

Sheppard Mullin Secures Ninth Circuit Win for Farmers Direct Property and Casualty Insurance

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In a published decision in favor of Sheppard Mullin client Farmers Direct Property and Casualty Insurance Company, the Ninth Circuit Court of Appeals clarified the legal standard for determining the amount-in-controversy requirement in declaratory judgment cases between an insurer and its insured. The Ninth Circuit's decision arose out of a 2021 declaratory judgment action that Farmers brought against its insured, Dennis Perez, in the Central District of California. Farmers sought a declaration that, due to Perez's refusal to cooperate in his own defense, Farmers had no duty to defend or indemnify Perez in a personal injury lawsuit brought by the Montezes, which resulted in a \$10 million+ judgment against Perez. After Farmers obtained a default judgment against Perez, the Montezes sought to set aside and vacate the judgment. They argued that the federal court lacked jurisdiction because Farmers' \$25,000 liability limit did not meet the \$75,000 threshold for diversity jurisdiction. The district court agreed and vacated the judgment.

Farmers appealed, and the Ninth Circuit reversed. The court concluded that the amount in controversy was not limited to the policy's \$25,000 limit. Rather, in determining the amount in controversy, the district court was required to take into account (i) the Montezes' contention that Farmers should be liable for the excess amount of the underlying personal injury judgment, and (ii) Farmers' ongoing defense costs in the underlying tort action. Because there was a legal possibility that Farmers could be liable for these amounts, each of which exceeded \$75,000, the panel held that the district court erred in vacating the judgment and remanded the matter for further proceedings.

The team representing Farmers is led by Peter Klee, Todd Lundell and Thomas Proctor.

The matter is *Farmers v. Perez*, case no. 23-3320 in the U.S. Court of Appeals for the Ninth Circuit.

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