IN THE
SUPREME COURT OF OHIO

NATIONAL UNION FIRE INSURANCE CO. OF PITTSBURGH, PA,	:	
	:	**CASE NO. 2008-1334**
Petitioner,	:	
	:	**On the Certified Question from The United**
v.	:	**States Court of Appeals for the Sixth Circuit**
	:	
RICHARD O. WUERTH, *et al.,*	:	**U.S. Court of Appeals Case No. 07-4035**
	:	
Respondents.	:	

RESPONDENTS' MERIT BRIEF

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STATEMENT OF THE CASE

Petitioner National Union Fire Insurance Company of Pittsburgh, PA sued Respondent Richard O. Wuerth for legal malpractice and misrepresentation in the United States District Court for the Southern District of Ohio. It also sued Mr. Wuerth's law firm, Respondent Lane Alton & Horst LLC (hereinafter "Lane Alton"), claiming that it was vicariously liable for Mr. Wuerth's alleged malpractice and also "directly" liable for the alleged malpractice of Mr. Wuerth and other lawyers in the firm.

Contrary to the unsupported representations contained in its Brief, Petitioner asserted no claim against Lane Alton for breaching a contract or engagement letter, violating a duty imposed by law, or negligently supervising Mr. Wuerth or others in the firm. No such claims can be found in the Complaint; no such claims were mentioned by the District Court in its Opinion; and no such claims were summarized by the Sixth Circuit in its Certification Order. There were no such claims.

In an Opinion and Order issued on July 17, 2007, the District Court granted summary judgment to both Mr. Wuerth and Lane Alton. *See National Union Fire Insurance Company of Pittsburgh, PA v. Wuerth* (S.D. Ohio 2007), 540 F. Supp. 2d 900. It held that National Union's legal malpractice claim against Mr. Wuerth was barred by the statute of limitations and that Lane Alton could not be vicariously liable for Mr. Wuerth's alleged malpractice because he was not liable. *Id.* at 905-912.

In granting summary judgment to Lane Alton on Petitioner's so-called "direct claim" for legal malpractice, the District Court held that Petitioner's evidence demonstrated not a direct, but a vicarious claim, which could not be maintained because the lawyers for whom Lane Alton was alleged to be vicariously liable were not liable themselves. *Id.* at 913-914. In *dictum,* the District

Court also stated "that due to the nature of a legal malpractice claim, a 'direct claim' for legal malpractice can only be brought against a member of the legal profession" and "that a 'direct claim' for legal malpractice cannot be asserted against a non-attorney." *Id.* at 912-913.

Petitioner appealed the District Court's judgment to the United States Court of Appeals for the Sixth Circuit. The case has been fully briefed, and oral argument was conducted on June 11, 2008. The Sixth Circuit has rendered no decision on any issue in this case, and Petitioner's assertions that it has are completely untrue. *See* Pet. Brief at pp. 4 and 17, note 2.

On July 8, 2008, the Sixth Circuit entered an order certifying the following question to this Court: Under Ohio law, can a legal malpractice claim be maintained directly against a law firm when all of the relevant principals and employees have either been dismissed from the lawsuit or were never sued in the first instance? (Emphasis added)

Respondents are not before this Court to defend the case of *National Union v. Wuerth*. They did that in the District Court. They are not here to argue that the judgment of the District Court should be affirmed. They did that in the Sixth Circuit. They are here solely to address the narrow legal question the Sixth Circuit has certified.

As a consequence, Respondents will resist the temptation -- -- as difficult as that is -- -- to refute the outrageous "factual" statements Petitioner has made about them and the District Court in its Brief. Instead, they will strictly focus upon the abstract legal question which has been presented to this Court. Under Rule XVIII of the Rules of Practice, that is all the parties should be doing.

Respondents respectfully submit that the certified question should be answered in the negative. Law firms are liable for legal malpractice. But, their liability is vicarious because it derives from the professional negligence of attorneys in the firm. For a law firm to be liable for legal malpractice, one or more of its attorneys must be liable. And, if no attorney in the firm has been adjudged liable or can be adjudged liable, then the firm cannot be liable.

