



Weekly Law Resume

A Newsletter published by Low, Ball & Lynch
Edited by David Blinn and Mark Hazelwood



WEEKLY LAW RESUME™

Issue By: DAVID L. BLINN

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Torts-Vicarious Liability-Joint Tortfeasors

PacifiCare of California, et al. v. Bright Medical Associates, Inc.

Court of Appeals, Fourth District (September 2, 2011)

Code of Civil Procedure Section 877.6 provides that one defendant who is a "joint tortfeasor" may settle with a plaintiff and absolve itself of any equitable indemnity claims of other parties through a good faith settlement determination. This case considered whether a party can object to a settlement where there are allegations that the parties were joint tortfeasors, but where the trial ultimately confirmed that the defendants' liability to the plaintiff was several, rather than joint.

Jerry Martin and his family sued PacifiCare of California doing business as Secure Horizons and PacifiCare Health Systems, LLC (collectively "PacifiCare"). The Martins asserted claims for insurance bad faith based on delays their wife and mother, Elsie Martin (Elsie), experienced while seeking out-of-network treatment for a cerebral aneurysm. The aneurysm ruptured and Elsie died before receiving the necessary care. Elsie's primary care physician belonged to cross-defendant Bright Medical Associates, Inc. ("Bright"), the health care provider who contracted with PacifiCare. Although Bright made all the decisions that delayed Elsie's medical care, the Martins did not file a claim against Bright. Instead, they claimed that PacifiCare owed a non-delegable duty to ensure that Elsie timely received all necessary medical care and treatment. Plaintiffs also claimed that PacifiCare was directly liable for the design and implementation of its medical plan. PacifiCare filed a cross-complaint for indemnity against Bright. During jury selection, Bright settled with the Martins for \$300,000, conditioned on the trial court finding Bright and the Martins settled in good faith.

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The trial court granted the good faith settlement motion, and dismissed PacifiCare's cross-complaint against Bright. At trial, following the completion of plaintiff's case in chief, the court granted PacifiCare's non-suit motion. As to the non-delegable duty claims, the Court noted that Health and Safety Code Section 1371.25 barred holding a health care service plan vicariously liable for the acts and omissions of its health care providers. Hence, plaintiffs could not recover against PacifiCare for the actions of Bright. As to the direct claims against PacifiCare regarding the design and implementation of its medical plan, the evidence did not support any direct liability.

PacifiCare appealed the dismissal of its cross-complaint. PacifiCare contends the trial court lacked authority to make a good faith settlement determination because PacifiCare and Bright did not share joint liability for the Martins' damages. According to PacifiCare, Bright bore all liability because the Martins based their claims on Bright's acts or omissions only, and PacifiCare could not be held vicariously liable for Bright's conduct as a matter of law under Health and Safety Code Section 1371.25. The Court of Appeal noted that although this was correct, PacifiCare's argument ignored the fact that the complaint of the plaintiffs had pled that PacifiCare had direct liability based on its design and implementation of a health care service plan that allegedly contributed to the delays in Elsie's medical care.

The Court of Appeal noted that for purposes of the good faith settlement statutes, "joint tortfeasor" was broadly construed. It included not just those that "act in concert" to produce an injury, but generally to "joint, concurrent and successive tortfeasors," and even more generally to "all tortfeasors joined in a single actions whose acts or omissions "concur to produce the sum total of the injuries to the plaintiff." Further, the first sentence of Code of Civil Procedure Section 877.6 uses the word "alleged" to describe the tortfeasors entitled to seek a good faith settlement determination. Hence, even where, as here, it is ultimately shown at trial that a party was not a joint tortfeasor, the allegation in the complaint at the time of settlement was sufficient to merit application of the process to determine good faith determination.

The order granting Bright's good faith settlement motion and dismissing PacifiCare's cross-complaint was affirmed.

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COMMENT

This case points out that it is not necessary for a party to be proven to be jointly liable with another defendant to obtain a good faith settlement determination. Whether the facts ultimately support such a finding at trial or not, as long as plaintiff has alleged joint liability, the good faith statute applies.

For a copy of the complete decision see:

[HTTP://WWW.LOWBALL.COM/IMAGES/SEMINAR_PDFS/PACIFICARE%20V%20BRIGHT%20MEDICAL%20ASSOCIATES.PDF](http://www.lowball.com/images/seminar_pdfs/pacificare%20v%20bright%20medical%20associates.pdf)

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