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## Coverage Group Obtains Summary Judgment in Late Notice Suit

Firm News, 12/13/2006

KSLN's coverage group recently won summary judgment for its client in a late notice dispute in the U.S. District Court for the Western District of New York.

The case involved an alleged fall by the principal of a commercial tenant on the landlord's premises. The injured tenant brought suit several months later, at which point the landlord first notified its insurer (KSLN's client) of the accident and the suit. The insurer disclaimed where correspondence from the landlord and his staff reflected their immediate knowledge of the accident and the alleged severity of the injuries. The insured brought a coverage action, claiming that it provided timely notice because it had contacted its agent about the accident within days and actually met in person with the agent to discuss the accident. The insured separately claimed that it placed the insurer on timely notice because legal papers submitted to the insurer in a separate legal matter between the insured and the tenant happened to contain cursory references to an accident on the premises.

The court granted KSLN's motion for summary judgment, upholding the disclaimer. The court found that the cursory references to the accident in papers from a separate legal dispute between the insured and the tenant did not constitute notice as a matter of law. The court also concluded that the insured's claim that it contacted and met with the agent was so unsupported and incredible that, as a matter of law, no reasonable juror could find in the insured's favor.

If you would like a copy of this decision, or to discuss late notice or other coverage issues, please contact Judi Shelton, Tim Delahunt, or Jesse Cooke.