

AllAmerica Financial Corporation, SMA Financial Corporation, et al. vs. Certain Underwriters at Lloyd's London

Year: 2006

Court: Massachusetts Supreme Judicial Court

Case Number: SJC-09834

The Court requested submission of an amicus curiae brief on the issue of “whether an excess insurer, having provided a follow-form excess insurance policy, is bound by the primary insurer’s determination of the primary policy’s applicability in the settlement of a class action suit that exhausted the primary policy. The simple answer is “YES.” Because Lloyd’s policy expressly agreed to “subject” itself to the primary’s insurer’s control of the defense and settlement, it is bound by all good faith determinations made in the exercise of that control, including all decisions leading to the exhaustion of the primary limits.

UP's brief was written pro bono by Joseph P. Dougher, Esq. and Steven D. Urgo, Esq. of Obermayer Rebmann Maxwell & Hippel LLP

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