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P E N N S Y L V A N I A LAW WEEKLY

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Family Law

Splitting Up Without A Splitting Headache

Lawyers pioneer 'collaborative
law' in Pittsburgh

BY DANIEL CASCIATO
For the Law Weekly

As a litigator, Jeffrey Pollock thrives in the courtroom. But divorce cases, especially ones involving child custody, often get to him.

"They can be so stressful," he said. "Sometimes I have been affected by taking my client's problems to heart too much. If I can get my clients the results they are looking for with neither of us getting totally emotionally drained from the process, I'm always in favor of that."

Liberty Weyandt of Margolis Edelstein agrees.

"Divorce can be such a messy process for both of the parties involved," she said. "It can get ugly."

That relief has arrived for attorneys like Pollock and Weyandt and their clients. A

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Insurance

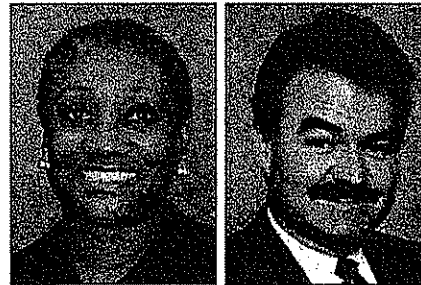
Supreme Court to Take Fresh Look at Stacking

BY GINA PASSARELLA
Of the Law Weekly

In a move characterized as extremely rare, the state Supreme Court has agreed to reconsider one of its own recent decisions — an insurance case that defense attorneys said has major financial ramifications for insurers.

The court granted a petition last week for re-argument in *Sackett v. Nationwide Mutual Insurance Co.*, PICS Case No. 07-1643 (Pa. Oct. 16, 2007) per curiam; Baldwin, J. and Cappy, C.J. dissenting (7 pages). In its April 2007 decision, the justices, on a 4-2 vote, held insurance companies must have their customers reject stacked underinsured motorist coverage each time they add a vehicle to their policy.

It was a second 4-2 decision that granted the re-argument motion, with Justice Cynthia A. Baldwin — the author of the original opinion — and Chief Justice



Baldwin

Haggerty

J. Fitzgerald III did not participate in the consideration or decision of the petition.

"I've never seen it happen," Nationwide's co-counsel James Haggerty of Swartz Campbell said of the court's grant for re-argument for which Nationwide petitioned.

Attorneys on both sides agreed the re-argument was not about an error of law, but about practical implications of the court's ruling.

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INSIDE THE PLW

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Litigation 2007

This edition of *Pennsylvania Law Weekly* includes the first of two 2007 litigation supplements, with articles on piercing the corporate veil, examining new immigration safe harbors and deconstructing attorney-client privilege.

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No Joke

Don't be upset by lawyer jokes, writes Daniel E. Cummins. Use them as a motivator to improve and discredit their stung.

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Digests

The sum and substance of 40 recent decisions from tribunals across Pennsylvania, including trial courts in Beaver, Berks and Bucks counties.

Splitting Up

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new consortium of 17 attorneys in southwestern Pennsylvania hopes to save divorcing couples the expense of a long, drawn-out divorce process and resolve their disputes respectfully through a collaborative approach.

The attorneys belonging to CLASP (Collaborative Law Association of Southwestern Pennsylvania) are trained in a process called "Collaborative Practice" which is used primarily in divorce cases.

"This is so much more preferable than the take-no prisoners, scorched earth, Rambo-type of litigation that you sometimes see," said Pollock, secretary of CLASP and one of its founding members. "CLASP is the antithesis of that. I would rather be a lawyer in a collaborative case than try to get everything you can regardless of how it affects the other person in a traditional domestic litigation case."

Weyandt, who was trained in the collaborative law process in February, joined the group because of the positive experience that it can result in for clients.

"We can have an active, positive role in the outcome of their divorce and I think that's a fantastic thing," she said. "This is a great alternative for those couples who agree to handle their divorce in this manner."

