

Kim Jackson and Randy Bryant Win Declaratory Judgment Action for Insurance Company Client

By Kim M. Jackson May 4, 2017

BKBM attorneys **Kim Jackson** and **Randy Bryant** defended an excess insurance company in a declaratory judgment lawsuit brought by a claimant against the insured. BKBM moved to dismiss the case on 12(b)(6) grounds, arguing that the claimant, who did not hold a final judgment, had no jurisdiction under Georgia law to sue an excess carrier on its policy. The trial court agreed and granted the excess carrier's motion to dismiss.

The case was brought by a landlord that alleged that its tenant's employee set its building on fire by throwing a cigarette into a pile of mattresses. A property damage negligence lawsuit was filed by the landlord against the corporate tenant. The primary liability policy issued a reservation of rights letter claiming a sublimit of liability limited the exposure under its policy. BKBM's client, the excess carrier, issued a denial letter based on an exclusion in its policy. The landlord then brought the declaratory judgment action, while the negligence suit was still pending, against the insurance companies. BKBM moved to dismiss the declaratory judgment action as improper under Georgia law, and that motion was granted.