



YEAR IN REVIEW
2021-2022

MCB
MARTIN CLEARWATER & BELL LLP
COUNSELORS AT LAW

Table of Contents

From Our Executive Team.....3

Trials During the Pandemic 4

Case Results:

 Summary Judgment Motions.....5

 Other Favorable Dispositions..... 12

Practices14

New Partners 15

Welcome New Attorneys 16

Client Service & Education 17

Diversity & Inclusion.....18

Investments in Cybersecurity 19

Firm Recognition..... 20



“*I’ve trusted MCB to handle the defense of our toughest and most complicated legal issues against our most unyielding adversaries. MCB attorneys understand the medicine and they do their homework extremely thoroughly. They are very tough to beat.*

—General Counsel of a Major New York Academic Medical Center



ROSALEEN T. MCCRORY
Senior Trial Partner



THOMAS A. MOBILIA
Senior Trial Partner



MICHAEL A. SONKIN
Senior Trial Partner

From Our Executive Committee

Calendar year 2021 proved once again that what affects one of us, affects all of us. Despite incredible uncertainty and disruption, we drew on our connections with clients and colleagues to confront the impact of a global pandemic directly. Although adapting to changes that are imposed on us is never easy, we worked collectively - as a team - to overcome obstacles and achieve successes every step of the way. As the dust begins to settle, it is evident that 2021 demonstrated our remarkable flexibility, creativity, and resilience as individuals and as an organization. We should be proud of those outcomes, while always remembering that without each other's support and the consistent cooperation of our clients, none of this would have been possible.

The challenges of the past 2 years have necessitated that we work in different ways than we've been accustomed to, with the most significant adaptation being that of working remotely. For more than 100 years pre-pandemic, MCB has succeeded in maintaining a highly collaborative work environment which fosters professional development and advancement while providing the outstanding level of representation that our clients have come to expect. In the face of COVID, these standards have not changed; they have only evolved. The Firm explicitly recognizes that insofar as continuing to provide quality legal services to our clients while encouraging the professional development of our attorneys remains our very reason for existing, it must embrace and support a flexible and creative work environment in furtherance of that mission.

We are proud of how seamlessly MCB has adapted to these changes and look forward to an ever-increasing return to jury trials, in-person appearances, and face-to-face meetings with clients.

MCB represents more than half of New York's major medical centers across the entire state.

110

YEARS IN BUSINESS

80+

ATTORNEYS

6

TRI-STATE LOCATIONS

100+

NURSING HOMES
REPRESENTED

25+

INSURANCE CARRIERS
REPRESENTED

40+

HOSPITALS AND ACADEMIC
MEDICAL CENTERS REPRESENTED

MCB WAS DESIGNATED BY
U.S. NEWS - BEST LAWYERS®
"BEST LAW FIRMS" IN
2022 AS A TIER 1 FIRM IN
NEW YORK CITY IN THREE
PRACTICE AREAS: MEDICAL
MALPRACTICE LAW,
LEGAL MALPRACTICE LAW,
AND PERSONAL INJURY
LITIGATION

Trials

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Impact of COVID-19

Although COVID-19 clearly had a negative impact on trial proceedings, MCB's attorneys were able to overcome the new challenges and secure several defense verdicts for their clients. When trials first resumed in 2021, attorneys were confronted with a number of changes: everyone socially distanced and masked; jury selection done in a separate room; and jurors being seated *behind* the attorneys (making it impossible for lawyers to observe their reactions to specific testimony and exhibits). These changes in court room dynamics had (and have) the potential to impact the result of a case, and underscore why attorneys are eager for a return to normalcy.

OCTOBER 2021 UNANIMOUS DEFENSE VERDICT IN ALLEGED SURGICAL NEGLIGENCE DURING LABOR CASE

Senior Trial Partner **Bruce G. Habian** obtained a unanimous defense verdict in Kings County Supreme Court before Justice Pamela Fisher. Plaintiff was admitted to the client Hospital at 40 plus weeks gestation for delivery of her second pregnancy; previously, she had undergone a C-section for a breech presentation. She was desirous of a trial of labor for a potential vaginal birth after cesarean. Due to failure to progress in labor and the persistent threat of non-reassuring fetal heart tracings, the defendant OB recommended abandoning the trial of labor. Plaintiff initially refused this advice. The second C-section was complicated by multiple factors ranging from arterial laceration to a very thin lower uterine segment, among others. During the repair process, the defendant obstetrician suspected possible ureter compromise

and recommended an intravenous pyelogram for the first post-operative day. A cystoscopy revealed a 2 cm. blockage of dye in the left ureter and an inability to place a stent. A nephrostomy tube was administered, followed by multiple interventional radiology procedures to release the stenosis of the ureter, which most likely was caused by the emergency repair procedures. Three months later the ureter became patent. Plaintiff proceeded on a claim of surgical negligence, claiming that the persistent labor and fetal heart tracings allowed for an emergency section and the resultant tissue injuries. She also claimed inadequate consent information during the trial of labor. MCB successfully rebutted plaintiff's claims, resulting in a unanimous verdict for our defendant.

NOVEMBER 2021 DEFENSE VERDICT IN HIP REPLACEMENT CASES

Senior Trial Partner **Jeff Lawton** obtained a defense verdict in New York County before Judge Nervo. The case involved a claim that the defendant Orthopedist should not have recommended and performed a hip joint replacement surgery as there was insufficient reasons to do the surgery. A second claim involved plaintiffs claiming that the hip joint prosthesis was retroverted, resulting in the need for 8 further surgeries. The case was tried over two weeks and resulted in a defense verdict.

RESUMING JURY TRIALS DURING THE PANDEMIC INTRODUCED A NUMBER OF CHALLENGES FOR ATTORNEYS AND THEIR CLIENTS. IN SENIOR TRIAL PARTNER JEFF LAWTON'S WORDS, "EVERYTHING WAS UPSIDE DOWN."

MARCH 2022 DEFENSE VERDICT IN GASTROENTEROLOGY CASE

Senior Trial Partner **Michael A. Sonkin** obtained a defense verdict in Kings County with the assistance of Partner **Kate Baxter** and Associate **Ali Claus** in a case involving allegations of a failure to timely diagnose ulcerative colitis with resulting sub-total colectomy and permanent ileostomy. The plaintiff alleged that the defendant's failure to order blood testing in the course of the treatment was negligent, but the jury agreed with the defense that the plaintiff's failure to report that he was colorblind was the primary cause for any claimed delay in the diagnosis of the ulcerative colitis.

MAY 2022 DEFENSE VERDICT IN OB/GYN CASE

Senior Trial Partner **Daniel L. Freidlin** and Associate **Christina Pingaro** obtained a defense verdict in Suffolk County Supreme Court. After her laparoscopic hysterectomy, plaintiff argued that our client failed to properly visualize the ureters intraoperatively, resulting in a ureteral transection and need for a laparotomy to re-implant the ureter. MCB argued that injury to the ureter is a known risk of hysterectomy and that all appropriate surgical steps were taken. The jury returned a defense verdict.

