

A CASE IN POINT  
OF PAYEE NOTIFICATION AT WORK

Two family members, a father and an adult son, reside in separate homes in Stafford County. The father was in a motor vehicle accident in Virginia on or about April 19, 2000, and hired Stephen T. Conrad as his counsel to pursue his claim for personal injuries sustained in the accident. The adverse party in the father's case was insured by an insurer that was not a Pennsylvania insurance company. The son then was involved in an unrelated motor vehicle accident in Virginia. Because his father was represented by Conrad, the son also retained Mr. Conrad to represent him in the prosecution of his claim pertaining to his own accident. The son's adverse party was insured by an insurance company in Pennsylvania.

In the father's case, Conrad filed suit, later non-suited, and refilled suit, and engaged in discovery proceedings. A trial was scheduled for July of 2005. However, prior thereto, Conrad fraudulently settled the father's case with the father's adverse party's insurer, but without the father's knowledge or consent, for \$4,000.00. The non-Pennsylvania insurer sent the \$4,000 check to Conrad payable to the father and "Stephen Conrad, his attorney", along with a release to be signed by the father. Conrad endorsed the check for the father and himself and deposited the check, converting the \$4,000 to Conrad's use. The father never knew, until the receivership was established in late 2007, that the settlement and conversion of funds occurred.

At or about the same general period of time, Conrad settled the son's claim as well for, I recall, around \$15,000, without the son's knowledge or consent. The son's adverse party was insured by a Pennsylvania insurer, who was required under Pennsylvania's "payee notification" law to send written notice to the claimant at the claimant's home address. Conrad didn't know that the insurer would send such notice to the son. The son received a letter notice from the insurer stating that in accordance with Pennsylvania law, the insurer is notifying (the son, as the claimant) that Mr. Conrad, on behalf of the claimant, and the insurer have reached a settlement and that on a particular date a check payable to the claimant and the attorney was mailed from the insurer to the attorney in the amount of the \$15,000 settlement. The notice also stated that if the claimant had any questions, the claimant must contact the attorney.

The son, upon receipt of the letter notice from the Pennsylvania insurer, immediately contacted Mr. Conrad by showing up, unannounced, at Conrad's office. Conrad happened to be there and made up a story to the son to the effect that the \$15,000 was only an offer sometimes made by an insurer, and the check that was received by Conrad was contingent upon the son's acceptance of the offer, and that if the son didn't accept the offer, Conrad would send the check back to the insurer. The son thought about the amount and the representation that Conrad had the money in hand and the son elected to accept the settlement. Consequently, on the spot, Conrad prepared a disbursement statement, deducting his one-third contingent legal fee, and writing a check to the son on Conrad's trust account, for the net amount constituting the difference between the insurer's check and the Conrad legal fee. The son left the office with the check drawn on

Conrad's trust account for the net amount, unaware that Conrad had attempted to defraud him, and unaware that his father had already been defrauded and victimized.

The father first became aware of his victimization when he answered the receiver's request to come to the Conrad office to review his file. He, his wife, and the receiver reviewed the file, noted the written documentation of the unauthorized settlement for \$4,000 and the check stub from the non-Pennsylvania insurer in the amount of \$4,000 and the unsigned release from the insurer that Conrad never returned to the insurer. (Note: In those instances where Conrad effected similar defalcations and the insurer or the adverse party's counsel repeatedly insisted on the return of the release, Conrad would forge the release and eventually return it to the insurer or counsel).

The receiver spoke to the mother of the son (who is the wife of the father) in late January 2009 when she called him to obtain a report of the status of the receivership and an idea of when we may be disbursing funds from the receivership to victims, and he advised her that the VSB was working on the payee notification matter and that she, her husband and her son may be asked to provide input as to their experiences. She said that they would be glad to cooperate. He also told her that he hadn't disseminated their identities because of the receiver's mandate for confidentiality. She said that if anyone in authority needs further information that her family would like to assist in whatever way they can to facilitate the implementation of a payee notification requirement in Virginia.

Excerpted from an email sent on February 2, 2009 by  
Rick Mendelson to Karen Gould