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John R. Prew

AREAS OF PRACTICE:

Product Liability
Construction Accidents/Defects
Premise Liability
Commercial/Contract
Insurance Coverage
Trucking/Auto

EDUCATION:

Detroit College of Law (J. D., *cum laude*, 1988)
Detroit College of Law, Law Review 1986-1988
Michigan State University, James Madison College (B.A., 1985)
Naval Justice School 1989
U.S. Marine Corps Basic School 1989, Honor Graduate

BAR ADMISSIONS:

State Bar of Michigan 1988
U.S. District Court for the Eastern District of Michigan 1988
U.S. Military Court of Appeals 1989
U.S. District Court of Colorado 2004
U.S. District Court for the Western District of Michigan 2006
U.S. Court of Appeals for the Sixth Circuit 2007
United States Supreme Court 2011
U.S. District Court for the Central District of Illinois 2011

EMPLOYMENT:

Managing Partner at Harvey Kruse, P.C. 2011-Present
Shareholder at Harvey Kruse, P.C. 2004-2011
Associate Attorney at Harvey Kruse, P.C. 2000-2003
Associate Attorney at Dawson & Clark 1995-2000
Associate Attorney at Bigler, Berry, Johnston, Szykiel & Hunt, P.C. 1992-1995
U.S.M.C.; Judge Advocate 1989-1992

ACKNOWLEDGMENTS:

Martindale Hubbell Rating: A/V

EXPERIENCE:

Trial and appellate attorney, successfully represented numerous clients in circuit courts throughout the state of Michigan, United States District Court for the Eastern District and Western District of Michigan, Michigan Court of Appeals,

Michigan Supreme Court, 6th Circuit Court of Appeals and U.S. Supreme Court. As a specialist in complex national product liability cases, Mr. Prew has also been admitted pro hac vice to handle cases in other states including West Virginia, Florida, Pennsylvania, Mississippi, Missouri, Alabama, North Carolina, Colorado, Missouri, New York, Ohio, Kentucky, California, New Jersey and Wisconsin.

Served as a judge advocate in the United States Marine Corps, honorably discharged having attained the rank of Major. Served as Review Officer for the Commanding General, Third Marine Aircraft Wing, and Commanding General, Marine Corps Air Station, El Toro, California. Acted as prosecutor handling special and general courts-martial, trying numerous jury and bench trials involving offenses including, but not limited to, conspiracy, aggravated assault, larceny, drug importation, drug use and distribution, and check and credit card fraud. One successful complex prosecution involving criminal conspiracy to commit check fraud was a basis for the award of the Navy Achievement Medal. Acted as the presiding officer in numerous Article 32 hearings which equate with grand jury proceedings. Attended the U.S. Attorney General's Trial Advocacy Course. Also served as the Staff Judge Advocate and Officer in Charge of the Joint Law Center at Marine Corps Air Station, Tustin, California, providing counsel to the station commander and tenant squadrons in all legal matters. Also acted as a Special Assistant, United States Attorney, prosecuting cases in the Federal District Court for the Central District of California, involving offenses committed by civilians while on board Marine Corps Air Stations El Toro and Tustin. While in the Marine Corps Reserve, served for a period of time as the Staff Judge Advocate for Marines located at Selfridge Air National Guard Base, Michigan.

Mr. Prew has served as national product liability counsel for several clients in litigation throughout the United States. His involvement in the defense of large, automotive component part suppliers on a national basis has allowed him to help shape the trends in product liability throughout the United States. Mr. Prew is one of the pioneers in defending component part suppliers in product liability suits. He has also acted as national product liability counsel for Summit Treestands, LLC, and Gorilla, Inc., defending them in suits filed throughout the United States and with the Consumer Product Safety Commission. Mr. Prew has further utilized his

product liability expertise and experience in the defense of other hunting product manufacturers as well as crane, laser cutters, automobile and press manufacturers.

Mr. Prew also specializes in commercial litigation. He has served several clients in commercial disputes including within the automotive field. Mr. Prew has successfully defended companies in commercial business and construction disputes alleging breach of contract, intentional interference with business relations, breach of warranty, misrepresentation and insurance coverage disputes.

In addition, Mr. Prew has defended numerous entities involved in the commercial trucking sector including United Parcel Service, Inc., Airgas, Inc., Amerigas Propane, L.P., and Bendix Commercial Vehicle Systems, LLC.