This is the fifth such organization in the state with others located in the cities of King of Prussia, Pa., Carlisle, Pa., Wayne, Pa., and Schuylkill County.

The collaborative process has the following characteristics:

- Both parties are looking for an amicable divorce;
- Each party has their own, specially trained, collaborative lawyer;
- Each party agrees not to go to court (if one or both of the parties decide to end the collaborative process and decide to litigate in court, both attorneys can no longer represent them).

Pollock added that collaborative lawyers work with each other and with their clients to arrive at the most fair and mutually-agreeable outcome.

"It brings the best of both worlds because you still have your lawyers available to consult with and advocate your position but do so from a collaborative viewpoint," he said. "We have been trained to be zealous advocates for our client's position via a fair and reasonable settlement. What we advocate is a realistic result that gives the client control over the process in an atmosphere of respect."

Collaborative practice follows the collaborative law model developed by Minnesota lawyer Stu Webb in 1990. As more collaborative practices began popping up in other cities over the last few years, sole practitioner Paula Hopkins wanted to bring this approach to Allegheny County.

"This was Paula's brainchild," said Pollock. "She wanted to bring this to the region and invited some lawyers to her office about 18 months ago to discuss this."

After a series of meetings, the not-for-profit group was incorporated on Dec. 1, 2006 and opened up an office in downtown Pittsburgh this past spring.

Lea Anderson, an attorney with

Goehring Rutter & Boehm, who was recently trained in the collaborative process, is currently working with a client who is going through this alternative approach.

"It has been working out beautifully so far," she said. "While I have great confidence in the ability of the courts to resolve divorce and custody matters, I also have seen instances where a different type of model is perhaps a better vehicle for resolving disputes."

Any attorney who wants to join CLASP must receive collaborative law training, said Anderson.

In addition to the 17 attorneys belonging to CLASP, the group also works with allied professionals whom they can bring in to help with some of the negotiations that occur in the meetings between the couple. This could involve financial planners, property assessors, social workers or other professionals.

"It's usually much less expensive and you have someone objective dealing with some of the issues that may arise, like the valuation of a business or who should get custody of the kids," said Pollock.

Pollock believes that the collaborative approach can be successful, especially in cases of divorce.

"The parties have more control, a more satisfying result and also more privacy," he said. "Theoretically, this will cost less and create less stress because you're working together."

This makes it better for the couple and for the children, if there are any, added Anderson.

"Clearly, this is not for everyone," she said. "But for those who share a common interest in a resolution that leaves them

amicable and able to talk about their children, this is a super model."

Family law attorney Tom Mulroy of Thomas M. Mulroy & Associates in Pittsburgh believes that collaborative law is an idea whose time has come in Allegheny County.

"I think that increasingly people are looking for dispute resolution in forms other than through the court system because it's time-consuming and expensive and kind of unpredictable," he said. "As a result of that, I think that this really has the potential to be a good idea."

Carol Behers of the Pittsburgh-based law firm of Raphael Ramsden & Behers agreed.

"This idea has caught on in other parts of the country, so I don't see why it won't catch on here in Allegheny County, said Behers, chair elect of the Pennsylvania Bar Association Family Law Section. "I think this is terrific that this non-profit group was formed. There are clients who may not feel that they want to litigate and would prefer to do something in this collaborative atmosphere."

Behers said that one of the clear advantages for people who have chosen this route is the time they can save.

"I think that people just get tired sometimes of waiting for court dates and what they perceive are some of the inherent delays of the court system," she said. "Just in our county, out of sheer volume, we have so many cases that things do tend to take longer. It's nobody's fault, it's just the way that it is. So people who don't want to litigate will find this to be a more peaceful process and then also have the ability to control all their meeting dates and calendar." ■

Members of the Pennsylvania legal community are invited to submit their commentary and letters to the editor. Please contact Managing Editor Michael A. Riccardi at mriccardi@alm.com.