

INSURANCE UPDATE

June 12, 2006

Issue No. 62

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California Law - Liability Insurance – Cancellation

**Liability Insurer Has No Obligation To Notify Additional Insured Of Policy Cancellation**

*The Gorham Company, Inc. v. First Financial Insurance Company* - 06 C.D.O.S. 4559, California Court of Appeal, Second District, May 30, 2006

By David P. Borovsky and Howard M. Garfield

Gorham, a general contractor, was hired by the City of Los Angeles to construct a public project. Gorham hired a framing subcontractor to work on the project, which purchased a liability insurance policy from First Financial. Gorham was named as an additional insured on the policy. The framer financed the purchase of this liability policy through a financing company. Thereafter, the framer failed to pay its premiums, and the financing company exercised its right (under the terms of the financing contract) to cancel the First Financial policy.

A lawsuit later ensued between the City, Gorham, and the framer. Gorham tendered defense of the City's claims to First Financial (as an additional insured). First Financial denied Gorham's tender, citing the policy cancellation (which took place before the subject property damage) as the basis for its denial. In response, Gorham brought a claim against First Financial for breach of the duty to defend. Among other things, Gorham argued that the cancellation was

invalid because it was never notified of the cancellation.

The trial court granted summary judgment in favor of First Financial, and the appellate court affirmed. Insurance Code section 673 governs the cancellation of an insurance policy by a lender for nonpayment of premium. The appellate court concluded that all of the statutory requirements were met: (1) notice to the named insured of the financing company's intent to cancel; (2) mailing of written notice to the insurer after a minimum notice period of ten days; and (3) mailing of notice of cancellation to the insured.

Because the statute did not expressly require First Financial to send any notice, of any type, to an additional insured such as Gorham, the appellate court declined to create such a requirement. Thus, the cancellation was effective.

This case provides an important clarification of statutory rules for cancellation of financed insurance

policies. As with other statutory provisions pertaining to cancellation, California courts will *strictly construe* the requirements for cancellation.

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