liability. |
| | | | <u>Motion for Summary Disposition</u> |
| Lockard v. Berger Realty Group | Premises Liability | Oakland County Circuit Court | In this premises liability claim plaintiff suffered a broken hip after falling on a patch of ice while entering Defendant's building. We obtained summary disposition by demonstrating that the condition upon which the plaintiff fell was open and obvious. |
| | | | <u>Motion for Summary Disposition</u> |
| Lofton v Schelde Enterprises, Inc./Bonfire Bistro Brewery | Premises Liability | Oakland County Circuit Court | In this premises liability claim the plaintiff alleged she mis-stepped and fell off of a single step in a restaurant due to poor lighting and poor interior design. We were successful in obtaining summary disposition for our client by convincing the Court that the subject step was open and obvious. |
| | | | <u>Motion for Summary Disposition</u> |
| Lopez v. Nagaet Associates | Premises Liability | Wayne County Circuit Court | We represented Nagaet Associates in this premises liability case. The court granted summary disposition because the plaintiff had not sued Nagaet Associates within the statute of limitations. |
| | | | <u>Motion for Summary Disposition</u> |

| Case Name | Case Type | Court | Result |
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| Lorbec Metals v. Atradius | Insurance Coverage | Oakland County Circuit Court | This insurance coverage dispute sought reimbursement for lost business profits under a business loss policy. We were successful in obtaining summary disposition on the basis that the alleged loss did not fall within the insurance coverage. |
| | | | <u><i>Motion for Summary Disposition</i></u> |
| Lowry v Cramer Products, Inc. | Products Liability | Livingston County Circuit Court | The plaintiff sustained chemical burns and/or other permanent scarring from use of a cold pack designed and manufactured by our client and filed a products liability claim. We filed a motion for summary disposition and the court agreed and ruled that there was no failure to warn as a matter of law. |
| | | | <u><i>Motion for Summary Disposition</i></u> |
| Malkowski v. Swyticz | Premises Liability | Wayne County Circuit Court | This case involved a premises liability action in which a tenant sued her landlord. We had a number of minor victories that resulted in this case settling for a fraction of the \$250,000 case evaluation award. Most significantly, we won on our motion for partial summary disposition, eliminating two claims and reducing this to an ordinary premises claim; we defeated the plaintiff's motion to amend her complaint to add a claim under the renter's rights laws and again limited her theories thereby preserving our common law defenses; and we won on a motion in limine to preclude plaintiff's construction expert from testing at trial. |
| | | | <u><i>Motion for Summary Disposition</i></u> |
| Maxon vs. Sears Roebuck & Company | Construction Accident | USDC | Plaintiff, an employee of a masonry contractor, was injured when he fell from a scaffold erected by Plaintiff's employer. Plaintiff brought suit against Sears Roebuck claiming that Sears acted as its own general contractor for the construction of its Great Indoors Outlet. Our firm represented Sears and filed a motion for summary judgment. We argued that Sears had not retained control over the means and methods of performance of Plaintiff's employer. Judge Gadola agreed and granted summary judgment in favor of Sears Roebuck. The Plaintiff had suffered debilitating injuries and could not return to work as a mason or a helper. |
| | | | <u><i>Motion for Summary Judgment</i></u> |

| Case Name | Case Type | Court | Result |
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| McLachlan v The Glidden Co. <u>Motion for Summary Disposition</u> | Premises Liability | Ingham County Circuit Court | This was a premises liability case involving the death of a pedestrian that had exited a bus. Plaintiff's estate claimed that the tenant of the property failed to comply with a local ordinance requiring snow removal and asserted that the tenant improperly placed accumulations of snow which blocked a pedestrian path. We represented the defendant tenant. The Court granted our Motion for Summary Disposition based upon no breach of duty. The Court then granted an additional motion for summary disposition granting attorney fees against the owner of the property for failure to accept a tender of defense based upon indemnity. The Court awarded reimbursement of all attorney fees extended. |
| McMillan v. Ryder Truck Rentals <u>Motion for Summary Disposition</u> | Commercial | Wayne County Circuit Court | We represented Ryder Truck Rentals in an indemnity action brought by one of the defendants. The court dismissed all claims against Ryder because the defendant (third-party plaintiff) could not sustain claims of common law or implied indemnity based solely on Ryder's alleged passive negligence. |
| McNeill v Crane <u>Motion for Summary Judgment</u> | Employment | USDC | Plaintiff alleged wrongful termination, negligence, RICO violations, conspiracy and fraud. Summary judgment was granted in favor of our client Crane on the basis that plaintiff's complaint failed to state a recoverable cause of action and that no questions of material fact existed. Summary judgment was upheld by the Sixth Circuit Court of Appeals. |
| Medore v. Young Chevrolet-Oldsmobile-Cadillac <u>Motion for Summary Disposition</u> | Employment | Shiawassee County Circuit Court | This was an employment law case where a car salesman was discharged for poor performance and implication in the theft of a \$50,000 vehicle from the dealership. Plaintiff denied all allegations and prosecution was not initiated by public authorities. Plaintiff alleged retaliatory discharge, discharge against public policy, and violation of Michigan's Whistleblower's Act for his participation in a criminal investigation. We obtained summary disposition of plaintiff's claim. |

| Case Name | Case Type | Court | Result |
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| Mendieta v GMAC <i><u>Motion for Summary Disposition</u></i> | Insurance Coverage | Oakland County Circuit Court | This was a claim for underinsured motorist benefits. We were successful in obtaining summary disposition on the basis that the claim was barred because there was no underinsured motor vehicle, because the coverage available exceeded the underinsured limits, that the plaintiff's claim against GMAC based on misrepresentation at the time of the purchase of the policy was barred because the plaintiff failed to plead with particularity the alleged misrepresentations, and that the underinsured motorist claim against GMAC was further barred by the release executed by the plaintiff of the underlying tortfeasor which included a release of all other persons, firms and corporations. |
| Meridian Insurance v Haygood, Inc <i><u>Motion for Summary Disposition</u></i> | Insurance Coverage | Wayne County Circuit Court | This claim was brought by insurer for property damage paid to its insured's business resulting from a fire starting on the premises of the neighboring Haygood, Inc. We had previously obtained a summary disposition in the matter of World of Wonders v Haygood, Inc., which alleged business loss by World of Wonders as a result of the same fire, on the basis that the plaintiff had failed to prove that Haygood, Inc. was the cause of the fire beyond speculation and conjecture. Meridian Insurance then filed a subrogation action to seek recovery of \$168,000 in property damage paid to World of Wonders. The trial court granted our motion for summary disposition on the basis that the claim was barred by res judicata as a result of the summary disposition previously granted to Haygood, Inc. in the World of Wonders case. |
| Merriweather v. Nationwide Mutual Fire Insurance Company <i><u>Motion for Summary Disposition</u></i> | Insurance Coverage | Oakland County Circuit Court | In this insurance coverage dispute plaintiff alleged negligence, breach of implied warranties, breach of express warranties, violation of Consumer Protection Claim, Negligent Hiring, Training, Supervision And Retention, Intentional/Negligent Infliction Of Emotional Distress, Fraud, Deceit, Misrepresentation, Libel and Slander. We obtained summary disposition on all claims of on negligence, breach of implied warranties, breach of express warranties, violation of Consumer Protection Claim, Negligent Hiring, Training, Supervision And Retention, Intentional/Negligent Infliction Of Emotional Distress, Fraud, Deceit, Misrepresentation, Libel and Slander. |
| Meyer v Thomas Sebold and Associates, Inc, <i><u>Motion for Summary Disposition</u></i> | Construction Accident | Oakland County Circuit Court | In this construction accident case a roofer fell from the roof of a multi-story home in Bloomfield Hills. We successfully argued for summary disposition in favor of the general contractor, based on the necessary elements for a common work area claim. |

