

Keep On Top Of Your Company's Financial Matters

Andrew W. Skolnick

Is your business experiencing unexpected cash flow problems? Are you having trouble paying vendors on time? Has the volume of your business remained steady or even grown, yet you find yourself having to dip into your personal savings to supplement the business operations and keep the doors open? Has a long time and trusted employee or business associate assumed a lifestyle that was previously beyond his or her means?

If you ever experienced these things, the unfortunate answer is that you might be a victim of employee theft. The embezzlement schemes can be rudimentary or quite elaborate, but the result is the same and you need to act quickly when the problem is discovered.

HSS&K is currently representing related businesses that were victimized by the largest employee

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Staying Connected

David A. Slossberg and John W. Knuff



In 2007, the term "staying connected" seems more about cell phones, email, and the internet than it does about relationships. But to us here at HSS&K, staying connected means building upon and fostering the wonderful relationships we have established with our clients over the years. In publishing this newsletter, our goal is to provide you with helpful information about the law, your rights, and legal remedies. We hope that you will find the topics covered to be timely and informative.

We have had some exciting developments at the firm over the last six months. We recently posted our new website, which we encourage you to visit at www.hssklaw.com.

We are delighted that Allison Murray has joined our firm as an associate in the litigation department. Allison brings a broad range of litigation experience, having practiced law and clerked for a Judge in Knoxville, Tennessee. We are equally delighted to welcome Catherine Cuggino, who is sitting for the bar this summer, and brings many years of experience working as a paralegal on real estate and litigation matters.

We'd like to hear from you with suggestions on how we can improve the newsletter or if there are topics you would like to see covered. You can either email us at Info@hssklaw.com or call 203-877-8000 to let us know what you think.

embezzlement scheme ever uncovered in Connecticut. We have identified over \$15,000,000 of misappropriated funds, and have pursued recovery in the Federal Court. We successfully obtained prejudgment attachments and restraining orders to secure the assets of the defendants. We sought judgment for three times the amount stolen pursuant to a Connecticut statute which trebles damages resulting from theft.

Despite the potential legal remedies available, you do not want to find your company in a similar situation. Damage to your reputation and the effects on business sources that were strained or severed as a result of cash flow difficulties cannot necessarily be repaired. The benefits of decades of hard work, investment and forging of relationships can be lost forever.

The key is to be prudent in the oversight of your business. Pay attention to what is coming in and what is going out of your business accounts. Ask questions if you do not recognize the name of the vendor who is designated as the payee on a check or if you are unaware of the relationship with a particular payee. Never sign blank checks, and review bank statements as soon as you receive them. If you experience unexplained problems, have your accountant perform a thorough audit. These simple measures are essential because the problem can quickly mushroom out of control. It is far easier to protect against the potential problem than to get a lawyer involved when matters are already desperate.



At-Will Employment And Wrongful Termination

David A. Slossberg and Brian J. Wheelin

One of the most frequently asked questions from both employers and employees is: "When does someone have a claim for wrongful termination?" Generally speaking, an employment relationship is terminable at will, unless a contract exists for a definite term. This means that an employer can terminate an employee for any lawful reason (good or bad), or for no reason whatsoever. Connecticut recognizes a limited exception to the general employment-at-will rule if a former employee can prove that his/her reason for dismissal violates an important public policy contained in a federal or state statute, regulation or constitution. This narrow exception to the at-will doctrine is what constitutes wrongful termination, which should not be confused with terminations that directly violate federal and/or state statute because they are due to someone's race, gender, age, or disability.

The wrongful termination doctrine balances the competing interests of employer and employee. While the employer is allowed, in ordinary circumstances, to make personnel decisions without fear of incurring civil liability, employee job security is protected against employer actions that contravene public policy. By way of example, we prevailed on a claim where an employee was terminated from a job at a nursing home because he complained to a public agency that the home's failure to comply with safety regulations placed the residents at risk. In another case, a private school social worker was wrongfully terminated for having reported specific instances of bullying to the Department of Child and Families. In both cases, termination was the result of an employee blowing the whistle, or otherwise taking steps to follow the law.

Employers should be mindful of the reasons for terminating any employee. If the decision arises because of an employee's legitimate complaints about an employer's compliance with the law, there is clearly exposure to a claim for wrongful termination. Employees should also take comfort in knowing that if they take actions to further the public policies of the state, including prevention of wrongdoing in the workplace, their conduct may well be protected under the wrongful termination doctrine.

While the wrongful termination doctrine is limited, employers should strongly consider documenting the lawful reasons why it is terminating any employee so that it will be able to use such documentation to defend itself against potential litigation. ❖

Safeguard Your Original Will

Brian J. Wheelin

Many people incorrectly assume that a signed copy of a Last Will and Testament is given the same weight as the original. Under Connecticut law, if an original will cannot be located, it is presumed that the testator (the person who created the will) destroyed the will with the intent to revoke it. Therefore, in order to get a signed copy of the will admitted when the original cannot be located, the proponent must offer proof to the Probate Court that the testator did not intend to revoke his will.

