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Contact: Deborah Mathis, Communications Director, (202) 797-8600, Ext. 246 or dmathis@publicjustice.net

TEAM THAT OBTAINED JUSTICE FOR THOUSANDS OF MARYLAND HMO CUSTOMERS WINS MARYLAND TRIAL LAWYER OF THE YEAR AWARD

A legal team that doggedly – and successfully – pursued justice for thousands of customers who had been double-billed by their HMOs has been named 2009 Trial Lawyers of the Year by the Maryland Association for Justice.

Paul Bland of Public Justice, the Washington-based national public interest law firm; Kiernon F. Quinn and Marty Wolf, both of Quinn, Gordon & Wolf in Baltimore; Robert K. Jenner of Janet, Jenner & Suggs, LLC in Baltimore; and Bruce Plaxen of Plaxen and Adler in Columbia, MD, won the award for their victories in five cases against HMOs in Maryland over subrogation. Plaxen had been the first lawyer to discover the widespread illegal practice by the HMOs, and he, Jenner and Quinn developed the legal theories that led to the state's high court unanimously declaring that the practice was illegal. Quinn served as lead counsel in the cases, and Wolf performed a majority of the work in settling the last several of the cases to be resolved.

Under the practice of subrogation, when a customer recovered damages from a party that injured them, the HMOs demanded a portion of the money from the recoveries. Over a dozen years, Bland, Quinn, Wolf, Jenner and Plaxen challenged the practice as violating Maryland's HMO Act and amounting to a double recovery (on the theory that the HMOs' premiums already

accounted for these sums and that Maryland's HMO statute did not permit HMOs to obtain subrogation against their insureds). They fought this issue in separate cases against five major HMOs and won. "We achieved cash recoveries amounting to approximately 90% of the overcharges," Plaxen said. "Altogether, our team recovered approximately \$8 million for thousands of Maryland citizens."

"We established a number of important precedents that will assist consumers in many future cases," Bland added. "We obtained appellate rulings limiting the extent to which federal law wipes away state laws protecting consumers from abuses by insurance companies, and important expansions of constitutional protections for Maryland residents against retroactive legislation."

The team's work involved four separate appeals (all argued by Bland), extensive motions practice and significant battles for discovery. In one case, for example, the plaintiffs discovered and proved that substantial case computer records had been destroyed.

In perhaps the greatest challenge the consumers faced in this case, after they had secured an initial victory in Maryland's highest court that the HMOs had engaged in double billing, HMO lobbyists persuaded the Maryland Legislature to pass a law that allowed HMOs to pursue subrogation claims within certain limits. While those limits reformed HMOs' practices in ways that would save Maryland consumers many millions of dollars in the future, the law also included a retroactive provision aimed at eliminating all liability for the HMOs for their earlier illegal subrogation going back 24 years.

The legal team then sued to overturn the law, alleging that its retroactive application was unconstitutional. In 2002, the Maryland Court of Appeals ruled that the state legislature could not retroactively void consumers' rights.

“I’m particularly proud of our victory striking down the retroactive legislation,” Jenner said. “It was extremely unfair for the legislature to try to take away vested constitutional rights of Maryland consumers at the urging of the HMO lobby. The Court’s landmark ruling ensures that this kind of abuse will not happen again.”

The team also won two appeals in the U.S. Court of Appeals for the Fourth Circuit overturning decisions by U.S. district courts dismissing the cases on the grounds that a federal statute, ERISA, preempted Maryland’s HMO Act. “The Fourth Circuit decisions preserving for consumers the protections of state insurance laws are extremely important,” Quinn said. “Those precedents have already proven influential to other courts in preserving consumer rights.”

The Maryland Association for Justice bestows the annual award on the lawyer or legal team who made the greatest contribution to the public interest by trying or settling a precedent-setting case that either directly benefited Maryland residents or put wrongdoers on notice that the rights of Maryland citizens could not be abused without consequence.

The winners were feted at the organization’s annual President’s Party on May 8 in Baltimore. Each member of the team received a plaque commemorating the achievement.

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Public Justice is America’s public interest law firm, supported by – and calling on -- a nationwide network of more than 3,000 of the nation’s top lawyers to pursue precedent-setting and socially significant litigation. It has a wide-ranging litigation docket in the areas of consumer rights, worker safety, civil rights and liberties, toxic torts, environmental protection, and access to the courts. Public Justice is the principal project of

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