

## **Court Reverses \$5 Million Antitrust Verdict Against Erie**

The West Virginia Supreme Court has overturned a \$5 million verdict rendered against Erie for alleged restraint of trade. In *Princeton Insurance Agency and Webb v. Erie Ins. Co., et al.*, (No. 34498, W.Va., filed Nov. 18, 2009), Erie had an agency agreement with Princeton Insurance Agency. Shortly after beginning the agency relationship, there was a steep decline in profitability and quantity of Erie products sold. Erie suspected business was being steered to another insurer and sought production reports from the agency to determine if there was any act of steering. Ultimately, Erie terminated its relationship with Princeton and the agency sued for, *inter alia*, restraint of trade, anti-trust violations, and improper disclosure of private consumer information.

At trial, the jury ruled in Erie's favor on the claim of improper disclosure of private consumer information, but found that Erie's termination of the agency agreement was an unreasonable restraint of trade. The jury awarded \$1.4 million in compensatory damages and another \$1.4 million in punitive damages. The Circuit Court of Mercer County, however, vacated the punitive award increasing it to \$4.2 million.

The Supreme Court, however, found no concerted action between Erie and the responsible agent at Princeton Insurance Agency concluding the absence of such was fatal to the antitrust claim. The Court also found no proof of antitrust injury. The Court specifically found that the agency's lost income could have been sustained due to the proper termination of the agency agreement which would not constitute antitrust damages. Therefore, the verdict was reversed.

Martin & Seibert, L.C. filed an *amicus* brief on behalf of the West Virginia Insurance Federation in support of Erie.

