

Law360: Insurers Must Cover Soybean Loss, NY Appeals Court Affirms

A commodities trading company is entitled to coverage for the loss of over 500,000 bushels of soybeans resulting from a Mississippi-based warehouse's entrance into bankruptcy, a New York state appeals court affirmed.

In an [opinion](#), the First Judicial Department said a trial court properly granted summary judgment to [StoneX](#) on its counterclaims for breach of contract and declaratory judgment against Endurance American Insurance Co., [Express Grain Terminals LLC](#), and Atain Insurance Co.

New York state court Justice Lyle E. Frank's January 2024 ruling correctly [held](#) that StoneX suffered a physical loss when warehouse owner Express Grain Terminals LLC filed for bankruptcy in September 2021, the appeals court said.

"A loss occurs when the insured suffers a 'dispossession from the property [that] was never remedied,'" the justices said, referencing the court's [ruling](#) in

"StoneX lost control of all of its soybeans when EGT declared bankruptcy and the bankruptcy court appointed a chief restructuring officer," the justices said. "Although StoneX was compensated for some of its soybeans, it never regained possession of the soybeans for which it seeks compensation from the insurers."

According to court filings, StoneX stored millions of bushels of soybeans at EGT's warehouses between 2017 and 2021.

EGT filed for bankruptcy in September 2021, after the warehouse owner's lender discovered that EGT had less inventory than it was reporting, according to court documents. As a result, StoneX was dispossessed of 2.78 million bushels of soybeans, ultimately recovering all but 502,315 bushels.

The insurers subsequently sued StoneX, seeking a declaration that they do not need to cover the loss. In turn, StoneX filed a counterclaim, asserting claims for breach of contract, declaratory judgment and bad faith.

In granting StoneX's motion for summary judgment last January, Justice Franks also concluded that warehouse receipts and third-party inspection reports confirmed that EGT was in possession of the appropriate amount of soybeans to satisfy the commodity company's stored amount.

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