

# MISSISSIPPI

## DUNBAR MONROE OBTAINS FAVORABLE SETTLEMENT AFTER PROACTIVE CASE HANDLING



Insurance defense attorneys and claims adjusters face unique challenges when defending cases. To effectively represent their clients and manage claims, attorneys and claims professionals should consider employing proactive strategies that may require out-of-the-box thinking and proactive action.

It is well-known that a plaintiff is considered the “master” of his or her complaint. Generally, a plaintiff’s choice of forum for the location a lawsuit is filed, presuming jurisdiction is proper, is left undisturbed. However, most defense attorneys and claims professionals know that there are some venues that are less favorable to defend a case than others, often times in situations where venue may have theoretically been possible in either venue situation.

The Mississippi attorneys at Dunbar Monroe were presented with this exact situation when a client’s commercial motor vehicle was involved with an accident in a conservative county but the insured driver was a citizen of one of the most volatile and plaintiff-leaning venues in the state. Instead of waiting for the claimant to “master” her complaint, Dunbar Monroe decided to recommend a different route to its trucking company client: Go on offense and be the plaintiff yourself. This way, the truck company and its driver were able to take advantage of a rule found in many states: the priority of jurisdiction rule. This doctrine essentially states that, between courts of concurrent jurisdiction, priority of jurisdiction (meaning, which venue will the case move forward in?) is determined by the date of the initial pleading filed in that venue. Insurance defense attorneys and claims professionals in states with similar rules can take advantage of this rule by strategically filing a complaint first in a more favorable venue, assuming there are valid grounds, e.g., property damage, to support a cause of action against a would-be plaintiff.

By initiating legal proceedings in a jurisdiction that may not present as volatile of a forum, Dunbar Monroe was able to secure the advantage of having their client’s case heard in a preferred court. Using this strategy, the presumptive “plaintiff” is forced to pursue his/her personal injury claim as a compulsory counterclaim. This approach allowed the Dunbar Monroe attorneys to shape the narrative and control the legal environment to better suit their clients’ interests,

ultimately resulting in a settlement that was likely a fraction of what the exposure would have been in the less-favorable venue.

While it might be strange to “go on offense” early by filing suit as a party plaintiff, this type of early defense strategy allow attorneys to position his or her clients for a more favorable outcome in the legal landscape, possibly saving thousands, if not millions, of dollars.



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