

Chicago Daily Law Bulletin

SINCE 1854

Volume 147, No. 199

Wednesday, October 10, 2001

Thirty-eight pages in two sections

95 cents

Downstate lawyer finds a focus early in career

By JERRY CRIMMINS
Law Bulletin staff writer

A young Belleville lawyer is the latest in a series of plaintiff attorneys to successfully bring a legal action against the Warrior Insurance Group of Bedford Park, one of the largest companies in Illinois offering high-risk auto insurance.

Christopher Thomas Kolker, who passed the bar only three years ago, this summer won a jury verdict against Warrior for more than \$3 million, and the trial judge later added nearly \$2 million in penalties.

One lawyer, Robert W. Roney, of Granite City, hailed Kolker's legal work, saying, "Nobody's more familiar with them than Chris Kolker. He has devoted his short legal career" to Warrior cases.

Kolker said his firm got more than 200 phone calls immediately after the jury verdict in the Baron case "from people in the Chicago area who said they were treated in the same fashion" by Warrior.

The evidence Kolker presented in the case led St. Clair County Circuit Judge Jan V. Fiss to issue a scathing court order two weeks ago and to add punitive damages to the jury's July verdict.

Fiss castigated Warrior for "reprehensible and outrageous consumer fraud, deceptive practice and misrepresentations" which Fiss said were "deplorable."

Warrior's actions "affect many consumers and offend public policy," Fiss said.

"Evidence shows," Fiss continued, that Warrior "is likely to commit similar fraudulent acts in the future and ... committed many similar fraudulent acts in the past."

In a ruling issued on Sept. 27, Fiss, a 21-year veteran of the bench, tacked on \$1.8 million in punitive damages and \$50,000 for "vexatiously and unreasonably" stalling the insurance claims made by policyholder Robert L. Baron Jr. of downstate Marissa.

Fiss also ordered Warrior to pay Kolker \$190,000 in attorney fees.

The judge is scheduled to hear post-trial motions on Oct. 18 in his courtroom in Belleville, in the 20th Judicial Circuit.

Warrior Insurance Group also does business also as Gallant Insurance Co.

and Valor Insurance Co. Warrior's president and chief executive officer, James P. Halberg, is listed in the Crain's Chicago Business list of "Who's Who in Chicago Business" for 2001.

Gallant and Valor combined are "one of the largest non-standard writers" of automobile insurance in Illinois, according to Jack Messmore, deputy director of the Illinois Department of Insurance.

Non-standard insurance is sold to drivers who have a history of auto accidents, driving under the influence or credit problems, according to Kolker.

John D. Moss, Warrior's executive vice president for legal matters, said Fiss had barred Warrior from presenting much of its own evidence to contest the evidence presented by Kolker.

Plaintiff attorneys around the state are sharing some documents gained through the discovery process in lawsuits brought against Warrior.

Fast start - page 24

Fast start

Continued from page 1

"The judge defaulted us," said Moss. "He didn't like the way we responded to discovery.... Obviously, we are appealing this."

"Let me give you an idea what happens in southern Illinois when companies are defendants," said Moss. "Plaintiff attorneys will inundate them with discovery [demands]. Our attorneys have turned over tens of thousands of documents they got from us."

Moss said that plaintiff attorneys compare notes, and one will complain if he failed to receive something given to another attorney. This led to a misunderstanding with the trial judge in Kolker's case, Moss contended.

Plaintiff lawyers say Kolker's case is one of more than 260 lawsuits filed against Warrior Insurance Group or its predecessor, Allied American Insurance Co., in recent years in Illinois accusing the company of breach of contract or bad faith for failing to honor its insurance policies or seeking declaratory judgments to enforce the policies.

Kolker said he presented testimony by Warrior's own employees showing that Warrior offers a bonus program for denying or low-balling customers' insurance claims.

Testimony also showed that one Warrior investigator impersonated a police officer and told Kolker's client, Baron, that he would be thrown in jail if he didn't drop his insurance claim, Kolker said.

In the resulting court order, Fiss stated that Warrior's actions "violate some of the most important trusts and notions of fair dealing in the realm of consumer transactions."

Moss said Warrior settles 30,000 to 40,000 claims a year and resolves 90 per cent without trouble. He said 260 lawsuits in 10 years is a very small number, and he said the company has only 12 to 15 bad-faith lawsuits pending.

Plaintiff attorneys in Illinois use strong language in talking about Warrior Insurance and its subsidiaries.

Attorney Robert I. Dargis of Richard F. Mallen & Associates in Chicago, who said he has a bad-faith claim pending against Warrior for allegedly refusing to honor one of its policies, said the insurer "hanging these defendants, their policyholders, out to dry."

"Every plaintiff lawyer in Illinois knows them," said Rongey, of the firm of Callis, Papa, Jackstadt, Szewczyk, Rongey & Danzinger P.C. in Granite City.

"They don't belong in the insurance industry," said Rongey. "They're selling policies that aren't worth the paper they're written on because they refuse to honor them."

Fiss stated in his court order that the insurance policy sold by Warrior to Baron was "worthless."

Typically, Rongey said, the motorist in the wrong in an auto accident is given an opportunity to settle the claim for, at the most, the limits of his or her insurance policy.

This is because many motorists do not have assets above and beyond the maximum on their insurance policy.

"Any reputable insurance company," said Rongey, "you would present a demand to them, and typically they're going to review your demand and they will make you an offer, and they will negotiate from that offer. With Gallant or Warrior, you're lucky if you ever get an offer, and then when you do it's ridiculous."

Rongey said Warrior's practices have led to a series of bad-faith claims.

Attorney G. Grant Dixon of the Dixon Law Office LLC in La Grange, who wrote an article on bad-faith lawsuits against insurers, published in the Illinois State Bar Journal in February 1999, said such lawsuits come in two types.

A first-party bad-faith action, said Dixon, is "when an insured directly sues his own insurance company for wrongful denial of a claim."

Third-party bad-faith suits occur when the insurance company for the defendant motorist refuses to pay the claim. The plaintiff then sues the policyholder personally, seeking a verdict greater than the value of the policy — an "excess verdict."

If the defendant's insurer fails to honor the policy, the defendant has a bad-faith cause of action that can be assigned to the original plaintiff to pursue, thus creating a third-party claim, Dixon said.

Any proceeds from the third-party lawsuit go to the plaintiff and his or her lawyer.

Both types of action have been filed against Warrior.

Forty-four "excess verdicts" were rendered against Gallant policyholders in less than four years, in a period ending in December 1999, said attorney David L. Antognoli of Hopkins, Goldenberg P.C. in Edwardsville.

Antognoli said he used these verdicts as an exhibit to demonstrate to a jury that Gallant, the Warrior subsidiary, refuses to pay legitimate claims.

In April, the Madison County jury gave Antognoli's client, Marguerite A. O'Neil, a \$3.1 million verdict against Gallant.

"You see more and more insurance companies denying all claims and refusing to pay a reasonable amount of insurance coverage, to the detriment of their own insured," said Dixon.

Dixon added, "I think this is the wave of the future. As economic pressures become greater on insurance companies, I think you're going to see more and more insurance companies take a hardline approach.... That means bad faith will become more frequent."

Dixon testified as an expert witness regarding bad-faith claims in a 1999 lawsuit against Gallant in Colorado.

Kolker, the lawyer leading the latest attack against Warrior, practices in his father's law office, Charles J. Kolker Jr. P.C.