

# NEW YORK INSURANCE LAW & LITIGATION ALERT

Jan. 31, 2012

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## News & Filings

### Hartford sued for coverage in hair products case

The **Hartford Fire Insurance Co.** is the defendant in a lawsuit that asserts it wrongfully denied coverage for a claim alleging a beauty supply company violated California safety laws.

Hartford insured **Pro's Choice Beauty Care Inc.** under general liability and umbrella liability policies. The lawsuit claims Pro's Choice became the subject of an investigation in California alleging its products did not satisfy safety regulations.

Pro's Choice tendered the claim to Hartford, which refused to provide coverage. Pro's Choice then defended the claim and made a settlement of \$1.25 million. The lawsuit seeks judgment in the amount of the settlement as well as damages for breach of contract.

**Pro's Choice Beauty Care Inc. v. Hartford Fire Ins. Co.**, No. 12-0101 (E.D.N.Y. *complaint filed* Jan. 9, 2012)

**Counsel for Pro's Beauty:** Linda U. Margolin, Karen I. Hansen, **Bracken Margolin Besunder L.L.P.**, 631-234-8585, Islandia, N.Y.

### Lawsuit accuses Greenwich Insurance of contract breach

A lawsuit alleges that **Greenwich Insurance Co.** owes \$2.872 million to an insured gas station owner after breaching its insurance policy.

Greenwich was the insurer for **Two Farms Inc.**, which owns and operates gas stations and convenience stores. The lawsuit alleges that, in 2009, Two Farms discovered that its underground piping had allowed thousands of gallons of gasoline to leak into the soil.

Two Farms submitted the claim to Greenwich, which indicated there was only \$1 million in coverage. The lawsuit claims that the insurance policy limits are at least \$5 million. The suit seeks \$2.872 million in additional expenses.

**Two Farms Inc. v. Greenwich Ins. Co.**, No. 12-0050 (S.D.N.Y. *complaint filed* Jan. 4, 2012)

**Counsel for Two Farms:** Gabriel Kaszovitz, **Feder Kaszovitz L.L.P.**, 212-888-8200, New York.

## Legislation & Agency Actions

### New law prohibits mandated mail-order prescriptions

The governor of New York approved new legislation which prohibits insurers from requiring insureds to use mail-order prescription drug plans, and requires insurers to cover prescriptions filled at the local drugstore with no added co-payments or fees. The governor signed off on the measure on the condition that it be retroactively amended to require retail pharmacies to accept "the same" reimbursement rates for drugs as mail-order pharmacies rather than "comparable" reimbursement. S03510B

### Musician's workers' comp fine vacated

An \$18,000 fine against rapper Jay-Z for alleged workers' compensation violations is being overturned. The New York Workers' Compensation Board had sued Jay-Z alleging that in 2009 he failed to make workers' comp payments for his cooks, maids and other domestic staff. The court granted the Board's request for \$18,000 in fines. However, after consulting with Jay-Z's insurer, the Board determined that the violations were the result of a simple administrative error, and that no payments were actually missed.

## U.S. Supreme Court

### Assignment

Misrepresentation

Life

#### Policy assignee's claim alleging misrepresentation barred under FTCA

**Life Partners Inc. v. United States**, 650 F.3d 1026 (5th Cir. 2011), *cert. denied*, No. 11-595 (U.S. Jan. 17, 2012)

The Supreme Court declined to review a decision of the Fifth U.S. Circuit Court of Appeals affirming the dismissal of claims alleging the Small Business Association (SBA) negligently failed to inform a company attempting to purchase a

**Strafford**

**New York Insurance Law & Litigation Alert** is published 20 times per year by Strafford Publications, Inc., 590 Dutch Valley Road, N.E., P.O. Box 13729, Atlanta, GA 30324-0729 (404) 881-1141, ext. 10. ISSN 1552-5120. Cite as [Vol. No.] **NYIL** [Page No.]

Executive Editor: Amy K. Davis, Esq. Associate Editor: Zahna L. Ellis. Research/Database Editor: Plua Vue. Editorial Production Manager: Christina Sacco. Publisher: Richard M. Ossoff. Vice President: Jennifer F. Brown, Esq.

**Subscription information:** One year: \$797+S&H. Two years: \$1,494+S&H (a \$100 savings). Multiple subscription discount rates on request. For assistance or to *renew your subscription*: **Call:** (800) 926-7926, **Fax:** (404) 881-0074, **E-mail:** [custserv@straffordpub.com](mailto:custserv@straffordpub.com), or **Online:** [www.straffordpub.com](http://www.straffordpub.com).

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federal employee’s life insurance policy that the policy had already been assigned to another party.

A company in the business of purchasing life insurance policies owned by elderly or terminally ill individuals contacted the SBA to confirm that an employee’s Federal Employee Group Life Insurance had not been assigned to another party. An SBA employee negligently misrepresented to the company that the policy had not been previously assigned when, in fact, it had been. Several years after purchasing the policy, the company learned that the policy had been previously assigned when it tried to convert it to an individual insurance policy.