REPRESENTATIVE CLIENTS: The Ford Motor Company
Steinman, Boynton, Gronquist and Birdsall
AlliedSignal
Honeywell International, Inc.
Key Safety Systems, Inc.
Quality Safety Systems Co.
Mazda Motor Corporation
Game Tracker, Inc.
Bendix Commercial Vehicle Systems, L.L.C.
Summit Treestands, LLC
Bass Pro, Inc.
Gorilla, Inc.
Hunter Safety Systems, Inc.
Treestand Manufacturers Association
United Parcel Service, Inc.
Volkswagen Group of America, Inc.
Manitowoc Cranes, LLC
TA Operating LLC
Airgas, Inc.
Dunham's Sports
Dick's Sporting Goods, Inc.
Konecranes, Inc.
Amerigas Propane, L.P.

MEMBER: State Bar of Michigan
Oakland County Bar Association
Michigan Defense Trial Counsel
Defense Research Institute

SIGNIFICANT CASES:

Van Syckle v Ford Motor Company, Wayne County Circuit Court, defense verdict in a rear impact automobile negligence case against the operator of a vehicle owned by Ford Motor Company wherein plaintiff sought hundreds of thousands of dollars for permanent shoulder disabilities and resulted in surgery.

Smith v Ford Motor Company, Wayne County Circuit Court, intimately involved in obtaining a defense verdict for The Ford Motor Company in a wrongful death case wherein plaintiff's personal representative claimed product defects with respect to the seating system in a Ford Motor Company automobile.

Williams v Ford Motor Company, 1997 WL 33350573 (Mich. App. Apr. 15, 1997 (No. 171658)), rev. 457 Mich. 888, 586 NW2d 232 (1998), plaintiff suffered serious personal injuries following a single vehicle accident and filed suit claiming product defects in the steering components of a Ford Motor Company vehicle. The Oakland Circuit Court granted Ford's motion for summary disposition on the basis the claim was barred by a release. The Michigan Court of Appeals originally affirmed the grant of summary disposition on the basis the plaintiff failed to tender back the consideration received in exchange for the release. On rehearing, the Michigan Court of Appeals reversed itself finding plaintiff presented a material factual dispute regarding whether there was fraud in the execution of release foregoing the need to tender back the consideration to repudiate the release. The Michigan Supreme Court reversed the Michigan Court of Appeals decision (on rehearing) and reinstated the judgment of the trial court granting summary disposition for Ford.

Blackshear v United Way, Oakland County Circuit Court, 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.

Dubowsky v General Motors Corporation and Commercial Contracting Corporation, Wayne County Circuit Court, a construction accident claim in which 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 discovery revealed 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.

Cleola Black v Nationwide Insurance Company, 45-B District Court, a claim by plaintiff for property damage benefits as a result of a house fire. We moved for dismissal due to the plaintiff's failure to provide discovery responses in response to a court order, and the case was dismissed with an award of costs to the defendant.

State Farm Fire & Casualty Company v S. R. Jacobson Development Corp., et al., Oakland County Circuit Court, a defective construction case in which State Farm claimed its insured incurred property damages from soot as a result of a defective furnace system installed in her condominium. We were successful in obtaining summary disposition on our cross-claim for complete indemnification against the co-defendant furnace installer resulting in an eventual settlement where our clients paid zero.

Proffitt v Pulte Land Development Corporation, et al., Washtenaw Circuit Court, a nuisance/defective construction claim in which plaintiff suffered serious personal injuries, having tripped and fallen over a sidewalk discontinuity while attempting to avoid the base of a basketball stanchion. Plaintiff alleged that Pulte and its subcontractor, Rotondo Brothers Concrete Company, defectively constructed the subject sidewalk and created a nuisance. After the filing of our motion for summary disposition, 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".

Lofton v Schelde Enterprises, Inc./Bonfire Bistro Brewery, Oakland County Circuit Court, a premises liability claim in which 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 on the basis that the subject step was open and obvious.

Bert v Ferguson Enterprises, Inc., et al., Wayne County Circuit Court, a three-vehicle intersection accident involving 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.

Lakowsky v Comcast Cablevision, 42nd Judicial District Court, 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.

LeClair v Life Insurance Company of North America, Delta County Circuit Court, 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.

