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Departmental and Other Notices

EASTERN CARIBBEAN SUPREME COURT
COMMONWEALTH OF DOMINICA

IN THE HIGH COURT OF JUSTICE

CLAIM NO. DOMHCV2008/0140
CLAIM NO. DOMHCV2008/0150

Between

[1] First Domestic Insurance Co. Ltd. *Claimant*

and

[1] Industrial Enterprises Ltd
[2] J. Astaphans & Co. Ltd *Defendants*

Appearances:

Mr. Ian Benjamin with Ms. Colleen Felix-Grant
for the Insurers

Mr. Anthony Astaphan SC, Mr. Alick Lawrence SC
and Mrs. Heather Felix-Evans for the Insureds

2011: August 3rd, 4th

2014: August 15th

JUDGMENT

[1] COTTLE, J: First Domestic (The insurers) are a
general insurance company operating in the

Commonwealth of Dominica. Industrial Enterprises Ltd (Industrial) and J. Astaphans & Co Ltd (Astaphans) - together referred to as the insured - are companies which conducted business in Dominica. Over a period of years, the insured obtained insurance cover from the Insurers. The present claim is concerned with the integrity of three claims advanced by the Insured following losses incurred after a fire and the passage of Hurricane Dean a few days later.

THE POLICIES

[2] The fire policy, No. F(IC) 10,072 was issued by the insurers to Industrial in respect to premises at Canefield. The insurance cover for stock was increased to \$9,794,544.29. The insurers also issued policies No. L.P (IC) 10,008 and LP (IC) 10,008 in respect of loss of profits for Astaphans and Industrial respectively.

[3] On 4th August 2007 a fire broke out at Industrial's premises at Canefield. As a result of that fire, a claim was made for loss of stock and damage to the building. On 17th August 2007 Hurricane Dean struck Dominica. The insured suffered loss from the effects of the hurricane and filed a claim. They also claimed for loss of profits.

[4] By letter dated 20th March 2008 the insurers rejected all claims. The fire claim was rejected for