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## **No Duty to Indemnify Where Insured Settled without Obtaining Insurer's Prior Written Consent**

In an unpublished decision, the Ninth Circuit affirmed a district court finding that an insurer owed no duty to indemnify because its insured entered into a settlement agreement without first obtaining the insurer's written consent.

*OneWest Bank v. Houston Casualty Company*  
(Ninth Circuit Court of Appeals, January 19, 2017)  
Case No. 15-55579  
2017 WL 218900

Houston issued a professional liability policy to OneWest which stated that the insured shall not enter into any settlement agreement without the insurer's prior written consent. OneWest filed a bad faith action after Houston refused to provide coverage for a settlement in an underlying action because OneWest had not obtained Houston's permission to enter into the settlement. The Ninth Circuit upheld the district court's order granting Houston's summary judgment motion, stating that the consent provision was unambiguous, enforceable in the absence of economic necessity, insurer breach or other extraordinary circumstance and an essential condition to the insured's receiving indemnification under the policy. Because OneWest had not obtained Houston's consent and no exception applied, the appellate court concluded that the insurer did not breach the insurance contract and no coverage was available. The court further concluded that in the absence of a valid breach of contract claim, the causes of action for bad faith, declaratory relief and punitive damages failed as a matter of law.

To view the opinion, click [HERE](#).