ARGUMENT

Proposition of Law No. 1:

For A Law Firm To Be Liable For Legal Malpractice One Or More Of Its Lawyers Must Be Liable

The Sixth Circuit's Certification Order provides:

> It is generally recognized that "[a] law firm is subject to civil liability for injury legally caused to a person by any wrongful act or omission of any principal or employee of the firm who was acting in the ordinary course of the firm's business or with actual or apparent authority." Restatement (Third) of the Law Governing Lawyers § 58 (2000). The unsettled issue now before this panel is whether, under Ohio law, a legal malpractice claim can be maintained directly against a law firm when all of the relevant principals and employees have either been dismissed from the lawsuit or were never sued in the first instance. (Certification Order at pp. 2-3; emphasis added)

The context of the Sixth Circuit's question is the vicarious liability of law firms for legal malpractice committed by their lawyers. The section of the Restatement cited by the Sixth Circuit is entitled "Vicarious Liability," and Comment *a* thereto provides:

> This Section sets forth the vicarious liability of a law firm and its principals. It presupposes that a firm principal or employee is liable on one or more claims under §§ 48-57 [which impose liability on attorneys for legal malpractice] and considers when the firm itself and each of its principals share in that liability. (Emphasis added)

It is well-settled that law firms can be vicariously liable for legal malpractice committed by attorneys in the firm. *See* Restatement of the Law 3d, The Law Governing Lawyers (2000), Section 58; 1 Mallen & Smith, Legal Malpractice (2007 Ed.), Sections 5.3, 5.4, 5.5, and 5.6; *Brown v. Morganstern,* 11th Dist. No. 2002-T-0164, 2004-Ohio-2930, at ¶ 40, appeal denied, 103 Ohio St. 3d 1480, 2004-Ohio-5405, 816 N.E. 2d 255; *Soltis v. Wegman, Hessler, Vanderburg & O'Toole* (Feb. 13, 1997), 8th Dist. No. 69602, 1997 WL 64049 *3, appeal denied (1997), 79 Ohio St. 3d 1457, 681 N.E. 2d 440; Pet. Brief at pp. 15-16.

The Sixth Circuit's question is whether, under Ohio law, a law firm can be vicariously liable for the malpractice of one of its lawyers when that lawyer has been adjudged not liable or otherwise cannot be found liable. This Court has definitively answered that question on no less than three separate occasions.

In *Comer v. Risko,* 106 Ohio St. 3d 185, 2005-Ohio-4559, 833 N.E. 2d 712, the plaintiff sued a hospital claiming that it was vicariously liable for the alleged medical malpractice of two physicians who purportedly were its agents. The plaintiff did not sue the physicians who committed the alleged malpractice. After the statute of limitations on the plaintiff's unasserted malpractice claims against the physicians expired, the trial court granted the hospital's motion for summary judgment. In affirming the trial court's judgment, this Court held:

> Consequently, a direct claim against a hospital premised solely upon the negligence of an agent who cannot be found liable is contrary to basic agency law.
>
> * * * * *
>
> Drs. Wall and Schlesinger, the ... physicians who read and interpreted the x-rays, were not named defendants in this case. The statute of limitations as to them has expired, thereby extinguishing their liability, if any. In the absence of the tortfeasor's primary liability, there is no liability that may flow through to the hospital on an agency theory. Consequently, there is no genuine issue of material fact, and [the defendant-hospital] is entitled to judgment as a matter of law. (*Id.* at ¶¶ 25 and 29; emphasis added)

See also Patterson v. Janis, 10th Dist. No. 07AP-347, 2007-Ohio-6860, appeal denied, 118 Ohio St. 3d 1410, 2008-Ohio-2340, 886 N.E. 2d 872 (summary judgment affirmed for defendants alleged to be vicariously liable for physician's medical malpractice because the statute of limitations had expired on the malpractice claim asserted against the physician).

The principle enunciated in *Comer* was applied by this Court to cases of *respondeat superior* in *Strock v. Pressnell* (1988), 38 Ohio St. 3d 207, 217, 527 N.E. 2d 1235:

> It is axiomatic that for the doctrine of *respondeat superior* to apply, an employee must be liable for a tort committed in the scope of his employment. (Emphasis added)

This Court reaffirmed and repeated the foregoing holding in *Byrd v. Faber* (1991), 57 Ohio St. 3d 56, 58, 565 N.E. 2d 548.

