

Sedgwick Jury Trial Bad Faith Victory Results in Appellate Court Decision Barring Vicarious Liability

Healthcare Law Newsletter

By Douglas Collodel

September 09, 2011

A couple of years ago, Sedgwick authored an amicus brief, which the California Court of Appeal in *Watanabe v. California Physicians' Service* (2008) 169 Cal.App.4th 56 relied upon to hold that California Health & Safety Code section 1371.25 barred claims against a healthcare service plan that were based on vicarious liability for the acts or omissions of a healthcare provider who contracted to deliver medical care and services to the healthcare plan's enrollees. At the time of the *Watanabe* decision, Sedgwick was involved in a two-month jury trial with lawyers from the Shernoff, Bidart firm in an insurance bad-faith and wrongful death action against a Medicare plan. Based on the newly rendered *Watanabe* decision, Sedgwick renewed its pretrial arguments at the close of plaintiffs' case that section 1371.25 barred plaintiffs' vicarious liability theory and also that plaintiffs failed to establish any direct liability theory. The trial court granted the nonsuit motion of the Medicare plan. The plaintiffs appealed from the ensuing judgment, challenging *Watanabe's* interpretation of section 1371.25 and, further, claiming that the Medicare Act preempted the California statute.

On August 31, 2011, in *Martin v. PacifiCare of California* (2011) – Cal.App.4th –, another Court of Appeal agreed with the *Watanabe* decision. More specifically, the appellate court noted that the statute's legislative history (which the *Watanabe* court did not consider) supported *Watanabe's* interpretation of section 1371.25. Further, the appeals court rejected the plaintiffs' argument that the healthcare plan was an insurer, which could be vicariously liable for a non-delegable duty of good faith and fair dealing arising out of the acts or omissions of a delegated health care provider or medical group. Finally, based on the appellant's procedural default, the Court of Appeal did not reach the issue whether the Medicare Act preempted the California statute. For further information, please contact Sedgwick's trial counsel [David Humiston](#) or appellate attorneys [Christina Imre](#) and [Douglas Collodel](#).

Related Practices:

[Insurance Practices](#)