

ALERT

Former Employee's Suit for Unlawful Termination Not a Claim for "Wrongful Acts," Court Holds

April 24, 2012

Applying California law, a federal district court in California has held that claims for military service discrimination are not covered as "wrongful acts" under the defendant's insurance policy. *Forest Meadows Owners Ass'n v. State Farm Gen. Insurance Co.*, 2012 WL 1205204 (E.D. Cal. Apr. 11, 2012).

A former employee sued the policyholder, alleging that she had been fired as a result of her time commitments to the Air Force Reserve, a violation of state and federal law. After its insurer denied coverage, the policyholder filed suit against the insurer.

The district court granted summary judgment in favor of the insurer. In the court's view, the underlying claim was not one for a "wrongful act" and thus not covered under the policy. The policy defined "wrongful acts" as "any negligent acts, errors, omissions or breach of duty" The court rejected the policyholder's contention that "negligent" modified only "acts" and that "wrongful acts" therefore included all manner of errors, omissions, or breaches of duty. "To conclude otherwise would result in a strained and illogical interpretation of the policy in which coverage could conceivably extend to intentional, reckless or even ultrahazardous errors, omissions and breaches of duty," the court explained. Properly construed, the policy did not cover the employee's claims because "the allegations only encompassed intentional misconduct and, as a result, could not have given rise to the potential for coverage" The court therefore granted the insurer's motion for summary judgment on the grounds that it had no duty to defend the underlying claim.

Practice Areas

D&O and Financial Institution Liability
E&O for Lawyers, Accountants and Other Professionals
Insurance
Professional Liability Defense

The opinion is available [here](#).