The Courts of Appeals have also consistently held that, for an employer to be vicariously liable under the doctrine of *respondeat superior,* the employee must be liable. In *Pretty v. Mueller* (1997), 132 Ohio App. 3d 717, 726 N.E. 2d 503, review dismissed as improvidently granted, 88 Ohio St. 3d 1201, 2000-Ohio-256, 722 N.E. 2d 1027, the plaintiff sued a physician and his group practice for alleged medical malpractice committed by the physician -- -- a scenario like this case. In affirming the judgment for the group practice, the court held:

> As GHA [the group practice] correctly points out, when an employee accused of wrongdoing has been found to have no liability to the party claiming injury, the employer cannot be independently found liable under a theory of *respondeat superior* since any liability of the employer is only derivative of that of the employee. (132 Ohio App. 3d at p. 723; emphasis added)

Similarly, in *Burns v. Rice*, 157 Ohio App. 3d 620, 2004-Ohio-3228, 813 N.E. 2d 25, appeal denied, 103 Ohio St. 3d 1495, 2004-Ohio-5605, 816 N.E. 2d 1081, the court stated:

> As plaintiffs alleged, the city's liability to plaintiffs is derivative, predicated upon *respondeat superior* principles under which the city is potentially liable as the employer of individual defendants found to have committed misconduct. However, 'if an employee has no liability, the employer cannot be liable under the theory of *respondeat superior* because any liability of the employer is derivative of the employee's liability.' [Citations omitted] (*Id.* at ¶ 56; emphasis added)

Finally, in *Campbell v. Colley* (1996), 113 Ohio App. 3d 14, 680 N.E. 2d 201, appeal denied (1996), 77 Ohio St. 3d 1494, 673 N.E. 2d 150, the court held that the employer could not be vicariously liable for its employee's negligence because the employee enjoyed a statutory immunity from suit. The court stated:

> Accordingly, there must first be liability on the part of the employee before the employer may be liable for the employee's acts. Because the dispatcher cannot be held liable in the case *sub judice* due to the immunity granted by R.C. 3303.21(E), Life [the employer] cannot be held liable for the dispatcher's acts. (113 Ohio App. 3d at p. 22; emphasis added)

To the same effect, *see Cooper v. Grace Baptist Church of Columbus, Ohio, Inc.* (1992), 81 Ohio App. 3d 728, 737, 612 N.E. 2d 357; *Werden v. Children's Hospital Medical Center,* 1st Dist. No. C-040889, 2006-Ohio-4600, at ¶¶ 40, 41, and 42, appeal denied, 112 Ohio St. 3d 1470, 2007-Ohio-388, 861 N.E. 2d 144; *Walk v. Ohio Supreme Court,* 10th Dist. No. 03AP-205, 2003-Ohio-5343, at ¶ 6; *Turner v. Wolf* (Dec. 10, 1999), 1st Dist. No. C-980712, 1999 WL 1127291*5; *Cully v. St. Augustine Manor* (April 20, 1995), 8th Dist. No. 67601, 1995 WL 237129*12, appeal denied (1995), 74 Ohio St. 3d 1404, 655 N.E. 2d 183.[1]

Petitioner correctly asserted that it sued Lane Alton claiming that it was vicariously liable for Mr. Wuerth's alleged malpractice [Pet. Brief at pp. 14, 17]. But, it mistakenly argued that Mr. Wuerth was "absent" from the case [Pet. Brief at p. 17]. Mr. Wuerth is not now and never was "absent." He is the first-named Defendant, is one of the Appellees in the Sixth Circuit, and is before this Court as a Respondent.

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[1] Petitioner's reliance upon *Orebaugh v. Wal-Mart Stores, Inc.,* 12th Dist. No. CA2006-08-185, 2007-Ohio-4969, *Doros v. Marymount Hosp., Inc.,* 8th Dist. No. 88106, 2007-Ohio-1140, and *Holland v. Bob Evans Farms, Inc.,* 3rd Dist. No. 17-07-12, 2008-Ohio-1487, Pet. Brief at pp. 16-18, is entirely misplaced. In none of those cases did the courts hold that a principal or employer could be vicariously liable if its agent or employee was not liable. That is the issue here. No such holding can be found in Petitioner's "authorities" because this Court, in *Comer, supra,* 106 Ohio St. 3d at ¶¶ 25 and 29, *Strock, supra,* 38 Ohio St. 3d at p. 217, and *Byrd, supra,* 57 Ohio St. 3d at p. 58, held exactly to the contrary.

