

A California Cautionary Tale Against Settlements That Are Silent On Costs

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In a recent opinion, a California Court of Appeal held that a settlement payment constituted a “net monetary recovery” under California Code of Civil Procedure section 1032, making the plaintiff the prevailing party entitled to mandatory costs. The case of *Desaulles v. Community Hosp. of Monterey Peninsula*, Cal. App. 2d No. B244832 (2014) (“*Desaulles*”), ended without a trial on the merits, and while the employer did not obtain a favorable dismissal, it did obtain a judgment denying the employee relief. In order to obtain this judgment, the employer settled two of the plaintiff’s seven claims. The parties’ settlement, however, was silent as to costs. For this reason, along with the Court’s position that it would be absurd for both sides to be deemed prevailing parties entitled to mandatory costs, the Court of Appeal reversed the trial court’s award of costs to the employer and found the plaintiff to be the prevailing party entitled to mandatory costs. The Court concluded its opinion by remarking that parties can avoid the approach taken by the Court by making sure that costs are addressed in settlements. *Desaulles* is thus a cautionary tale against California employers and any party entering into a settlement that is silent as to costs.

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