Missing Will

We recently represented an individual who sought to have a signed copy of her uncle's will admitted when the original could not be found. The decedent's son, who had a strained relationship with his father, challenged the admissibility of the copy, arguing that his father had revoked the will.

While we were ultimately successful in having a copy of the decedent's will admitted, the hotly contested legal battle proved a costly endeavor for the decedent's estate.

Lesson Learned

Properly safekeeping your estate planning documents is every bit as important as creating them. The originals should be properly stored and you should make sure that someone – a family member, friend, or executor – knows where the original documents are kept. Our firm keeps original estate planning documents in an off-site vault for clients who do not have a safe deposit box. Copies of all documents are given to clients with the instruction that the copies be kept at home with their other important documents, accompanied by a note, clearly indicating where the originals are safely stored.

Where to keep your documents

Some documents can be kept at home, but original legal documents should be stored securely to protect against both fire and theft. Home safes or strong boxes might be a good idea for storing some important documents, but are never a good idea for storing your original legal documents.

Properly securing your estate planning documents and leaving an effective "paper trail," is the final step in your planning for the future of your loved ones. ❖

What belongs in a Safe Deposit Box?

IMPORTANT DOCUMENTS

Just exactly what constitutes "important" when it comes to documents you can keep at home versus documents that belong in a safe deposit box?

RULE OF THUMB

Generally, all legal documents, and any document that would be difficult to replace or duplicate should be kept in a safe deposit box. You can (and should) keep copies of these important documents at home for easy reference, but the originals should be stored in a safe deposit box.

Specifically, all documents that can prove identity, ownership, and citizenship, including, but not limited to:

- **ALL LEGAL DOCUMENTS** (including originals of your Will, Living Will (health care directives), Durable Power of Attorney)
- Birth Certificate
- Adoption Papers
- Marriage Certificate
- Divorce Certificate
- Naturalization Papers
- Military Discharge Papers
- Vehicle Titles
- Passport
- Insurance Policies
- Stock Certificates
- Bonds

WHAT YOU SHOULD DO NOW

Make sure all your important documents are safe and available when you need them and make sure that someone else knows where all your important documents are kept!

VERDICTS AND CASES

Medical Malpractice

Attorney David Slossberg obtained a successful jury verdict in excess of \$900,000, including prejudgment interest, stemming from an undiagnosed Methicillian Resistant Staphylococcus Aureas (“MRSA”) infection following breast reduction surgery. After six days of jury selection and nine days of trial, the jury returned a favorable verdict in a difficult case.

The Firm settled a case for the \$1 million insurance policy limit for end stage renal failure caused by a physician’s failure to properly test and develop a differential diagnosis for our client’s severe hypertension. As a result, our client required a kidney transplant and suffered injury to his earning capacity and enjoyment of life.

Business Litigation

The firm has successfully secured \$1 million worth of prejudgment assets on behalf of Canadian and Japanese companies who were not paid for shipments of copper products made to the defendant in that action. The case is scheduled to be tried in August in the Bridgeport Federal Court before Judge Kravatz.

Class Actions

David Slossberg will be arguing two cases in the Connecticut Supreme Court in the fall term of 2007 on cutting edge class action issues. One of the cases, Artie’s Autobody (ABAC) v. The Hartford, which alleges illegal steering and price fixing in the auto body repair industry, was the first case to certify a class in the state of Connecticut following the Supreme Court’s decision in Collins v. Anthem, and approximately seven trial decisions denying motions for class certification.

Land Use And Real Estate

Following up on the successful expansion of the Westfield Connecticut Post Mall in Milford, Attorney John W. Knuff obtained zoning approval for the addition of a Target Department Store at the Westfield Trumbull Shoppingtown.

John successfully obtained a series of approvals for an active adult development that will create a charming village environment in the Town of Woodbridge. The project incorporates various new urbanism features, such as a town green, mixed use (retail/residential) buildings, extremely attractive architecture and streetscapes, with a particular emphasis on pedestrian-friendly design.

Construction has begun for a new Lowe’s home improvement store and Hilton Garden Hotel in Milford, Connecticut at the former Milford Jai Alai property. The firm represented Ceruzzi Holdings, LLC in securing the approvals necessary for development.

The firm is also representing a national developer, Developers Diversified Realty, for a lifestyle center in Guilford, Connecticut.

NEWS...NEWS...NEWS...

In the February, 2007 issues of Connecticut magazine and Connecticut Super Lawyers magazine, J. Daniel Sagarin and David A. Slossberg were chosen by their peers as top litigators in the state - Dan Sagarin in general litigation, and David Slossberg in business litigation.

Legal Services Plan

HSS&K is pleased to offer to employers its Legal Services Plan, a cost-free employee benefit. For more information about the plan, please see our website or call 203-877-8000.

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