

## **Medill vs. Westport Insurance Corporation**

Year: 2006

Court: California Supreme Court

Case Number: Second District Case Nos: B17007 & B182442

Volunteer Board of Directors should be covered under D & O policy and the Court should not so broadly construe the exclusion for breach of contract so as to apply to tort claims because the lawsuit remotely related to the corporation's breach of its bond obligations. Moreover, the burden of proof to disprove the application of the breach of contract exclusion, simply because the exclusion was hidden in the definition of a term contained in the insuring clause of the policy. California Courts have always held that the insurer bears the burden to prove that an exclusion precludes coverage.

UP's brief was prepared pro bono by Randy M. Hess and Duane W. Shewaga of Adleson, Hess & Kelly, APC