

Pollution Exclusion May Not Bar Coverage For Claims Arising From Oil Leak, Says New Jersey Court

09.28.17



(Article from *Insurance Law Alert*, September 2017)

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A New Jersey federal district court denied an insurer's summary judgment motion, finding that a pollution exclusion does not necessarily bar coverage for contamination claims stemming from an oil leak. *Benjamin v. State Farm Ins. Co.*, 2017 WL 3535023 (D.N.J. Aug. 17, 2017).

Homeowners sought coverage for costs incurred in remediating contamination caused by a leak in an underground oil tank. The insurer denied coverage on several bases, including a pollution exclusion that bars coverage for loss caused by the discharge or escape of irritants, pollutants or contaminants, unless the loss was "sudden and accidental." In ensuing litigation, the court denied the insurer's summary judgment motion, finding that issues of fact exist as to whether the exclusion applies to the homeowners' claims.

The court held that New Jersey law limits the application of pollution exclusions to traditional environmental pollution claims. Here, because the claims arose out of small-scale and relatively contained contamination, the court held that the exclusion might not apply. Additionally, the court reasoned that under New Jersey law, the pollution exclusion includes an intent requirement as a matter of public policy. The court concluded that summary judgment was inappropriate where, as here, there were no allegations or evidence that the homeowners intended to pollute the property.

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