

May 19, 2009

We're proud and honored to announce that Public Justice's Maryland HMO litigation team has been named the 2009 Trial Lawyers of the Year by the Maryland Association for Justice. The team won the honor for doggedly -- and successfully -- pursuing justice for thousands of customers who had been double-billed by Maryland HMOs.

Former Public Justice Foundation Board member Kieron F. Quinn and Marty Wolf, both of Quinn, Gordon & Wolf in Baltimore, Public Justice Staff Attorney Paul Bland; Robert K. Jenner of Janet, Jenner & Suggs, LLC in Baltimore; and Bruce Plaxen of Plaxen and Adler in Columbia, MD, won the award for their victories in five cases against HMOs in Maryland over subrogation. Bruce had been the first lawyer to discover the widespread illegal practice by the HMOs, and he, Robert and Kieron developed the legal theories that led to the state's high court unanimously declaring that the practice was illegal. Kieron served as lead counsel in the cases, and Marty worked on class certification, summary judgment, and the mediation and settlement negotiations.



The 2009 Maryland Trial Lawyer of the Year legal team, clockwise from upper left: Paul Bland, Bruce Plaxen, Kieron F. Quinn, Robert K. Jenner, and Marty Wolf.

Under the practice of subrogation, when a customer recovered damages from a party that injured them, the HMOs demanded a portion of the money from the recoveries. Over a dozen years, Paul, Kieron, Marty, Robert and Bruce challenged the practice as violating Maryland's HMO Act and amounting to a double recovery (on the theory that the HMOs' premiums already accounted for these sums and that Maryland's HMO statute did not permit HMOs to obtain subrogation against their insureds). They fought this issue in separate cases against five major HMOs and won. They achieved cash recoveries amounting to approximately 90% of the overcharges - altogether, about \$8 million for thousands of Maryland citizens.

The team's work involved four separate appeals -- all argued by Paul -- extensive motions practice and significant discovery battles. In one case, for example, the plaintiffs discovered and proved that substantial case computer records had been destroyed.

In perhaps the greatest challenge the consumers faced in this case, after they had secured an initial victory in Maryland's highest court that the HMOs had engaged in illegal double billing, HMO lobbyists persuaded the Maryland Legislature to pass a law that allowed HMOs to pursue subrogation claims within certain limits. While those limits reformed HMOs' practices in ways that would save Maryland consumers many millions of dollars in the future, the law also included a retroactive provision aimed at eliminating all liability for the HMOs for their earlier illegal subrogation going back 24 years.

The legal team then sued to overturn the law, alleging that its retroactive application was

unconstitutional. In 2002, the Maryland Court of Appeals ruled that the state legislature could not retroactively void consumers' rights.

The team also won two appeals in the U.S. Court of Appeals for the Fourth Circuit overturning decisions by U.S. district courts dismissing the cases on the grounds that a federal statute, ERISA, preempted Maryland's HMO Act.

The Maryland Association for Justice bestows the annual award on the lawyer or legal team who made the greatest contribution to the public interest by trying or settling a precedent-setting case that either directly benefited Maryland residents or put wrongdoers on notice that the rights of Maryland citizens could not be abused without consequence.

The winners were feted at the organization's annual President's Party on May 8 in Baltimore. Each member of the team received a plaque commemorating the achievement.

We offer our heartiest congratulations to a team that refused to give up until justice was secured for thousands of wronged claimants. Please join us in saluting this excellent team of dedicated and inventive trial lawyers. Their work demonstrates the critical value of -- and need for -- Public Justice.

Arthur Bryant
Executive Director
Public Justice
& the Public Justice Foundation

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email: abryant@publicjustice.net
voice: 510-622-8150
web: <http://www.publicjustice.net>