

RSJG Wins Summary Judgment For Construction Lender On Date of Trial

Shareholder Dennis Bailey, and his son, associate Evans Bailey, won summary judgment for a construction lender in Montgomery County Circuit Court on the date the complex case was set for trial. Originally the case started as a simple materialmen's lien case against a contractor for work performed on three separate home construction sites. It was consolidated with two other cases and ballooned to encompass the contractor, three banks, three materialmen, three pieces of property, and three sets of borrowers.

Dennis and Evans' client provided a construction/permanent loan to one set of borrowers who had arranged to have the contractor build their home prior to pursuing financing. Project delays eventually led the borrowers to stop work. Three materialmen subsequently filed liens on the property. The borrowers and the materialmen alleged that Dennis and Evans' client negligently dispersed loan proceeds and conspired with the contractor to deprive them of funds. The motions for summary judgment pointed out that the borrowers had signed off on every loan draw and chose the contractor, and that the bank owed no duty to inspect or oversee construction for the benefit of the borrowers or materialmen.

Dennis, Evans, and Shareholder Bo Brown argued the dispositive motions on three separate occasions, but were denied a ruling before trial. With Dennis and Evans fully prepared to present the case to a jury on March 22, 2010, Judge Gene Reese decided to grant the motions and dismiss all claims against the bank. The case number is Montgomery County CV-09-900314 . Associate Grant Sexton also assisted in defense."