

No Duty to Defend Lawyer Sued in Capacity as President of Manufacturing Company

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In an unreported decision, a New York appellate court has held that an insurer had no duty to defend a law firm under a legal malpractice policy in a lawsuit alleging that a lawyer in the policyholder firm engaged in unlawful conduct in his capacity as president of a manufacturing company. *Seskin & Sassone, P.C. v. Liberty Int'l Underwriters*, 2003 WL 21508492 (N.Y. App. June 30, 2003).

The insurer issued a legal malpractice policy to a law firm. The policy excluded coverage for "any claim arising out of your services and/or capacity as an officer, director, partner, trustee, manager, operator, or employee of any organization other than the named insured." In an underlying action, the law firm was sued because one of its partners allegedly engaged in a fraudulent scheme concerning a retail development project in Nevada while acting in his capacity as the president of a corporation that manufactures medical equipment. The underlying complaint did not allege that the lawyer provided legal services. The court therefore concluded that "the allegations fall wholly within the policy exclusion."

For more information, please contact us at 202.719.7130.