

Bird Marella Completes an Appellate Sweep for British Regulators

Bird Marella attorneys Mark Dooks and Ashley Bowman recently secured a memorandum decision by the Ninth Circuit Court of Appeals affirming an order dismissing five former employees or associates of the Law Society of England and Wales (LSE) and the Solicitors Regulation Authority (SRA) – entities that regulate the practice of law in the United Kingdom. The case involved broad-ranging RICO, defamation, and other claims brought by two disbarred solicitors. The appellate court found that each individual defendant was entitled to common law sovereign immunity. The decision completes a string of victories for the defendants in a case that has lasted almost a decade and now appears close to its end.

Bird Marella defended the Law Society of England and Wales (LSE) and the Solicitors Regulation Authority (SRA) and the individual defendants throughout the case, first in state court and then in the district court and the court of appeal. The trial court initially found that it lacked subject matter jurisdiction over the LSE/SRA and individual defendants under the Foreign Sovereign Immunities Act. It determined that because both entities serve regulatory functions that further the public interest, they are organs of the United Kingdom government that are immune from suit in the United States.

Plaintiffs appealed District Judge Bernal's decision to the Ninth Circuit. On March 27, 2015, the Ninth Circuit affirmed that decision as to the LSE/SRA but reversed as to the individuals. It instructed the trial court to consider the remaining grounds for dismissal advanced by the five individual defendants in the defendants' motion to dismiss, including personal jurisdiction, *forum non conveniens*, failure to state a claim, and common law sovereign immunity.

On March 23, 2016, Judge Bernal entered a judgment granting the motion to dismiss with prejudice on common law immunity grounds as to the remaining individual defendants, adding that the court had no personal jurisdiction over one of the five defendants. Specifically, the Court determined that all five defendants acted within the scope of their duties as officials of the LSE/SRA when they engaged in the conduct alleged by Plaintiffs, and were therefore immune from the suit. After staying consideration of the appeal pending a decision in an unrelated appeal involving immunity issues and hearing argument in February, the Ninth Circuit affirmed the trial court's order.