



And The Defense Wins

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[Matthew S. Marrone](#), chair of DRI's Professional Liability Committee, and DRI member [Daniel S. Strick](#) of **Lucas and Cavalier, LLC** in Philadelphia secured a dismissal of legal malpractice claims filed against their client in the Superior Court of New Jersey in Camden County. The case involved an automobile accident in which the plaintiff was seriously injured. She claimed she suffered from full body reflex sympathetic dystrophy (RSD) as a result of the accident and sought in excess of \$4 million in damages.

The van that struck her was transporting homeless men for a non-profit charitable organization at the time of the accident. She sued the van operator, the non-profit organization, its directors and officers, and several other defendants. One of the organization's officers was an attorney, and the plaintiff additionally brought legal malpractice claims against him, alleging he failed in his duty to properly advise the organization on transportation and insurance issues relevant to the case.

Defense counsel filed for summary judgment on the attorney's behalf and raised several arguments in favor of dismissal. First, no attorney-client relationship was ever formed between the lawyer and organization. The organization never requested any legal advice on transportation or insurance issues, and none was offered. Second, the plaintiff lacked standing to file a legal malpractice action against the attorney. It was the organization's claim to assert, and it had not done so. Finally, both federal and state statutes afforded immunity to the attorney since he was a volunteer for a non-profit organization.

Overriding all of the legal arguments, however, were the public policy concerns posed by the plaintiff's claim. In essence, the defense argued, the lawyer was sued simply because he happened to be a lawyer. If attorneys were subject to legal malpractice claims so easily, they would be severely discouraged from volunteering for non-profit organizations, which would in turn harm the charitable organizations they are trying to help.

The court agreed with all arguments raised, granted the motion and dismissed the legal malpractice claims against the attorney.

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