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PERSPECTIVE

CashCall's \$1B suit against Katten Muchin settles on eve of trial

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A nearly \$1 billion legal malpractice lawsuit, settled Friday on the eve of trial, involved payday lending company CashCall seeking damages from Katten Muchin Rosenman LLP for alleged breach of contract and fiduciary duty.

The terms are confidential, according to sources familiar with the settlement.

The landmark legal malpractice suit was set to begin trial this week in front of a fully vaccinated Orange County jury despite mounting concerns from attorneys and Judge William D. Claster over the spread of the COVID-19 Delta variant.

While it is unclear whether the virus helped motivate the sides to settle, CashCall's defense attorney, Brad Brian of Munger, Tolles & Olson LLP, had floated the

idea of delaying the trial a week in hopes virus conditions would improve. In anticipation of jury selection, he asked for two extra peremptory challenges at a status conference last month, saying the lawsuit could "destroy a national firm," given the damage claims.

CashCall, represented by Irvine commercial litigator Jennifer Keller of Keller/Anderle LLP, objected to a delay, saying, "I don't know that we're ever going to be able to try this case free of COVID."

In its complaint, CashCall said Katten and Washington D.C. consumer finance partner Claudia Callaway knew it was illegal to build a nationwide consumer lending program on tribal lands but advised CashCall to do it anyway. The tribal lending program allegedly wrecked the company and exposed it to lawsuits across the country and enforcement actions by the Consumer Financial Protection Bureau. *CashCall, Inc. v. Katten Muchin Roseman LLP*,

30-2017-00914968 (O.C. Sup. Ct., filed April 4, 2017).

CashCall had filed a motion in limine seeking to preclude Katten from referring to the plaintiff as a "payday lender." Claster denied the motion as impractical, but limited Katten's arguments, saying it could not suggest that being a payday lender was a basis for denying CashCall's claims.

Katten had almost managed to stop the malpractice lawsuit in its tracks before Claster rejected the firm's request to apply a Washington D.C. damages law. Claster reversed a June 10 tentative ruling in Katten's favor. The judge said he had "failed to correctly analyze where the alleged wrongful conduct occurred and then apply the governmental interest test in light of that revised analysis."

The settlement ends a four-year dispute. Neither party responded to a request for comment Friday. ■

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