

June 3, 1991

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HEADLINE: Congressman's Malpractice Woes Deepened By 9-Year Stall Tactic

BYLINE: BY MARK BALLARD

BODY:

U.S. Rep. Craig Washington, D-Houston, and his former partners were slapped with an \$ 866,000 malpractice verdict for ignoring a simple personal injury case worth about \$ 25,000 when filed nearly two decades ago.

One-third of the damages figure is for prejudgment interest that stacked up, in part, because Washington was able to delay action in the malpractice case through the use of the legislative continuances he had as a state senator.

A Harris County jury on May 15 found that the firm in which Washington practiced in the 1970s engaged in "deceptive acts" that took advantage of its client, Melvin E. Williams of Houston, "to an unfair degree." Under the negligence finding, the jurors granted Williams \$ 375,000 in actual damages, \$ 200,000 in punitive damages and another \$ 291,000 in prejudgment interest.

No judgment has been entered.

The underlying suit was filed in May 1973 and languished unattended on court dockets until dismissed for want of prosecution nine years later. Then the malpractice suit, filed in September 1983, was delayed an equal amount of time by a string of legislative continuances requested by Washington, who was a state senator prior to being elected to Congress in 1990.

Despite the verdict, Washington said the jury's findings do not apply to him because he filed for Chapter 11 bankruptcy in March 1991. Because Washington is under reorganization in a Houston bankruptcy court, a state district court's rulings do not apply to him, thereby making the jury's verdict "void on its face," Washington said.

"I don't see how the jury could make any findings against me," said Washington, refusing to comment on the merits of the case. "The question of whether I am liable has yet to be determined.

The jury verdict was levied against Washington, Moncie Rasmus Jr., now a Houston solo practitioner, Ned Wade Jr., who was disbarred in 1982 and died in 1987, and Jose Sotolongo, who was suspended in 1988 for the duration of his 10-year probation on a conviction of theft by receiving according to the State Bar. Washington was a name partner in Wade, Rasmus & Washington from February 1969 until mid-1977, when he joined the firm that eventually became Washington Lampley Evans & Braquet of Houston.

Rasmus and his lawyer, name partner Weldon H. Berry of Houston's Berry, Gaston & Howard, did not return calls.

Sotolongo said the verdict was indicative of the public's desire to "stick it to lawyers." He said he would not "pay a penny of this damn thing."

Sotolongo added the case survived only on the aggressiveness of Williams' attorney.

"This thing has been dragging along for years. The perseverance of lawyers, particularly in Texas, is phenomenal. You talk about 'root, dig or die,'" said Sotolongo, who court

records indicated was promoted while the suit was pending.

Williams' counsel. Houston solo practitioner Dana A. LeJune, on the other hand, said the case lingered because Washington shielded himself and his former partners with his legislative continuances.

Court records showed that four of the eight trial dates were postponed because of legislative continuances requested by Washington. But LeJune said he remembered "as many as eight" motions were made orally that delayed hearings and depositions as well as the trial.

Washington said LeJune's position on legislative continuances was not "intelligent enough to a warrant a comment."

"There were times I thought this thing would never get to trial," LeJune said. "The verdict is even more remarkable because they could have settled this thing in 1984 . . . for \$ 3,000 each. Of course, they could have done their job in the first place 18 years ago." LeJune said he originally demanded \$ 12,000 to settle the case but was refused.

'TOUGH AND THOROUGH'

The original case as a boilerplate personal injury claim that stemmed from a automobile collision in May 1973. Williams testified he hired Wade, Rasmus & Washington "because of its reputation in my community as being tough and thorough."

Williams' case was assigned to Wade. After filing suit, Wade's only apparent work on the case was to file three motions to retain it on the docket. Williams' suit was dismissed in May 1982, which coincidentally was soon after Wade was disbarred for neglecting six client matters and converting \$ 26,000 from another client to his own use, then refusing to return the money.

Williams testified he phoned the firm monthly to check on the progress of his case and was told by secretaries and lawyers, "we're working on it" and "it takes time."

In August 1983, Williams learned that the case had been dismissed. He filed the malpractice suit in September of that year.

Washington and Rasmus responded that they were solo practitioners sharing office expenses, not partners in a firm, and therefore were not liable for malpractice against Wade's client.

While Washington, Wade and Rasmus did not split fees, they held themselves out as a partnership, using the firm name on stationery, signs and in court pleadings, according to the jury. The jury found that Washington, Wade, Rasmus and Sotolongo were partners and misrepresented the nature of their practice to Williams.

Judge Russell T. Lloyd of Houston's 334th District court has not signed a final judgment reflecting the jury's verdict that the defendants have joint and several liability for the \$ 866,000.

The judgment, however, could prove difficult to collect. Wade is dead. Sotolongo said he could not pay even if all his assets were liquidated. He added that Rasmus, a close friend, also does not have that kind of money. And Washington has filed for bankruptcy protection.

LeJune said he is searching for property owned by Rasmus and Sotolongo. Meanwhile, he has filed a \$ 1 million unsecured claim in Washington's bankruptcy case.

LeJune said his next step is to request an adversary hearing in bankruptcy court that would require Washington to pay the judgment if found liable.

GRAPHIC: Picture, U.S. REP CRAIG WASHINGTON: Sued in 1973 for a partner's neglect of a routine personal injury claim. WILLIAM ALBRECHT

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