

Street Surfing, LLC v. Great American E&S Ins. Co.

Year: 2014

Court: U.S. Court of Appeals, 9th Circuit

Case Number: 12-5531

Under California law, the duty to defend is broader than the duty to indemnify. In fact, under *Montrose Chem. Corp. v. Superior Court*, 6 Cal. 4th 287, 300 (1993), “the insured must prove the existence of a potential for coverage, while the insurer must establish the absence of any such potential.” As such, UP argued in its brief that the plaintiff’s advertising injury coverage should be triggered due to reasonable inferences and in light of the facts presented. UP also argued that equitable estoppel should apply due to the circumstances surrounding the insurer’s initial denial of coverage and waiver of exclusions and defenses.

UP's brief was authored pro bono by Eric J. Schindler, Esq., of the Schindler Law Group