

KENTUCKY

SUMMARY JUDGMENT OBTAINED IN WOODFORD CIRCUIT COURT

Ward
Hocker
Thornton

Jason Morgan and Betsy Catron obtained summary judgment in Woodford Circuit Court on behalf of Acuity, A Mutual Insurance Company, in an action for declaratory relief. Plaintiffs argued that Acuity owed a duty to defend them in connection with various lawsuits filed against them alleging their involvement in a tax refund fraud scheme that deceived Skatteforvaltningen, an agency of the government of Denmark, into paying out over 12.7 billion Danish Kroner, the equivalent of approximately \$2.1 billion (US), of allegedly withheld dividend tax. Plaintiffs argued that the allegations against

them involved the “loss of use of tangible property”, which they contended constituted “property damage” for the purpose of an “occurrence” under Acuity’s commercial general liability policy issued to Bluegrass Investment Management, LLC. The Court disagreed. It held that the facts and allegations of the underlying actions did not provide coverage as an “occurrence” under the terms of the subject policy, the damages sought in the underlying matter did not involve the “loss of use of tangible property”, and granted summary judgment in favor of Acuity accordingly.



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