

The Professional Liability Law Blog

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



[No Fiduciary Duty Arose When One Attorney Hired Another Attorney to Argue a Motion For Him](#)

Tuesday, December 21st, 2010

In an [unpublished opinion](#) from the California Court of Appeal (First Appellate District, Division Four) in *Ostly v. Salinas* dated December 10, 2010, the court ruled that no fiduciary relationship was created when one attorney hired another to argue a motion on his behalf. In reaching this decision, the Court of Appeal relied on *Beck v. Wecht* (2002) 28 Cal.4th 289, 298.

Attorney Ostly hired attorney Salinas to argue a motion for attorney's fees in an unlawful detainer case. Later, Salinas represented several of Ostly's former clients in an unrelated case in which Ostly was seeking attorney fees from those former clients. In an action for breach of fiduciary duty brought by Ostly against Salinas, Ostly contended that Salinas was acting improperly in handling this unrelated litigation because Salinas had obtained from Ostly confidential information about settlements.

The Court of Appeal sustained Salinas's demurrer to the complaint and the Court of Appeal affirmed. The court recognized the custom in California of attorneys making court appearances for other attorneys without the formality of being made attorneys of record, and it cited *Beck* for the proposition that no fiduciary duty arises between co-counsel in a joint representation of a client. Here, no attorney-client or fiduciary relationship existed between these two attorneys.