



W&H On The Move

As we approach the close of 2004, Weidenbaum & Harari, LLP continues to achieve success for its clients.

In a recent personal injury action brought against one of our clients in the construction industry, the Litigation Practice Group was successful in its argument before the Appellate Division, convincing the Court to grant summary judgment dismissing the case in its entirety. The decision was published as the "Decision of the Day" in the New York Law Journal, and may serve as precedent in many other future insurance defense cases.

Our Real Estate Practice Group is hard at work with developers in many of the "up and coming" areas of New York City, and is currently preparing the offering plan of a future condominium project in Williamsburg, Brooklyn. Our client hopes to offer the new units for sale in the next year.

COLLECTION UPDATE: CONSUMER LAW AND "CHECK 21"

The Federal Check Clearing Act for the 21st Century, called "Check 21" took effect on October 28, 2004. Check 21 allows banks to replace original paper checks with "substitute checks" that are made from digital copies of the originals. This sweeping new law takes away the consumer's ability to get back original paper checks.

Since checks are going to be cleared electronically, this means that checks that you write may clear in a matter of hours instead of days. Hence, the "float" time many people count on won't exist

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Our Collections Practice Group has continued to achieve positive results for our clients, and has expanded its roster of clients to include: Hallmark, Inc., Top Flite, Reebok, Eagle Creek, Canon Financial Services and Agenda USA, and many others.

Our Construction Practice Group continues to represent the interests of numerous suppliers, subcontractors and contractors in the highly competitive world of construction.

Weidenbaum & Harari, LLP is a "next generation" law firm built on innovative principles and cutting-edge concepts. All of the firm's practice groups are bound by the overriding philosophies of commitment to excellence, dedication to clients, and the achievement of positive results through creative approaches to problem solving.

any more. Further there is no guarantee that the checks you deposit into your account will clear any faster. You may not get access to the funds from checks you deposit any sooner, because the new law does not shorten check hold times.

Remember that if something goes wrong with your checking account, make a written request for a 'recredit'.

Contact us for more information on updates regarding 'recredit' regulations, or for general questions relating to commercial or consumer collections.

**Do you have a
legal question?**

**Give us a call:
(212) 832-7400**

**Send us email:
lawyers@whfirm.com**

**Visit us on the web:
www.whfirm.com**

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REAL ESTATE: The Mortgage Contingency Clause

“The Mortgage Contingency clause should be carefully reviewed and negotiated to protect the purchaser from potential pitfalls.”



Many real estate contracts are made contingent upon the purchaser first obtaining a mortgage commitment from a lending institution. This contingency provides an ‘out’ of the contract in the event the purchaser is unable to obtain a mortgage to finance its purchase of the property.

It is important, therefore, for the purchaser to remember to protect itself in the event that the mortgage commitment either expires prior to closing or is revoked by the bank.

In addition, once a purchaser receives a mortgage commitment, the purchaser should immediately forward the commitment letter to the attorney for review. Financial institutions often place conditions on the mortgage commitment that are inconsistent with the goals of the transaction, and could cause potential problems down the line should a pur-

chaser need to avail itself of the mortgage contingency clause in the contract.

The Mortgage Contingency clause should be carefully reviewed and negotiated to protect the purchaser from potential pitfalls. Failure to negotiate protective language in the contract can lead to the purchaser’s security deposit being forfeited in certain circumstances of a revoked or expired mortgage commitment leading to the purchaser’s inability to close the transaction.

For further information on the subject of this article, contact the firm at: lawyers@whfirm.com, or at 212-832-7400.

CONSTRUCTION CONTRACTORS BEWARE!

New York’s General Business Law Section 772 imposes liability on home improvement contractors who make “false or fraudulent written statements.” Damages may include statutory damages of \$500.00, reasonable attorneys fees, and actual damages. Care should be taken to document any work to be performed in advance, and to clarify any confusion up front, before the homeowner initiates costly litigation.

In a related regulation, CPLR Section 3015(e) states that home improvement contractors must be licensed by the Department of Consumer Affairs of New York City, Westchester, Rockland, Putnam, Suffolk and Nassau if they perform services in those counties. Courts have held that an unlicensed home improvement contractor was unable to sue a homeowner for unpaid bills. While obtaining a license during the performance of the contract may be sufficient, attempting to obtain one after performance of the contract will not be sufficient.

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Weidenbaum & Harari Spotlight:

We welcome Irina Roller, Esq. as a tenant in our New York office space.

Irina Roller is a member in good standing of the Bar of the State of New York, and received her Juris Doctorate from New York Law School. She is an accomplished litigator who has tried numerous personal injury and medical malpractice cases in all counties of New York. Ms. Roller specializes in claims involving automobile accidents, slip and falls, dog attacks,

nursing home abuse, defective product cases, lead paint exposure, as well as medical malpractice and wrongful death claims.

Ms. Roller recently completed a bench trial which resulted in a successful verdict for her clients.

Ms. Roller has vast experience on both sides of the aisle of insurance litigation.

Weidenbaum & Harari, LLP would like to congratulate trial counsel, Allan H. Carlin, for his most recent litigation success at WH Firm:

The client sued for the sum of \$154,879.91 for breach of contract by an independent sales representative for failure to return consigned inventory.

After a three-day trial, our client was awarded the full amount demanded in the Complaint , plus interest at the rate of 9% from July 2002, the date of the breach.

Congratulations to all on a job well done! We look forward to many future successes.

Reality Television reaches WH Firm

Weidenbaum and Harari, LLP would like to give special mention to two of our clients who recently appeared in popular reality television shows:

Andrei Petrov, an extremely talented painter, appeared on NBC's wildly popular "The Apprentice" in its inaugural season. His work has been featured in numerous gallery openings.

Glassman Dental Care was featured in "The Swan," another successful reality program.

Persons interested in Andrei's work, or in Glassman Dental Care, should contact us at the firm for more information.

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EXPANDED FACILITIES LOCATED AT:

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From all of us at

WEIDENBAUM & HARARI, LLP!

We would like to wish all of our clients, colleagues and friends a healthy
and a safe holiday season, and best wishes for a happy new year.



Questions or comments? Give us a call at (212) 832-7400

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