

QUARTERLY Newsletter

DWBHK
◆
SPRING 2024



Here's what has happened in the last year and what's to come!

Welcome to the first installment of our firm's quarterly newsletter. We are excited to share with you the latest developments in our mission to provide excellent legal service.

First, we would like to express our gratitude to all of our clients who have continued to support us over the years. Your trust and dedication have allowed us to continue to grow to better serve you.

In terms of our recent activities, we have had quite a busy year. As we continue to dig out from the COVID backlog of trials, we would like to take the opportunity in this newsletter to celebrate our collective wins from the past year. We will also share other exciting firm news and updates.

We look forward to celebrating more wins together in the coming year. Thank you for your continued support.

Enjoy our first newsletter!

Mary Alane Downs

In this newsletter you can expect:

Welcome Letter from Mary Alane Downs

General Liability Spotlight

Med-Mal Spotlight

Firm News

Scenes from the Past Year

Updates in the Law

General Liability Spotlight



Margaret Fonshell Ward and Downs Ward Bender Herzog & Kintigh have been selected to be the Maryland counsel as part of a consortium of attorneys that will be acting as Assistant Counsel to the Attorney General representing the State of Maryland for all claims arising from the recent collapse of the Francis Scott Key Bridge in Baltimore, Maryland.

In the early morning of March 26, 2024, the Francis Scott Key Bridge in Baltimore, Maryland collapsed after it was struck by a cargo ship leaving the Port of Baltimore. As result this catastrophe, six individuals lost their lives. Additionally, traffic patterns have been altered indefinitely, operations at the Port were temporarily halted and remain considerably limited. Small businesses that rely on the port's activities face much uncertainty and the national economic engine of which the Port is a core will have a long recovery.

As Ms. Ward notes, "the impact of this tragedy affects all of Maryland and extends well beyond the state. I look forward to being a part of the effort that will bring the State of Maryland and the affected communities back to full operation." We are honored that Peggy and the firm have been selected to be a part of this important team that will represent the interests of our State.



Medical Malpractice Spotlight

2023

January:

- **Mary Alane Downs** and **Steffany Bender** obtained a **defense verdict** in the Circuit Court for Baltimore County in a case involving the alleged inappropriate placement of a pneumatic tourniquet resulting in a nerve injury.

April:

- **Christian Kintigh** obtained a **defense verdict** in the Circuit Court for Baltimore City in a case involving an alleged lingual nerve injury.

May:

- **Mary Alane Downs** and **Steffany Bender** obtained a **defense verdict** in the Circuit Court for Anne Arundel County in a case involving the failure to diagnose uterine perforation causing maternal and fetal death.
- **Steffany Bender** and **Karen Herzog** had their client **dismissed** during trial in the Circuit Court for Calvert County in a case involving the alleged failure to appropriately supervise a CRNA who performed intubation resulting in potential esophageal perforation.
- **Mary Alane Downs** and **Christian Kintigh** obtained **judgment** in favor of their client during trial in the Circuit Court for Baltimore County when they successfully struck the Plaintiff's standard of care expert testimony in a case involving the alleged failure to properly treat a testicular complication.

June:

- **Steffany Bender** and **Megan Freeman** obtained a **defense verdict** in the Circuit Court for Harford County in a case involving alleged negligence in performance of a hip replacement resulting in a retroperitoneal bleed.
- **Mary Alane Downs** and **Karen Herzog** obtained a **defense verdict** in the Circuit Court for Frederick County in a case involving the alleged failure to diagnose a pulmonary embolism.

August

- **Mary Alane Downs** and **Karen Herzog** obtained a **defense verdict** in the Circuit Court for Anne Arundel County in a case involving the alleged failure to postpone a colonoscopy due to neutropenia causing necrotizing fasciitis.

September:

- **Mary Alane Downs** and **Christian Kintigh** obtained a **defense verdict** in the Circuit Court for Harford County in a case involving the alleged failure to operate on retroperitoneal bleed following vascular surgery.

2024

January

- **Mary Alane Downs** and **Steffany Bender** obtained a **defense verdict** in the Circuit Court for Washington County in a case involving the alleged failure to diagnose a stroke.
- **Christian Kintigh** and **Karen Herzog** obtained a **defense verdict** in the U.S. District Court for the District of Maryland in a case involving the alleged failure to timely diagnose and/or properly treat sepsis.



