

Westfield Area YMCA et.al. v. The North River Insurance Co. et. al.

Year: 2021

Court: Superior Court of New Jersey

Case Number: UNN-L-2584-20

In its brief, UP petitions the court to allow its appearance as amicus curiae on behalf of the Westfield Area YMCA. The question presented in this case is whether regulatory estoppel should preclude enforcement of the virus and bacteria exclusions in light of those known misrepresentations by the insurance industry to state regulators when describing the scope of the pollution exclusion and the impact of the virus and bacteria exclusion on coverage provided by property policies.

The confusion began in July of 2006 when ISO issued a clarification (Circular) of its pollution exclusion to state regulators under the false premises that viruses and bacteria were already excluded from its standard form policies. The Circular misrepresented that the virus and bacteria exclusion was not a change in coverage, and that the new exclusion was a significant reduction in the coverage as it eliminated from coverage losses arising from both viral and bacterial contamination. Regulatory estoppel is applicable here to preclude the enforcement of the virus and bacteria exclusion.

UP wishes to address the aforementioned facts and legal argument and asks the court to respectfully consider its request to file amicus curiae in this case.

The brief was authored pro bono by Robert D. Chesler, Nicholas M. Insua, Anthony J. Risalvato, and John P. Lacey Jr. of Anderson Kill P.C.