Case Results

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Summary Judgment Motions

Motions for summary judgment can result in dismissal of all or parts of a plaintiff's case if the defense can demonstrate that there is no issue of fact for a jury to decide. Unfortunately, obtaining a complete dismissal in a medical malpractice case is difficult as the plaintiff's lawyer can often defeat the motion by submitting the affirmation of an expert witness that disputes the opinion of the defense expert. Since these motions are difficult to win, clients and lawyers alike often shy away from making them because they are costly and time-consuming. The motion is often considered a failure if it does not result in a final disposition of a case. However, these motions are valuable tools even if they do not result in a dismissal, and thus perhaps it is time to redefine "successful" when it comes to the outcome of these motions.

SUMMARY JUDGMENT MOTION WIN IN HIGH EXPOSURE CERVICAL CANCER CASE

PARTNERS MICHAEL A. SONKIN AND SAMANTHA E. SHAW

New York County – This case involved a patient who underwent a radical hysterectomy following a diagnosis of cervical cancer. The main claims against the physician defendants and hospital included a failure to excise the entire cancerous tumor due to improper placement of clamps, failure to confirm an adequate amount of tissue was submitted to pathology, failure to properly interpret the pathology and failure to recommend adjuvant therapy. We moved for summary judgment on behalf of the hospital and the gynecologic oncologist who performed the subject procedure. We argued that the procedure was properly performed, that the entire cancerous tumor was removed as evidenced by the clear margins, and that adjuvant therapy was not warranted. Following oral argument, the Court issued a favorable defense decision holding that defendants met its prima facie burden demonstrating entitlement to summary judgment and that plaintiff failed to put forth expert opinions to combat the opinions of the defendants' experts.

- **Summary Judgment Motion in Case Alleging Negligent Performance of Orthopedic Surgery** in Westchester County by Partner **Christopher A. Terzian** and Associates **Alexander C. Cooper** and **Ancy Thomas**
- **Summary Judgment Motion in OB/GYN and Radiology Case Alleging Improper Diagnosis of Ectopic Pregnancy** in Queens County by Partners **Rosaleen T. McCrory** and **Anthony C. Chionchio**
- **Summary Judgment Motion in Case Involving an IUD** New York County by Partners **Jeff Lawton** and **Gregory J. Radomisli**
- **Summary Judgment Motion in Ophthalmology Case** in Queens County by Partner **Anthony M. Sola** and Of Counsel **Maureen P. Blazowski**

75+

MOTIONS FOR
SUMMARY JUDGMENTS WON

CASES ACROSS MULTIPLE SPECIALTIES:

CARDIOLOGY
ORTHOPEDICS
CANCER
NURSING HOME
OBSTETRICS
SURGERY
PSYCHIATRIC
PREMISES LIABILITY
NEUROLOGY/STROKE
NEGLIGENCE

SUMMARY JUDGMENT IN WRONGFUL DEATH CLAIM IN CARDIOLOGY CASE

PARTNER ANINA H. MONTE

Queens County – Elderly patient with a new onset of atrial fibrillation was admitted to a codefendant hospital. After a full cardiac work up she was treated for her atrial fibrillation, but experienced post procedure bleeding from the mouth. It was claimed that the client, cardiologist, should have stopped her anticoagulation in the overnight hours despite the increased risk of stroke and that the failure to do so led to her subsequent bleeding and respiratory arrest. Motions for summary judgment were made and the Court dismissed the claims against the treating cardiologist/client.

Case Results

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SUMMARY JUDGMENT WIN ON BEHALF OF LEADING NEW YORK HOSPITAL AND STAFF IN ACTION INVOLVING ALLEGATION OF FAILURE TO DIAGNOSE BREAST CANCER

PARTNERS WILLIAM BRADY AND GREGORY RADOMISLI

New York County – We obtained a summary judgment dismissal on behalf of our clients, a leading New York Hospital and its staff, in Supreme Court, New York County. Plaintiff, a then 32-year-old female, alleged that she should have undergone, inter alia, an ultrasound and mammography to diagnose breast cancer when she presented to the emergency department of a leading New York emergency room with the chief complaint of a lump in her left breast for six months. The hospital staff informed the plaintiff that she required an outpatient ultrasound and mammogram and instructed her to follow up with an outside Breast Clinic. The plaintiff delayed seeking outside care, and eventually was diagnosed with breast cancer a year later. However, after having been diagnosed with breast cancer, she further delayed seeking treatment for another 18 months.

Immediately following oral argument, Justice Eileen Rakower ruled in favor of all of the defendants in this matter. She granted summary judgment and dismissed the case in regard to all of our own defendants, as well as the two co-defendants, the attending physician and the physicians' assistant who also treated the plaintiff. This was important as due to the nature of this alleged malpractice having occurred in an emergency department, the Hospital could have been held to be vicariously liable for these co-defendants under *Mduba*.

- **Summary Judgment Motion in Orthopedic Surgery/Post-Op Infection Case** in Nassau County by Partner Anina Monte
- **Summary Judgment Motion in Cardiology Case Alleging Lack of Informed Consent** in New York County by Partners Thomas A. Mobilia and Yuko A. Nakahara
- **Summary Judgment Motion in Orthopedics Case Alleging Improperly Performed Knee Surgery** in Bronx County by Partners Christopher Terzian and Michael Bastone
- **Summary Judgment Motion on Behalf of Our Client Hospital in Case Alleging Wrongful Death** in Kings County Supreme Court by Partners Peter T. Crean and Emma B. Glazer
- **Summary Judgment Motion in Obstetrics and Gynecology Case Alleging Negligence** in Suffolk County by Partner Daniel L. Freidlin
- **Summary Judgment Motion in Gastroenterology Case** in Kings County by Partners Kenneth R. Larywon and Charles S. Schechter

SUMMARY JUDGMENT IN OBSTETRICS AND GYNECOLOGY CASE

PARTNER DANIEL L. FREIDLIN

Suffolk County – This case involved a young woman under the care of our client obstetrician and his group. The patient had a prior history of two Cesarean sections and ultrasound detected placenta previa. She was scheduled for a repeat Cesarean section. A placenta accreta was detected during the delivery and the patient sustained a massive hemorrhage that could not be controlled. The claim against our client obstetrician was a failure to refer decedent to a maternal fetal medicine specialist and delivery at a tertiary facility. We argued that the pre-surgical planning was appropriate and the responsibility of the delivering obstetrician. The court granted our motion for summary judgment.

SUMMARY JUDGMENT GRANTED IN PHYSICAL THERAPY CASE

PARTNERS CHRISTOPHER A. TERZIAN AND MICHAEL F. BASTONE

Bronx County – Alleged failure to supervise physical therapist by our client doctors causing improper physical therapy and alleged sexual misconduct by physical therapist. MCB moved for summary judgment, and summary judgment was affirmed on appeal.