Johnson v 7 D's Towing and Storage, Inc., et al., Wayne County Circuit Court, plaintiff claimed assault by an agent of 7 D's Towing and intentional infliction of emotional distress following the plaintiff's arrest for stealing car parts from 7 D's Towing facility. After obtaining a discovery order against the plaintiff and the filing of a motion to dismiss for violations of said order, the case settled for a very nominal amount.

Northfield Insurance Company and Underwriters at Lloyd's London v Arthur Hills & Associates, et al., Wayne County Circuit Court, an action on behalf of plaintiff insurance carriers for equitable subrogation and indemnification for expenses, costs and proceeds paid to defend and settle underlying lawsuits filed by property owners adjacent to a City of Taylor golf course which, after construction, caused water runoff onto the adjoining property, flooding the same and

rendering it unsuitable for building. In the underlying litigation, Arthur Hills & Associates refused to defend and/or contribute to the settlement. After protracted litigation in both state and federal court, the case settled for an amount in the multiple six figures.

Norlock v Essco, L.L.C., et al., Oakland County Circuit Court, a premise liability action wherein the plaintiff purportedly slipped and fell on “black ice” located on a sidewalk owned and controlled by the City of Birmingham and located in front of the defendant’s building. We moved for summary disposition, arguing our client had no duty to maintain the publicly-owned sidewalk abutting its property, our client had no notice of the purported “black ice” condition or, in the alternative, the “black ice” was open and obvious. Prior to the hearing, plaintiff settled for a very nominal amount.

Estate of Mary Jackson v Williams Lake Development, et al., Oakland County Circuit Court, a wrongful death and property damage action wherein plaintiff sought damages following the flooding of plaintiff’s decedent’s condominium as the result of heavy rainstorms. Plaintiff’s decedent was the owner and residing in a condominium located within defendant’s development which was still undergoing development. Plaintiff alleged that as a result of improper site design, improper grading and drainage and poor site maintenance, a catch basin overflowed and backed up, flooding the decedent’s condominium. As a result of the flooding, plaintiff alleged lost value to the value of the property, damages to personal property and that decedent’s forced evacuation of the premises hastened the decedent’s death. We obtained summary disposition for our client establishing plaintiff failed to produce the necessary evidence to support the claims for economic and non-economic loss and Michigan case law did not support sentimental/ emotional distress damages for loss of use or damage to property.

Sylvan Township v Kvetko, et al., Washtenaw County Circuit Court, a construction defect case wherein plaintiff claimed our client, third-party defendant, Rothenberger Company, Inc., should be liable for any damages arising from defendant’s counter-claim for constitutional takings and trespass based on the alleged defective installation of a sewer service line adjacent to defendants’ property. We successfully moved for summary disposition arguing our client owed no duty to plaintiff and that, even assuming such a duty existed, any

claims of defective installation of the sewer line failed on a matter of law.

Gary Fannon and Karen Fannon, Individually and as Next Friends of W.F. and O.F., minors v Bass Pro, Inc., et al., United States District Court, Eastern District of Texas, Marshall Division, involved a claim by the plaintiff, Gary Fannon, that a tree stand from which he was hunting was defective because a strap holding it to a tree broke while he was sitting in it, resulting in his fall to the ground and subsequent paraplegia. It was alleged that our clients, Bass Pro, Inc., and Bass Pro Outdoor World, L.L.C., purportedly sold the subject tree stand and its securing strap. After engaging in discovery and obtaining an affidavit from the actual designer of the subject tree stand, a motion for summary judgment was filed on behalf of Bass Pro, Inc., and Bass Pro Outdoor World, L.L.C., on the basis that neither entity sold, supplied, distributed or otherwise placed into the stream of commerce the aforementioned products. Subsequent to the filing of the motion for summary judgment, the subject case was dismissed without prejudice.

