



February 19, 2007

**“CONDITIONS OF SERVICE” ON STAFF LEASING COMPANY’S TIME SHEET SUPPORTS FACT ISSUE ON WORKERS’ COMP COVERAGE OBLIGATIONS**

Last Thursday the Corpus Christi Court of Appeals overturned a summary judgment in favor of a staff leasing company’s insurer after finding that the “conditions of service” stated on the leased employees time sheet created a fact issue on whether the staff leasing company or the client was responsible for providing workers’ compensation coverage. In *Phoenix Assurance Co. of New York v. Dallas Fire Insurance Co.*, 2007 WL 475321 (Tex.App.-Corpus Christi February 15, 2007), even though deposition testimony suggested that there was no agreement between the parties, the court found that language found in the “conditions of service” was sufficient to create a fact issue over who was responsible for providing workers compensation benefits and overturned summary judgment in favor of the staff leasing company and remanded the case for further proceedings.

**CONTRACTOR’S PREMISES LIABILITY CLAIM AGAINST HOMEOWNER PROCEEDS – SUMMARY JUDGMENT OVERTURNED**

Last Tuesday, in *Choice v. Gibbs*, 2007 WL 445278 (Tex.App.-Houston (14<sup>th</sup> Dist.) February 13, 2007), Houston’s 14th Court of Appeals overturned summary judgment in favor of a homeowner and allowed a premises liability suit filed by an injured contractor to proceed. A contractor installing a bathtub at the homeowner’s residence suffered an electrical shock and subsequent heart attack after brushing against exposed wires on a staircase. In overturning the no evidence summary judgment, the court ruled that expert testimony was not necessary to establish that the electrical shock caused the contractor’s injuries and a fact issue over whether the homeowner’s alleged negligence was a cause of the contractor’s heart attack and damages precluded summary judgment in the homeowner’s favor.

**TEXAS LEGISLATURE IN SESSION – INSURANCE RELATED BILLS PENDING**

The 80<sup>th</sup> Biennial Session of the Texas Legislature is in session and several bills of significant interest for Texas insurers are currently being considered. Some of the insurance bills being considered:

- H.B. 579 - Mandating coverage under residential property policies for expenses incurred because of compliance with an emergency evacuation order.
- H.B. 582 – Relating to the determination of certain catastrophe areas eligible for insurance coverage through the Texas Windstorm Insurance Association
- H.B. 1197 – Raising the statutory minimum insurance requirements necessary to establish evidence of financial responsibility under the Texas Motor Vehicle Safety Responsibility Act from 20/40/15 to 25/50/25
- H.B. 1245 – Establishing venue for prosecuting certain crimes involving insurance fraud.

For more information on any of these bills or other pending legislation, please contact any of our attorneys.