



## The Voice

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### And The Defense Wins

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The Dallas Court of Appeals has affirmed a summary judgment that DRI member and partner at **Jackson Walker LLP** [John Koepke](#) obtained for Stewart Title Guaranty Company and Stewart Title Company in a case seeking as much as \$2 million for alleged breach of contract, negligent misrepresentation, and Texas Insurance Code claims. *McGonagle v. Stewart Title Guaranty Co.*, \_\_\_ S.W.3d \_\_\_, 2014 Tex. App. LEXIS 4780 (Tex. App. – Dallas May 1, 2014).

Dr. Martin McGonagle had sued the Stewart Title entities, alleging that STGC's title insurance policy included coverage for a recorded restriction and that both defendants made misrepresentations to Dr. McGonagle. The suit stemmed from Dr. McGonagle's purchase of a five-acre tract of land in downtown Granbury, Texas, that was subject to a dedication instrument, which required the property owner to move and maintain a historic motel office building located on the site. Dr. McGonagle claimed that he was owed over \$550,000 in out-of-pocket losses and over \$1.6 million for the effect that the dedication instrument allegedly had on the property.

The court of appeals affirmed the summary judgment. The court of appeals agreed with Jackson Walker's argument that the dedication instrument was not an encumbrance on title to the land, but was akin to a use restriction, not a covered matter. It also agreed with the argument that Dr. McGonagle had assumed and agreed to the dedication instrument because it was noted in the underlying purchase contract. The court also agreed with Jackson Walker's showing that the Stewart Title entities did not make any misrepresentations in the title commitment and had no duty to inform Dr. McGonagle that the dedication instrument was in effect.

Jackson Walker has a long history of providing exceptional service to Stewart Title, having represented the company in various matters for more than 20 years, and is appreciative of the opportunity to assist its client in achieving this latest success.

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