

DEFENSE VERDICT

Kentucky / Indiana - Ward, Hocker & Thornton, PLLC

WHT Member Ashley Brown secured a defense verdict in a residential construction contract case in Fayette County. In this case, a home in an upscale neighborhood owned by a residential holding company was undergoing renovations. The holding company's contractor arranged for an asphalt company to pave the driveway, but did not serve as a general contractor, instead simply connecting the two parties with the intent that the owner would pay the asphalt company directly. The contractor signed the work proposal, which purported to grant 24% compounding interest and attorney's fees incurred in collection of payment amounts to the asphalt company. The contractor had not communicated that portion of the work proposal to the owner.

The driveway was paved, and the owner identified aesthetic defects with the work. The first invoice sent to the owner showed three months of compounded interest. The owner rejected the work and the invoice. Years of litigation ensued, with the case going up and back down on appeal. The owner and contractor agreed to a joint defense and retained Ashley to lead the defense at trial.

At trial, the asphalt company contended that either the contractor, the holding company, or an individual member of the holding company were bound by the terms of the proposal, and that the driveway was constructed in a substantial workmanlike manner. The case was tried over three days, the jury returning a full defense verdict, finding the contractor received no consideration and was thus not personally bound by the purported contract, and that the contractor was not authorized by the holding company or individual member to serve as an agent to sign the work proposal.

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