

Legal Malpractice / Wrongful Death

SERVICES

Professional Liability

RELATED ATTORNEYS

Kevin R. Kratzer

Timothy R. Scannell

Attorneys Kevin Kratzer and Timothy Scannell recently obtained judgment as a matter of law in favor of their client in a legal malpractice/wrongful death action filed in New London Superior Court in Connecticut. This lawsuit arose from a fire that occurred in a leased residential premises in Prospect, Connecticut, which tragically claimed the lives of two children.

At the time of the fire, our client, an attorney, was the receiver of rents for the subject property appointed by the Court under Conn. Gen. Stat. § 16-262t for outstanding water bills accumulating against the landlord of the premises. Historically, receivers appointed under §16-262t are non-controversial, temporary positions, who collect certain funds for payment of utility bills and then are discharged once the bill is paid. Nevertheless, the plaintiff alleged that due to his statutory appointment, our client was in control of the subject property and failed to properly maintain it, causing the fire.

Boyle | Shaughnessy Law moved to have the lawsuit dismissed under the doctrine of law that provides immunity to court appointed officers. Although there was a dearth of case law related to receivers appointed under § 16-262t, Boyle | Shaughnessy Law asked the Court to find that our client was an “arm of the Court” in which “the nature of the duties imposed by the office demands that the court protect its own officer while acting strictly under the orders of the court. The courts of equity constantly do, in forbidding the bringing of suits against receivers without the consent of the court. Such consent will not be granted where the receiver has kept clearly within the scope of his authority and acted wholly under the direction of the court.” Walsh v. Raymond, 58 Conn. 251, 255, 20 A. 464 (1889).

The plaintiff argued that quasi-judicial immunity did not apply because the defendant was performing administrative actions that did not require the use of discretion. The plaintiff further argued that the Complaint properly alleged that the defendant failed to properly complete his duties required by his appointment. Ultimately, the Court agreed with our argument that immunity should apply because [1] the defendant performed functions sufficiently comparable to those of officials who have traditionally been afforded absolute immunity at common law; [2] the likelihood of harassment or intimidation by personal liability was sufficiently great to interfere with the defendant’s performance of his duties; and [3] procedural safeguards existed that adequately protected against improper conduct by the defendant.