

CIRCUIT COURT DECISION REVERSED

West Virginia- Bailey & Wyant

Equity Member Kelly C. Morgan and Of Counsel Kristen V. Hammond succeeded in an Interlocutory Appeal before the Supreme Court of Appeals of West Virginia. The exclusive member of The Gavel for the entire State of West Virginia, Bailey & Wyant, obtained a reversal of a Circuit Court decision on behalf of the defendant, West Virginia Chief Medical Examiner and Dr. Mock.

Initially, the Circuit Court denied Defendants Motion to Dismiss the case based upon a qualified immunity, and the Court allowed the Plaintiff's claim under the Medical Professional Liability Act (MPLA).

Morgan and Hammond argued before the Supreme Court of

Appeals of West Virginia that Defendants were entitled to qualified immunity. Following oral argument, the Supreme Court agreed finding that the Defendants did not provide health care services to either a patient or a person resulting in death or injury, as defined by the MPLA. In reversing the Circuit Court decision, the Supreme Court agreed with Morgan and Hammond, and found that Defendants were entitled to qualified immunity because the alleged negligent actions were discretionary, not in violation of any clearly established statutory or constitutional rights or laws and were not otherwise fraudulent, malicious, or oppressive. The case is remanded back to the Circuit Court with directions to grant the Motion to Dismiss.

FEATURED ATTORNEY(S):



Kelly Morgan

304.720.0711

kmorgan@baileywyant.com



Kristen Hammond

304.345.4222

khammond@baileywyant.com