

Charles Lemley Comments on Florida Insurance Ruling

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Charles C. Lemley, a partner in Wiley Rein's Insurance Practice, was quoted in a February 28 *Law360* article about a recent court ruling that could alter the obligations of insurers defending multiple-insured lawsuits in Florida.

In a 2-1 decision, a Florida appeals court ruled this month that the University of Miami and a summer camp operating on the college's grounds were entitled to separate counsel in a lawsuit brought by the parents of a child who was severely injured at camp. The court reasoned that a conflict existed between the interests of the two insureds because each had asserted in writing that the other was liable. The court concluded that, in light of this conflict, a single law firm could not represent both clients and the insurer was obligated to provide separate counsel for each insured. A dissenting opinion concluded that there was no actual conflict, but only a potential one, and warned that the majority opinion would "open a new frontier in insurance litigation of benefit only to the legal profession."

Mr. Lemley told *Law360* the ultimate impact of the ruling would depend on how broadly it is interpreted and applied. "The dissent reads it as a sky-is-falling ruling, that any time co-insureds are co-defendants and are both alleged to be liable for the same injury, that there's an obligation on the part of the insurance company to pay for separate counsel," Mr. Lemley said. "If you read it the way the dissent reads it, then it really could be big news for the insurance companies." Mr. Lemley concluded that the opinion should be read more narrowly, however, as a fact-specific application of widely-accepted principles that does not significantly alter insurers' obligations.

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