| Case Name | Case Type | Court | Result |
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| Miller v Bass Pro Shop <u>Motion for Summary Disposition</u> | Premises Liability | Oakland County Circuit Court | Plaintiff Mavis Miller claimed that she tripped and fell on the base of a display sign in the Bass Pro Shop store. She sustained a broken shoulder and an alleged permanent disability. We filed a motion for summary disposition on behalf of Bass Pro Shop arguing that the display sign was an open and obvious condition. The plaintiff argued that the open and obvious defense should not apply, because the plaintiff/customer was distracted by the store's displays including taxidermy objects mounted over the store's entrance. We argued that there was no "distracted customer" exception to the open and obvious defense, and the only exception would be "special aspects" defined by the Supreme Court in Lugo as an unreasonable danger or no alternative route. The court agreed with our argument and granted summary disposition holding the plaintiff's claim was barred by the open and obvious defense and there was no "distracted customer exception". |
| Mittan v Titan Insurance Company <u>Motion for Summary Disposition</u> | No-Fault | Shiawassee County Circuit Court | This was a first party action for personal protection insurance benefits. The entirety of plaintiff's no-fault wage loss claims, in excess of \$700 per week, was dismissed, which constituted the vast majority of her case, for lack of documentation and/or reliable evidence to support wage loss as plaintiff had not filed taxes and was paid undocumented cash wages as an exotic dancer. |
| Montague v. Stokes Steel Treating Co <u>Motion for Summary Disposition</u> | Products Liability | Genesee County Circuit Court | Plaintiff sustained significant orthopedic injuries upon fall when metal hunting tree step failed. Plaintiff alleged improper heat treating of the metal apparatus. In numerous similar litigations throughout the country, with injuries varying from moderate to catastrophic, results varied greatly. We obtained a zero dollar case evaluation award and subsequently prevailed on a motion for summary disposition. |
| Moutoux v Hinojosa <u>Motion for Summary Disposition</u> | Third Party Auto | St. Clair County Circuit Court | In this third party motor vehicle accident case defendant driver had complete liability and the passenger-plaintiff's injuries included a right shoulder separation, an avulsion fracture of the distal clavicle, and a torn rotator cuff. The injured shoulder was surgically repaired. We obtained summary disposition on the basis of that the plaintiff's injuries did not meet the threshold requirement of the No-Fault Act. |

| Case Name | Case Type | Court | Result |
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| Munoz vs. BASF <u>Motion for Summary Disposition</u> | Premises Liability | Wayne County Circuit Court | In this matter plaintiff was severely injured on the premises of BASF in Wyandotte while exiting the van of her employer. Plaintiff brought suit against BASF. Our firm represented BASF. Plaintiff claimed that as a result of icy conditions she encountered on BASF's parking lot she fell suffering debilitating injuries. We added plaintiff's employer, Distinctive Maintenance, pursuant to the maintenance contract which required Distinctive Maintenance to indemnify BASF from any claims arising out of or directly or indirectly in connection with performance of its work. We filed a motion for summary disposition to enforce the indemnity provision of the contract. Judge Sapala ruled that since Distinctive Maintenance's procedure called for both picking up and returning its employees to their respective work areas within BASF's complex, the subject incident was directly or indirectly connected with the work and Distinctive Maintenance owed BASF full and complete indemnity including all costs and reimbursement of attorney fees from the date of tender. |
| Napier v Culpepper Woods <u>Motion for Summary Disposition</u> | Personal Injury | USDC | Plaintiff suffered osteomyelitis, with permanent nerve damage to her lower extremity, allegedly as a result of a sliver of wood from pressure-treated wood. Aggressive discovery established that none of the lumbar yards from which the plaintiff could possibly have purchased the wood in question had purchased wood from our client. Voluntary dismissal was obtained following the filing of a motion for summary judgment and request for sanctions. |
| National General Insurance v Ison <u>Motion for Summary Disposition</u> | Insurance Coverage | Wayne County Circuit Court | We filed a declaratory action to determine that National General Insurance had no duty to provide coverage or a defense to Milton Ison for the claims made against him in an underlying action. Summary disposition was granted in our favor finding that since Ison was an unlicensed driver with a suspended license, he could not have a "reasonable belief" that he could use the vehicle and thus coverage and a duty to defend were barred by the policy exclusion for using a vehicle without a reasonable belief that the insured was entitled to do so. |
| Nationwide Mutual Fire Insurance Co. v Huth <u>Motion for Summary Disposition</u> | Insurance Coverage | USDC | We filed a declaratory action to determine the enforceability of the household exclusion in the Nationwide policy which limited liability coverage for the insured to the Financial Responsibility limits. The declaratory judgment was granted in our favor enforcing the household exclusion and limiting the liability limits to \$20,000. |

| Case Name | Case Type | Court | Result |
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| Nationwide v Callahan | Insurance Coverage | Oakland County Circuit Court | We filed a declaratory action to determine whether Nationwide had a duty to provide coverage or a defense to its insured for the alleged wrongful death of a three month old baby at the insured's daycare center. We obtained a summary disposition that there was no duty to provide coverage or a defense due to the business pursuit exclusion in the insurance policy. |
| | | | <u><i>Motion for Summary Disposition</i></u> |
| Nationwide v Dunson | Insurance Coverage | Macomb County Circuit Court | This was a minor plaintiff claim against his father for negligent operation of a snowmobile for loss of vision in one eye resulting from a snowmobile accident. We filed a declaratory action on behalf of Nationwide to enforce the household exclusion in the Nationwide policy to limit the liability coverage to the Financial Responsibility limits. The court granted summary disposition enforcing the exclusion which reduced the coverage from \$100,000 to \$20,000. |
| | | | <u><i>Motion for Summary Disposition</i></u> |
| Nationwide v Kusiak | Insurance Coverage | Macomb County Circuit Court | We filed a declaratory action to determine whether Nationwide had a duty to provide coverage and a defense to its insured for claims of fraud and misrepresentation in the sale of a home. Our motion for summary disposition was granted to Nationwide on the basis that there was no duty to provide coverage or a defense, because the claims were for economic loss only, and not "property damage" as required by the policy. |
| | | | <u><i>Motion for Summary Disposition</i></u> |
| Nationwide v Martzke | Insurance Coverage | Eaton County Circuit Court | There was an underlying suit which was brought against the Nationwide insured for brain damage to a baby who was allegedly injured at the insured's daycare. We filed a declaratory action to determine whether coverage was barred by the intentional act exclusion and on the basis there was no "occurrence". We were successful in obtaining a summary disposition that no coverage or duty to defend was owed under the Nationwide homeowner policy on the basis of the intentional act exclusion and that there was no "occurrence", which included claims against both the insured and her husband on the basis that the alleged intentional acts of the insured barred all coverage to all insureds. |
| | | | <u><i>Motion for Summary Disposition</i></u> |

