



Environmental Case study

Bartoline Case

XL Insurance

Bartoline Limited v (1) Royal & SunAlliance Insurance plc (2) Heath Lambert Limited ([2006] EWHC 3598 QB)

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This case concerned an incident of a chemical fire which took place in premises which led to pollution of two water courses. Emergency works were undertaken by the Environment Agency pursuant to section 161(3) of the Water Resources Act 1991 and the Agency sought to recover their costs and, in addition, served notices on the polluter to carry out further clean up works.

The insured sought to recover these costs under their public liability policy, which amongst other things would indemnify the insured in respect of "...legal liability for damages in respect of... damage to Property... nuisance trespass to land or trespass to goods or interference with any easement right of air light water or way".

The Mercantile Court of the Manchester District Registry concluded that an insured's statutory debt to the Environment Agency, and an insured's own costs incurred to comply with notices served on an insured by the Agency, did not constitute "legal liability for damages" and accordingly are not covered by the relevant public liability policy.

The case serves to highlight the uncertainty in respect of coverage for environmental liabilities in public liability policies and the importance of ensuring that your existing insurance provides the level of environmental cover you expect.

It is important to note that public liability policies have varying terminology, and the specific terms and conditions should be reviewed on a case by case basis.

If you would like to discuss how XL Insurance's dedicated EIL business unit can assist, please do not hesitate to contact one of the team listed.