

# The Professional Liability Law Blog

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INSURANCE PROFESSIONALS, ACCOUNTANTS AND STOCK BROKERS



## Pointe San Diego v. Procopio: Relation-Back Doctrine Applies to Amended Complaint for Legal Malpractice

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In a [published opinion](#), the California Court of Appeal (Fourth Appellate District, Division One) held that a complaint for legal malpractice containing general allegations of professional negligence provided adequate notice to the former attorneys of the basis for the claim. The court also held the later amended complaint specifying the basis for the malpractice claim related back to the original, timely-filed complaint even though the original complaint contained a single cause of action and the final complaint contained eight. The decision is *Pointe San Diego Residential Community, L.P. v. Procopio, Cory, Hargreaves & Savitch LLP*, 2011 Cal.App.LEXIS 784.

Former clients sued their prior counsel for legal malpractice relating to ongoing litigation in a complex real estate suit. The original complaint contained a single cause of action for “general negligence” alleging that the defendant attorneys failed to use due care in handling the case, which was identified by name. The former clients later amended the complaint to allege more details about the claim. However, the trial court sustained the attorneys’ demurrer to the amended complaint on the ground that it was time barred. The trial court ruled that the relation-back rule was inapplicable because the original complaint did not contain sufficient factual allegations.

Reversing the trial judge, the Court of Appeal held that the amended complaint related back to the original complaint because the claim for recovery under the amended complaint was based “on the same basic set of facts as the original pleading.” The critical inquiry for the court was whether the defendant had adequate notice of the claim based on the original pleading. The court found that the expansion of the complaint from a single cause of action in the original pleading to eight causes of action in the fourth amended complaint did not alter the analysis regarding sufficiency of notice.

The court also distinguished *Davaloo v. State Farm Ins. Co.*, 135 Cal. App. 4<sup>th</sup> (2005), pertaining to a complaint filed on the last day of the statute of limitations containing general allegations of breach of contract and bad faith without mentioning the defendants or plaintiffs by name and lacking any information about the plaintiffs’ policies or claims. The *Davaloo* court held the original complaints were sham complaints, so the first amended complaints did not relate back and were time-barred. Here, the original complaint sufficiently notified the defendant by identifying the matter being sued upon and by naming the relevant parties. Thus, the amended complaint related back to the original complaint even though the amended complaint contained more causes of action and details regarding the alleged malpractice.