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AGENCY

Richards v. Attorneys' Title Guaranty Fund, 866 F.2d 1570

Author: Judge Brorby

Defendant, Attorneys' Title Guaranty Fund, appealed the district court's decision in favor of plaintiff, Richards, alleging that the district court improperly instructed the jury because: (1) the general liability instruction based on the *Restatement (Second) of Agency* § 261 (1958) was not the law of Colorado; (2) the district court improperly refused an instruction on the element of reliance; and (3) the instruction defining agency did not contain the necessary element of control.

The Tenth Circuit affirmed, holding that the instruction based upon section 261 was proper. The court upheld the district court's refusal to include the reliance element in the general liability instruction since the instruction on apparent authority properly placed the issue before the jury. Finally, the court held that the district court did not err in refusing to instruct the jury that an agency relationship is based on control because the instruction given sufficiently defined "agency."