Case Results

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SUMMARY JUDGMENT IN POSTOPERATIVE STROKE CASE

PARTNERS PETER T. CREAN AND EMMA B. GLAZER, AND ASSOCIATE ALEXANDER C. COOPER

Bronx County – This case involved a man, who underwent a partial right nephrectomy for a renal mass and on postoperative day two, he sustained mild left-sided weakness. Notably, plaintiff did not report his symptoms to the defendants for approximately eight hours because he “did not want to bother anyone.” The stroke team was called, but plaintiff was not eligible for stroke treatment because he was within 48-hours of major surgery.

Plaintiff claimed that the defendants failed to timely diagnose stroke. Defendants moved for summary judgment and annexed Expert Affirmations from a neurologist and urologist. Both experts opined that the standard of care was met and the delay in diagnosis of stroke was due to plaintiff’s own failure to report his symptoms. Moreover, even if he did report the symptoms immediately, he was not eligible for treatment because of the temporal proximity to surgery. After review of opposition and oral argument, the Court held that plaintiff’s neurology expert did not have adequate qualifications to opine on our urologist’s treatment and had failed to address the fact that the patient was never eligible for stroke treatment. Because plaintiff failed to raise a triable issue of fact, the Court dismissed the case in its entirety.

SUMMARY JUDGMENT GRANTED IN CASE ALLEGING FAILURE TO DIAGNOSE RECURRENCE OF OVARIAN CANCER

SENIOR TRIAL PARTNER JEFF LAWTON, OF COUNSEL MICHAEL C. CLARKE, AND ASSOCIATE EVAN R. SCHNITTMAN

Monroe County – Plaintiff claimed that our GYN oncologist client failed to order surveillance after removing a borderline non-invasive mucinous tumor from the right ovary. We moved for summary judgment and argued that surveillance was not required by the standard of care in the patient’s case. In response to our motion for summary judgment, plaintiff’s counsel agreed to discontinue the claims against our client with prejudice. The matter remains against the co-defendant OB/GYN.

- **Summary Judgment Motion in Medical Malpractice Action** in New York County by Partner Jeff Lawton and Associate Brian S. Kim
- **Summary Judgment Motion in Case Involving Claims of Direct Negligence Against Hospital Client** in Queens County by Partners Thomas A. Mobilia and Karen B. Corbett and Associate Michael A. DeRosa
- **Summary Judgment Motion in Colorectal Surgery Case** in Nassau County by Partner Matthew M. Frank
- **Summary Judgment Motion in Vascular Surgery Case** in Westchester County by Partner Michael F. Bastone

SUMMARY JUDGMENT WIN IN PSYCHOLOGY/SUICIDE FEDERAL CASE

PARTNERS MICHAEL A. SONKIN AND AMY E. KORN

Federal Court, Southern District – This case involved the suicide of a physician with a long history of depression and post-traumatic stress disorder who was treating with our client for Ketamine infusions. The claims were a failure to perform a careful examination of the patient to determine whether there was an imminent threat of harm; failure to contact the authorities of the patient’s prior ideation; and a failure to communicate with the patient’s treating psychiatrist and coordinate care, despite the patient’s explicit prohibition on communication.

All of the above was claimed to have resulted in the patient’s suicide. The Court agreed with the MCB’s position that our client doctor appropriately determined that there was no imminent threat of harm present per the defendant’s examination of the patient to violate HIPAA and contact the authorities or communicate with the patient’s psychiatrist. The Court found no issue of fact existed and that summary judgment was warranted on behalf of our client.

Case Results

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SUMMARY JUDGMENT IN NEUROLOGY CASE

PARTNERS WILLIAM P. BRADY AND BARBARA D. GOLDBERG, AND ASSOCIATE GABRIELLE F. MURRAY

Monroe County – MCB obtained a dismissal on a summary judgment motion, or in the alternative, for a frye hearing in a case involving a plaintiff with Guillain-Barré syndrome (GBS). The plaintiff alleged that our client doctor delayed the diagnosis and treatment by 24-36 hours. The Court found that our client doctor established that earlier diagnosis and treatment would not have changed the outcome. It was noted that plaintiff's neurology expert disagreed and opined that the delay resulted in a substantial contribution to plaintiff's injuries.

The Court wrote that while conflicting expert opinions normally result in credibility determination to be decided at trial, in this case plaintiffs' expert failed to support his conclusions through competent medical literature. Further, the Judge concluded that although Courts have allowed issues of causation to be determined by a jury even where an expert cannot quantify the extent to which a defendant's conduct diminished the chances of a better outcome, those cases involve theories or opinions, unlike here, where the defendant's opinion was supported by the medical literature. Accordingly, our motion for summary judgment was granted and the case dismissed, as plaintiff's neurology expert failed to raise triable issues of fact in response to the motion. Plaintiff appealed the Order granting summary judgment in favor of all defendants to the Appellate Division, Fourth Department. Following oral argument, the Order so appealed was affirmed and the case was accordingly dismissed.

- **Summary Judgment Motion in Case of Alleged Negligent Performance of a Laparoscopic Cholecystectomy** in New York County by Partners Jeff Lawton, Kathryn R. Baxter and Associate Alexandra E. Claus
- **Summary Judgment Motion in Case Alleging Wrongful Death** in Westchester County by Partner John J. Barbera and Of Counsel Frederick P. Mosé
- **Summary Judgment Motion in Case Alleging Failure to Timely Diagnose and Treat** in Westchester County by Partners Michael F. Bastone and Michael B. Manning
- **Summary Judgment Motion in Obstetrics and Gynecology Case Alleging Negligence** in Queens County by Partners Anthony M. Sola and Amy E. Korn
- **Summary Judgment Motion in Gross Negligence Case** in Nassau County by Partner Rosaleen T. McCrory and Of Counsel Maureen P. Blazowski
- **Summary Judgment Motion in Spinal Surgery Case** in New York County by Partners Anthony M. Sola and Amy E. Korn, and Associate Alexandra E. Claus

SUMMARY JUDGMENT MOTION IN PREMISES LIABILITY CASE

PARTNERS JACQUELINE D. BERGER AND GREGORY A. CASCINO, AND ASSOCIATE MICHAEL A. DEROSA

Queens County – MCB was successful in obtaining dismissal of the Complaint in a slip and fall case at a Hospital. In this case, plaintiff claims she slipped and fell in front of the nursing station of our Hospital's Chemical Dependency Unit. We moved for summary judgment dismissal on the basis that the Hospital did not cause the condition, and had no actual or constructive notice of the condition. The court granted our motion in its entirety and held that Defendant established our prima facie case of entitlement to summary judgment sufficient to eliminate any issues of fact in the case that the Hospital had neither created, nor had notice of the alleged dangerous condition at the time of the incident.

SUMMARY JUDGMENT WIN IN UROLOGY CASE

PARTNERS PETER T. CREAN, EMMA B. GLAZER, KATHRYN R. BAXTER AND ASSOCIATE GABRIELLE F. MURRAY

Westchester County – MCB obtained summary judgment on behalf of our client, a urologic surgeon, whose plaintiff alleged failed to remove a tumor from the kidney during a partial nephrectomy. MCB moved for summary judgment with the support of a urologic expert. The Court found that plaintiff failed to meet their burden on opposition and granted summary judgment, dismissing this case in its entirety.

