

February 2021: Julie Palmer



Julie S. Palmer, of Harmonie's Virginia member firm **Harman Claytor Corrigan & Wellman**, recently obtained dismissal of a \$24,000,000 medical malpractice wrongful death action. Plaintiff asserted that the decedent received substandard medical care while incarcerated at a minimum security municipal jail. Specifically, Plaintiff contended that the decedent had a number of pre-existing health conditions that were not properly treated during the six-month incarceration, and that the jail physician had not properly monitored these conditions following a brief hospitalization of the inmate within weeks of his arrival at the jail.

Ms. Palmer asserted that her client, the jail physician, was an employee of the City entitled to sovereign immunity for claims of simple negligence. In order for the physician to be entitled to sovereign immunity, Ms. Palmer had to establish (1) the nature of the function the physician performed; (2) that the City had a significant interest and involvement in the function performed by the physician; (3) that the City exercised control and discretion over the physician; and (4) that the allegedly negligent treatment provided by the physician involved the exercise of judgment and discretion.

Plaintiff also asserted a claim of gross negligence, which was not barred by sovereign immunity. Ms. Palmer moved to dismiss the gross negligence claim on grounds that the facts asserted by the Plaintiff in the Complaint did not meet the level of gross negligence as a matter of law.

Following a lengthy evidentiary hearing, oral argument, and supplemental briefing, the Court ruled that the physician was entitled to sovereign immunity, thereby dismissing the claim for simple negligence. The Court further agreed with Ms. Palmer's argument that the facts asserted by Plaintiff in the Complaint could not, even if proven, support a finding of gross negligence as that term is defined under Virginia law. Accordingly, the Court dismissed the case in its entirety, with prejudice.

Ms. Palmer is the Co-Chair of Harmonie's Professional Liability Committee. She is a litigator with over 17 years of experience and focuses her practice on the defense of attorneys and other professionals in malpractice cases.

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