

PROFESSIONAL LIABILITY UPDATE

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California Law

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Auditors hired by a client to audit attorney's bills owe the attorney no duty of care.

Glen K. Jackson, Inc. v. Richard Roe (9th Cir. 2001) 273 F.3d 1192

The law firm of Jackson & Donahue ("Jackson") represented Golden Eagle Insurance Company and its insureds in workers' compensation cases. The accounting firm of Stuart, Maue, Mitchell & James ("Stuart, Maue") conducted an audit of Jackson's billings to determine if they were in accordance with Golden Eagle's billing guidelines. The audit reported over \$250,000 in unverified fees. After Jackson and Golden Eagle settled the fee dispute, Jackson sued Stuart, Maue for audit negligence. The Ninth Circuit Court of Appeals affirmed the trial court's grant of summary judgment.

Under California law an auditor owes no duty of care to the entity being audited. The only exception is if the audit engagement contract expressly identifies a third party beneficiary. The court determined that Jackson was not a third party beneficiary to the agreement

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between Golden Eagle and Stuart Maue. Although Jackson was an "incidental" beneficiary of Stuart Maue's work, Stuart Maue owed no duty of care to Jackson.

Comment: Law firms should take care to follow their institutional client's billing guidelines and be ready to justify their fees in the event of an audit. A law firm has no recourse against an auditor for negligently prepared reports.

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