Case Results

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SUMMARY JUDGMENT IN CASE INVOLVING OTOLARYNGOLOGY/ANESTHESIOLOGY

PARTNERS MICHAEL A. SONKIN AND BARBARA D. GOLDBERG

Bronx County – The affirmance of a summary judgment dismissal was obtained on behalf of our clients, a prestigious New York hospital and its attendings, an otolaryngologist and an anesthesiologist. The dismissal, which was ordered by the Supreme Court, Bronx County, was affirmed on appeal by the Appellate Division, First Department. Plaintiff, then 80 years old, alleged that following the insertion and stabilization of a laryngoscope, in connection with a biopsy of a suspicious mass on her vocal cords, she sustained multiple fractured teeth and a jaw fracture. The plaintiff moved for partial summary judgment under the doctrine of *res ipsa loquitur*, arguing that her injuries could not have occurred in the absence of negligence, while we moved for summary judgment and opposed plaintiff's motion using affirmations from three experts, who were board certified in otolaryngology, anesthesiology and oral surgery. These experts established that the injury which occurred, while extremely rare, was a recognized and accepted risk of the procedure which could occur in the absence of a departure from accepted practice.

Justice George Silver found that the plaintiff's failure to submit an expert affidavit in support of her *res ipsa loquitur* theory was in and of itself fatal to her position, given the medical complexities of the case. Justice Silver essentially adopted our argument that due to the complex medical procedure used, and the subsequent injuries sustained, the opinion of an expert was required, and not an affidavit from the plaintiff's attorney, to opine that the plaintiff's injury could not have been sustained absent negligence. The Appellate Division, First Department, upheld Justice Silver's ruling, finding that the plaintiff failed to adduce sufficient evidence in opposition, in that submitting an attorney affidavit, and not one from an expert, was insufficient to rebut defendants' experts. As a result, the dismissal of the action as to all of our clients was upheld.

SUMMARY JUDGMENT GRANTED IN CASE INVOLVING BREACH OF CONFIDENTIALITY

PARTNERS MICHAEL A. SONKIN AND GREGORY J. RADOMISLI

New York County – Plaintiff brought six causes of action against the defendants, seeking punitive damages, and alleging negligence per se for alleged violations of HIPAA, CPLR 4504(a), Education Law 6509(a) and 8 NYCRR 60.1(d)(3). Plaintiff also alleged breach of confidentiality and a cause of action for negligent disclosure of private facts. Plaintiff's allegations arose out of the claim that defendants allowed her medical records to be placed in a box on a sidewalk, which was then discovered by a news organization. The Court denied plaintiff's motion for summary judgment on all causes of action, and granted our cross-motion to dismiss the claim for punitive damages, as well the causes of action for negligence per se for alleged violations of HIPAA, CPLR 4504(a), Education Law 6509(a) and 8 NYCRR 60.1(d)(3).

- **Summary Judgment Motion Affirmed by Appellate Division, Second Department in Orthopedics Case** by Partner Anina H. Monte
- **Summary Judgment Motion in Hematology Case Alleging Failure to Timely Diagnose** in New York County by Partners Peter T. Crean, Gregory J. Radomisli and Associate Alexander C. Cooper
- **Summary Judgment Motion in Diagnostic Radiology Case Alleging Misdiagnosis** in Nassau County by Partner Thomas A. Mobilia and Maureen P. Blazowski
- **Summary Judgment Motion in Orthopedics/Infectious Disease Case** in Queens County by Partners John J. Barbera and Jacqueline D. Berger, and Associate Timothy J. Marsh

Case Results

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APPELLATE DIVISION, SECOND DEPARTMENT, AFFIRMS GRANTING OF SUMMARY JUDGMENT IN CASE ALLEGING A FAILURE TO DIAGNOSE A STROKE

PARTNERS KENNETH R. LARYWON, GREGORY A. CASCINO AND KAREN B. CORBETT

Queens County – MCB attorneys obtained a previous summary judgment on behalf of our hospital client and one of its emergency department attending physicians, which has now been affirmed by the Second Department. Plaintiff alleged that MCB's clients failed to diagnose her with an ischemic stroke and administer thrombolytic therapies, including tissue plasminogen activator ("TPA"). In the emergency room, Plaintiff reported "feeling dizzy" and fatigued since she woke up that morning, however, when she presented to the hospital over 16 hours later, she did not have slurred speech, facial asymmetry or one sided weakness. After being worked up, the patient was diagnosed with and treated for anxiety and vertigo, before being discharged. The following afternoon she began to display right-sided weakness and slurred speech, and a CT performed at another hospital revealed an ischemic stroke. Plaintiff claimed that a doctor at this second hospital told her that "whatever symptoms she had the day before, that's more or less when [she] had the stroke".

MCB moved for summary judgment, submitting an affirmation from an emergency medicine expert who explained that "general fatigue and dizziness, in the absence of any other signs of stroke, are not strongly suggestive of stroke". Moreover, even if Plaintiff had been diagnosed with a stroke at our hospital her outcome would have been the same because she presented more than 16 hours after the onset of her symptoms. Thus, not only was she outside the window to administer TPA, but administering thrombolytics under these circumstances could have induced brain hemorrhage or even death. In opposition, Plaintiff's expert opined that she was not actually having a stroke at the time of her presentation to our hospital but was instead having a transient ischemic event ("TIA") and should have been administered anticoagulants. Plaintiff's expert also opined that she suffered the stroke at some point between her discharge from our hospital and presentation to a different hospital the following day. The Queens County Supreme Court granted our mo-

tion and dismissed Plaintiff's claims, and Plaintiff appealed.

This dismissal was affirmed by the Second Department. In a lengthy, detailed decision, a 3-Justice majority of that Court found that when viewed against Plaintiff's specific allegations of malpractice, our expert established that the failure to administer TPA at our hospital was not a departure from accepted standards of care and could not be a proximate cause of Plaintiff's injuries, since such therapy could not have been safely administered at the time of her presentation. The Majority further found that Plaintiff failed to raise a triable issue of fact, because her expert failed to support the theories of liability alleged in her pleadings regarding the alleged failure to diagnose a stroke or to administer TPA. Rather, Plaintiff's expert advanced an entirely new theory of liability for the first time in opposition to the motion. Since this is procedurally improper, the Majority refused to consider this and held that the Supreme Court properly dismissed Plaintiff's claims.

SUMMARY JUDGMENT GRANTED IN PRESSURE WOUNDS CASE FOR NYC HEALTH SYSTEM

PARTNER LAURIE A. ANNUNZIATO AND ASSOCIATE AMY E. KORN

Kings County – Summary judgment was granted by Judge Spodek in Supreme Court, Kings County. This case involved claims of improper treatment resulting in the development of severe pressure-related wounds in an 87-year-old male with stage IV bladder cancer which had metastasized to the lungs. We argued, in part, that plaintiff's expert was not qualified to render an opinion on the development and management of pressure wounds. Judge Spodek agreed and found that the plaintiff failed to rebut MCB's prima facie showing that defendant Hospital did not depart from the standard of care.

