



## Alerts

### Pennsylvania Allows Suit Against Attorneys for "Bad Settlements" Where Fraud/Negligence Alleged

August 1, 2022

*Lawyers for the Profession®*

*Khalil v. Williams*, No. 24 EAP 2021, 2022 Pa. LEXIS 1033 (July 20, 2022)

#### Brief Summary

The Supreme Court of Pennsylvania considered whether plaintiff's legal malpractice claims against defendants—her former attorneys—were barred under the court's decision in *Muhammad v. Strassburger, McKenna, Messer, Shilobod & Gutnick*, 587 A.2d 1346 (Pa. 1991), which held that a plaintiff may not sue his or her attorney on the basis of the adequacy of a settlement to which the plaintiff agreed, unless the plaintiff alleges the settlement was the result of fraud. Here, plaintiff sued her former attorneys for fraudulently or negligently inducing her to sign a settlement agreement that she would not have knowingly approved. The attorneys moved to dismiss, arguing plaintiff merely wanted to revisit the settlement amount. The Supreme Court of Pennsylvania ruled in plaintiff's favor, explaining that claims regarding settlements are permitted against attorneys in matters where they act fraudulently or where the claims are not based on the amount of the settlement.

#### Complete Summary

Dr. Ahlam Kahlil owned a condominium in a building with property insurance from Travelers Property Casualty Company of America (Travelers). When her property was damaged by a water leak from the unit above, Kahlil moved out, stopped paying condominium fees, and sued Travelers, her upstairs neighbors, and her own property insurer (the Water Damage Case). A year later, the condominium association (the Association) sued Kahlil for unpaid fees—which elicited counterclaims from Kahlil and a joinder complaint against her former neighbors and the building's property management company (the Fees Case).

Kahlil retained defendants in the Water Damage Case and reached a settlement in principle with Travelers. However, the text of the settlement agreement barred Kahlil's counterclaims in the Fees Case, which she did not want. Before signing, she spoke with defendants who she claims wrongly assured her that the counterclaims were safe. She further claimed that the agreement she signed contained the protections she wanted, but that her signature was forged on a later draft that did not.

#### Attorneys

Terrence P. McAvoy

Matthew L. Pagano

#### Service Areas

Counselors for the Profession

Lawyers for the Profession®



With the agreement ostensibly signed, the defendants in the Fees Case were able to obtain dismissal of Kahlil's counterclaims. In response, she sued defendants for legal malpractice based on negligence, breach of contract, and negligent and fraudulent misrepresentation. Defendants moved for summary judgment, arguing that Kahlil merely wanted to revisit the settlement amounts at their expense; a practice prohibited except in cases of attorney fraud or negligence.

When the matter reached the Supreme Court of Pennsylvania, the court noted that defendants and the lower courts focused their arguments and analysis solely on Kahlil's allegations of fraud and did not address her allegations of negligent advice. It therefore concluded "that the Superior Court erred in holding that Appellant's negligence and breach of contract claims were barred under *Muhammad*." *Id.* at 29; *Muhammad*, 526 Pa. 541, 543 (1991). Kahlil was not "merely challenging the amount of her settlement in the Water Damage Case, but rather alleged that Appellees provided incorrect legal advice regarding the scope and effect the Travelers Release." *Id.* at 31-32.

## Significance of Decision

This decision should remind attorneys that settlement is not a time to coast to an easy resolution of a case. An attorney's duties of competence, honesty, and diligence apply at every stage of representation. Full disclosure of all material terms of any settlement should be explained and understood by the client; if not, beware of a potential claim.