

GARY K. KWASNIEWSKI

LITIGATION

VIAU & KWASNIEWSKI
LOS ANGELES

SPECIALTY: Plaintiff-side insurance bad faith

Kwasniewski doesn't carry the high-power cachet associated with a big name law firm. He and his wife, Jeanette L. Viau, own and manage a boutique law firm in the Los Angeles area. Yet this year, the husband-wife team won a very big case at the state Supreme Court. The court's ruling effectively opened the door for consumers to sue insurance carriers, banks and other companies for unfair business practices in a much larger number of circumstances. *Zhang v. Superior Court of San Bernardino County*.

Notably, Kwasniewski and Viau won the case without any amicus support from the plaintiffs' bar, and against significant opposition from the insurance

industry. Viau wrote most of the briefs, while Kwasniewski argued the case before the state Supreme Court.

Kwasniewski said he was just trying to do right by his client, Yanting Zhang, whose apartment building burned down in 2005. She tried to collect money from her insurance carrier, but it repeatedly low-balled her. She ultimately sued the company for false advertising. The insurance industry argued the lawsuit was barred because of a prior state Supreme Court decision that said private individuals can't sue insurance companies over claims disputes. But the state Supreme Court sided with Zhang, ruling that its earlier ruling doesn't preclude private citizens from bringing lawsuits under the state's Unfair Competition Law.

"This wasn't a huge economic victory.

This was about changing the law into a positive direction in favor of consumers," said Kwasniewski, who is himself a former defense lawyer who for years represented Fortune 500 cases in product liability lawsuits. "If a defense lawyer has a bad case, they're supposed to get the case wrapped up. What shocked me was the position insurance defense lawyers would take that were just not the law. And that was basically what happened in *Zhang*."

— Emily Green

