



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Insurer Accuses Hinshaw Of Negligence Over \$11M Trial Loss

By **Dorothy Atkins**

Law360 (January 3, 2025, 7:49 PM EST) -- Texas Insurance Co. has sued the law firm Hinshaw & Culbertson LLP and a partner in California state court, alleging they failed to advise the insurer that it could be liable for the bulk of an \$11.15 million verdict in an underlying personal injury case.

In a 14-page complaint filed Dec. 31, Texas Insurance Co. accuses the San Francisco-based law firm and Hinshaw & Culbertson partner Bradley M. Zamczyk of professional negligence by allegedly failing to advise the insurance company of the risk posed by joint and several liability under Golden State law.

The negligence dispute stems from an underlying personal injury lawsuit against cab company Desoto Cab Co., which had purchased a \$1 million liability insurance policy from Texas Insurance, according to the current complaint.

Texas Insurance had retained Hinshaw & Culbertson after former Prudential Financial Inc. Regional Vice President Carissa Copeland sued the cab company and its driver Mogos Zeregaber Behre over a car accident that occurred in March 2014 on U.S. Route 101 heading north in San Francisco, according to court documents.

At the time of the collision, Copeland's vehicle was stopped in traffic, and Behre's vehicle collided with the back of her car, rear-ending her and causing injuries, according to Copeland's February 2016 complaint.

In September 2021, a jury in the underlying litigation awarded Copeland \$11.15 million in damages, including \$3.1 million in past economic damages, \$8 million in future economic damages, plus \$300,000 in non-economic damages. However, jurors found Desoto Cab Co. was only 3% at fault, according to the complaint.

Even so, the insurance company's lawsuit claims that its legal counsel failed to inform the insurer that Desoto Cab and its insurer could still be held jointly and severally liable for the bulk of the award under California's Proposition 51, which provides that joint and several liability applies to economic damages, while noneconomic damages are apportioned based on fault.

"Consequently, Desoto Cab Co. and, by extension, plaintiff as its insurer, faced substantial exposure due to the economic damages of over \$10,852,968.24 awarded to the underlying plaintiff and against Desoto Cab Co., despite the relatively low fault allocation of 3%," the complaint says. "Defendant failed to properly advise plaintiff regarding the risk of joint and several liability under Proposition 51 and its applicability to the underlying matter."

Texas Insurance argues that the law firm "at no point" provided written or oral guidance regarding Proposition 51, or the significant financial risk posed by the economic damages. Had the insurance company known, it would have settled the case within the \$1 million policy limits, and Copeland would have accepted it, the lawsuit asserts.

Desoto appealed the trial loss and \$10.85 million judgment against it, but lost its appeals, the suit says.

The three-count complaint asserts a claim of breach of fiduciary duty, breach of contract and

professional negligence. The suit seeks compensatory and consequential damages as well as litigation costs.

Hinshaw & Culbertson said in a statement Friday that the claims asserted against the firm are without merit.

"We categorically deny any liability, and we look forward to vigorously defending against these claims in court," the firm said.

Zamczyk and counsel and representatives for Texas Insurance didn't immediately respond to requests for comment Friday.

Texas Insurance Co. is represented by Matthew J. Negrin and Amy Gershoony of Negrin LLP.

Counsel information for Hinshaw & Culbertson wasn't immediately available Friday.

The instant case is Texas Insurance Co. v. Hinshaw & Culbertson LLP et al., case number CGC-24-621093, and the underlying personal injury litigation is Carissa Copeland v. Desoto Cab Co. et al., case number CGC-16-550659, both in the Superior Court of the State of California, County of San Francisco.

--Editing by Kristen Becker.

All Content © 2003-2025, Portfolio Media, Inc.