Lane Alton is not liable for Mr. Wuerth's alleged malpractice because Mr. Wuerth is not liable.[2] Not only is that well-settled Ohio law, but it has never been a contested issue in this case. As the District Court observed:

> It is a well-settled principle of Ohio law that for the principal to be liable, the agent must be liable. [Citations omitted].
>
> Plaintiff has not argued against this well-settled principle. (*National Union, supra,* 540 F. Supp. 2d at p. 912; emphasis added)

In its Reply Brief filed with the Sixth Circuit, Petitioner stated:

> As Defendants themselves have recognized, "to be vicariously liable, one or more of [the firm's] lawyers must be liable." (Petitioner's Sixth Circuit Reply Brief at p. 6, note 2).

This Court's decisions in *Comer, Strock,* and *Byrd,* as well as those of Courts of Appeals cited above, answer the Sixth Circuit's question. Those decisions are entirely consistent with, and supported by, the statement in Comment *a* to Section 58 of the Restatement -- -- which was the reference point of the Sixth Circuit's question -- -- that a law firm's liability for legal malpractice "presupposes that a firm principal or employee is liable." *See, supra,* at p. 3.

The Sixth Circuit has asked this Court to state the effect upon a legal malpractice claim asserted directly against a law firm "when all of the relevant principals and employees have either been dismissed from the lawsuit or were never sued in the first instance." The answer to the Sixth Circuit's question is: The claim against the law firm cannot be maintained because, for a law firm to be vicariously liable for legal malpractice, one or more of its lawyers must be liable.

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[2] The District Court granted summary judgment to Richard Wuerth because Petitioner's purported claims against him were barred by the statute of limitations. *See National Union, supra,* 540 F. Supp. 2d at pp. 905-912. Petitioner's contention that the Sixth Circuit "found to the contrary" [Pet. Brief at p. 17, note 2] is an utter falsehood. The Sixth Circuit has issued no decision in this case.

Proposition Of Law No. 2:

A Law Firm's Liability For Legal Malpractice Is Vicarious

The Sixth Circuit has asked whether a legal malpractice claim can be asserted directly against a law firm if the individual attorneys who committed the alleged malpractice -- -- "the relevant principals and employees" -- -- have been adjudged not liable or otherwise cannot be found liable. Petitioner argues at length that such a claim can be maintained because a law firm is directly, as opposed to vicariously, liable for malpractice committed by its attorneys.

Petitioner's argument fails for two reasons. First, the context of the Sixth Circuit's question is not the supposed direct liability of law firms, but their vicarious liability under Section 58 of the Restatement of the Law 3d, The Law Governing Lawyers (2000). Second, as a matter of law, a law firm's liability for malpractice committed by its attorneys can only be vicarious.

This Court has definitively and consistently held that a principal's liability for torts committed by its agent is only vicarious. In *Albain v. Flower Hospital* (1990), 50 Ohio St. 3d 251, 553 N.E. 2d 1038, it held:

> It is a fundamental maxim of law that a person cannot be held liable, other than derivatively, for another's negligence. In an employment setting such as is before this court today, the most common form of derivative or vicarious liability is that imposed by the law of agency, through the doctrine of *respondeat superior*. (50 Ohio St. 3d at pp. 254-255; emphasis added)

Similarly, in *Comer, supra,* 106 Ohio St. 3d 185 at ¶ 20, this Court stated:

> An agent who committed the tort is primarily liable for its actions, while the principal is merely secondarily liable. [Citations omitted].

Petitioner claims that law firms are directly liable for negligent supervision, which, it acknowledges, is different from being vicariously liable for the malpractice of one of its lawyers. *See* Pet. Brief at p. 14. But, no negligent supervision claim was asserted against Lane Alton, and

the Sixth Circuit's question was not addressed to that theory of liability. Moreover, in *Strock, supra,* 38 Ohio St. 3d 207, this Court held:

> [A]n underlying requirement in actions for negligent supervision and negligent training is that the employee is individually liable for a tort or guilty of a claimed wrong against a third person, who then seeks recovery against the employer. (*Id.* at 217)

To the same effect, s*ee Greenberg v. Life Ins. Co. of Virginia* (C.A. 6, 1999), 177 F. 3d 507, 517 (decided under Ohio law); *DiPietro v. Lighthouse Ministries*, 159 Ohio App. 3d 766, 774, 2005-Ohio-639, 825 N.E. 2d 630.

