



Kelley Drye Obtains Summary Judgment for Digex, Inc.

December 13, 2003

Kelley Drye obtained summary judgment on behalf of Digex, Inc. in a breach of contract case involving allegations of failed commission payments, proving that the plaintiff, Live Entertainment, Inc., lacked standing to prosecute Digex by itself or through the substitution of another company, Maverick Limited, Inc. Although Live Entertainment did not have standing to pursue the matter, the plaintiff next attempted to substitute another company, Maverick Limited, Inc., under Federal Rule Civil Procedure 17, claiming that the company had made an error in filing the suit, and that Maverick was the “real party of interest.” The facts presented in Kelley Drye’s argument precluded Live Entertainment from meeting its burden under Rule 17 of establishing an “honest” or “understandable” mistake in filing the law suit against Digex originally, and the Court denied the motion for substitution.