Case Results

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SUMMARY JUDGMENT IN CASE INVOLVING THE DEVELOPMENT OF DECUBITUS ULCERS AND SEPSIS

PARTNERS ROSALEEN T. MCCRORY, DANIEL L. FREIDLIN AND ASSOCIATE CHRISTIAN MCCARTHY

Nassau County – Summary judgment was obtained on behalf of our client nursing facility in a matter involving the development of decubitus ulcers and sepsis in the then 91-year-old decedent, who received home care nursing services over a seven-month period.

In our summary judgment motion, we argued the records demonstrated that our client's care began after the ulcers developed thereby refuting the plaintiff's claim that our client failed to timely diagnose the decubitus ulcers. Moreover, we asserted that non-party physicians established the plan of treatment and wound care directives and defendant's staff merely following physician directives. As our client did not implement the plan of care and the evidence clearly showed defendant staff followed the physician's orders, we asserted that there was no merit to any claims that our client failed to timely and properly treat the decedent's pressure ulcers.

Based on the strength of our arguments, plaintiff was unable to submit credible opposition. The Court granted our summary judgment motion in its entirety, and agreed with our above outlined positions, finding that there were no departures on behalf of our client and that the care rendered was not a proximate cause of any of the alleged injuries.

SUMMARY JUDGMENT IN RADIOLOGY CASE

PARTNERS JOHN J. BARBERA AND MICHAEL F. BASTONE

New York County – Summary judgment was obtained on behalf of our client cardiologist in a matter pending in New York County. The cardiologist performed a complete work-up of the patient, which included a stress test and CTA – both of which were concerning for significant coronary artery disease. With this, the patient was promptly referred to the hospital to be further evaluated and treated by an interventional cardiologist via diagnostic angiogram, and possibly, stenting. The patient presented to the hospital as recommended, underwent the angiogram and was found to have a 95% blockage of his LAD. Stenting was then pursued – however, the procedure was aborted due to a stroke.

In its decision and order granting summary judgment, the Court held that the care and treatment rendered by our client cardiologist was appropriate, and did not, in any way, cause the patient's injuries. On the issue of informed consent, the Court further held that as the referring physician who was not involved in the procedure, our client did not have a duty relative to informed consent. All claims against our client were dismissed.

SUMMARY JUDGMENT IN RADIOLOGY CASE

PARTNERS JOHN J. BARBERA AND MICHAEL F. BASTONE

Westchester County – Summary judgment was obtained on behalf of our client doctor and his PC. The case was pursuant to the newly enacted Laverne's Law extending the statute of limitations. Plaintiff was a 34-year-old woman who presented to co-defendant hospital with complaints of non-specific abdominal pain. A CT of the abdomen and pelvis was performed and interpreted by our client Radiologist, who was identified and described thickening in the colon suspicious for colitis, but recommended the ordering physician correlate the findings with the clinical presentation. The patient was discharged from the ED. The plaintiff was treated by co-defendants over the ensuing 2 and ½ years before she was diagnosed with colon cancer by colonoscopy.

In its decision and order granting summary judgment, the Court held that defendants demonstrated that the CT scan was properly interpreted by the doctor and that the doctor properly relayed his findings via his report. The Court further held that our client doctor discharged his limited duty as a consulting radiologist to interpret the images, and that our client doctor was not required to recommend further imaging, testing, or treatment. Finally, the Court held that the opposing expert affirmation in opposition provided only speculative and conclusory allegations that our client doctor failed to properly describe their findings, and that this was insufficient to defeat summary judgment.

Case Results

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Dismissals, Discontinuances & Other Favorable Dispositions

DISMISSAL ON BEHALF OF CLIENT ONCOLOGIST

PARTNERS MICHAEL A. SONKIN AND GREGORY J. RADOMISLI

Kings County – We obtained a case dismissal on behalf of our client doctor in Supreme Court, Kings County involving boilerplate allegations that our client negligently failed to diagnose and treat the decedent, resulting in the development of Stevens-Johnson syndrome. Furthermore, plaintiff alleged that defendants negligently permitted the use of a contaminated chemotherapy port and other equipment, which contributed to the development of Stevens-Johnson syndrome. On September 3, 2016, the decedent succumbed to her untreatable Stage IV breast cancer after she stopped treatment and was admitted to hospice. On July 8, 2019, plaintiff served a Summons with Notice and on July 30, 2019, MCB filed a Notice of Appearance and served a Demand for a Complaint. After plaintiff's application for an extension of time to serve a Complaint was granted, plaintiff had until September 23, 2019 to serve a Complaint, but failed to do so and shortly thereafter we moved to dismiss this action pursuant to CPLR 3012(b).

Plaintiff opposed our motion, and cross-moved for relief and/or default judgment against our client and argued that the Notice could serve as a Complaint because it was relatively detailed and plaintiff claimed that even if the Court were to find that the Notice could not serve as a Complaint, he had an extension of time to respond to our Demand because of the Governor's Executive Orders related to COVID-19. The Court granted our motion, and dismissed this case and held that although plaintiff established a reasonable excuse for the delay in serving a Complaint, plaintiff did not submit an affidavit by a medical expert attesting to the potential merit of this action, and therefore failed to demonstrate that he was entitled to an extension of time to serve the Complaint. Co-defendant served an Answer to the Summons with Notice and is therefore still in the case.

DISCONTINUANCE IN RADIOLOGY CASE INVOLVING INFANT DEATH

PARTNERS THOMAS A. MOBILIA AND CHRISTOPHER A. TERZIAN

Westchester County – Plaintiff alleged failure of our client radiologist to diagnose sickle-cell disease on x-ray. We convinced plaintiff's counsel her involvement was not a proximate cause of the delayed diagnosis and infant plaintiff's death.

WINNING A TRIAL ISN'T THE ONLY WAY TO BENEFIT A CLIENT. SUCCESSFULLY GETTING A DISMISSAL, DISCONTINUANCE OR FAVORABLE SETTLEMENT IS JUST AS VALUABLE STRATEGICALLY — EVEN MORE SO CONSIDERING THE TIME, STRESS, AND EXPENSE THAT OUR CLIENTS ARE SPARED BY NOT GOING TO TRIAL.

DISCONTINUANCE IN BRAIN DAMAGE CASE

PARTNER MICHAEL B. MANNING

Westchester County – This matter involved allegations that the defendants failed to timely diagnose and treat the infant-plaintiff's meningitis, resulting in brain damage. We were able to obtain a Stipulation of Discontinuance with Prejudice as to our client, Dr. Pinto, only. The Stipulation was executed by all parties and So Ordered by Judge Lubell.

