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Novack & Macey Successfully Defends Dismissal of Appeal

JANUARY 25TH, 2006

In a case that demonstrates the importance of properly filing a notice of appeal, on January 25, 2006, the Circuit Court of Cook County denied an attempt to resurrect an appeal against Novack and Macey's client, Valuemetrics, Inc., that was dismissed because a notice of appeal was filed too early and then not filed at the proper time.

The appeal grew out of an August 1, 2005 order that dismissed a complaint against Valuemetrics. The plaintiff, Tudor Insurance Co., filed a notice of appeal from that order. Thereafter, Valuemetrics voluntarily dismissed its counterclaim. Tudor did not file a notice of appeal following dismissal of Valuemetrics' counterclaim.

Eric Macey and Tim Miller of Novack and Macey asked the Appellate Court to dismiss Tudor's appeal. They argued that the Circuit Court's August 1 order was not appealable because it did not address Valuemetrics' counterclaim. The Appellate Court agreed, and on December 5, 2005, it dismissed Tudor's appeal. On January 10, 2006, the Appellate Court denied a motion to reconsider.

While Valuemetrics' motion to dismiss Tudor's appeal was pending in the Appellate Court, Tudor asked the Circuit Court to create jurisdiction by dismissing Valuemetrics' counterclaim as of August 1, when Tudor's complaint was dismissed. On January 25, the Circuit Court refused to do so.