| Case Name | Case Type | Court | Result |
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| Nationwide v Miller <u>Motion for Summary Disposition</u> | Insurance Coverage | Barry County Circuit Court | This declaratory action was filed by our client Nationwide alleging that it owed no duty to defend or provide coverage to its insured, Miller, in an underlying action for personal injuries. We were successful in obtaining a ruling that Nationwide had no duty to defend or indemnify the insured because she failed to comply with the policy provisions, including, failing to assist in defending the underlying suit and failing to forward a copy of the documents regarding the underlying suit to Nationwide. |
| Navarro v. Nucor Corporation <u>Motion for Summary Disposition</u> | Products Liability | Lapeer County Circuit Court | This was a products liability and negligence action following a serious vehicular accident in which the plaintiff sustained a permanent traumatic brain injury. It was alleged that the steel utilized in the fifth wheel of the semi-tractor that connected with the trailer was defective. We obtained a summary disposition on the basis that the plaintiff could not establish that our client supplied the steel utilized in the fifth assembly. |
| Nicholas v Honeywell International <u>Motion for Summary Disposition</u> | Toxic Tort | Calhoun County Circuit Court | Plaintiff's decedent was a jet mechanic that died at the age of 51 of a rare form of cancer that was allegedly caused by exposure to various materials and equipment that contained asbestos. We filed a motion for summary disposition based on the so-called "Sophisticated User" defense, arguing that the United States Air Force was a knowledgeable user of asbestos-containing products as a matter of law. The court agreed and granted our motion. |
| Nunley v Robinson <u>Motion for Summary Disposition</u> | Third Party Auto | Genesee County Circuit Court | This was a third party negligence suit involving the plaintiff, Lavelle Nunley, against the defendants, Joe W. Robinson and Tonya Robinson. Ms. Nunley was riding as a passenger with defendant Tonya Robinson when the subject accident occurred and Ms. Nunley sustained severe injury. We filed a motion for summary disposition asserting that there was no genuine issue as to any material fact that the defendant, Joe Robinson, was not at fault for the accident. Before the motion was heard by the court, the plaintiff voluntarily agreed to dismiss the case with prejudice. |

| Case Name | Case Type | Court | Result |
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| Ostasiewicz vs. Kia Motors <u>Motion for Summary Disposition</u> | Commercial | 46th District Court | Plaintiff brought a lemon law/breach of warranty claim arising out of the purchase of a new Kia Spectra. Our firm represented Kia. Plaintiff argued that the cruise control was defected in that it would disengage, on its own, and not allow re-engagement until the vehicle was stopped and turned off. The vehicle was brought in for service, as alleged by the Plaintiff on seven occasions. We filed a motion for summary disposition on behalf of Kia arguing that Plaintiff was unable to prove an essential element of both her lemon law and breach of warranty case, i.e., that a defect or condition existed that substantially impaired the use or value of the vehicle. Plaintiff testified at deposition that the cruise control problems resulted in an inconvenience. She was able to use the vehicle as intended throughout her ownership. Judge Moiseev granted our motion. |
| Pamela McClain vs. Nationwide Insurance <u>Motion for Summary Disposition</u> | Insurance Coverage | Wayne County Circuit Court | Ms. McClain was injured when the co-defendant was involved in a single vehicle accident while driving a Hertz rental vehicle. Plaintiff brought suit against Nationwide Insurance, her own auto carrier, for uninsured motorist benefits. Our firm represented Nationwide. The Hertz vehicle which was rented by an acquaintance of the driver was used without permission of the renter. Hertz was dismissed from the lawsuit on the basis that the driver was not a permissive user. We filed a motion for summary disposition on behalf of Nationwide taking the position that Nationwide's policy defines a self-insured vehicle as insured and thus no coverage applied. Per documents on file with the Secretary of State, Hertz is registered as a self-insurer. Judge Torres granted our motion for summary disposition pursuant to the clear and unequivocal language of Nationwide's policy. |
| Parsa v. Key Safety Systems, Inc. <u>Motion for Summary Judgment</u> | Products Liability | Cuyahoga County (Ohio) | Summary judgment was awarded to Key Safety Systems, Inc. in \$10 million wrongful death case alleging "inadvertent release" of seatbelt buckle causing the death of a 47 year old psychiatrist, earning \$400,000 per year at the time of the accident. We successfully argued that liability was barred by the "component part supplier" defense. Cuyahoga County (Ohio) Common Pleas Court. |
| Peterson v Madison-Flint Properties <u>Motion for Summary Disposition</u> | Premises Liability | Genesee County Circuit Court | We represented defendant in this premises liability claim, in which plaintiff tripped and fell on a corner of a handicap access ramp sustaining an ankle fracture requiring internal fixation. Plaintiff asserted a violation of the local BOCA Building Code regarding configuration of the ramp. We were successful in obtaining summary disposition on the basis that the condition was open and obvious. |