Richard Wuerth is not liable to Petitioner because the statute of limitations expired on the purported claims asserted against him. Consequently, Lane Alton could not be liable for negligent supervision even if such a claim had been asserted. *See Minnich v. Cooper Farms, Inc.* (C.A. 6, 2002), 39 Fed. Appx. 289, 296 (under Ohio law, employer could not be liable for negligent supervision where assault and battery claim against employee was time-barred); *Bishop v. Miller* (March 26, 1998), 3rd Dist. No. 4-97-30 and 4-97-31, 1998 WL 135802, appeal denied (1998), 82 Ohio St. 3d 1477, 696 N.E. 2d 604 (where sexual battery claim against employee was barred by the statute of limitations, employer could not be liable for negligent supervision).

Petitioner asserts that law firms should be directly liable for breach of engagement letters, contingent fee agreements, and other contracts [Pet. Brief at p. 13]. Respondents have never argued otherwise, and nothing in the District Court's opinion could reasonably be construed as saying they are not. No such claims were asserted against Lane Alton, and the Sixth Circuit's question is not directed to those theories of liability.

Long ago, this Court held that malpractice and breach of contract are distinctly different concepts. In *Youngstown Park & Falls St. Ry. Co. v. Kessler* (1911), 84 Ohio St. 74, 95 N.E. 509, the plaintiff sued a railroad alleging that it was "directly" liable for medical malpractice arising out

of the diagnosis and treatment provided by a physician employed by the railroad. This Court held that a corporation could be sued for breach of a contract to furnish medical services and could be liable for failure to use reasonable care in the selection of a competent physician. But, it could not be "directly" liable for medical malpractice. This Court stated:

> It is sufficient to say with reference to this contention that a railroad company cannot be guilty of malpractice. It is not authorized to practice medicine or surgery, and therefore any contract it might make to do so would be not only ultra vires, but in direct conflict with the laws of this state regulating the practice of medicine and surgery. Therefore the statute limiting the time in which actions for damages for malpractice may be brought has no application to this suit.
>
> No such action [medical malpractice] will lie against a railroad company, and, if that is the cause of action stated in this second amended petition, then it would be vulnerable to a demurrer, not only because of the statute of limitation, but also because it does not aver facts sufficient to constitute a cause of action. (84 Ohio St. at p. 77; emphasis added).

The hard fact is: The necessary predicate to any claim of legal malpractice is professional negligence committed by a lawyer. In *Strock, supra,* 38 Ohio St. 3d at 211, this Court held:

> The term "malpractice" refers to professional misconduct, *i.e.,* the failure of one rendering services in the practice of a profession to exercise that degree of skill and learning normally applied by members of that profession in similar circumstances. *See* 2 Restatement of the Law 2d, Torts (1965), Section 299A.

Similarly, the syllabus in *Vahila v. Hall* (1997), 77 Ohio St. 3d 421, 674 N.E. 2d 1164, provides:

> To establish a cause of action for legal malpractice based on negligent representation, a plaintiff must show: (1) that the attorney owed a duty or obligation to the plaintiff, (2) that there was a breach of that duty or obligation and that the attorney failed to conform to the standard required by law, and (3) that there is a causal connection between the conduct complained of and the resulting damage or loss. (Emphasis added)

To the same effect, *see Environmental Network Corp. v. Goodman Weiss Miller, L.L.P.*, 119 Ohio St. 3d 209, 2008-Ohio-3833, 893 N.E. 1173, at ¶ 13.

As the court stated in *Dingus v. Kirwan*, 6th Dist. No. E-05-082, 2006-Ohio-4295, appeal denied, 112 Ohio St. 3d 1471, 2007-Ohio-388, 861 N. E. 2d 144:

> Malpractice is "professional misconduct [by] members of the medical profession and attorneys." [Citation omitted]. It is a failure to: (1) treat a case professionally; or (2) fulfill a duty implied into the employment by law; or (3) exercise the degree of skill or care exercised by members of the same profession practicing in the same locality. (*Id.* at ¶ 10; emphasis added)

Likewise, in *Muir v. Hadler Real Estate Mgmt. Co.* (1982), 4 Ohio App.3d 89, 90, 446 N.E. 2d 820, the court held that legal malpractice concerns "damages resulting from the manner in which the attorney represented the client" (emphasis added).