Hedley v Frank Rewold & Sons, Inc., Royal Roofing, Inc., et al., Oakland County Circuit Court, a case involving a claim by the plaintiff, Larry Hedley, a volunteer for the Apostolic Church of Christ construction project. Mr. Hedley had climbed a 14-foot steel ladder and, while attempting to close a scuttle door, fell to the concrete floor, suffering alleged severe personal injuries. While attempting to close the scuttle door, a gripper sleeve on the closing handle slipped off, contributing to the plaintiff losing his balance and falling to the floor. Plaintiff filed suit against a number of different entities, including our clients, Frank Rewold & Son, Inc., the construction manager, and Royal Roofing Company, Inc., the entity which installed the scuttle door. Plaintiffs alleged there were defects with regard to the design of the steel ladder in conjunction with the orientation of the scuttle door, as well as negligence in the installation thereof. The trial court granted summary disposition on behalf of Frank Rewold & Son, Inc., on the basis that the alleged danger was not readily observable and that the accident in this case did not happen from a violation of the construction manager's duty as set forth in various controlling Michigan construction accident cases. Royal Roofing Company, Inc., was also granted summary disposition on the basis the plaintiff failed to show that it did not use due care in installing the hatch.

Tearra Lofton, as Personal Representative of the Estate of Mychal Matthews, Deceased, v Detroit Board of Education, Detroit Public Schools, et al., Wayne County Circuit Court, was a case involving allegations that a 16-year-old boy, a severely mentally and physically handicapped “special needs student”, was choked to death while wearing his doctor-approved safety vest and while riding on a school bus owned by the Detroit Public Schools. Plaintiff alleged that the defendants, along with two of its employees, were negligent and violated his constitutional rights under 42 USC §1983. After extensive discovery, defendants filed a motion for summary disposition on the basis the state law claims against the defendant employees were barred by governmental immunity, the defendants did not deprive the decedent of his due process rights guaranteed by the 14th Amendment and that the plaintiff lacked standing since there was no person who could actually recover damages under the Wrongful Death Act. The trial court agreed with the defendants and entered an order granting the defendants’ motions for summary disposition. The decision of the trial court was affirmed by the Michigan Court of Appeals.

Kevin McGuckin v Severstal North America, Inc., Wayne County Circuit Court, involved allegations that plaintiff, a journeyman iron worker, slipped and fell on oil at Severstal’s premises while working for his employer which had subcontracted to perform steel replacement work at Severstal’s steel production cold mill facility. Plaintiff alleged that Severstal failed to warn and protect him from the oily conditions and failed to use reasonable care to protect him from an unreasonable risk of harm caused by the dangerous conditions on the premises. After extensive discovery, defendant filed a motion for summary disposition on a number of different bases, including that the oil conditions were open and obvious and that plaintiff had executed a release as part of his worker’s compensation settlement which, in turn, released any claims arising out of his employment. The trial court agreed with the defendant and entered an order granting the defendant’s motion for summary disposition.

Middle Cities Risk Management Trust v Port Huron Roofing & Sheet Metal Company, Oakland County Circuit Court, a subrogation action involving allegations that defendant, while performing repairs on plaintiff’s insured’s school building, caused extensive damages by dust intrusion. Plaintiff filed this

action after having expended tens of thousands of dollars to remediate and repair the conditions in the facility. After initial discovery, defendant filed a number of requests for admissions predicated upon the underlying contract between the plaintiff's insured and defendant which included the waiver of all rights between the contracting parties for damages caused by any loss to the extent covered by property insurance including all rights of subrogation. After the filing of the requests for admissions and follow-up discovery, plaintiff agreed to voluntarily dismiss its case.

Lela Tompkins v Northwest Airlines, Wayne County Airport, et al., Wayne County Circuit Court, involved allegations that plaintiff slipped and fell as a result of water accumulation in the Midfield Terminal, Main Tram Station, located at Detroit Metropolitan Airport, resulting in serious and debilitating injuries to her back and lower extremity. Northwest Airlines and Wayne County Airport Authority, d/b/a Detroit Metropolitan Airport, filed a third-party complaint against Crown Corr, Inc., and Hunt Construction Group, Inc., alleging that Hunt was the general contractor for the construction and erection of the McNamara Terminal and that Crown Corr, its subcontractor, was responsible for the design, construction and fabrication of the roof for the terminal, including the area above which the water leak occurred. Third-party plaintiffs alleged that Crown Corr and Hunt were negligent in failing to properly design and construct the roof which caused the water to leak onto the Tram Station platform. Also alleged were counts for breach of warranty and breach of contract with respect to the same alleged defects which resulted in plaintiff's injuries. After depositions of various corporate representatives, a motion for summary disposition was filed on behalf of Crown Corr, Inc., arguing that the statute of repose barred the third-parties' claims as these claims were filed more than six (6) years after the time of occupancy, use or acceptance of the completed improvement. It was further argued that the statute of repose applied irrespective of the fact that warranty work occurred in subsequent years following the date of occupancy, use or acceptance of the improvement. The trial court agreed with the defendant and entered an order granting defendant's motion for summary disposition.