DISCONTINUANCE IN OB/GYN CASE

PARTNER DANIEL L. FREIDLIN AND ASSOCIATE KERONA K. SAMUELS

Queens County – Plaintiff alleged a failure to properly close the wound resulting in a herniation of the small bowel through the peritoneal wall. The plaintiff developed a bowel obstruction requiring a bowel resection. We argued that the hospital staff at all times followed the orders of the attending surgeon and that the bowel obstruction was timely diagnosed. In response to our motion for summary judgment, plaintiff discontinued the case against our client hospital.

Case Results

Experience. Responsiveness. *Results.*

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF CIVIL RIGHTS INVESTIGATION IN DENTAL CASE

PARTNER THOMAS J. KROCZYNSKI

Federal Investigation – A former patient filed a Complaint with the U.S. Department of Health and Human Services Office of Civil Rights alleging HIPAA violations because the Dentist allegedly did not timely provide the patient with a copy of her dental records and because the records allegedly had inaccurate information. The same patient previously filed a Complaint with the New York State Department of Health for the same HIPAA violations, the DOH investigated that Complaint and then closed their investigation after determining the patient was provided with her records. The same patient previously filed a Small Claims Court lawsuit against the Dentist for a refund of a deposit.

The attorney assigned to the investigation at the U.S. Department of Health and Human Services Office of Civil Rights was contacted and was provided with a copy of the Small Claims Court Summons & Complaint and a copy of the letter from NYS DOH in which it was documented that they confirmed the patient had received her records from the Dentist and they were closing their investigation. It was explained to the attorney that the patient was likely trying to use governmental agencies to have changes made to her dental records to obtain an advantageous position in the Small Claims Court case. After confirming with the patient that she had received all of her dental records, the U.S. Department of Health and Human Services Office of Civil Rights closed their investigation and sent a letter to that effect.

DISCONTINUANCE IN KNEE REPLACEMENT CASE

PARTNER MICHAEL F. MADDEN

Westchester County – This case involved an 84-year-old female, who was admitted to our client hospital and underwent a left total knee replacement, performed by a co-defendant surgeon. It was alleged that as a result of the surgery and follow-up in the hospital post-surgery that plaintiff's left patella was left too high, resulting in patella alta. She was discharged to a co-defendant nursing home and then to another one. Multiple conversations and discussions with plaintiff's counsel were had with regard to his continued failure to provide a proper Bill of Particulars to the hospital, and our attorney was able to convince him that the hospital had minimal exposure and that hospital personnel followed the co-defendant's recommendation for the performance by plaintiff of physical therapy post-operatively.

■ **Dismissal in Radiology Case** in Queens County by Partners Charles S. Schechter, Karen B. Corbett and Gregory A. Cascino

■ **Discontinuance in Failure to Diagnose Case** in Kings County by Partners Rosaleen T. McCrory and Elizabeth J. Sandonato

■ **Favorable Premises Liability Settlement** in Rockland County by Partners John J. Barbera and Michael B. Manning, and Associate Ancy Thomas

■ **Pre Answer Motion to Dismiss** in New York County by Partner Matthew M. Frank and Associate Gatluak B. Ramdiet

■ **Discontinuance in Orthopedic Matter** in Kings County by Partners Michael A. Sonkin and Amy E. Korn

■ **Dismissal in NYS Justice Center Investigation** by Partner Charles S. Schechter

■ **Dismissal of Justice Center Investigation** by Partner Charles S. Schechter, Of Counsel Michael C. Clarke, and Associate Gabrielle F. Murray

■ **Low Settlement in Geriatrics Case** in Nassau County by Partner Daniel L. Freidlin

■ **Dismissal in Bankruptcy Case** in Southern District New York by Partners Kenneth R. Larywon and Gregory J. Radomisli

■ **Dismissal Affirmed by Appellate Division, First Department in Cardiothoracic Surgery Case** in New York County by Partners Peter T. Crean, Barbara D. Goldberg, Kathryn R. Baxter and Associate Alexander C. Cooper

■ **Favorable Settlement on Behalf of Rehab Center** in Wayne County by Partners John J. Barbera and Michael B. Manning

Practices

As needs continue to arise, our practice areas continue to grow.

Health Care Law

MCB is currently handling over 60 active health care and regulatory matters, including Office of Professional Discipline (OPD) and Office of Professional Medical Conduct (OPMC) interviews and investigations. Of our recently closed matters, an impressive 90% have been closed without disciplinary action, with the remaining matters involving a negotiated agreement.

Appellate

The Firm has a team of dedicated specialists who are skilled in the art of appellate advocacy in both state and federal courts. These elite appeals attorneys have worked extensively across all of the practice areas for which the firm is known.

As appellate advocates, this team has particular expertise in legal research, persuasive writing and cogent oral argument. Their zealous advocacy and innovative, cutting-edge work has helped shape the laws of this State. In 2021, our Appellate team handled 60 active matters and produced 12 favorable results for our clients.

COVID-19 LEGAL SERVICES – Our newest practice group has been scrutinizing all of the potential legal issues that our clients may face during and after this pandemic.

DENTAL MALPRACTICE – MCB has been a proven leader in the defense of dentists, orthodontists, and all other related professionals in this field for the last century.

ELECTRONIC DISCOVERY – Our attorneys assist clients in the most cost-effective way to manage discovery, from preservation through production.

GENERAL LIABILITY – MCB has several skilled attorneys who are experts in all facets of general liability law and have access to superior medical experts.

LABOR & EMPLOYMENT – Our attorneys help clients to navigate constantly changing laws and regulations to assess and mitigate risk and avoid litigation whenever possible.

MEDICAL MALPRACTICE – Brimming with talent and expertise that has been the model of the industry for more than 100 years, MCB has earned its reputation as the premier medical malpractice defense firm across tri-state area.

PODIATRIC MALPRACTICE – Our attorneys use their premier legal skills and medical knowledge to ensure the best possible resolution of claims against their podiatrist clients.

PRODUCT LIABILITY – Our attorneys have decades of experience defending against allegations involving design defects, manufacturing defects, and defects in marketing.

PROFESSIONAL LIABILITY – The Firm has defended nationally recognized law firms, Big Four accounting firms, and high-profile individuals against a wide variety of claims.

PROFESSIONAL DISCIPLINE & LICENSING – MCB has extensive experience representing health care professionals in connection with OPM and COPD investigations.

13

PRACTICE AREAS & GROWING

WHILE OUR FIRM ENJOYS THE DISTINCTION OF BEING THE OLDEST AND LARGEST MEDICAL DEFENSE FIRM IN NEW YORK, OUR PRACTICE AREAS HAVE GROWN SIGNIFICANTLY OVER THE DECADES TO INCLUDE COVID-19, PROFESSIONAL DISCIPLINE & LICENSING, LABOR & EMPLOYMENT AND MORE.

Nursing Home, Home Care & Other Allied Health Services

In 2021, MCB saw a growth in our Nursing Home practice group with close to 10% of new cases in 2021 being related to the defense of nursing homes, home care and allied health professionals. Nursing home law is a very specific practice area requiring comprehensive knowledge of pertinent governmental laws and regulations; medical and nursing issues in nursing home environments; insurance company operations; and risk management protocols. The seasoned nursing home and aging services defense attorneys at MCB are well-prepared to aggressively defend their clients in this arena. Our 100+ clients in this area include nursing homes, skilled nursing facilities, assisted living facilities, continuing care retirement communities, board and long-term care homes, home care agencies and hospice care facilities.