| Case Name | Case Type | Court | Result |
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| Peterson v. Interstate Permit Services, d/b/a Michigan Permit Service | Third Party Auto | Genesee County Circuit Court | Plaintiff alleged a closed head injury secondary to her motor vehicle's impact with a large piece of transported construction machinery that required extensive permitting to travel public roads. Our client, a permit facilitation company, was faced with allegations of improper permitting. We obtained summary disposition, together with an award of costs. |
| | | | <u>Motion for Summary Disposition</u> |
| Proffitt v Pulte Land Development Corporation | Construction Accident | Washtenaw County Circuit Court | This was a nuisance/defective construction claim in which plaintiff suffered serious personal injuries, having tripped and fallen over a sidewalk discontinuity. Plaintiff alleged that Pulte and its subcontractor, Rotondo Brothers Concrete Company, defectively constructed the subject sidewalk and created a nuisance. We were able to obtain the dismissal of the concrete subcontractor, Rotondo, on the basis of the statute of repose. We also obtained summary disposition on behalf of Pulte on the basis that the height discontinuity was open and obvious and that Pulte was entitled to this defense since the sidewalk was a "simple product". |
| | | | <u>Motion for Summary Disposition</u> |
| Register v. Sledge | Automobile Negligence | Oakland County Circuit Court | In this automobile negligence action plaintiff claimed back and neck injuries with very lengthy treatment. We obtained summary judgment by demonstrating that plaintiff's injuries were pre-existing and that there was no causation between the accident and any of these pre-existing complaints. |
| | | | <u>Motion for Summary Disposition</u> |
| Rivera v. Medic One Ambulance Service | Personal Injury | Wayne County Circuit Court | The plaintiff sustained certain injuries while a passenger in an ambulance. We obtained summary disposition, convincing the court that the plaintiff was an employee of the defendant and therefore the action was barred by the exclusive remedy provision of the Michigan Workers Disability Compensation Act. |
| | | | <u>Motion for Summary Disposition</u> |
| Romero v The Charles Machine Works | Products Liability | USDC | The plaintiff was struck in the head by a component of a directional boring machine manufactured by our client. We were successful in obtaining summary judgment on all of plaintiff's counts. The court found that plaintiff had failed to show a prima facie case of design or manufacturing defect as a matter of law. |
| | | | <u>Motion for Summary Judgment</u> |

| Case Name | Case Type | Court | Result |
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| Rovinsky v Ricca | Third Party Auto | Oakland County Circuit Court | This was an automobile negligence action. The plaintiff was struck by defendant's vehicle while he was operating a bicycle. The trial court granted our motion for dismissal on procedural grounds following a series of discovery disputes. |
| | | | <u>Motion for Summary Disposition</u> |
| Salmo vs. Hiller's Market | Personal Injury | Oakland County Circuit Court | This matter involved a wrongful death claim advanced by the Estate of Ayad Salmo who was killed by a Hiller's employee who ran the decedent over after an altercation in the parking lot while the employee was waiting to be admitted to store for his midnight stocking shift. Our firm represented Hiller's Market. We filed a motion for summary disposition on behalf of Hiller's arguing that the employee was not in the course of his employment when he struck the decedent with his automobile and that the employee's actions were criminal and not foreseeable from the standpoint of the employer. In addition to vicarious liability, the Plaintiff advanced a claim of negligent hiring. The court granted our motion and dismissed all claims holding that the actions of the employee were not within the course of employment and that there was nothing in the employee's background that would have put Hiller's on notice of any type of violent tendencies. |
| | | | <u>Motion for Summary Disposition</u> |
| Sandra Maye v Funeral Home | No-Fault | Wayne County Circuit Court | Plaintiff was injured as the passenger in a motor vehicle involved in a funeral procession, which was struck by a vehicle which had failed to yield the right-of-way to the procession. Plaintiff sued our client, defendant funeral home, on a theory that it did not properly supervise the procession, resulting in gaps between cars which made it difficult for other drivers to determine that the procession was ongoing. The court granted our motion for summary disposition based on the lack of duty by a funeral home to supervise a procession en route from the place of funeral to a cemetery. |
| | | | <u>Motion for Summary Disposition</u> |
| Sarafopoulos v Romp | Third Party Auto | Macomb County Circuit Court | This was a claim for injuries incurred by the plaintiff in a two vehicle auto accident. The defendant was ticketed for causing the accident. Nevertheless, we obtained a summary disposition on the basis that the plaintiff was more than 50% at fault in causing the accident by entering the center left turn lane "early" and then colliding with the defendant's vehicle, when the defendant was attempting to cross three lanes of travel in heavy traffic and had been waved across two lanes and into the left turn lane where the collision occurred. |
| | | | <u>Motion for Summary Disposition</u> |

| Case Name | Case Type | Court | Result |
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| Sayfie v Meijer | Premises Liability | Kent County Circuit Court | This case was a slip and fall case involving a rubber strip separating a tiled floor from carpeting. Plaintiff suffered a significant knee injury involving multiple surgical operations, which significantly impacted the plaintiff's ability to perform recreational and other activities. Summary disposition was granted for our client, on the open and obvious issue, with the court agreeing that a black rubber strip used to hold down the edge of a carpeted area was open and obvious to a reasonably prudent observer. The court rejected the plaintiff's claim that a shopper should be excluded from the open and obvious doctrine, if the shopper's attention is drawn to merchandise displayed in the store. |
| | | | <u><i>Motion for Summary Disposition</i></u> |
| SBC v Ferguson Enterprises, Inc. | Commercial | Wayne County Circuit Court | Plaintiff claimed approximately \$300,000 in damages to SBC facilities claimed to be damaged in the construction of the Premier Parking Garage and the Compuware Building in downtown Detroit. Summary disposition was granted by Judge Susan Borman to our client, Ferguson Enterprises, Inc., on the basis that there was no proof beyond speculation and conjecture that Ferguson Enterprises, Inc. damaged any of the SBC facilities, and even if they had been damaged by Ferguson Enterprises, Inc., the facilities in question were subsequently destroyed by another contractor and thus any pre-existing damage by Ferguson Enterprises, Inc. would be irrelevant. |
| | | | <u><i>Motion for Summary Disposition</i></u> |
| Schoen v. Step 'N Time | Premises Liability | Oakland County Circuit Court | We represented Step 'N Time and obtained summary disposition in this premises liability case. Plaintiff claimed significant injuries as a result of a slip and fall on a dance floor. The court granted summary disposition because we convinced the court that our client did not have possession and control of the premises. |
| | | | <u><i>Motion for Summary Disposition</i></u> |
| Shannon v Clay | No-Fault | Ionia County Circuit Court | This was an automobile negligence case where the plaintiff alleged injuries to her head, neck, back and shoulder. Although liability was admitted, summary disposition was granted for the defendant driver, on the basis that the plaintiff's injuries, although objectively manifested, did not impact her ability to lead a normal life. The court held that her period of disability was relatively short, that she was able to return to performing household chores, and that there was no significant impairment of any important body function. Summary disposition granted for Donald Clay on the basis that plaintiff's injuries were not objectively manifested, and that her alleged impairment did not rise to the threshold level |
| | | | <u><i>Motion for Summary Disposition</i></u> |

