

Recent Developments in the Law

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In order to keep you abreast of the recent developments in the law, we are reporting the substance of several current decisions of major import in the jurisdictions of Maryland, the District of Columbia, and Virginia.

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MARYLAND COURT OF APPEALS

Breach of Contract - Disclosure of customer information by bank. *Taylor v. NationsBank, N.A.*, 2001 WL 803161 (Md.) Voluntary disclosure by bank of customer's personal information, to a customer known not to be the depositor, constituted a breach of contract and confidentiality at common law.

MARYLAND COURT OF SPECIAL APPEALS

Civil Procedure - Relation back & statute of limitations. *Williams v. Hofmann Balancing Techniques, Ltd. et al.*, 2001 WL 748060 (Md. App.) The naming of a defendant after the statute of limitations has tolled, if the defendant was already a third-party defendant who shared attorneys with other defendants, constitutes a permissible "relation back". This is permissible because the defendant was on notice, and including the party in an amended complaint caused no unfair prejudice.

Contracts - Parole evidence. *The Catholic University of America v. Bragunier Masonry Contractors, Inc.*, 2001 WL 741875 (Md. App.) The university and a general contractor entered into a construction manager agreement for renovations to a gymnasium. Subcontractor brought garnishment proceeding against university for debt owed to general contractor under the construction management agreement. The Court of Special Appeals determined that parole evidence is admissible to demonstrate that a writing that has all of the characteristics of contract is not a valid contract between the parties.

Evidence - Physician's testimony against patient. *Butler-Tulio v. Scroggins*, 2001 WL 727099 (Md. App.) The Court of Special Appeals determined that a physician, treating or otherwise, who was originally contacted by a patient for a medical evaluation and possible treatment, has no fiduciary duty to refuse to give expert medical testimony that is adverse to his patient's legal interests. Maryland does not recognize a physician-patient privilege outside of the mental health field.

Negligence - Duties of insurance broker. *Sadler v. The Loomis Company*, 2001 WL 748063 Insured driver brought suit against broker to recover for negligent failure to provide information about the need for, or cost of additional coverage. The Court of Special Appeals held that the broker owed no duty to render unsolicited advice to the insured regarding the advisability or availability of automobile liability coverage in a greater amount than was selected by insured.

Torts - Negligence of a police dispatcher *Fried v. Archer*, 2001 WL 741989 Mother of a 15 year-old party attendee brought suit against police dispatcher, and others. "Anonymous" partygoers called dispatcher with incorrect information about the location of the attendee. The attendee was unconscious or semiconscious, and apparently was sexually assaulted at the party, and died from hypothermia. The Court of Special Appeals held that the police dispatcher had no special duty to the victim, therefore, could not

be held liable in negligence for not rescuing the victim.

Torts - Applicability of fireman's rule. *State Farm v. Hill*, 2001 WL 741934 Police officers brought suit against uninsured motorist insurers and motorist who was driver in a high-speed chase. The police alleged that the motorist's negligence caused their injuries, and that the motorist intentionally injured the officers. The Court of Special Appeals held that a motorist that intentionally causes harm to a police officer, by driving at a high rate of speed and colliding with the officers' vehicle, did not enjoy the protection of the fireman's rule.

UNITED STATES DISTRICT COURT

Civil Practice - Cost recovery of prevailing party. *Rapoca Energy Co, L.P. v. AMCI Export Co.*, 2001 WL 855896 (W.D. Va.) It is not unreasonable for a prevailing party to recover costs under FRCP 54(d), for expenses associated with flying witnesses on a chartered plane, considering the "unreliability of commercial airline schedules."

UNITED STATES SUPREME COURT

Damages - Constitutionality of punitive damages. *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 121 S.Ct. 1678 (2001). Manufacturer of a hand tool sued competitor for false advertising. The jury awarded \$50,000 in compensatory damages and \$4.5 million in punitive damages. Competitor claimed that punitive damage award was unconstitutional. The Court of Appeals rejected this argument, and affirmed the punitive damage award, reasoning that the district court's refusal to reduce the award was not abuse of discretion. The Supreme Court granted certiorari, and held that the Court of Appeals should apply a de novo standard when reviewing the district court's determination of the constitutionality of the punitive damage award.

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