

July 7, 2006

## McMahon DeGulis Obtains Judgment Notwithstanding the Verdict in Appellate Court

Steve Daniels persuaded an Appellate Court to enter judgment notwithstanding the verdict (JNOV) in favor of our client, a gasket manufacturer, in *James G. Barone v. GATX Corporation, et al.* Trumbull, Ohio App. 11 Case No. 2005-T0069. In an interesting twist, McMahon DeGulis' client was actually the Appellant, despite a successful result at trial.

At the initial trial in the Trumbull County Court of Common Pleas, plaintiff was awarded \$32,600, an unusually modest amount for decedent's death from pleural mesothelioma. Because the damages were less than a third of the medical and funeral expenses, plaintiff filed a motion for a new trial on damages only. McMahon DeGulis vigorously opposed this motion and also filed a motion for JNOV, contending that plaintiff failed to introduce sufficient evidence at trial to establish liability against our client. The trial court granted plaintiff's motion for new trial, and denied the motion for JNOV.

Because Steve strongly believed that plaintiff's trial evidence was inadequate, he made the strategic decision to focus on the trial court's denial of the JNOV motion rather than the new trial order. This strategy proved successful as the Ohio 11<sup>th</sup> Appellate District, relying in part on another of Steve's cases, (*Lindstrom v. A-C Product Liability Trust*, 424 F.3d 488 (6<sup>th</sup> Cir. 2005), agreed that plaintiff's trial evidence was insufficient and remanded the case with instructions to enter judgment notwithstanding the verdict for defendant. This result is especially noteworthy because JNOVs are rarely granted. We are extremely pleased to have achieved an even more advantageous result for our client than the positive outcome initially attained at the trial.

For more information on this case, please contact Steve Daniels, Esq. at (216) 621.1312 ext. 105 or [sdaniels@mdllp.net](mailto:sdaniels@mdllp.net).