Published on *The National Law Review* https://www.natlawreview.com

# Broker Malpractice Claim Does Not Require Expert Testimony Proving Reasonableness of Underlying Settlement

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On September 12, 2011, United States District Judge Lonny Suko ruled in ***Colman Coil Manufacturing, Inc. v.*** **Seabury & Smith, Inc.,** 2011 U.S. Dist. LEXIS 102238, that **expert testimony regarding the reasonableness of an underlying products liability settlement is not a prerequisite to a broker malpractice claim.**

The insured manufacturer had been sued for damages caused by an ammonia link in their equipment. Their liability insurer, Wausau, provided a reservation of rights defense, but filed a separate coverage action seeking a declaration that the policy's total pollution exclusion eliminated coverage. **Based upon advice from both their personal coverage counsel and appointed defense counsel, the insured elected to settle the products liability lawsuit for $1.15 million, with the insured paying $450,000 of the settlement. The insured then sued its broker, Seabury & Smith, alleging that their negligence had resulted in incomplete insurance.**

Seabury & Smith argued on summary judgment that the **professional malpractice claim failed, as a matter of law, because the insured did not have any expert to establish the reasonableness of the underlying settlement.** Judge Suko **rejected the argument, noting that there is no Washington authority imposing any expert testimony requirement.** Judge Suko distinguished this scenario from cases in which there has been a consent judgment to settle the underlying liability claim. The Court concluded that it is for the finder of fact to weigh whether the insured acted reasonably in settling the underlying claim.

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National Law Review, Volumess I, Number 265

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