Since a lawyer must commit professional negligence for there to be malpractice, a law firm's liability for malpractice is necessarily vicarious. To repeat, a person cannot be "directly liable" for the negligence of another. *See Albain, supra,* 50 Ohio St. 3d at pp. 254-255; *Comer, supra,* 106 Ohio St. 3d 185 at ¶ 20.

Ohio law is clear. A law firm can only be vicariously liable for legal malpractice. That is the law generally. Both the Restatement and the leading treatise on legal malpractice provide that law firms can be vicariously liable for legal malpractice committed by their attorneys, but nowhere state that they can commit their own malpractice independent of the actions of the attorneys in the firm. *See* Restatement of the Law 3d, The Law Governing Lawyers (2000), Section 58; 1 Mallen & Smith, Legal Malpractice (2007 Ed.), Sections 5.3, 5.4, 5.5, and 5.6.

In not a single one of the cases Petitioner cited (Pet. Brief, pp. 9-13) did the court hold -- -- or was it called upon to hold -- -- that a law firm could commit malpractice independent of the

actions of one of its attorneys. None of the cases cited by Petitioner contains a holding that a law firm's liability for legal malpractice could be anything other than vicarious.

In *Blackwell v. Gorman,* 142 Ohio Misc. 2d 50, 2007-Ohio-3504, 870 N.E. 2d 1238, *Rosenberg v. Atkins* (Oct. 5, 1994), 1st Dist. No. C-930259, 1994 WL 536568, and *North Shore Auto Sales, Inc. v. Weston, Hurd, Fallon, Paisley & Howley, L.L.P.,* 8th Dist. No. 86332, 2006-Ohio-456, cited by Petitioner, the courts were not called upon to and did not differentiate between vicarious and direct liability of any defendant. The only relevance of *Blackwell, Rosenberg,* and *North Shore* to this matter is that they are all legal malpractice cases and the plaintiffs sued both the allegedly negligent attorneys and their law firms -- -- respectively, the parties directly and vicariously liable.

The fallacy of Petitioner's argument is highlighted by its purported claims in this case. The District Court stated:

> ... Plaintiff's purported "direct claims" against Defendant Lane Alton are not "direct." According to Plaintiff's Memorandum in Opposition, its "direct claims" are based exclusively on the alleged acts or omissions of attorneys Defendant Wuerth, Beth Lashuk, Rick Marsh, and Jeffrey Hutson. (*See* Pl.'s Memo. in Opp. at 16-17). Plaintiff is claiming that Defendant Lane Alton is liable for their malpractice. These are claims for vicarious, not direct, liability. (*National Union, supra,* 540 F. Supp. 2d at p. 913)

Petitioner's assertion that it "presented two expert witnesses who opine that Lane Alton was negligent" [Pet. Brief at p. 7] is one of numerous misrepresentations contained in its brief. The District Court had the following to say about Petitioner's "two expert witnesses":

> Plaintiff's expert James Coogan testified that, when he mentioned the malpractice of Lane Alton in his report, he was actually referring to the negligence of the individual attorneys in the firm and particularly that of Richard Wuerth, Rick Marsh, Jeffrey Hutson, Joseph Gerling, and Beth Lashuk. (Coogen Depo. at 109-110). Plaintiff's "nationally recognized expert" Phillip Feldman testified that most of those individuals should have been sued.

(Feldman Depo. at p. 180) (*National Union, supra,* 540 F. Supp. 2d at p. 913, note 3)

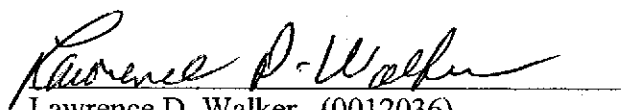
Law firms provide legal services through their attorneys. And, it is through those attorneys -- -- their agents and employees -- -- that they are liable for legal malpractice. That is vicarious liability. As this Court held in *Comer, supra,* 106 Ohio St. 3d 185 at ¶ 20:

> The liability for the tortious conduct flows through the agent by virtue of the agency relationship to the principal. If there is no liability assigned to the agent, it logically follows that there can be no liability imposed upon the principal for the agent's actions.

CONCLUSION

Respondents Richard O. Wuerth and Lane Alton & Horst LLC respectfully submit that this Court should answer the Sixth Circuit's question in the negative. Law firms are liable for legal malpractice, but only if one or more of their attorneys are liable. If no attorney in a law firm has been adjudged liable for malpractice or can be adjudged liable, then the firm cannot be liable.

Respectfully submitted,



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