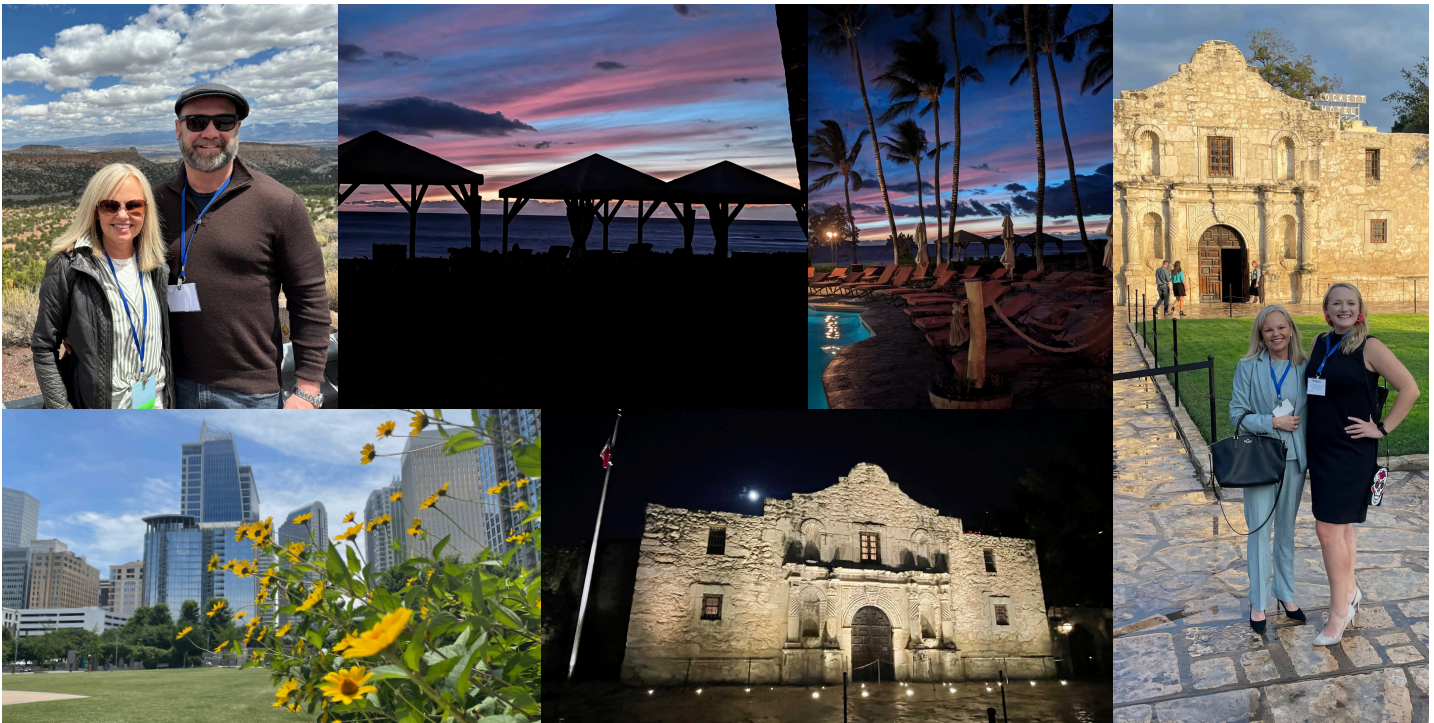
A Few Cases To Remember

- In June 2023, an arbitrator found in favor of Mary Alane Downs and Karen Herzog's client, a urologist, in a case involving the alleged failure to properly discern an adherent lesion in the margin between the prostate and rectum.
- In March 2023, Steffany Bender filed a motion to preclude the testimony of the Plaintiff's only expert witness on the basis that the expert failed to offer his opinion to a reasonable degree of medical probability and that his testimony was insufficiently specific or definite. This motion was granted. Accordingly, at trial Steffany made an oral motion for summary judgment, which was also granted.

Firm News:

- **Elaine R. Wilford** joined the firm in January 2023. Elaine is primarily handling cases within our general liability and insurance practice.
- **Zachary S. Greenbaum** and **Megan G. Freeman** were sworn in to the District of Columbia Bar in June 2023.
- **Margaret Fonshell Ward** received a defense verdict in March 2023 in a construction defect case after a successful argument that the Plaintiff's claims were barred by the statute of repose.
- **Karen M. Herzog** accepted the invitation to become a Fellow of the Litigation Counsel of America, The Trial Lawyer Honorary Society.
- **Margaret Fonshell Ward** presented "Humanizing the Insurance Company for Juries" at the FDCC Annual Meeting in July 2023.
- **Margaret Fonshell Ward** presented "Objection! The Game, The Strategy, The Win - Making Effective Objections at Trial" at the IADC Annual Meeting in July 2023.
- **Christian W. Kintigh** was invited to present at the most recent OMSNIC conference in Chicago, IL.
- **Megan G. Freeman** was named 2023-2024 Chair of the DRI Young Lawyer's social media subcommittee.
- **Margaret Fonshell Ward** became a fellow of the American College of Coverage Counsel in 2023.

Scenes from the past year:



L to R: Karen Herzog at the Association of Defense Trial Attorneys (ADTA) Annual Meeting in Santa Fe, NM; Mary Alane Downs and Peggy Ward attended the International Association of Defense Counsel (IADC) Annual Meeting in Waimea, HI; Megan Freeman and Zachary Greenbaum attended the Defense Resource Institute (DRI) Young Lawyers Seminar in Charlotte, NC; Karen Herzog and Megan Freeman attended the DRI Annual Meeting in San Antonio, TX.



What's new in Maryland?

More Protection for Attorney-Expert Communications.

In 2023, the Maryland Rule regarding expert witness disclosures, Maryland Rule 2-402, was amended to include protections for draft reports or disclosures, as well as certain attorney-expert communications. The communications that are still discoverable include: (i) communications that relate to compensation for an expert's study or testimony; (ii) communications that identify facts or data that the attorney provided and the expert considered; and (iii) communications that identify assumptions that the party's attorney provided and the expert relied on in forming the opinions to be expressed.

Which Court are they talking about?

Effective January 2023, Maryland's appellate courts were renamed. The Courts in Maryland are as follows:

District Courts - These courts housed in each county hear cases with amounts in controversy less than \$30,000.

Circuit Courts - These are Maryland's trial courts of general jurisdiction located in all 23 counties.

The Appellate Court of Maryland - Formerly known as the Court of Special Appeals, this is the intermediate appellate court.

The Supreme Court of Maryland - Formerly known as the Maryland Court of Appeals, this is Maryland's highest appellate court.

The U.S. District Court for the District of Maryland - this is the name of the federal court, which has locations in Baltimore and Greenbelt.

Thank you for reading!

Downs Ward Bender Herzog & Kintigh P.A.	410-584-2800
www.downs-ward.com	11350 McCormick Road Executive Plaza 3, Suite 400 Hunt Valley, MD 21031