Our People

Depth of experience and stability set us apart from the rest.

Congratulations to Our Newest Partners

MCB is pleased to announce the promotion of six talented attorneys to our team of partners, effective January 1, 2022. Each has demonstrated outstanding legal skill and dedication to his or her clients. We appreciate their contribution to the success of our Firm, and congratulate them on this well-deserved professional achievement.



KATHRYN R. BAXTER » [bio](#)



GREGORY A. CASCINO » [bio](#)



JASON F. KAUFMAN » [bio](#)



AMY E. KORN » [bio](#)



MICHAEL B. MANNING » [bio](#)



ANINA H. MONTE » [bio](#)

Our People

Depth of experience and stability set us apart from the rest.

A Welcome to Our Newest Attorneys

Martin Clearwater & Bell LLP has continued to expand its team of talented attorneys. Over the past year, MCB has actively recruited a new class of counselors, collectively bringing decades of valuable litigation experience to the Firm's practice. These new team members, along with Martin Clearwater & Bell LLP's entire legal staff, will guarantee our ability to sustain continued excellence in the provision of professional legal services well into the Firm's second century.



JEFFREY E. BONDOC
» [bio](#)



VICTORIA DEMARCO
» [bio](#)



TIMOTHY M. GALLAGHER
» [bio](#)



PAULA V. GONZALEZ
» [bio](#)



KRISTEN E. GRIFFIN
» [bio](#)



MATTHEW G. LA SORSA
» [bio](#)



TIMOTHY J. MARSH
» [bio](#)



KENNETH J. MASTELLONE
» [bio](#)



VICTORIA L. MOSCA
» [bio](#)



TYLER J. MULVANEY
» [bio](#)



CHRISTINA T. PINGARO
» [bio](#)



EDMUND T. RAKOWSKI
» [bio](#)



GATLUAK B. RAMDIET
» [bio](#)



LAURA A. RUSSELL
» [bio](#)



ALLISON N. SMALLEY
» [bio](#)

Client Service & Education

Building strong client relationships via legal counsel & education.

Responsiveness is a Cornerstone of How We Operate

At Martin Clearwater & Bell LLP (MCB), we strive to build strong and lasting relationships with our clients by developing a deep understanding of their business operations, anticipating their legal needs and providing advice and counsel—or aggressive representation—when needed.

CLIENT COMMUNICATION

Responsiveness is a cornerstone of how we operate, not only while helping clients navigate legal challenges and avoid lawsuit exposure, but also in terms of keeping clients informed and educated about industry trends and risk management protocols. We continually monitor changes to all pertinent laws and regulations so that we may quickly provide clients with the latest news affecting their businesses and livelihoods.

MCB conducts an early evaluation of legal cases to provide the client with an estimate of potential monetary exposure and defense-related costs. Where warranted, the Firm will explore early settlement, including alternative dispute resolution, to minimize both exposure and defense costs. Because MCB considers preventive law and litigation avoidance integral parts of its clients' legal strategy, the Firm's attorneys work closely with their clients to analyze, develop and review policies and procedures with the goal of reducing risk and thereby avoiding the potential for legal disputes.

BECAUSE MCB CONSIDERS PREVENTIVE LAW AND LITIGATION AVOIDANCE INTEGRAL PARTS OF ITS CLIENTS' LEGAL STRATEGY, THE FIRM'S ATTORNEYS WORK CLOSELY WITH THEIR CLIENTS TO ANALYZE, DEVELOP AND REVIEW POLICIES AND PROCEDURES WITH THE GOAL OF REDUCING RISK AND THEREBY AVOIDING THE POTENTIAL FOR LEGAL DISPUTES.

CLIENT-BASED DEPARTMENTS

The Firm generally assigns cases to a senior partner, one or more associates and a paralegal. The basis of Martin Clearwater & Bell LLP's case management structure is client-based departments. A specific group of attorneys, including partners and associates of various levels, is assigned to each department. Depending on the case and the needs of the client, the partners and associates share the responsibilities of discovery and trial preparation in the most efficient manner. The senior partner is involved in all aspects of the defense of each case and in the development of the defense strategy from the inception of the case through trial, post-trial and appeal.

PUBLICATIONS & SEMINARS

Martin Clearwater & Bell LLP is committed to providing its clients with up-to-date information. The Firm publishes a quarterly newsletter, *Defense Practice Update*, which features trends and topics of interest. Our practice groups also keep our clients up to date on the latest changes in the law through employment, appellate and healthcare law client updates.

Martin Clearwater & Bell LLP attorneys write featured articles in publications such as the New York Law Journal, MD News, PIAA, Employment & Labor Quarterly, MGMA, and the Legal Manual for New York Physicians. Martin Clearwater & Bell LLP routinely sponsors seminars for professionals in the insurance industry, risk managers and hospital administrators. The Firm is a NY State Continuing Legal Education Accredited Provider which allows us to offer our clients professional continuing legal education credits for these seminars.

Our attorneys are also asked to join expert panels as well as present at risk management programs, hospital Grand Rounds and other events throughout New York, New Jersey and Connecticut.

Diversity & Inclusion

An environment of diversity & inclusion is an environment of strength.

MCB's Commitment to Diversity & Inclusion



MCB DIVERSITY & INCLUSION COMMITTEE

Seated, left to right: Karen Corbett, Yuko Nakahara, Evan Schnittman, Sharon King
Standing, left to right: Brian Kim, Ancy Thomas, Santa Medina, Courtney Scott
Not pictured: Michael Clarke

Martin Clearwater & Bell LLP firmly believes that an environment of diversity and inclusion is an environment of strength. We celebrate the collection of broadly diverse backgrounds and experiences within our walls and the spirit this adds to our collaborative efforts.

First and foremost, MCB is strongly dedicated to fostering professional opportunity and advancement in a safe environment that never discriminates based upon race, ethnicity, religion, personal beliefs, gender, sexual orientation, age, veteran status, or disability.

Creating a welcoming workplace culture involves ongoing employee education, training and collaboration, and this is a key part of our diversity and inclusion efforts. Among other things, MCB provides instruction on critical issues such as discrimination, sexual harassment/inappropriate conduct, and religious accommodation.

Our Diversity & Inclusion Committee was established because creating a diverse and inclusive workplace involves more than just words. At MCB, the pursuit of diversity and inclusion is present in every phase of our business, from hiring and recruitment strategies to promotion decisions and leadership selection.

Fostering the freedom to be oneself isn't just the right thing to do; it allows us to attract and retain the most talented individuals in our field, ensuring a successful future for our Firm and growth opportunities for our employees.

Mansfield Rule Initiative

Martin Clearwater & Bell LLP is pleased to announce its participation in a new program designed to increase diversity in leadership at mid-sized law firms across the country. The program, commonly referred to as "The Mansfield Rule," was initiated in late 2020 and currently has nearly 100 law firms on its roster. Fittingly, the title "Mansfield Rule" is an homage to Arabella Mansfield, the first woman ever admitted to the bar in the United States.

