

# The Professional Liability Law Blog

BRINGING PROFESSIONAL LIABILITY INFORMATION TO CALIFORNIA ATTORNEYS,  
INSURANCE PROFESSIONALS, ACCOUNTANTS AND STOCK BROKERS



## [Directed Verdict for Legal Malpractice Defendant When Plaintiff Fails to Present Expert Testimony on Standard of Care](#)

Thursday, October 7th, 2010

Directed verdict on a complaint for legal malpractice is appropriate when the former client fails to present expert testimony from a legal expert with regard to the applicable standard of care. That is what the California Court of Appeal held in an unpublished decision handed down on September 22, 2010 in *Cooper v. Ahsan*, 2010 Cal.App.Unpub.LEXIS 7545. The dispute arose out of the attorney's handling of a marital dissolution action. At trial the former client did not present an expert witness to testify regarding the applicable standard of care, as required by *Kelly v. Trunk*, 66 Cal.App.4th 519 (1998), which meant that he could not meet the causation element of his claim for legal malpractice.

On appeal, the former client argued that he was pursuing his claim as one for breach of contract, and not for the tort of professional negligence, and this excused him from having to present expert testimony. However, the Court of Appeal found that there was no evidence to support that the claim had been so pled.