

Bird Marella Obtains Summary Judgment for AmLaw 200 Firm in Opinion Letter Dispute

Three weeks before trial was scheduled to begin in a closely-watched legal malpractice action, Bird Marella attorneys Mark Drooks and Douglas Fretty obtained summary judgment for their client, an AmLaw 200 firm, resulting in a complete defense judgment.

The case arose out of a loan transaction in which the law firm represented a borrower and issued a closing opinion letter to the lender. After the lender declared a default on the loans, it sued the law firm for fraud and professional negligence, on the theory that the firm owed the lender broad duties of disclosure regarding the firm's client. U.S. District Judge Ronald S. W. Lew sided with the defense, agreeing with Bird Marella's argument that no reasonable jury could conclude that the law firm breached a duty to the lender or caused the lender's alleged losses on the loan. In issuing the summary judgment ruling, the Court concluded that the closing opinion letter was not false or misleading, and that the lender was aware of the facts that it accused the law firm of having concealed.

In granting summary judgment for Bird Marella's client, the Court also denied the plaintiff's parallel motion for partial summary judgment.