Superior Court Decision Reversal in Wrongful Death Case

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Ashley Noel and Cassandra Pilczak obtained the reversal of a Superior Court decision and the entry of a directed judgment on behalf of a security contractor in the Connecticut Appellate Court. This indemnification action arose out of a wrongful death case in which the decedent's estate alleged that the owner of a shopping mall negligently caused the death of a pedestrian due to its failure to implement traffic calming measures in the parking lot. The owner of the shopping mall sought defense and indemnification from its security contractor under a security agreement, which was denied. The mall owner subsequently filed claims for common law and contractual indemnification against the security contractor. The Superior Court found that the allegations of the underlying tort action triggered the security contractor's duty to defend and indemnify the mall owner and therefore entered summary judgment in favor of the mall owner. Following a hearing in damages, the Superior Court awarded damages in excess of $425,000.00, plus significant statutory interest.

On appeal, Attorneys Noel and Pilczak successfully argued that the allegations of the underlying complaint did not trigger the security contractor's defense obligations under the security agreement because the allegations of negligence did not fall within the security contractor's contractual responsibilities. In holding that the security contractor did not have a duty to defend or indemnify the mall owner, the Appellate Court held for the first time that the well-established principles governing the duty to defend in the insurance context are equally applicable to contracts between sophisticated business entities. The Appellate Court reversed the judgment of the Superior Court and entered judgment in favor of the security contractor.

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