Palmer v. Claydon

ISSUE: Absent an actual partnership, what are the requirements for the existence of a purported partnership?

RULE(S): The Revised Uniform Partnership Act (RUPA) defines a partnership as the "association of two or more persons to carry on as co-owners of a business for profit". Ordinarily, the acts of one partner (including all liabilities) are imputed to all other partners. Even when two or more persons are not partners in fact, they may appear to be so to third parties and therefore may be liable to such parties in certain circumstances. This is called a "purported partnership" and the requirements are: 1) a person purports to be or consents to being represented as a partner of another person or partnership; 2) a third party relies on the representation; and 3) the third party transacts with the actual or purported partnership.

Also, under the Connecticut statute in this case and relating to purported partners (Conn. Gen. Stat. 34-329)a)], holds that a purported partner may be "jointly and severally" liable for the acts of the other partner.

Joint and several liability imputes liability to a group of persons wherein the plaintiff may sue any member of the group individually and get a full judgment against that person, or may elect to sue all members of the group collectively.

APPLICATION: Here, Claydon and Lawler (both attorneys) were sued by Palmer. Claydon was sued for malpractice and because Lawler was alleged to have been Claydon's "purported partner" he was also a co-defendant in the case.

There was substantial evidence that Claydon and Lawler (though no formal partnership agreement existed) held themselves out as partners and therefore were "purported partners". Specifically, the sign at their office, their stationary and the telephone directory listing all conveyed the message/branding that they were "one law firm" (i.e., a partnership).

On the other hand, Lawler alleged that he only shared office space with Claydon, that they never shared clients and they never shared profits/losses or commingled funds from their respective law practices. Since sharing of profits and losses is a key factor in determining whether a partnership exists or not, this could conceivably weigh in a finding that there was no partnership.

The discrepancies in the stories of the respective parties created the sufficient bases to go to the jury to reach a judgment. However, because Palmer settled with Claydon before trial, the court correctly ruled that by definition there was no longer any basis for a purported partnership theory against Lawler. (To "get to" Lawler, Palmer still needed Claydon as a party in the case. With Claydon out of the picture, the case against Lawler became moot.)

CONCLUSION: For the foregoing reasons, the Court ruled for Lawler and dismissed the case.