| Case Name | Case Type | Court | Result |
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| Sink vs. Sverdrup/Wade Trim Joint Venture <u>Motion for Summary Disposition</u> | Personal Injury | Wayne County Circuit Court | <p>Plaintiff was an employee of Facilities Management, a wholly owned subsidiary of Wade Trim, a partner in the Sverdrup/Wade Trim Joint Venture (also known as Detroit Wastewater Partners). We represented the Joint Venture in this matter. The joint venture hired Facilities Management to perform maintenance tasks at the Detroit Wastewater Facility. Plaintiff was injured when he fell from a ladder attempting to remove a ceiling mounted panel cover. Plaintiff sued the joint venture. We filed a motion for summary disposition arguing that since Plaintiff was an employee of a wholly owned subsidiary of a joint venture partner, Plaintiff's claims were barred by the exclusive remedy provision of the Worker's Compensation Act. Judge Neilson granted our motion holding that since Plaintiff's employer was a wholly owned subsidiary of Wade Trim, and since Wade Trim supervised the maintenance activities carried out by Plaintiff's employer, Wade Trim was the dual employer of the Plaintiff and as a joint venture partner, the exclusive remedy extended to the joint venture. Plaintiff's injuries were substantial rendering him disabled from future work as an electrician.</p> |
| St. John Hospital v. Nationwide <u>Motion for Summary Disposition</u> | No-Fault | Wayne County Circuit Court | <p>Plaintiff sought no fault benefits from our client and there was an issue over whether our client's vehicle was involved in this accident under the parked car exception. If so, Nationwide would have jumped into the highest priority and bore responsibility for personal protection insurance benefits. We successfully argued on our motion for summary disposition that even if the Nationwide vehicle was parked in violation of some parking ordinance, as was suggested, that it was not parked in a manner that created an unreasonable risk of harm, or even increased any risk to this plaintiff. Rather, we pointed to the case law that focuses on the purpose of the traffic ordinance when determining if a violation is significant and argued that any ordinance controlling parking in this parking area was meant to insure maximum use of space, not prevent injury, and we also argued that the positioning of the Nationwide vehicle actually lessened the likelihood of this accident occurring.</p> |
| State Farm Fire & Casualty Company v S. R. Jacobson Development Corp., <u>Motion for Summary Disposition</u> | Construction | Oakland County Circuit Court | <p>In this defective construction case State Farm claimed its insured incurred property damages from soot as a result of a defective furnace system and condominium. We were successful in obtaining summary disposition on our cross-claim for complete indemnification against the co-defendant furnace installer..</p> |

| Case Name | Case Type | Court | Result |
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| Szewczyk vs. Nextlink <u>Motion for Summary Disposition</u> | Construction Accident | Oakland County Circuit Court | Suit was brought against Nextlink arising out of a fall suffered by the plaintiff when he encountered a concrete cover that had been installed by Corby Energy Services as a subcontractor to Nextlink. Plaintiff did not sue Corby. Nextlink added Corby as a Third Party Defendant seeking common law indemnity. We represented Corby in this matter. We filed a motion for summary disposition on the indemnity claim. Judge Andrews ruled that since the primary plaintiff advanced claims of active negligence against Nextlink, who had the oversight and inspection responsibilities on the project, no claim for common law indemnity existed. Our motion was granted. |
| Tarkowski v. Royal Transportation <u>Motion for Summary Disposition</u> | Personal Injury | Wayne County Circuit Court | The plaintiff injured her leg while exiting a bus. We were successful in obtaining a voluntary dismissal without payment for our client after proving that our client had no involvement whatsoever with the bus involved in the incident. |
| The Estate of Michael Causey v Clara Barton Nursing Home and Pierre Mosely v Clara Barton Nursing Home <u>Motion for Summary Disposition</u> | Premises Liability | Genesee County Circuit Court | On November 10, 1999, there was an explosion at the Clara Barton Nursing Home in Flint, Michigan. Michael Causey and Pierre Mosely were porters at the nursing home. It was alleged that there was a natural gas leak in the boiler room in the basement of the nursing home, which resulted in an explosion of the building. Mr. Causey and Mr. Mosely were in the building at the time of the explosion. Mr. Causey died as a result of injuries sustained in the explosion while Mr. Mosely alleged that he sustained fractures of the cervical vertebrae, required cervical fusion, sustained burn injuries to the right arm and post traumatic stress disorder. Both Causey and Mosely claimed that they were not employees of Clara Barton Nursing Home but of, what may be termed, an affiliate. Therefore, both believe that they were entitled to pursue a right of action against Clara Barton Nursing Home on the basis of negligence and premises liability. We filed a motion for summary disposition on the basis that Mr. Causey and Mr. Mosely were employees of Clara Barton Nursing Home and that their claims were barred by the exclusive remedy provision of the Worker's Compensation Statute. The court agreed and dismissed our client from both lawsuits. |

| Case Name | Case Type | Court | Result |
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| Thomas v Automobile Protection Corporation <u>Motion for Summary Disposition</u> | Commercial | 39th Judicial District Court | This case involved a claim for breach of contract where the plaintiff alleged that certain repairs made to his automobile should have been covered under the extended service contract with the defendant. We were successful in obtaining summary disposition on the basis that any and all repairs were outside the extent and scope of the extended service contract. |
| Timothy Yancy v Robert Walker and Titan Insurance Company <u>Motion for Summary Disposition</u> | No-Fault | Wayne County Circuit Court | This case involved an out of state plaintiff claiming Michigan No Fault benefits. A motion for summary disposition was filed on the basis that the claim was barred by MCL 500.3111 as plaintiffs were not eligible for benefits under MCL 500.3111 dealing with out of state accidents. The action was dismissed without payment of any type as to Titan Insurance Company by stipulation just prior to the hearing of the motion for summary disposition. |
| Tin Vo, et. al. v Attwood Corporation, et. al., Chatham County, Georgia <u>Motion for Summary Disposition</u> | Product Liability | Chatham County Circuit Court Ga | We acted as national counsel for defendant Attwood, manufacturer of a bilge pump which allegedly failed, causing water accumulation and ultimate capsizing of plaintiffs' fishing boat. Two plaintiffs drowned off the coast of Georgia and plaintiffs' attorney asserted that the bilge pump was defective and that defendant failed to warn of proper use. The court granted summary disposition finding that there was no material question of fact that no duties were breached and plaintiffs' expert's opinions did not create a jury submissible issue |
| Titan Insurance Company v Hall <u>Motion for Summary Disposition</u> | Insurance Coverage | Washtenaw County Circuit Court | This was an insurance coverage declaratory action, in which the driver of a vehicle involved in an accident had been listed as a designated excluded driver on the insurance policy issued to the vehicle's owner. We obtained summary disposition upholding the involved statute, finding that the carrier had complied with all requirements of the involved statute, and declaring that the carrier did not owe coverage and had no duty to defend the owner or driver. |
| Titan Insurance v. Michigan Auto Recovery Service <u>Motion for Summary Disposition</u> | Other | Wayne County Circuit Court | In this dispute the Plaintiff sought recovery for insurance proceeds for a new BMW that one of the Defendant's employees had destroyed using equipment owned by the Defendant. The trial court granted summary disposition to our client on the basis that the employee exceeded his authority and was not acting within the course and scope of his employment when the vehicle was crushed. |

