
INSURANCE - MASSACHUSETTS

Wheatley v. Massachusetts Insurers Insolvency Fund

Supreme Judicial Court of Massachusetts, Plymouth - May 31, 2013 - N.E.2d - 465 Mass. 297

Plaintiff brought consumers action pursuant to unfair business practices act against Insurers Insolvency Fund, alleging that Fund had engaged in various unfair claims settlement practices arising in underlying negligence action against town whose liability insurer had become insolvent.

The Supreme Judicial Court of Massachusetts held that, where a plaintiff prevails in a consumer action against Insolvency Fund under statute governing regulation of business practices for consumer protection, the Fund is liable for reasonable attorney fees.

Insurers Insolvency Fund, which is an unincorporated association, created by the legislature, for the purpose of settling unpaid claims covered by an insurance policy issued by an insurer that later becomes insolvent, is in “the business of insurance” for purposes of statute governing unfair methods of competition and unfair or deceptive acts or practices, as well as statute governing regulation of business practices for consumer protection, and therefore, Fund is in exactly the same position as a traditional for-profit insurer, that is, subject to the provisions of both statutes.

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