

No Duty to Defend Proceeding before Administrative Agency

January 2003

The Florida Supreme Court, in a decision not yet released for publication, held that under Florida law, a proceeding before an administrative agency was not a proceeding in a "court of law," thereby allowing an insurer to avoid any duty to defend. *Coregis Ins. Co. v. Mosquito Control Special Taxing Dist.*, No. SC02-311, 2002 WL 31662636 (Fla. Nov. 27, 2002).

A Florida taxing district (District) purchased a public officials and employees liability insurance policy. The policy obligated the insurer to defend any "Suit" and defined "Suit" as "a proceeding in a court of law where Money Damages may be awarded." An employee of the District filed a petition before the Monroe County Career Service Council (MCCSC), as well as an action in circuit court, alleging employment discrimination by the District on the basis of political affiliation. The insurer defended the circuit court action but not the proceeding before the MCCSC. Coverage litigation ensued in federal court, and ultimately the Eleventh Circuit certified to the Florida Supreme Court the question whether the proceeding before the MCCSC was a proceeding in a "court of law." The Florida Supreme Court held that it was not. The court based its decision on the provision in the Florida Constitution vesting judicial power in certain specified courts, including circuit courts. The Florida Supreme Court reasoned that "a petition before the MCCSC is not a proceeding before a court of law under Florida law because the MCCSC is not a court as expressly set forth in the Florida Constitution. The MCCSC is an administrative agency possessing only quasi-judicial powers."

For more information, please contact one of WRF's Professional Liability Attorneys at 202.719.7130.