

James M. Dineen dba Dineen Bus Lines v. National Indemnity Company

Held January 28, 2016 – Docket No. INS-16-2000

Decision Issued: March 9, 2016

The insured requested a hearing to contest the cancellation of commercial auto insurance for a substantial change in the risk resulting from the business being placed out-of-service by the Federal Motor Carrier Safety Authority and units inspected under the insured's motor carrier authority that are not scheduled on the policy. The company demonstrated that FMCSA had rated the exposure unfit and placed it out-of-service and that additional units had been inspected and recorded under the insured's federal carrier numbers during the policy term.

Held: For the company. 24-A M.R.S. § 2908(2)(C) allows a company to cancel a casualty insurance policy for a substantial change in the risk increasing the risk of loss after coverage was issued or renewed. Although the insured argued that the company had not demonstrated it had sufficient information to make a determination to cancel, the FMCSA action was sufficient in itself to substantiate a significant change in the risk that increases the risk of loss. In addition, two buses not listed on the policy were inspected during the policy term, one of which was operating on public roads after significant defects had resulted in the bus itself being placed out of service in an earlier inspection. As motor carrier endorsements were on file with federal authorities, the insurer would be required to cover bodily injury or property damage due to the negligent operation of any vehicle under those authorities even if not scheduled on the policy. Therefore, discovery of this vehicle being operated after the issuance of the policy also constitutes a substantial change in the risk which increases the risk of loss.