

Bond Case Briefs

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INSURANCE - NEW JERSEY

Statewide Insurance Fund v. Star Insurance Company

Supreme Court of New Jersey - February 16, 2023 - A.3d - 2023 WL 2026832

Public entity joint insurance fund (JIF) brought action against commercial general liability (CGL) insurer, seeking declaratory judgment for excess coverage in connection with underlying negligence action brought against one of JIF's member cities.

After parties settled action, the Superior Court entered summary judgment for JIF, meaning insurer was solely responsible for payment of settlement. Insurer appealed. The Superior Court, Appellate Division, affirmed. Insurer petitioned for certification, which was granted.

The Supreme Court held that CGL insurer provided primary, rather than excess, coverage to city in connection with settlement of underlying action.

City obtained "self-insurance" liability protection, rather than insurance, by joining public entity joint insurance fund (JIF) and, thus, JIF did not trigger commercial general liability (CGL) insurer's "other insurance" clause, such that CGL insurer provided primary, rather than excess, coverage to city in connection with settlement of underlying negligence action brought against city; JIFs did not provide insurance through authorized carrier in exchange for premiums but, instead, JIF members reduced insurance costs by pooling financial resources, distributing and retaining risk, and paying claims through member assessments.