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Traub Lieberman Partner James M. Eastham Wins Seventh Circuit Appeal

Related Attorneys: James M. Eastham

On February 13, 2020, Traub Lieberman Partner James M. Eastham secured a decision from the United States Court of Appeals for the Seventh Circuit affirming the District Court's grant of summary judgment in favor of his insurance company client.

The underlying loss involved an accident between an insured owned ambulance and another vehicle. The driver of that vehicle was severely injured and succumbed to his injuries several months later. Thereafter, the driver's estate filed a wrongful death suit against the ambulance driver and the insured company, both of whom then tendered to the company's commercial auto insurer.

The insurer denied coverage for the loss after determining that the ambulance involved in the crash was not scheduled on the policy on the date of loss as was required for coverage. The ambulance company then produced an email that it claimed to have sent to its insurance broker requesting to add the ambulance onto the policy and remove another scheduled auto. Despite receiving no response to the email, the insured argued that coverage should be afforded based on a number of agency, estoppel and public policy arguments.

The panel, however, found that the email was insufficient to secure coverage under the policy. Pointing to the Indiana rules of policy interpretation, and the policy's terms which required the carrier's consent to modify the policy, the panel relied on the lack of acceptance in finding in favor of the carrier. The panel further found that no equitable remedy or public policy considerations served to create coverage that otherwise did not exist.