

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

JOHN NORMAN SHAFER et al.,

 Plaintiffs and Appellants,

 v.

 BERGER, KAHN, SHAFTON, MOSS,
 FIGLER, SIMON & GLADSTONE et al.,

 Defendants and Respondents.

B151730

 (Los Angeles County
 Super. Ct. No. BC232231)

 ORDER MODIFYING OPINION
 AND DENYING REHEARING

 [NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on March 18, 2003, be modified as follows:

1. On page 5 of the opinion, in the first full paragraph, which begins with “The superseding reservation,” delete the citations at the end of the paragraph, which begin with “(See *Tomerlin v. Canadian*” and replace them with the following citations:

(See *Tomerlin v. Canadian Indemnity Co.* (1964) 61 Cal.2d 638, 643–649; *Downey Venture v. LMI Ins. Co.* (1998) 66 Cal.App.4th 478, 511 [discussing *Tomerlin*]; Croskey et al., Cal. Practice Guide: Insurance Litigation (The Rutter Group 2002) ¶¶ 7:327, 7:745 to 7:751, pp. 7A-86.2, 7B-64.1 to 7B-64.3 [same].)

2. In the first paragraph on page 30, which begins with “As already discussed” and after the third sentence, which ends with “good faith and fair dealing,” replace the citation to *Pavicich v. Santucci* with:

(*Pavicich v. Santucci*, *supra*, 85 Cal.App.4th at p. 392, italics omitted, quoting *Doctors’ Co. v. Superior Court*, *supra*, 49 Cal.3d at p. 48.)

3. After the first paragraph on page 30, which begins with “As already discussed” and before the second paragraph on page 30, which begins with “A cause of action for conspiracy,” insert the following two paragraphs:

We reject LaBelle’s contention that the Shafers “merely alleged” fraud. The two reservation of rights letters and LaBelle’s letters to the Shafers’ attorney were attached to the complaint as was LaBelle’s letter to Lundblad at Truck stating that the first reservation of rights letter was being modified “so as to not trigger the Cumis obligation.” And in accordance with special pleading requirements that apply to fraud claims (see *Wilson v. Houston Funeral Home* (1996) 42 Cal.App.4th 1124, 1139), the Shafers alleged each element of fraud with specificity.

Nor is LaBelle correct in arguing that the Shafers had to seek leave of court, supported by affidavits, to bring the conspiracy claim. In certain circumstances section 1714.10 requires a plaintiff to obtain a “court . . . order allowing the pleading that includes the claim for civil conspiracy to be filed” (§ 1714.10, subd. (a)), but “[n]o such order is required for claims against an attorney for conspiring with his or her client where: [¶] . . . the attorney had an independent legal duty to the party who is now the plaintiff in the instant case.” (Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2002) ¶ 6:357, p. 6-70.6, italics omitted; accord, § 1714.10, subd. (c).)

There is no change in the judgment.

Respondents’ petition for rehearing is denied.

CERTIFIED FOR PUBLICATION.

SPENCER, P. J.

VOGEL (MIRIAM A.), J.

MALLANO, J.