

Insurers Must Cover Soybean Loss, NY Appeals Court Affirms

By **Hope Patti**

Law360 (February 19, 2025, 6:59 PM EST) -- 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 order Tuesday, the First Judicial Department said a trial court properly granted summary judgment to StoneX Commodity Solutions LLC on its counterclaims for breach of contract and declaratory judgment against Endurance American Insurance Co., Zurich American Insurance Co. and Atain Insurance Co.

New York state court Justice Lyle E. Frank's January 2024 ruling correctly concluded 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 CIT Group/Equipment Financing Inc. v. Starr Surplus Lines Insurance Co. et al.

"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.

The justices agreed that, under the policy, reports showing that EGT held enough soybeans were sufficient to establish the existence of an insurable interest.

Representatives of the parties did not immediately respond to requests for comment Wednesday.

The insurers are represented by Adam H. McCabe of Cassiday Schade LLP.

StoneX is represented by Joshua Blosveren of Cohen Ziffer Frenchman & McKenna LLP.

The case is Endurance American Insurance Co. et al. v. StoneX Commodity Solutions LLC et al., case number 653234/2022, in the Supreme Court of the State of New York, Appellate Division, First Judicial Department.

--Additional reporting by Shane Dilworth. Editing by Leah Bennett.