The goal of the Mansfield Rule is to increase the representation of diverse lawyers in leadership by broadening the pool of women, racial/ethnic minority lawyers, lawyers with disabilities, and/or LGBTQ+ lawyers who are considered for entry-level and lateral attorney job openings, leadership opportunities, equity partner promotions, and opportunities to connect with clients. To achieve this goal, a variety of metrics are established by the program – addressing hiring, promotions, and other key areas.

At MCB, we fully embrace the objective of making our Firm a truly inclusive and diverse organization, and our participation in this initiative will help us accelerate realization of all the strengths and advantages that flow from such an environment.

Privacy & Security

In our business, privacy and the security of data are paramount.

Major Investments in Cybersecurity

BY: STEVEN J. SKIDMORE, DIRECTOR OF I.T.

Calendar year 2021 saw an unprecedented number of cyberattacks, changing the cyber landscape drastically. Due to the level of sophistication involved, cyber crooks were able to exploit a number of vulnerabilities within days. No industry, business or individual was exempt, and targeted smaller businesses proved particularly profitable for cyber criminals due to lower-value ransom demands and expedited payments. The pandemic and working remotely certainly fueled the number of attacks, with gangs like DarkSide and REvil worked creatively on developing new hacking techniques with a particular focus on the remote workforce.

Challenges definitely lie ahead for IT security teams in 2022, and staying a step ahead of the criminals will create many sleepless nights. This year is already showing an increase in attacks, trending to surpass last year's numbers with no letup in sight. The uptick in attacks is requiring system defenses to be constantly updated in order to defend against even more attacks. Companies attacked today will likely face "triple-extortion:" ransom payments; private data leaks; and business partner extortion.

The number of attacks is increasing in part due to the transitioning of ransomware into a service subscription model known as Ransomware as a Service (RaaS). Aspiring cyber criminals can now subscribe to internet tools which identify vulnerabilities on a company's network. Once a vulnerability is found, access to that system with how-to in-

WHILE THERE IS NO SILVER BULLET TO PREVENT A CYBERATTACK FROM HAPPENING, THERE ARE SOME BEST PRACTICES BUSINESSES CAN FOLLOW. THESE INCLUDE IMPLEMENTING CYBER-AWARENESS TRAINING PROGRAMS AND MAKING SURE SYSTEM LOGIN CREDENTIALS ARE COMPLEX AND LINKED TO MFA FOR REMOTE ACCESS. NEXT-GENERATION FIREWALLS ARE ALSO A MUST, AND UNUSED TRAFFIC PORT ROUTES MUST BE LOCKED DOWN.

structions are sold to the highest bidder on the dark web. This model will significantly increase the number of bad actors getting into this field due to the fact that skill is longer needed. Amateurs will now be able to launch ransomware attacks on businesses simply by following how-to guides to infiltrate systems, encrypt data, and extort payments using bitcoin.

Just like 2021, the predominant cyberattack categories in 2022 will continue to be malware, phishing emails, and software vulnerabilities. Ransomware, being the most prevalent form of malware, will use a software breach to wreak havoc on a network. For instance, if a user visits an infected website, malware-unknowingly behind the scenes- is downloaded and installed onto their computer. This "drive-by" downloading is cause for concern, because it leads to problems such as file deletion and password theft. Once

comfortably inside the network, sometimes lingering for days or months, the threat actor will activate the malware to deploy ransomware software.

Email phishing attacks were very successful in 2021 and will be the biggest problem for organizations in 2022 due to the number of employees working remotely. This attack vector starts with a simple click of a mouse on a bad link inside of an email. Threat actors are increasing their phishing attempts, relying on poorly trained employees to mistakenly click on a malicious link. "People impersonation" attacks will be at the center of phishing attacks this year. Additionally, be aware of a new email phishing attack called "cash for credentials." Phishing attackers are looking for unhappy employees and offering them money for their system login credentials. Businesses can mitigate this risk by implementing the three authentication protocols known as spf, dmarc and dkim.

While there is no silver bullet to prevent a cyberattack from happening, there are some best practices businesses can follow. These include implementing cyber-awareness training programs and making sure system login credentials are complex and linked to MFA for remote access. Next-generation firewalls are also a must, and unused traffic port routes must be locked down. Finally, the patching of any systems vulnerabilities should be done regularly, by a knowledgeable security team to ensure the patches are applied properly.

Firm Recognition

We credit the efforts of our entire Firm for our many accolades.



American Board
of Trial Advocates

Martindale-Hubbell



AMERICAN COLLEGE OF TRIAL LAWYERS

MCB Senior Partners have been elected to the American College of Trial Lawyers: Peter T. Crean, Bruce G. Habian, and Anthony M. Sola.

AMERICAN BOARD OF TRIAL ADVOCATES (ABOTA)

MCB Partners Sean F. X. Dugan (Past ABOTA President), Rosaleen T. McCrory, Jeff Lawton, and Christopher A. Terzian have been selected to ABOTA.

MARTINDALE HUBBELL® AV PREEMINENT® RATED ATTORNEYS

20 MCB Partners have been selected by their peers and rated based on legal abilities.

2022 BEST LAWYERS®

7 Senior Partners at MCB are recognized in *The Best Lawyers in America*® 2022: Peter T. Crean, Kenneth R. Larywon, Bruce G. Habian, Anthony M. Sola, Sean F.X. Dugan, Michael A. Sonkin and Michael F. Madden.

2022 SUPER LAWYERS

8 MCB Partners were selected to the 2022 New York Super Lawyers list.
4 Partners and 2 Associates were selected to the 2022 New York Rising Stars list.

U.S. NEWS - BEST LAWYERS® "BEST LAW FIRMS"

MCB was designated by *U.S. News - Best Lawyers*® "Best Law Firms" in 2022 as a Tier 1 firm in New York City in three practice areas (Medical Malpractice Law, Legal Malpractice Law, and Personal Injury Litigation).

BEST LAWYERS® "LAWYER OF THE YEAR"

Peter T. Crean was named the Best Lawyers® 2020 Legal Malpractice – Defendants "Lawyer of the Year" in New York; Anthony M. Sola was named the Best Lawyers® 2017 Medical Malpractice – Defendants "Lawyer of the Year" in New York; and Bruce G. Habian was named the Best Lawyers® 2009 and 2013 Legal Malpractice – Defendants "Lawyer of the Year" in New York.

FORTUNE'S TOP RANKED LAW FIRMS

MCB has been recognized in the "Top Ranked Law Firms" feature in *Fortune* magazine.

NEW YORK MAGAZINE'S "NEW YORK LEADERS IN THE LAW"

MCB was featured in "New York Leaders in the Law," published by *New York Magazine*.

BEST LAWYERS® ONES TO WATCH

10 MCB attorneys received 2022 Best Lawyers®: Ones to Watch recognition for Medical Malpractice Law – Defendants.