

Commissioners of the State Ins. Fund v Private One of N.Y., LLC
2013 NY Slip Op 01195
Decided on February 26, 2013
Appellate Division, First Department
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Decided on February 26, 2013

Mazzarelli, J.P., Acosta, Freedman, Richter, Gische, JJ.
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Commissioners of the State Insurance Fund, Plaintiff-Respondent,
v
Private One of New York, LLC, doing business as, New York Airport Service,
Defendant-Appellant.

Goldberg & Rimberg, PLLC, New York (Alexander Markus of counsel), for appellant.
Michael Miliano, Deputy General Attorney, New York (Isaac N. Guy Okafor of counsel), for respondent.

Order, Supreme Court, New York County (Eileen A. Rakower, J.), entered September 1, 2011, which granted plaintiff Commissioner of the State Insurance Fund of New York's motion for summary judgment in its action to recover \$453,358.95 in workers' compensation policy premiums due to the State Insurance Fund (SIF) with statutory interest from November 30, 2008, and denied defendant's motion for summary judgment dismissing the complaint, unanimously affirmed, without costs.

The motion court correctly determined that defendant owes workers' compensation premiums to SIF for its employees that were leased from employee leasing companies. Under the Rules set forth in the Workers' Compensation Rating Manual, defendant could have ensured that its leased employees were covered by workers' compensation policies by obtaining the coverage directly or by having the employee leasing company obtain a separate policy naming defendant as an additional insured. Since there is no evidence in the record of the latter, SIF [*2]properly concluded that defendant was providing the workers' compensation coverage itself and was responsible for paying the premiums.

We have considered defendant's remaining arguments and find them unavailing.

This constitutes the decision and order of the Supreme Court, Appellate Division, First Department.

Entered: February 26, 2013
Clerk