Court of Appeals Reiterates No CPA Claims for Asserted Malpractice Alone

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Since the Washington Supreme Court’s decision in Short v. Demopolis, 103 Wn.2d 52, 691 P.2d 163 (1984), the business aspects of law practice have been subject to the Consumer Protection Act, RCW Chapter 19.86. The CPA generally prohibits “unfair or deceptive acts or practices” in “trade or commerce” under RCW 19.86.020. Remedies under RCW 19.86.090 include both treble damages (to $25,000) and attorney fees. The Supreme Court in Short defined the business aspects of law practice that fall within the CPA (assuming the other statutory requisites are met) to include “how the price of legal services is determined, billed, and collected and the way a law firm obtains, retains, and dismisses clients.” 103 Wn.2d at 61. By contrast, the Supreme Court in Short concluded that asserted negligence in how legal services were provided was not within the purview of the CPA. Division I of the Court of Appeals recently reiterat​ed this last point in Muñoz v. Bean, 2016 WL 885043 (Wn. App. Mar. 7, 2016) (unpublished).

The plaintiff in Muñoz raised a variety of claims against her former lawyer—including a CPA claim. The trial court entered summary judgment for the defendant lawyer and the Court of Appeals affirmed. In doing so, both the trial court and the Court of Appeals found that the plaintiff’s CPA claim was
directed to how the legal services involved were provided, not the business
aspects of law practice. As the Court of Appeals put it—quoting Short: “In an
action for legal malpractice and/or negligence where the ‘claims are not chiefly
concerned with the entrepreneurial aspects of legal practice,’ but with the ‘actual
practice of law,’ the CPA does not apply.” Id. at *9.

Although Muñoz doesn’t plow any new ground, it is a useful reminder of
when a CPA claim is—and is not—available as a potential remedy in the law firm
context.

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