| Case Name | Case Type | Court | Result |
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| Trepanier v American Tree, Inc. <u>Motion for Summary Disposition</u> | Premises Liability | Lapeer County Circuit Court | We represented defendant American Tree, Inc. in claims by plaintiff wherein plaintiff's decedent was killed in an automobile accident. The accident occurred in front of our defendant's premises and the allegation was that we encouraged delivery trucks to park on the shoulder of the road, in front of our property with the allegation that a parked truck interfered with the traffic flow causing the accident. We prevailed on our motion for summary disposition with the court ruling that American Tree had no duty monitor or advise against parking on the shoulder in front of defendant's property. |
| VanElslander v Thomas Sebald and Associates, Inc <u>Motion for Summary Disposition</u> | Construction | Oakland County Circuit Court | This suit was brought by plaintiff, Art Van, personally, against our client, TSA, a premier general contractor, alleging breach of contract, breach of warranty, and negligent construction. A series of Motions for Summary Disposition were prevailed upon. As the home was not originally constructed for plaintiff the breach of contract and warranty claims were dismissed as plaintiff was determined not to be a third-party beneficiary. The bulk of the negligence claims were dismissed for the lack of a legal duty separate and distinct from the original construction contract obligations. Plaintiff was claiming in excess of \$1.6 million in damages to his vacation home on Bay Harbor as a result of toxic mold and water intrusion caused by negligent construction and subsequent repairs. Ultimately the court found plaintiff liable for over \$35,000.00 in case evaluation sanctions and prevailing party costs. |
| Varghese v. Nationwide Mutual Fire Insurance Company <u>Motion for Summary Disposition</u> | Third Party Auto | Oakland County Circuit Court | This case involved the plaintiff's claim for uninsured motorist benefits arising out of an auto accident, to which she attributed injury including miscarriage, head and neck pain, shoulder pain, lower back, forearm pain, knee and leg pain. We represented Nationwide, which insured the vehicle in which plaintiff was a passenger during the collision. We filed a motion for summary disposition, based on the "other insurance" clause of the Nationwide policy's uninsured motorist provisions, because the plaintiff had her own insurance policy through another carrier (who was also a defendant in this case), which policy contained uninsured motorist coverage. Following the filing of the motion for summary disposition, and prior to the hearing date for same, the plaintiff and co-defendant stipulated to dismiss Nationwide from the case. |

| Case Name | Case Type | Court | Result |
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| Vinokourow v Dotson | Third Party Auto | Oakland County Circuit Court | This was an automobile negligence action. We were successful in obtaining summary disposition on the basis that the plaintiff was not operating the defendant's motor vehicle with the express or implied consent of the owner. |
| | | | <u><i>Motion for Summary Disposition</i></u> |
| Watts v Caledonia Farmers Elevator Co | Premises Liability | Clinton County Circuit Court | This suit involved the collapse of a catwalk, resulting in bilateral lower extremity fractures to the plaintiff. Summary disposition was granted in favor of Caledonia Farmers Elevator Company on the basis that the defendant was not in possession or control of the premises at the time of the accident |
| | | | <u><i>Motion for Summary Disposition</i></u> |
| Wendolowski v. Nationwide Mutual Fire Insurance Company | Insurance Coverage | Macomb County Circuit Court | This insurance coverage case alleged breach of contract and bad faith arising out of an alleged theft of a vehicle. We established that there was no "loss" under the policy because plaintiff was involved in the alleged theft and obtained a successful judgment requiring plaintiffs to pay Nationwide's costs and attorneys fees. |
| | | | <u><i>Motion for Summary Disposition</i></u> |
| Williams v Birch Run Investment Company | Premises Liability | Saginaw County Circuit Court | This premises liability action was brought against our landlord client, Birch Run Investment Company, as a result of plaintiff being electrocuted while operating equipment while employed by our client's tenant. We prevailed in our Motion for Summary Disposition on behalf of the landlord based upon the statute of limitations although the action had been timely pursued against the tenant/employer. |
| | | | <u><i>Motion for Summary Disposition</i></u> |
| Williams v Nationwide | Insurance Coverage | Genesee County Circuit Court | We represented defendant Nationwide and the Court granted Summary Disposition enforcing the exclusion in excess of the financial responsibility requirements in a case involving a claim by a daughter against her father. The father had a \$100,000 liability policy and the court ruled that Nationwide's exposure was limited to \$20,000 because of the exclusion. Summary Disposition was also obtained on the uninsured motorist/underinsured motorist claim asserting that based upon the court's ruling upholding the household exclusion that there would be \$80,000 in underinsured coverage. The court granted our Motion for Summary Disposition for any underinsured motorist coverage because of the exclusion of coverage for "any vehicle owned by or furnished for the regular use of you or a relative". |
| | | | <u><i>Motion for Summary Disposition</i></u> |

| Case Name | Case Type | Court | Result |
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| Williams v. Cheatham | Premises Liability | Oakland County Circuit Court | This was a premises liability action in which the plaintiff sustained a torn rotator cuff after a fall on black ice. We were successful in obtaining a summary disposition under the open and obvious doctrine because the plaintiff acknowledged that he had seen black ice before and knew it was slippery, and the surface that he fell on looked like black ice to him. |
| | | | <u>Motion for Summary Disposition</u> |
| Wise v Chez Ami | Premises Liability | Kent County Circuit Court | This suit for personal injuries involved claims by the plaintiff who fell off a mechanical bull at the defendant's business and suffered a fractured patella necessitating three surgeries. We successfully obtained summary disposition in favor of our client, Chez Ami, based on the waiver signed by the plaintiff before riding the mechanical bull and based on the ruling that the defendant did not act grossly negligent. Pursuant to the waiver, the plaintiff was ordered to reimburse the defendant its costs and attorney fees in having to defend this matter. |
| | | | <u>Motion for Summary Disposition</u> |
| Worthy v Teresa's Place, Inc. | Premises Liability | Oakland County Circuit Court | In this premises liability lawsuit arising from an incident in the defendant tavern, a heavy speaker stand toppled over, and the speaker fell onto a seated patron who claimed spinal disc and neurological injuries. We obtained summary disposition for the business premises owner on the basis that there was no notice of any defect or potential hazard, and there was only speculation, and no evidence, that the owner's employees had caused the mishap. |
| | | | <u>Motion for Summary Disposition</u> |
| Yax v. Liberty Mutual Insurance Company | RICO Act | USDC | Five plaintiffs alleged that the defendants had violated the RICO Act in denying them workers compensation benefits. We were successful in convincing the court to grant our motion to dismiss on the bases that there was no violation of RICO and further that the plaintiffs could not maintain the action against the carrier pursuant to the McCarran-Ferguson Act. |
| | | | <u>Motion for Summary Judgment</u> |
| Yee v Braidwood | Premises Liability | Genesee County Circuit Court | This case involved a multiple counts situation where plaintiff, a psychiatrist/attorney and lake front homeowner, filed multiple lawsuits against numerous persons and entities claiming that the lake level was too high and damaged his home. We represented surrounding property owners and obtained a dismissal based upon a nuisance case evaluation. Plaintiff then maneuvered to avoid the dismissal and was held liable for costs. Subsequent litigations resulted in a verdict against plaintiff. We obtained an order and payment of costs to our clients exceeding the case evaluation amount. |
| | | | <u>Motion for Summary Disposition</u> |

