



Alerts

Illinois Court Extends Evidentiary Lifeline to Accounting Firm Accused of Negligence

September 7, 2011

Professional Lines Alert

Relying on an audit report by defendant accounting firm following plaintiff bank's extension of three loans to a borrower, the bank extended a term loan to the borrower for \$1.4 million. When the borrower absconded with the proceeds of that loan, the bank sued the accounting firm for a negligent audit report and filed a motion *in limine* to exclude evidence of the bank's contributory negligence in connection with the first three loans to the borrower. The trial court denied the motion, and a jury found in favor of the accounting firm. The bank appealed.

Question Before the Court and How the Court Decided It

The appellate court considered whether evidence of the bank's decisions on the first three loans to the borrower was admissible into evidence as relevant to issues of causation and reliance.

The appellate court held that the prior loans were relevant to the bank's entire lending relationship with the same borrower.

What the Court's Decision Means For Practitioners

This decision represents a clarification of pre-existing law dating back more than 20 years. See *Congregation of the Passion, Holy Cross Province v. Touch Ross & Co.*, 224 Ill. App. 3d, 559 (1st Dist. 1991). In *Congregation of the Passion*, the court granted a motion *in limine* to exclude reference to any other investment accounts of plaintiff in that case because it did not bear on the specific account involved in the lawsuit.

Citibank, N.A. v. McGladrey & Pullen LLP, 2011 WL 2418572 (Ill. App. Ct. 1st Dist. June 14, 2011)

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