

Sole Equity Partner of Dissolved Law Firm Held Liable for Judgment

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Applying California law, a California appellate court has held, in an unpublished opinion, that a judgment for reimbursement against an insured law firm was properly amended to name the sole equity partner of that law firm in light of his “pervasive” involvement in the underlying litigation and coverage litigation and his direction of such litigation in light of the fact that he knew the law firm was dissolved and had no assets. *Carolina Cas. Ins. Co. v. L.M. Ross Law Group LLP*, 2012 WL 6555545 (Cal. Ct. App. Dec. 17, 2012).

The insured law firm tendered notice of a potential malpractice claim and the subsequent lawsuit for coverage under its professional liability policy. The insurer filed a coverage action seeking a declaration that coverage was barred by a business enterprise exclusion. The insured then settled the underlying lawsuit, and the insurer and insured each agreed to pay a portion of the settlement subject to the right to seek to recoup amounts paid depending upon the outcome of the coverage action. The insured filed a counterclaim for reimbursement in the coverage action but agreed that the insurer need not do so and that it would reimburse the insurer if the insurer prevailed on the coverage issue.

The insurer prevailed on the coverage issue, but the insured refused to pay because it claimed it had been dissolved years earlier and had no assets. The insurer sought to add the insured firm's sole equity partner to the judgment to enable the insurer to obtain reimbursement directly from the individual.

The trial court agreed to amend the judgment and the appellate court affirmed. Substantial evidence supported the trial court's finding that the insured's sole equity partner, “as an individual, actively participated in and controlled the litigation on behalf of [the insured]” because he attended the mediation at which the settlement was reached, his approval was required for substantive settlement negotiations, and he submitted the declarations in support of the insured's motion for summary judgment in the coverage action. The appellate court also relied on the fact that the insured had only one equity partner and that he encouraged the litigation in a particular direction knowing that the insured had been dissolved and had no funds. Accordingly, the court found that adding the individual to the judgment was “equitably justified” as it would effectively identify the “true identity” of the culpable party.