Amanto v Summit Treestands, LLC, and Dick's Sporting Goods, Inc., West Chester Court of Common Pleas, Pennsylvania, a product liability case wherein plaintiffs alleged the defendants were strictly liable as a result of a

purported defect in a Summit X4 Climbing Treestand which supposedly allowed a cable stop to pull through a cable bracket during climbing operations, causing the fall of the plaintiff and resulting in serious personal injuries. After a 5-day trial, the 8-person jury returned a unanimous verdict finding no defect with respect to the product and rendering a verdict for the defendants.

Tompkins v Crown Corr, Inc.; Northwest Airlines, Inc., et al., United States District Court, Eastern District, Michigan. Represented Crown Corr, Inc. initially in Wayne County Circuit Court where Northwest Airlines, Inc. joined my client, Crown Corr, Inc. by way of a third party complaint. Crown Corr, Inc. was added on the theory it had liability since it purportedly designed and constructed the roof. Summary disposition was obtained based on the statute of repose. After dismissal, Crown Corr, Inc. was named as a non-party at fault. As a result, plaintiff was allowed to join Crown Corr, Inc. as a direct defendant; whereupon, Northwest Airlines, Inc. cross-claimed against Crown Corr, Inc. Crown Corr, Inc. removed the case to the United States District Court, Eastern District of Michigan. After the filing of a motion for summary disposition, the cross-claim was dismissed based on the full faith and credit clause per 28 USC §1738. Plaintiff's claims that it was Crown Corr, Inc.'s negligent repairs that allowed the water to leak onto the platform were also dismissed based on the statute of repose.

McKinney v Pavilion Title Agency, Inc., et al., United States District Court, Eastern District, Michigan. Plaintiff filed a 59 count, 26 page complaint against 14 entities, including Pavilion Title Agency, Inc., asserting claims for breach of contract, fraud, and violations of the Truth and Lending Act, the Federal Trade Commission Act, the Equal Credit Protection Act, the Real Estate Settlement Procedures Act as well as violations of the civil and constitutional rights. The premise for the plaintiff's complaint was that he was defrauded out of real property as part of a financing scheme. After the filing of a motion for dismissal pursuant to Fed. R. Civ. Pro. 12(b)(6) and Fed. R. Civ. Pro. 12(c), the court entered an order dismissing the complaint in its entirety.

Brandon Adams v Singh Homes II, LLC, Wayne County Circuit Court, premise liability/construction defect claim in which plaintiff was injured after a fall from a second story inside balcony due to an allegedly defective guardrail.

Defending the general contractor and the property owner, we were successful on our motion for summary disposition on a cross-claim for defense and indemnity as to the subcontractor who installed the subject guardrail. We were subsequently successful on a second motion for summary disposition as to the primary plaintiff's claim of premise liability based on the lack of notice.

Eljawad v Brownie's on the Lake, Macomb County Circuit Court, a premise liability action based on a physical altercation with an employee of the Defendant resulting in injuries to plaintiff. We were successful in our motion for summary disposition as a first responsive pleading as plaintiff did not timely perfect service upon defendant and the applicable statute of limitations had expired.

Martenies v Hungry Howie's Pizza and Subs, Inc., et al., Livingston County Circuit Court, a motor vehicle versus motorcycle accident when a motorcycle operated by the plaintiffs collided with the rear of a vehicle driven by an employee of Hungry Howie's who pulled out in front of the motorcycle. Prior to initiating litigation, the plaintiffs signed releases of all claims with respect to the employee/driver. A motion for summary disposition was filed on the basis that the releases effectively barred plaintiffs' claims for vicarious liability against the defendants and that plaintiffs' claims for active negligence of negligent hiring, retention and supervision failed as a matter of law as plaintiffs failed to present any evidence to support said allegations. The trial court granted the motion in its entirety.