| Case Name | Case Type | Court | Result |
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| Zosars v Nationwide | Insurance Coverage | Kent County Circuit Court | This was an automobile accident case in which the plaintiff suffered permanent injuries, including a "drop foot." The vehicle was operated by plaintiff's mother, and plaintiff attempted to seek damages in excess of the "resident relative" policy limit of \$20,000, arguing that she was only temporarily residing with her mother at the time of the accident. The court granted summary disposition in favor of Nationwide on the basis that the plaintiff was not a "resident relative" of her mother's household at the time of the accident, relying upon the criteria set forth in <i>Workman v DAIIIE</i> , 404 Mich 477 (1979) and <i>Dairyland Ins. Co. v Auto-Owners Ins. Co.</i> , 123 Mich App 675 (1983). |
| | <u>Motion for Summary Disposition</u> | | |

Other Proceedings

Austin v GMAC Insurance Insurance Coverage Wayne County Circuit Court This was a claim by the plaintiff for underinsured motorist benefits and no fault benefits resulting from an auto accident. The court dismissed in response to our motion for summary disposition based on plaintiff's failure to comply with the policy conditions.

Dismissal

Bert v Ferguson Enterprises Commercial Auto Wayne County Circuit Court This case involved a three-vehicle intersection accident with a bus, our client's tractor trailer, and a third vehicle which ran a stop sign at a high rate of speed. After cross-examination of the plaintiff at deposition during which we exonerated our client's driver of fault, an order of dismissal was entered with respect to our clients.

Dismissal

Campbell v Jones No-Fault Wayne County Circuit Court Plaintiff claimed injuries in a rearend automobile accident the court dismissed, with prejudice, on our motion for sanctions for the plaintiff's failure to answer interrogatories and appear for deposition

Motion to Dismiss

Campbell v Nationwide Mutual Fire Insurance Company Insurance Coverage Wayne County Circuit Court This insurance coverage dispute plaintiff alleged breach of contract, consumer protection act violations, bad faith, and sought payment for a vehicle allegedly stolen. We obtained a voluntary dismissal with prejudice after cross examination of Plaintiff at her deposition demonstrating that Plaintiff had misrepresented a material fact (that she had continuous coverage on the vehicle for six months preceding the application) in her application, thus voiding the policy ab initio.

Dismissal

Cleola Black v Nationwide Insurance Company Insurance Coverage 45-B District Court In this claim by plaintiff for property damage benefits as a result of a house fire, we convinced the court to dismiss the suit for plaintiff's failure to provide discovery and the court awarded costs to our client.

Dismissal

| Case Name | Case Type | Court | Result |
|--|-----------------------|--------------------------------------|---|
| Cobb v Nationwide <i>Dismissal</i> | No-Fault | Van Buren County Circuit Court | This case involved a claim by an attorney for first-party no-fault benefits, including significant wage loss from her legal practice. Surveillance of the plaintiff revealed business operations being conducted out of her home. A search of the internet located a website for her business, which contained a "testimonial" of the lucrative nature of her business, which was not disclosed during discovery or the plaintiff's deposition. When this evidence was presented, a voluntary dismissal was obtained. |
| Copeland v Vulcraft <i>Dismissal</i> | Products Liability | Wayne County Circuit Court | This was a products liability and construction site accident in which two ironworkers fell from a height of 30 feet when the steel gave way. One of the workers died in the fall and the other survived, sustaining permanent injuries to his hand, wrist and arm. Our client provided the steel. We were able to obtain a voluntary dismissal on behalf of our client without payment because our client had complied with the purchase order for the steel. |
| CSC v Amerisure <i>Dismissal</i> | Insurance Coverage | Wayne County Circuit Court | This was a claim for in excess of \$100,000 for alleged computer losses. Case dismissed in response to our motion for summary disposition on the basis that none of the plaintiff's alleged damages were covered by the policy of insurance. |
| D. F. Ryan Custom Homes, Inc. v. Liberty Mutual Insurance Company <i>Dismissal</i> | Worker's Comp | Oakland County Circuit Court | The plaintiff claimed that the defendant carrier was responsible for workers compensation benefits to an injured employee. We were successful in convincing plaintiff's counsel that the carrier had complied with the statutory provisions regarding cancellation of the policy prior to the incident, resulting in the suit being voluntarily dismissed without payment. |
| Daimler Chrysler Services North America v Nationwide Insurance <i>Dismissal</i> | Insurance Coverage | 30th District Court | Daimler Chrysler claimed as lien holder for loss of a Nationwide insured's vehicle. The case was dismissed on our motion for summary disposition on the basis that the lien holder was not named in the policy and had no claim under the policy's loss payable clause. |

| Case Name | Case Type | Court | Result |
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| Drouillard v General Electric Co. <i>Dismissal</i> | Products Liability | USDC | We represented defendant manufacturer of an electric hand blender. Plaintiff asserted that the blade guarding of the blender was not designed properly resulting in lacerations and tendon damage to plaintiff's fingers. After the completion of plaintiff's deposition, and the exchange of expert reports, and Federal Rule Disclosures, and a filing of a Motion for Summary Disposition based upon no defect, the plaintiff voluntarily dismissed her case. We were able to show that the accident could not possibly have occurred as described by the plaintiff and relied upon by plaintiff's expert. |
| Erickson's Flooring & Supply Co. v. All Tile, Inc <i>Dismissal</i> | Commercial | USDC | This was a commercial dispute arising out of the alleged breach of an exclusive distribution agreement for certain flooring material in which Plaintiff was seeking several million dollars in compensation. After cross examination of Plaintiff's CEO, we convinced the CEO that there was no cause of action against our client, and obtained a voluntary dismissal. |
| Fifth Third Bank v. Wolverine Mailing <i>Dismissal</i> | Commercial | Wayne County Circuit Court | We represented Wolverine Mailing and obtained a voluntary dismissal from the plaintiff prior to case evaluation so that plaintiff would not incur sanctions. Plaintiff claimed that Wolverine was responsible for stolen checks exceeding \$1 million. Expert depositions significantly hurt plaintiff's case and plaintiff voluntarily agreed to dismiss all claims with prejudice. |
| Gerth v R.H. Taylor Corporation <i>Motion in Limine</i> | Toxic Tort | Branch County Circuit Court | This case involved four plaintiffs allegedly suffering from brain damage as a result of exposure to toxic fumes in the workplace that was nearly 10 years old when it came up for trial. Following a two-day evidentiary hearing featuring some of the leading experts the United States in the fields of neurology and neuropsychological, the court ruled that EEG testimony, which is a computer generated analysis of brain wave data, should be excluded as junk science. |
| Gravis v. City of Flint <i>Dismissal</i> | Employment | USDC | This was an employment action where plaintiff alleged a hostile work environment and racial harassment by co-workers at a district court. We negotiated a dismissal of a co-employee and preserved co-employee's rights to pursue counter-claims against the plaintiff. |

