



\$2 Million Award for Pattishall Client

February 12, 2009

Feb. 11, 2009. Judge Elaine Bucklo of the United States District Court for the Northern District of Illinois awarded over \$2 million to Paxar Corporation, f/k/a Monarch Marking Systems and now a wholly-owned subsidiary of Avery Dennison Corp., in a lawsuit handled by Pattishall attorneys Brett August and Andrew Downer. The award in this trademark infringement and unfair competition case was for damages, costs and attorneys' fees under a 1995 settlement agreement that was filed with the court as a consent judgment against Kap Graphics and Larry Fern. The settlement called for payments over 13 years and had a powerful liquidated-damages provision. Although initially expressing doubts about jurisdiction and the liquidated damages provision, today Judge Bucklo entered an order that states in part:

This Court has concluded that it does have jurisdiction to enforce the settlement because it was incorporated into a consent judgment. [Cites omitted.] Although harsh, the parties agreed that in the event of any default, Kap Graphics would be liable not only for the amount in default, but for \$2,000,000.00 in liquidated damages, as well as attorney's fees and costs.

The case is Monarch Marking Systems v. Kap Graphics Inc., et al., 1:93-cv-5082.

For more information, please call Brett August at 312-554-7962 or Andrew Downer at 312-554-7936,



PATTISHALL
McAULIFFE
NEWBURY
HILLIARD &
GERALDSON LLP

311 South Wacker Drive, Suite 5000 • Chicago IL 60606 • T (312) 554-8000 • F (312) 554-8015 • www.pattishall.com