Allstate Insurance Company v AMCO Insurance Company, et al., United States District Court, Eastern District of Michigan, Southern Division, involved a declaratory action by Allstate arising out of a double fatal motor vehicle accident when a vehicle owned and operated by Allstate's insured collided head-on with a vehicle occupied by defendants' decedents. Allstate's action was based on a business exclusion in an umbrella policy and that defendant/insured driver was engaged in business activities at the time of the accident precluding coverage. AMCO was named a defendant as it was the insurer of the defendant driver's employer for whom he was allegedly working for at the time of the accident. After discovery, a motion for summary judgment was filed on behalf of AMCO on the basis that the Allstate insured/defendant driver was not insured under its policy of insurance, nor was

he engaged in any employment activity on behalf of or in the scope of his duties as a member of AMCO's insured. Summary judgment was granted on behalf of AMCO with the determination that the Allstate insured/defendant driver was not insured under the AMCO policy of insurance and was not conducting business on behalf of his employer at the time of the accident.

BMB Enterprises, Inc. v C. Herber's Collision, LLC, et al., St. Clair County Circuit Court, involved claims by plaintiff of public and private nuisance regarding defendants' use of property located within the Township of Port Huron and that said property purportedly violated specific sections of the Township's building code and that defendants' conduct relative to the property constituted the torts of public and private nuisance. After extensive discovery and use of expert witnesses, defendants filed a motion for summary disposition arguing plaintiff could not establish defendants violated the Township's code and plaintiff could not establish a significant impact from defendants' use of the subject property which would satisfy the standard for public or private nuisance. Plaintiff, in turn, filed a counter-motion for summary disposition seeking an abatement and removal of the alleged nuisance with the issuance of an injunction restricting defendants' use of the property. After substantial counter-briefing, the court granted defendants' motion for summary disposition in its entirety.

Lasala, Personal Representative of the Estate of Richard Agonese and Ann Agonese v United Lawnscape, Inc., et al., Macomb County Circuit Court, involved an accident where plaintiff's elderly decedent fell into a drive-through lane outside of a restaurant and was struck by a vehicle driven by a co-defendant resulting in his demise. Plaintiffs asserted a claim of ordinary negligence against United Lawnscape based on the theory that it allegedly failed to cut the landscaping, resulting in visual obstructions that contributed to the accident. A motion for summary disposition was filed on behalf of United Lawnscape arguing that it did not owe a duty of care separate and distinct from any obligation present in its contract with the premises owner to provide landscaping services and that claims for negligent infliction of emotional distress failed due to a lack of duty or that any actions of United Lawnscape caused any injury to the decedent. The court granted the motion and dismissed United Lawnscape with prejudice.

Frankenmuth Mutual Insurance Company v Reid Machinery, Inc., Ingham County Circuit Court, involved a subrogation action arising out of an incident when a press was pulled over at plaintiff's insured's premises resulting in damages to the press and property. Frankenmuth sought to recover the amount it reimbursed its insured for these damages. A motion for summary disposition was filed arguing that plaintiff's claims failed as a matter of law because the purchase order between the plaintiff's insured and the defendant constituted a valid and actionable contract for services and which contained a waiver of subrogation clause that barred plaintiff's claims against the defendant. After extensive briefing, the court granted defendant's motion for summary disposition even though the subject purchase order was unsigned by the parties.

Xiong and Vang v Lee Contracting, et al., Oakland County Circuit Court, involved an automobile negligence case brought by the plaintiffs seeking to recover non-economic damages alleging that both plaintiffs suffered a serious impairment of body function. Motions for summary disposition as to both plaintiffs were filed arguing that neither plaintiff had objectively manifested impairments of a bodily function as a result of the accident and that any alleged injury did not affect the plaintiffs' general ability to lead their normal life and thus neither plaintiff sustained a serious impairment of body function. The court granted both motions for summary disposition.

Bowers v Lee Contracting, et al., Oakland County Circuit Court, involved an action for injuries sustained by the plaintiff when he fell into a trench while working at a construction site sustaining purportedly serious internal injuries. At the time of the accident, Lee Contracting was one of several contractors retained by the co-defendant, the owner of the property, to provide construction services at the subject site. After extensive discovery, a motion for summary disposition was filed on the basis that plaintiff's negligence claim against Lee Contracting failed as a matter of law as Lee did not violate any duty of care owed to the plaintiff based upon the open and obvious doctrine and that plaintiff's claims were further barred regarding non-economic damages as a result of the plaintiff's own comparative negligence. After the filing of the motion for summary disposition, the case settled as to Lee for a reasonable amount.

