

Suit Against Lawyer for Return of Loaned Funds Does Not Seek Damages

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The United States District Court for the Eastern District of Wisconsin, applying Wisconsin law, has held that a suit by a client against a lawyer for the return of amounts loaned by the client to the lawyer did not constitute “damages.” *Kelley v. Dahle*, 2012 WL 3071108 (E.D. Wisc. July 26, 2012).

A client brought suit against the insured, a lawyer, seeking the return of \$300,000 the client loaned to the lawyer. The client also sued the lawyer's insurer. The insurer contended that the client's suit for return of loaned funds did not constitute “damages” under the lawyer's policy. The policy defined “damages” specifically to carve out “legal fees, costs, expenses or other expenditures paid or payable by you or owed to you, whether claimed by way of restitution of specific funds, financial loss or otherwise”

The court held that the suit for the return of the loan did not seek recovery of “damages” because the client sought the return of an expenditure paid to the lawyer. The court held that this construction made “perfect sense” because “[p]rofessional liability insurance is not an indemnity bond or collateral against default on the payment of an attorney's contractual debt.”