

INSURANCE

Duty to Defend–Bad Faith–Breach of Contract

City, water dist. claimed insurer had duty to indemnify

SETTLEMENT **\$4,700,000****CASE** City of Carlsbad and Carlsbad
Municipal Water District v.
Allianz Global Risks U.S. Insurance Co.,
No. 37-2007-00072351-CU-IC-CTL**COURT** Superior Court of San Diego County,
San Diego, CA**JUDGE** William R. Nevitt Jr.**DATE** 10/29/2010**PLAINTIFF****ATTORNEY(S)** **Craig A. Miller**, Levine, Steinberg, Miller &
Huver, San Diego, CA**DEFENSE****ATTORNEY(S)** **R. Randal Crispen**, Luce, Forward,

FACTS & ALLEGATIONS In 2005, plaintiffs city of Carlsbad and Carlsbad Municipal Water District were named in a suit over property damage from a March 2005 landslide caused by water saturation of a hillside. The city and water district settled the suit for \$11,235,000. Between 1978 and 1980, the plaintiffs were insured by Allianz Global Risks U.S. Insurance.

The city and the water district sued Allianz Global Risks, alleging breach of contract and bad faith. Plaintiffs' counsel claimed Allianz had a duty to defend because property damage was alleged to have occurred on the same hill during its coverage period. The plaintiffs claimed Allianz made a written agreement to defend the suit, then withdrew from the defense and refused to participate in settlement negotiations.

Allianz argued there was no coverage and that it had no duty to indemnify, as the property damage occurred during a later coverage period.

INJURIES/DAMAGES The plaintiffs claimed Allianz owed \$4 million from two \$2 million insurance policies and that it had refused to pay, the \$1.2 million cost of defending the suit, the \$11,235,000 paid to settle it, \$5 million in Brandt attorney fees, \$2.4 million in interest, and punitive damages.

The defense disputed the damages, arguing that any liability it owed was limited to the insurance policy limits.

RESULT Allianz agreed to pay \$700,000 for the city's legal costs after the underlying case settled. The parties later reached a \$4 million settlement.