

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

Torts - Existence of "Special Relationships". *Grimes v. Kennedy Krieger Institute, Inc.* Informed consent agreements in nontherapeutic research projects can constitute contracts. Such research agreements can constitute "special relationships" as a matter of law. Due to these "special relationships", duties exist between the parties. The breach of such duties may give rise to negligence actions. The determination of whether a "special relationship" exists lies with the trier of fact. In the case subjudice, the trial court incorrectly ruled on a motion for summary judgment.

Breach of contract - Implied warranty of merchantability. *Ford Motor Co. v. General Accident Insurance Company, et al.* Proof of a specific product defect is required to maintain a claim for breach of implied warranty of merchantability. Proof of a "particular" use, as opposed to an ordinary use of the product, is required to prove a breach of an implied warranty of fitness for a particular purpose. Seller's knowledge of that particular purpose is also required.

MARYLAND COURT OF SPECIAL APPEALS

Evidence - Summary judgment. *Steven Shipley, et al. v. Marvin Perlberg, et al.* The trial court did not err in granting summary judgment to a corporate director held personally liable for plaintiff's lead-paint related injuries when it refused to consider deposition testimony taken in an unrelated case. The plaintiff failed to offer evidence sufficient to raise a dispute of fact regarding defendant's participation, and defendant offered sufficient evidence to show his lack of participation in the management of the subject property.

Torts - Amendment to Local Government Tort Claims Act. *Baltimore Police Dept., et al. v. Charles Cherkess.* An amendment to the Local Government Tort Claims Act, designating Baltimore Police Dept. as a "local government" did not deprive the department of its common-law state sovereign immunity, except for the limited purposes outlined in the statute, namely defense and indemnification of its officers for tort liability.

Wrongful discharge - Firing of an at-will employee. *Sears, Roebuck and Co., et al. v. Edward Wholey.* A security guard fired because he investigated his boss for suspected theft is not entitled to recover for wrongful discharge. The security guard is an at-will employee, and an at-will employee can be fired for any reason, except for upholding public policy. Public policy did not mandate the investigation of theft.

Negligence - Scope of duty to minor invitees. *Molock v. Dorchester County Family YMCA, Inc.* A charitable organization that sponsored a youth event did not stand in loco parentis' to a boy who was

stabbed to death in the parking lot, where the evidence failed to show that the organization took custody of the boy.

DISTRICT OF COLUMBIA COURT OF APPEALS

Medical malpractice - Expert testimony. *Hawes, et al. v. Chua, et al.* Defense expert's testimony based upon a national standard of care was admissible because the testimony reflected evidence that it was based on a national standard, and was grounded on neither the expert's personal opinion, or mere speculation or conjecture.

Negligence - Slip and fall. *Youssef v. 3636 Corporation.* Tenant of apartment building brought suit against owner and manager to recover for personal injuries she suffered when she slipped and fell outside her apartment on a mat that was partially covered with ice. This case was reversed and remanded, as it presented jury questions as to whether there was a sufficient period of snowfall to provide constructive notice of danger, and as to whether defendants exercised reasonable care in responding to that danger.

Civil Procedure - Choice of Law. *Logan v. Providence Hospital, Inc.* Personal representative of decedent's estate brought suit for wrongful death and survival action against hospital and physician in D.C. after previously settling same claims against other defendants in Maryland. The Superior Court entered judgment for personal representative, and allowed hospital pro tanto reduction of jury award. This Court reversed and remanded the case, holding that: (1) Maryland law, not District of Columbia law, governed the issue of settlement credit, and (2) under Maryland law, the hospital was not entitled to credit, as it was not a joint tortfeasor.

Civil Procedure - Jurisdiction. *Holder v. Haarmann & Reimer Corporation.* Consumer brought class action against citric acid manufacturer to recover for price-fixing conspiracy. Manufacturer filed Motion to Dismiss for lack of personal jurisdiction. The Court held that the manufacturer was not subject to personal jurisdiction in the District of Columbia, under the long-arm statute or due process clause, as it did not transact business in the District of Columbia.

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