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Doar, Drill & Skow: New Richmond law firm wins WI Supreme Court case

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New Richmond, WI – On January 26, 2023, the Wisconsin Supreme Court, in a 4-3 decision, ruled that a Second-Degree Reckless Homicide conviction would not preclude the homicide victim's mother from claiming in a civil action that the child's death was an "accident" under the criminal defendant's homeowner's insurance. New Richmond law firm Doar, Drill & Skow represented the plaintiff in the insurance coverage dispute and won the case for its client (*Dostal v. Strand*, 2023 WI 6, N.W.2d).

According to Doar, Drill & Skow's Mike Brose: "It is unusual, but heartening, that we see the Wisconsin Supreme Court hear an appeal like we initiated, let alone reversing a decision by two lower courts."

Doar, Drill & Skow's Mackenzie Campbell added: "The Supreme Court receives about 800 Petitions for Review every term. Of those, about 65 of them, or about 8%, are granted, meaning the issue is taken up [by the Supreme Court]."

The case started in 2017, when an infant died from a head injury sustained while in the care of her father. There were no other witnesses to the event causing the injury. The father was then convicted of Second-Degree Reckless Homicide. The child's mother sued the father and his insurance company for the wrongful death of the child. In 2020, the insurer argued there was no insurance coverage because the death was not an accident, but a homicide. (Typically, insurance policies like the one at issue in this case only cover negligent or accidental acts.) The trial court and Court of Appeals agreed.

Doar, Drill & Skow attorneys Mike Brose, Mackenzie Campbell, and Morgan Richie brought the case to the Wisconsin Supreme Court, who reversed the decision. The

Wisconsin Supreme Court held that a conviction of Second-Degree Reckless Homicide was not necessarily a conclusive determination that an act was “intentional” rather than “accidental” in nature. In doing so, the Court held that insurance coverage applied to the mother’s wrongful death case against the person responsible for her child’s death.

Had the decision gone the other way, it might have had an adverse impact on a plaintiff’s ability to recover from a wrongdoer’s insurance policy after the wrongdoer had been convicted of a crime.

About Doar, Drill & Skow

Since 1883, the attorneys at New Richmond-based Doar, Drill & Skow have represented families, individuals and businesses across Wisconsin and Minnesota in areas of personal injury, criminal defense, family law and divorce, civil litigation, estate planning and trusts, workers compensation and more. More information at doardrill.com