California Case Law Update

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PERSONAL INJURY

Dameron Hospital Association v. AAA Northern California, Nevada and Utah Insurance Exchange

(September 4, 2014) ___ Cal.Rptr.3d ___, 2014 WL 4379083 (Cal.App.3 Dist.)

A hospital treated three auto accident patients covered by a health service plan. The health service plan, Kaiser Permanente, had negotiated billing rates with the hospital whereas the auto liability insurers (AAA and Allstate) did not. The hospital asserted liens pursuant to the Hospital Lien Act ("HLA"), seeking to collect its customary billing rates. AAA and Allstate ignored the HLA liens when paying out settlements. After learning of the settlements, the hospital brought an action against the AAA and Allstate to recover on HLA liens, seeking the difference in the amounts which it billed pursuant to its customary rate and the amounts paid to the health service plan by the auto insurers. The trial court granted summary judgment for the auto insurers, finding that the patients' debts were fully satisfied by their health service plans. The trial court further reasoned that the HLA liens were extinguished for lack of any underlying debt and dismissed the case. The court further indicated the hospital failed to timely file some of its liens against AAA.

The hospital appealed, arguing it contracted with Kaiser to preserve its rights to recover customary billing rates from tortfeasors and their liability insurers. The hospital further argued the tortfeasors and their liability insurers were responsible for the entire bill for medical services at the customary rate. The Court noted the hospital's contract with Kaiser was silent as to whether the hospital could collect from tortfeasors and their liability insures after receiving negotiated rate payments from Kaiser. Thus, the Court of Appeal held that (1) a hospital may impose a medical lien to recover customary billing rates for emergency room services if the hospital has an express contract with the health care service plant to that effect; and (2) the hospital's contract with the health service plant failed to preserve the hospital's billing rights against third party tortfeasors who may have liability for injuries to patients covered by the health service plan.

EMPLOYMENT:

Castaneda v. The Ensign Group, Inc. **(September 15, 2014) ___ Cal.Rptr.3d ___, 2014 WL 4536995 (Cal.App. 2 Dist.)**

An employee brought a class action against his employer's parent company, Ensign, for nonpayment of minimum and overtime wages. Castaneda contended Ensign is the alter ego of Cabrillo Rehabilitation and Care Center ("Cabrillo"), a nursing facility where Castaneda worked, and that the corporate veil should be pierced. The trial court granted summary judgment in favor of the Ensign. Castaneda, appealed, arguing that a question of material fact existed as to whether the employer's parent company was an additional employer of the employees.

The Court of Appeal found that "[a]n entity that controls the business enterprise may be an employer even if it did not 'directly hire, fire or supervise' the employees." It further found that multiple entities can be employers where they control different aspects of the employment relationship. Because Ensign assumed responsibility for employee discipline and for various other reasons, the Court of Appeal reversed the trial court's ruling.

INSURANCE COVERAGE

Mercury Casualty Company v. Chu **(September 24, 2014) ___**

Cal.Rptr.3d ___, 2014 WL 4732889

Chu, insured by Mercury Casualty Company ("Mercury"), was involved in a car accident with another party. Pham, a passenger in Chu's vehicle and Chu's roommate, was injured during the accident and brought a personal injury claim against Chu. Pham ultimately obtained a $333,300 judgment against Chu. Mercury then filed an action against Chu seeking a judicial determination that Chu's policy excluded coverage for Pham's judgment under the "resident exclusion." Mercury further sought reimbursement of the fees and costs Mercury incurred in defending Chu. Chu cross-complained against Mercury for breach of contract, bad faith and general negligence. The trial court granted a Motion for Summary Adjudication, finding that coverage for Pham's claim was excluded under the policy, but did not grant Mercury's request for reimbursement. Mercury then filed a Motion for Judgment on the Pleadings as to Chu's cross-complaint, which was also granted. Chu appealed the trial court's granting of the Motion for Summary Judgment and Mercury appealed the trial court's denial of reimbursement.

The Court of Appeal found no authority to expand the exclusion of "resident relatives" to "nonrelative residents." The Court found that Pham did not have an insurable interest in the nature of the potential legal liability for Chu's vehicle or Chu's action as a driver. Pham and Chu were not related. Accordingly, the Court found the nonrelative resident clause to be an overbroad expansion of Insurance Code, section 11580.01(c)(5) and, therefore, contrary to public policy. The Court of Appeal ***reversed*** the trial court's granting of the Motion for Summary Judgment and Judgment on the Pleadings and remanded the case for further proceedings.

Jon Davler, Inc. v. Arch Insurance Company **(September 15, 2014) ___ Cal.Rptr.3d ___, 2014 WL 4628477 (Cal.App.2 Dist.)**

A group of employees brought an action against Jon Davler, Inc., alleging various causes of action, including sexual harassment, intentional infliction of emotional distress and false imprisonment. Jon Davler, Inc. tendered the underlying action to its commercial general liability carrier, Arch. Arch denied coverage and refused to provide a defense or indemnity based upon the "employment-related practices" exclusion. Jon Davler, Inc. filed an action against Arch for breach of contract, breach of the implied covenant of good faith and fair dealing, and conversion. Arch demurred and the trial court granted its demurrer without leave to amend, noting that the action by the employees was clearly the type of action covered by the employment related practices exclusion. The Court of Appeal sustained the trial court's ruling.

EFFECT OF ATTORNEY MISCONDUCT

Pope v. Babick **(September 18, 2014) ___ Cal.Rptr.3d ___, 2014 WL 4649660 (Cal.App.4 Dist.)**

This case arose out of a motor vehicle accident. Plaintiffs proceeded to trial against Thomas Stanley, who they argued made an unsafe lane change, causing another defendant to hit Plaintiffs' vehicle, and Matthew Babick, the owner of the vehicle driven by Stanley. At trial, the jury found defendants to not be liable for the accident. Plaintiffs' appealed, arguing that there was not substantial evidence to support the verdict and that misconduct of Babick's attorney was so egregious, the trial court should have granted Plaintiffs' request for a mistrial.

As for Plaintiffs' argument that there was not substantial evidence to support the verdict, the Court of Appeal found that Plaintiffs failed set forth, discuss and analyze all evidence as required and, therefore, waived any issue in this regard. The Court of Appeal further found that the jury was free to believe Stanley's story over that of the other defendants and/or Plaintiffs. As to the trial court's failure to grant Plaintiffs' request for a mistrial or a new trial, the

Court of Appeal found that the trial court acted appropriately in both regards. While attorney misconduct is a valid grounds for a new trial, the Court of Appeal found that the attorney misconduct in this case did not result in sufficient prejudice to warrant a reversal.

ABOUT THE AUTHOR:

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