

Watergate Legacy Still Plagues Attorneys' Clients

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One of the seamier side issues of the Watergate scandal was the conduct of attorneys who got caught in the middle or on the fringes of the coverup.

They sometimes started out in a traditional attorney role of representing a client, next found themselves accused of conspiracy (often by their own clients), then got subpoenaed as witnesses in seemingly endless Watergate investigations, and then found themselves as the targets of some of the same investigations. Some ended up in prison.

Now the conduct of lawyers involved in Watergate has resulted in a ruling in a legal malpractice case that might make it more difficult for a client in any situation to recognize exactly when his lawyer's alleged misconduct hurt him—and therefore to know when to file a lawsuit against the attorney.

E. Howard Hunt, convicted Watergate burglar and conspirator, had filed the case against William O. Bittman and Bittman's former firm, Hogan and Hartson. Hunt said Bittman—

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who was later investigated but not prosecuted—and the prestigious uptown firm were negligent in numerous aspects in the manner in which they represented him.

The Watergate Special Prosecutor's office decided nearly five years ago not to prosecute Bittman for his failure to turn over an important memorandum by Hunt bearing on the case or for his sworn statements about the document's existence. Earlier, Bittman had been named an unindicted coconspirator in the Watergate coverup after witnesses told of delivering huge sums of cash to Bittman, who acted as a conduit, and passed the funds to Hunt.

However, Hunt did not file the suit until Sept. 30, 1977. There is a three-year statute-of-limitation in the District within which a client can file a

legal malpractice suit against an attorney.

As a result, U.S. District Judge Oliver Gough threw out the suit last week, citing the importance of the date upon which Hunt was actually injured by the alleged misconduct of Bittman and the firm. If Hunt had been injured before Oct. 1, 1974, the suit would be dismissed; if he was hurt after that date, the court would consider his claim of legal malpractice.

Hunt said he was not harmed until the appellate court upheld his guilty plea, or until he returned to prison to complete his prison term after being free on bond—neither of which occurred until 1975.

Bittman and the law firm said Hunt was harmed on March 23, 1973, when U.S. District Judge John J. Sirica put him behind bars for the first time. They also denied Hunt's contentions that he failed to file his suit earlier because the firm and Bittman had hidden from him certain aspects of their alleged improper conduct.

Daniel A. Reznick of Arnold and Porter, who defended Hogan and Hartson in the suit, said the statute-of-limitation rule was especially important because of the potentially "great and damaging impact" of such suits on attorneys. "A lawyer's good name is his most valuable asset," Reznick argued.

That may be true. And it is true that the case of Hunt vs. Bittman involved less-than-clean hands on both sides, and the statute issue provided an easy way for the judge to avoid what Reznick called "a rehash of history."

Gasch made it clear he was not passing on the conduct of Bittman or the firm. In keeping with its normal, any public action against Bittman or the firm. In keeping with its normal and some might say protective, practice, the bar refuses to discuss the matter publicly.

Meanwhile, the law here is quickly progressing to the point where it is going to be up to the client more than

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ever to prove that he was aware the moment his lawyers did something that harmed him and might have provided him grounds for a suit against them.

As for Hunt, he probably should have recognized something was wrong when he heard the jail door slam shut. For others, it might be more difficult to prove you should have known your attorney argued the wrong point or gave the wrong advice while sitting in his or her plush office.

You might have to start taking a lawyer along when you meet with your lawyer—just in case.

The watch-what-we-do, not-what-we-

say award this week goes to the D.C. Bar board of governors. At its public meeting last week, the group approved a statement by one of its divisions complaining about closed District government meetings and asking city officials to set up a procedure to end its "haphazard inconsistent and unpredictable" administration of the Sunshine Act.

A few minutes later, however, the board of governors went into executive (closed) session without any explanation.

New U.S. Attorney Charles F.C. (Chuck) Ruff told members of his staff last week they should be careful in talking to the press and that he believes 90 percent of their conversa-

tions with the press should consist entirely of two words: "No Comment."

By the next day, several members of his staff had told reporters about the speech in detail and passed on other tidbits from the meeting.

Nice try, Chuck.

Ruff did announce at the meeting that he had selected Robert W. Ogren as his executive assistant U.S. attorney, the job that ranks No. 3 in the hierarchy of the federal prosecutor's office here. The appointment of Ogren, who was head of the fraud division of that office before joining Hill, Christopher and Phillips two years ago, was well-received by other prosecutors familiar with his work. Ruff noted that he and Ogren were

sworn in as Justice Department attorneys on the same day 12 years ago. Principal assistant U.S. attorney Carl S. Rauh rounds out the prosecution front office here, and Ruff said he had no other major changes in mind for now. * * *

Dunning letters will be sent out to 880 members of the bar who haven't paid their D.C. Bar dues that were due last September. If the dues aren't paid after receipt of the certified letter, the attorneys will be automatically suspended from practice here, bar officials said.

Two former prosecutors have combined forces to create a new partnership in D.C. Hamilton P. Fox III, former assistant U.S. attorney in the Dis-

trict and former deputy chief of the Justice Department's organized crime and racketeering section, will team up with former Maryland assistant U.S. attorney Daniel J. Hurson to form the firm of Fox and Hurson . . . Stephen W. Grafman, a former assistant U.S. attorney here, has joined the firm of Hill, Christopher and Phillips. . . . The Washington College of Law at The American University has named its new dean: Thomas Buergenthal, judge of the Inter-American Court on Human Rights. Buergenthal is currently the Fulbright and Jaworski Professor of International Law at the University of Texas (Austin) Law School, and will come to AU in July.