



September 27, 2011

Although we rarely notify you of trial court decisions, and especially ones in Municipal Court, a ruling last week in favor of Hastings Mutual Insurance Company is important as it addresses very clearly the duties of an insured to cooperate and affirms denial of coverage where cooperation is not given.

The case, *Chandler v. Hastings Mutual Insurance Company*, arose from a theft loss claim submitted by Paige Chandler. Hastings Mutual investigated the claim due to concerns about the Chandler's financial condition at the time of the loss, and the possible involvement of the Chandler's son, Kyle Chandler, in the loss.

Although Ms. Chandler submitted to an examination under oath, she refused to answer any questions regarding Kyle, testified she had withheld mail addressed solely to him requesting he provide an EUO regarding the loss, and testified she instructed him not appear for a scheduled statement. Ms. Chandler also failed to fully answer questions concerning her financial condition and refused to sign a release of information form. Ms. Chandler then terminated her examination under oath, despite being advised that doing so would constitute a breach of her insurance policy.

Hastings Mutual Insurance Company denied Ms. Chandler's claim for failure to cooperate which materially prejudiced Hastings Mutual's investigation, and also based on the Intentional Loss and Concealment or Fraud provisions of the policy. Ms. Chandler then filed suit against Hastings Mutual in Clermont County Municipal Court.

Smith, Rolfes & Skavdahl Co., LPA defended Hastings Mutual Insurance Company in the case, and moved for final summary judgment arguing Ms. Chandler breached the Suit Against Us provision of the policy and failed to comply with the terms and conditions of the policy.

The court agreed and granted summary judgment finding Ms. Chandler's termination of her examination under oath, efforts to prevent Hastings Mutual from obtaining the sworn statement of Kyle Chandler, and failure to fully respond about her financial condition constituted a failure to cooperate in the claim investigation which materially prejudiced Hastings Mutual and relieved Hastings Mutual of its contractual obligations to Ms. Chandler.

A copy of the court's decision may be found [here](#). If you have any questions about the case, or would like to speak with the SRS attorneys who secured this decision please contact our office and ask to speak with Pat Trombetta or Matthew Dougherty. Thank you and we hope you find this information of benefit.

Sincerely yours,

Matthew J. Smith