

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.

This material is being provided for your general information only, and is not a substitute for obtaining legal advice. The information provided is not provided as legal advice, or in the course of an attorney-client relationship. You should always consult an attorney for advice about the specific circumstances of your case.

MARYLAND COURT OF APPEALS

Insurance - "suicide" within the meaning of a life insurance policy exclusion. *Fister v. Fister*, 2001 WL 1205628 (Md.). Suicide, as included in '16-215 of the Insurance Code, cannot be interpreted to include a death that occurs at the hands of another. An insured's death resulting from a friend pulling the trigger in response to insured's pleas was not a "suicide" within the meaning of the life insurance policy exclusion, therefore beneficiaries could recover.

Real Property - application of Statute of Repose against developers of subdivision. *Hickman v. Carven*, 2001 WL 1352884 (2001). Owners of property brought action against developers of subdivision alleging concealment of fact that lot was desecrated graveyard. Statute of Repose does not apply in this instance to bar owner's action against the developers for personal and economic injuries. The desecration and concealment of the grave sites by the developer did not constitute an improvement to real property.

Workers' Compensation - reimbursement for transportation expenses to and from health care provider. *Breitenbach v. N.B. Handy Company*, 2001 WL 1448740 (2001). An employee, injured on the job and awarded workers' compensation benefits, is entitled to reimbursement for costs incurred for travel to and from health care provider.

MARYLAND COURT OF SPECIAL APPEALS

Civil Procedure - Circuit Court has the power to order a nonparty to permit a party to a lawsuit to enter property. *Stokes v. 835 N. Washington Street, LLC.*, 2001 WL 1381191 (2001). Stokes, a minor, filed suit against former owner of 835 Washington Street, LLC. Current owner of property denied Stokes access to conduct a "noninvasive" test for lead-paint. Circuit Court does have the power, under MD Rules of Civil Procedure or common law, to order a nonparty to permit a party to enter the property for the purpose of conducting a "noninvasive" test for lead-paint, when the existence of such is relevant and material to the pending action.

Landlord/Tenant - Prohibition of criminal activity in public housing. *Housing Authority for Prince George's County v. Williams*, 2001 WL 1345934 (2001). County Housing Authority brought suit against tenant for breach of lease, due to drug dealing by tenant's minor child, and parties entered into a settlement agreement. Housing Authority filed a motion for judgment of possession, alleging that tenant breached the settlement agreement. Court found that drug possession was "criminal act" within meaning of settlement agreement providing for termination of tenant's lease if members of household engaged in criminal activity.

DISTRICT OF COLUMBIA COURT OF APPEALS

Gross Negligence - police conduct constituted gross negligence. *D.C. v. Hawkins*, 782 A.2d 293 (2001). Driver and passenger of a vehicle killed when struck by another vehicle that was being pursued by police officers in a high speed chase. Personal representatives of estates brought actions against District of Columbia under Wrongful Death Act and Survival Act. Police officers' conduct met the gross negligence standard, and a reasonable juror could find from the evidence that the police officers' grossly negligent conduct caused the accident. There was no basis for reversing the damages award.

Bias - violation of Defendant's Sixth Amendment right to confrontation. *McCloud v. United States*, 781 A.2d 744 (2001). Defendant convicted of multiple counts of cruelty to children. Trial court erroneously made ex parte ruling that prosecution did not have to divulge to defense the factual basis for government witness' possible bias. This erroneous error violated Defendant's Sixth Amendment right to confrontation.

UNITED STATES DISTRICT COURT, DISTRICT OF MARYLAND

Evidence - Admissibility of excited utterances despite marital privilege. *United States v. James*, 2001 WL 1221673 (D.Md.) Based on authorities of other jurisdictions, the marital privilege should not be extended to bar a witness from relating excited utterances by a spouse which are relevant and highly probative.

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