



## Jeff Geiger Counters

### Sanctioning Lawyers

By: Jeff Geiger. Thursday, January 19th, 2012

THE INFORMATION CONTAINED IN THIS POST DESCRIBES LEGAL MATTERS HANDLED IN THE PAST BY OUR ATTORNEYS. OF COURSE, THE RESULTS WE HAVE ACHIEVED DEPEND UPON A VARIETY OF FACTORS UNIQUE TO EACH MATTER. BECAUSE EACH MATTER IS DIFFERENT, OUR PAST RESULTS CANNOT PREDICT OR GUARANTEE A SIMILAR RESULT IN THE FUTURE.

My colleague, **Mikhael Charnoff**, obtained a sanctions award in state court against an attorney and his client for failing to bring meritorious claims. On January 13, 2012, the Supreme Court of Virginia approved the **\$272,096** sanction against the client *and* his lawyer in a case ostensibly arising out of a real estate listing agreement. The **ruling** is important in many respects.

*First*, the sanction is financially significant no matter who you are. A lawyer's insurance company will not likely pay the sanction which means it all comes out of pocket on top of the costs of the legal fees and costs already paid.

*Second*, the prosecution of this case may signal that lawyers (like many) are suffering in the economic downturn such that they are so hungry they are willing to pursue claims hoping for any financial benefit even if the merits are dubious. Anecdotally, I have seen such behaviors more so recently in firms both big and small.

*Third*, the Supreme Court gave the green light to the lower courts to award sanctions. We may not have loser-pays system but decisions such as this will make lawyers think twice before recommending to their clients to sue someone on mere hope. As Mike stated to **Virginia Lawyers Weekly**: "At the end of the day, we're officers of the court, and we have a duty to guard the gates of the courthouse."

Hopefully, decisions such as this will end the practice of filing a law suit first and figuring out the merits (if any) later.

Congrats, Mike!

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