

Client Success: Eleventh Circuit Affirms StarStone National Insurance Co. Victory in Sublimit Coverage Case

Decision Preserves Ruling that Provided Insurers Much-Needed Clarity Regarding Judicial Interpretation of Sublimits of Liability

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Client StarStone National Insurance Co. (StarStone) recently secured a victory at the U.S. Court of Appeals for the Eleventh Circuit, when the court affirmed StarStone's 2019 summary judgment win in the U.S. District Court for the Middle District of Florida. At issue was the application of an Excess Liability Policy with limits of \$3 million liability per occurrence, which StarStone had issued to its insured, a hotel operator. The insured had sought coverage for liabilities arising out of the assault and murder of guests on its property. Hinshaw partner Rory Eric Jurman, along with Viviana Loshak and James Wyman, represented StarStone at trial and in the appeal.

As described in [this account](#) of the summary judgment order, coverage was excluded under the StarStone excess policy for claims that were subject to a sublimit of liability in the primary policy. In the primary policy in this case, assault or battery liability coverage was limited to \$25,000. Hinshaw had argued that under the plain and ordinary definition of the term, this limit represented a sublimit of liability. The District Court agreed, finding that as a matter of law, the primary policy's assault or battery liability coverage was a sublimit of liability, and StarStone's excess liability policy did not provide coverage.

The Eleventh Circuit ruled the District Court correctly granted summary judgment, finding that "[t]he term 'sublimit' has been defined generally as a 'limit on a subcategory' ... and more specifically as 'a liability limit in an insurance policy for a particular risk (as loss of jewelry by theft) that is below the aggregate liability limit of the policy.'" Therefore, it continued, "under the ordinary meaning of that term" the policy's assault endorsement "qualifies as a sublimit because it caps the insurer's exposure at an amount below the ordinary policy limit for a subcategory of loss."

In a *Business Insurance* story, Jurman said the ruling provided further clarity for insurers on the judicial interpretation of sublimit coverage:

“This is really the only leading case, surprisingly, in this area of the law dealing with a sublimit and what that actually means,” said Jurman, who added no other federal circuit court has ruled on this issue.

The case is [Starstone National Insurance Company v. Polynesian Inn, LLC, d.b.a. Days Inn of Kissimmee, et al](#), No. 19-13769 (11th Cir. 2020)

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