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WWM WINS SUMMARY JUDGMENT IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA

WWM attorneys Robert Conlon won summary judgment on behalf of WWM's client, a professional liability insurance carrier, in the United States District Court for the Middle District of Florida.

WWM's client declined coverage for a third-party claimant's lawsuit against the insured law firm on the bases that the allegations: did not fall within the scope of coverage provided by the policy's Insuring Agreement; and, were also barred by an exclusion. The insured filed a declaratory judgment action against WWM's client in Florida state court alleging that the client breached the insurance contract by declining coverage for the claim. WWM successfully removed the matter to the United States District Court for the Middle District of Florida and thereafter filed its motion for summary judgment arguing the two coverage defenses. The insured firm filed a cross-motion for summary judgment.

Judge Mary Scriven, in her 14-page Order, found that there was no allegation in the underlying complaint that the insured law firm rendered services as an attorney to any party to the underlying action. To the contrary, Judge Scriven noted that the underlying complaint repeatedly stated that the insured was acting as an "unlicensed broker" and/or violated Section 475.41 of the Florida Statutes by collecting a commission without a license. Thus, Judge Scriven held that: "the underlying complaint cannot be fairly read to involve 'services rendered to others in [the Insured'] capacity as a lawyer' or acts 'arising out of the conduct of [the Insured's] profession as a lawyer,' such that the acts would qualify as professional services under the policy." Because the Court found that the policy does not provide coverage for the underlying lawsuit, it declined to rule on the applicability of the relevant policy exclusion.

Judge Scriven granted the client's motion for summary judgment, denied the insured's cross-motion and directed the clerk to enter judgment in the client's favor declaring that: (1) the policy provides no coverage for the matters alleged in the underlying lawsuit; (2) the client did not, and does not, have a duty to defend the underlying lawsuit; and, (3) the client does not have a duty to indemnify the insured for any loss resulting from the matters alleged in the underlying lawsuit. *Rissman, Barrett, Hurt, Donahue & McClain, P.A. v. Westport Insurance Corporation*, No. 6:10-cv-00898-MSS-GJK (M.D.Fla. July 19, 2011).

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