Daniels v Equivalent Base, et al., Macomb County Circuit Court, involved a premise liability action arising out of an incident where plaintiff sustained injuries after falling through a skylight located in the roof of a building owned by the defendant. After discovery, a motion for summary disposition was filed arguing that plaintiff could not establish a premise liability claim against the defendant property owner as the plaintiff was a construction subcontractor of the co-defendant and could only recover from the property owner under the retained control and common work area doctrines which he was unable to do as there was no common work area and the property owner did not retain control over the subcontractor's work. It was further argued that the subject skylight was an open and obvious condition and/or the plaintiff was a trespasser and was not owed any duty to protect from an obvious danger. After the filing of the motion for summary disposition, the case settled for a reasonable amount.

King v C&C Equipment Leasing, LLC, Macomb County Circuit Court, involved a motor vehicle accident wherein plaintiff claimed he sustained a serious impairment of a body function as a result of a motor vehicle accident. After extensive discovery, a motion for summary disposition was filed, including evidence of surveillance and social media, arguing that plaintiff could not establish an objectively manifested impairment of any important body function and that his ability to lead his normal life had not been affected. After the filing of the motion, the case settled for a nominal amount.

Moore v Tormax Technologies, Inc., et al., United States District Court for the Eastern District of Michigan, Southern Division, involved an action arising from injuries when plaintiff, while exiting a store, was struck by an interior automatic sliding door which purportedly malfunctioned and closed on the plaintiff resulting in alleged injuries. Plaintiff sued a number of entities and alleged as to Tormax that it was negligent in the servicing and repair of the subject automatic door. A motion for summary judgment was filed establishing that Tormax did not actually service the subject door, was not negligent in obtaining servicing for the subject door, and that Tormax did not owe a separate and distinct duty to the plaintiff outside of its service agreement with the store owner. After the filing of the motion for summary judgment, the matter settled for a nominal amount.

Shah v AV Pizza, LLC, et al, Oakland County Circuit Court, involved a pedestrian verse motor vehicle accident wherein the plaintiff, a doctor, while jogging was struck from behind by a vehicle operated by the co-defendant while in the course of his employment with AV Pizza resulting in injury. A motion for summary disposition was filed arguing that the plaintiff was 50% or more at fault for the subject accident and her claims were barred for violating a statute for jogging along the roadway when a sidewalk was available for use. After the filing of the motion for summary disposition, the case settled for a reasonable number.

Stromski v Latvala Brothers, Inc., et al., Lenawee County Circuit Court, involved an accident in a grain bin when the plaintiff stepped into an open sump hole in the floor of a grain bin where the offloader conveyor was running during the course of his employment with the co-defendant, resulting in the surgical amputation of the lower right leg. Plaintiff filed suit naming a number of entities as defendants. The allegations against Latvala were that prior to plaintiff's injury that its employees purportedly removed a safety grate installed by a co-defendant over the sump hole allowing for the plaintiff to step into the sump hole where the leg encountered the running offloader conveyor. After substantial discovery, a motion for summary disposition was filed on behalf of Latvala demonstrating that no safety grate was ever installed in the subject grain bin at any time and, accordingly, it could not have been removed by an employee of Latvala. It was further argued that to the extent that an easily removable safety grate was installed in the sump hole by the co-defendant during construction of the bin, and was subsequently removed by Latvala at the direction of the premise's owner/employer, Latvala owed no duty to the plaintiff. It was further argued that any purported removal of the subject safety grate was not the proximate cause of the plaintiff's injuries and that Latvala did not act in concert with the co-defendants. After the filing of the motion for summary disposition, the case settled as to Latvala for a reasonable number.

Pounders v Ali Fawaz, et al., Wayne County Circuit Court, involved a negligence action against multiple defendants alleging that Pounders was injured by ingesting an herbal mixture known as K2 sold at a gas station. Fawaz was alleged to be the owner of the gas station that purportedly sold the K2 to Pounders and that the co-defendants were the operators of said gas station. A cross-complaint was filed on behalf of

Fawaz against selected co-defendants seeking contractual indemnification, breach of contract—additional insured/loss payee, implied contractual indemnity and common law indemnity. A motion for summary disposition was filed as to the foregoing counts resulting in the court ordering that the selected co-defendants owed Fawaz complete indemnity from and against the allegations in the primary complaint and that said co-defendants were contractually obligated to pay and/or reimburse Fawaz for any and all attorney fees and costs incurred in connection with defending the primary lawsuit.