$11 Million Jury Award to G&K Clients on Abuse of Process Claim

A jury trial resulted in a verdict of $11 million to G&K clients Carmen Caccavale and Henry Schein, Inc. on a counterclaim for abuse of process. Trial counsel were Kevin O’Malley, Mark Fuller, and Kiersten Murphy.

Mr. Caccavale, a medical products sales representative, resigned from McKesson Medical-Surgical, Inc. in 2004 to take a job with Henry Schein, a McKesson competitor. He did not have a non-compete agreement with McKesson. McKesson sued him on a variety of claims, including misappropriation of trade secrets, and later added many other defendants, including Henry Schein. Mr. Caccavale and Henry Schein asserted a counterclaim for abuse of process.

In December 2008, after 4½ years of litigation, United States District Court Judge Susan Bolton granted summary judgment to Mr. Caccavale, Henry Schein and all other defendants on all claims asserted by McKesson, and found sufficient evidence to warrant a trial on whether McKesson had engaged in abuse of process.

On May 20, after a seven-day trial, the jury agreed that McKesson had used the court processes for improper ulterior purposes and was liable for abuse of process. The jury awarded compensatory damages to Mr. Caccavale in the amount of $5 million, and compensatory damages to Henry Schein in the amount of $6 million.