

The Professional Liability Law Blog

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INSURANCE PROFESSIONALS, ACCOUNTANTS AND STOCK BROKERS



[Arnall v. Superior Court: Contingent Fee Agreement for Transactional Services Voidable due to Failure to Include Statutory Language](#)

Monday, December 6th, 2010

California law requires that all contingent fee agreements contain certain language. California Business and Professions Code Section 6147 sets forth those requirements, one of which is that the fee agreement state that contingent fees are not set by law and are negotiable between attorney and client. Failure to include this language, among other requirements, makes the contract voidable by the client.

In *Arnall v. Superior Court*, the client Arnall had entered into a fee agreement with her attorney which provided that the attorney would receive a set monthly payment and a percentage of specified reductions in monthly adverse economic impacts the client might suffer and other savings. A second fee agreement provided for a monthly stipend for a set period and a percentage of specified recoveries and sales proceeds. The client eventually terminated the fee agreements and the attorney brought suit to enforce them. The trial court denied the client's motion for summary adjudication, which argued that the agreements were voidable for failure to include the language noted above as required by Section 6147. The trial court ruled that case law provided that the statute applied only to contingent fee agreements in the context of litigation.

In a [published decision](#) dated November 22, 2010, the California Court of Appeal (Second Appellate District, Division Four) reversed and issued a writ of mandamus directing the trial court to grant the client's motion. The court determined that amendments to Section 6147 made clear that it was to be applied to contingent fee agreements in both the litigation and transactional contexts. Further, the court held that the fact that this was a hybrid agreement with both contingent and fixed fee aspects did not take it outside the statute. Last, the court rejected the argument that because the percentages were very low they should not be subject to the statute. While the percentages may have been low, the ultimate amount at issue was large.