| Case Name | Case Type | Court | Result |
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| In Re: Bendix Type One Scat Belt Buckles | Products Liability | NHTSA | We successfully avoided NHTSA recall of seven model years' seatbelt production for alleged buckle spring failures. Administrative Proceeding. National Highway Traffic Safety Administration. |
| | | | <u>Administrative Proceeding</u> |
| In Re: Fisher Price and AlliedSignal, Inc. | Recall | NHTSA | We avoided three million unit NHTSA recall of child car seats. Administrative Proceeding. National Highway Traffic Safety Administration. |
| | | | <u>Administrative Proceeding</u> |
| Jomaa v. City of Detroit | Third Party Auto | Wayne County Circuit Court | This automobile negligence suit involved significant claims of a closed head injury. We were successful in setting aside the five percent (5%) statutory cap for negligence for failing to wear the seatbelt on the basis that the non-party fault statute, which specifically uses the term "fault" rather than negligence, allows the jury to apportion "fault" to a plaintiff for failing to wear the belt, regardless of the amount of negligence assigned to them. |
| | | | <u>Motion in Limine</u> |
| Key Safety Systems Inc v Textron Fasteners | Commercial | Macomb County Circuit Court | We received several preliminary injunctions enforcing a Tier One automotive supplier's terms and conditions against sub-component manufacturers refusing to manufacture or ship parts, claiming "commercial impracticability" based upon rapid and dramatic steel and plastics price increases. We successfully demonstrated that under fixed price, "requirements" contracts typical in the Automotive Industry, the sub-suppliers assumed the risk of raw material price increases and agreed "irreparable harm" to our client's reputation and business relationships if supply interruptions prevented the client from providing federally required, life-saving seatbelts and airbags to its OEM customers. |
| | | | <u>Injunctive Relief</u> |
| Key Safety Systems v. John Gillen Co | Commercial | Macomb County Circuit Court | This commercial dispute arose out of the defendants refusal to ship component parts unless a price adjustment was made due to rising steel costs. Representing the plaintiff, we obtained a restraining order ensuring the clients continued supply of parts at the agreed upon price. |
| | | | <u>Injunctive Relief</u> |

| Case Name | Case Type | Court | Result |
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| Key Safety Systems v. Proto Gage, Inc | Commercial | | In this commercial dispute arising out of the rising costs of steel and the supply of component parts in the automotive industry, we obtained a restraining order ensuring the clients continued supply of parts at the agreed upon price. |
| | | | <u>Injunctive Relief</u> |
| Key Safety Systems v. Textron | Commercial | Oakland County Circuit Court | This was a commercial dispute arising out of the defendants refusal to ship component parts unless a price adjustment was made due to rising steel costs. Representing the plaintiff, we obtained a restraining order ensuring the clients continued supply of parts at the agreed upon price. |
| | | | <u>Court Order</u> |
| Kissling v Meijer | Premises Liability | Muskegon County Circuit Court | This suit alleging personal injuries when a rack of clothes fell from a display rack, pulling plaintiff to the ground. Plaintiff alleged a serious injury to his back and was granted Social Security Disability benefits. A voluntary dismissal was obtained for Meijer following aggressive discovery, which uncovered evidence of the plaintiff participating in stock car races on a weekly basis, some of which were videotaped. Evidence also uncovered that plaintiff was working under the table for a snow plowing contractor during the winter months. |
| | | | <u>Dismissal</u> |
| Lakowski state Farmv Comcast Cablevision | Construction Defect | 42nd Judicial District Court | This was a claim by plaintiff for damages to a new home resulting from the alleged improper installation of cable products. After the filing of a motion to strike plaintiff's complaint or for a more definitive statement, the Court entered an order striking plaintiff's complaint. |
| | | | <u>Dismissal</u> |
| Marohn v Bass Pro Shop | Products Liability | Macomb County Circuit Court | In this product liability claim for injury on a boat, we filed a cross claim against the manufacturer who took over our defense. |
| | | | <u>Indemnity</u> |

| Case Name | Case Type | Court | Result |
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| McNees v AlliedSignal Inc. | Products Liability | Muskegon County Circuit Court | We secured dismissals without payment for airbag manufacturer in a series of seven emotionally charged, "infant death" airbag cases, including unique "zero dollar, take nothing" result for the client in a mandatory Michigan case evaluation. <i>Dismissal</i> |
| Name Withheld at Request of Client | Products Liability | Transport Canada | We avoided brake manufacturer's involvement as target of Transport Canada investigation into motor coach accident reported to have the largest death toll in that nation's history. Administrative Proceeding. Transport Canada <i>Administrative Proceeding</i> |
| OM Group, Inc. v Delphi Corporation | Commercial | Oakland County Circuit Court | Following protracted negotiations and a voluntary facilitation we recovered \$2.2 million for a Tier One automotive supplier, successfully overcoming a force majeure defense to a highly unusual, "fixed quantity" contract for the supply of catalytic materials. <i>Facilitation</i> |
| Poling v. Blue Line Distributing | Products Liability | Lapeer County Circuit Court | This case involved a products liability action in which the plaintiff sustained a disabling back injury after a steel rack fell on her. We were successful in obtaining a voluntary dismissal without payment because the plaintiff could not establish that our client had any involvement with the steel rack. <i>Dismissal</i> |
| Smart v Nationwide | No-Fault | Berrien County Circuit Court | This suit involved a claim for underinsured motorist benefits in which the plaintiffs alleged a permanent brain injury, permanent nerve damage, orthopedic problems and cognitive deficits, which necessitated extensive medical care and treatment, household services, with a significant wage loss claim. During the course of discovery, evidence was obtained demonstrating that the plaintiff was involved in extensive, undisclosed business operations that were conducted on many of her out-of-state trips in which she sought medical care and treatment that she alleged was necessitated as a result of the automobile accident. Further investigation uncovered extensive pre-accident medical care and treatment that was not disclosed in response to discovery or in the plaintiff's deposition. Once presented with the evidence demonstrating a possible fraudulent claim, a voluntary dismissal was obtained. <i>Dismissal</i> |

| Case Name | Case Type | Court | Result |
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| Zarazua v Link Systems, Inc. | Products Liability | Kent County Circuit Court | The plaintiff sustained an amputation of both hands at the wrist while operating a power press. Our client, Link Systems, Inc., manufactured certain electrical controls installed on the power press. After extensive discovery, the plaintiff voluntarily dismissed our client from this products liability case. |
| | | | <u>Dismissal</u> |