The company filed suit against the SBA and the United States under the Federal Tort Claims Act (FTCA) alleging negligence in record keeping and the administration of the policy. The district court dismissed the claim for lack of subject matter jurisdiction.

The Fifth Circuit affirmed the district court’s dismissal, holding that the company’s claims were essentially claims alleging misrepresentation, which are excluded from the FTCA’s waiver of sovereign immunity.

## Bad Faith

### Settlements

### Auto

#### Demand letter lacking relevant information was not a reasonable settlement offer

**Hicks v. Dairyland Ins. Co.**, No. 10-15650 (9th Cir. 2011) *unpublished*, *cert. denied*, No. 11-787 (U.S. Jan. 23, 2012)

The Supreme Court will not review a Ninth U.S. Circuit Court of Appeals’ decision affirming summary judgment for an insurer in a suit alleging breach of the covenant of good faith and fair dealing.

Following an auto accident, an auto insured alleged his insurer committed bad faith by failing to inform him of an early

time-limited demand letter from the injured party’s attorney and delaying the claim settlement process. The district court entered summary judgment in favor of the insurer, and the insured appealed.

The Ninth Circuit affirmed the district court’s grant of summary judgment in favor of the insurer. Under Nevada Supreme Court precedent, insurers have a duty to communicate to the insured any reasonable settlement offer that could affect the insured’s interest.

The attorney’s letter demanded the policy limits for the insured’s policy without knowing what those limits were and with only minimal knowledge as to the extent of his client’s injuries. The letter provided no medical information but demanded that the insurer settle for the then-unknown policy limits within two weeks or the offer would be withdrawn. The Ninth Circuit held that the letter was not a “reasonable settlement offer” because the demand established an unreasonable time limit and did not afford the insurer sufficient information with which to evaluate the claim.

## Fraud

### Class Action

### No-Fault

#### Court affirms \$8.9 million jury verdict for class of insureds alleging fraud

**Farmers Ins. Co. of Or. v. Strawn**, 256 P.3d 100 (Or. 2011), *cert. denied*, No. 11-445 (U.S. Jan. 23, 2012)

The Supreme Court declined to review a decision of the Oregon Supreme Court holding that a jury was permitted to infer reliance on the part of individual class members in a class action lawsuit challenging an insurer’s claims handling process.

The plaintiffs brought a class action suit alleging several insurers’ claims handling process—which reduced payments for covered medical services to 80% of similar bills contained in a medical billing database—breached its contractual obli-

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gations and constituted fraud because the insurers were required by statute and by contract to provide PIP benefits covering all reasonable and necessary expenses of medical, hospital, dental, surgical, ambulance and prosthetic services incurred within one year after the date of the person's injury.

A jury returned a verdict awarding the plaintiffs \$900,000 in compensatory damages and \$8 million in punitive damages. The defendants appealed, arguing that that direct evidence of reliance by each individual class member is always required in a class action for fraud.

The Oregon Supreme Court held—contrary to the defendants' assertion—that it did not create an irrebutable presumption that each member of the class relied on the misrepresentations on which the fraud claim was based in a prior review of the jury's verdict. Rather, the supreme court held only that, from the evidence the plaintiffs presented, the jury was permitted to infer reliance on the part of individual class members. Whether reliance can be inferred will depend on the nature and circumstances of the misrepresentation involved in any given case.

## Court Decisions

### Duty to Defend

Exclusions	Professional Liability
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#### One Beacon breached its duty to defend law firm when it withdrew coverage

**Schlather Stumbar Parks & Salk L.L.P. v. OneBeacon Ins. Co.**, No. 10-0167 (N.D.N.Y. Dec. 22, 2011)

The U.S. District Court for the Northern District of New York ruled that an insurer breached its contractual duty to defend insureds in a malpractice action when it withdrew coverage.

Sandra Stoel filed a legal malpractice action against law firm **Schlather Stumbar Parks & Salk L.L.P.** and two of the firm's partners, Raymond Schlather and Diane Campbell, on Jan. 5, 2009. Schlather requested that **OneBeacon Insurance Co.** "enter and defend" the firm in the malpractice action.

On Feb. 25, 2009, OneBeacon claims attorney Sarah Schmitz notified Schlather that OneBeacon had "agreed to provide a defense to" the named defendants in the malpractice action subject to a reservation of rights. Approximately six months later, on Sept. 9, 2009, Schmitz sent a letter to Schlather notifying him that OneBeacon "will no longer provide for [the firm's] defense and will not provide indemnity coverage" in the malpractice action because the policy did not cover the claims arising from that action.

The firm and the partners brought an action against OneBeacon alleging breach of its contractual duty to defend or indemnify. The plaintiffs sought general and consequential damages. Both the plaintiffs and OneBeacon moved for summary judgment.

**Exclusion bars insured's indemnity claim.** The district court granted OneBeacon's motion and denied the plaintiffs' cross-motion as to the breach of duty to indemnify claim. The court found the policy's "known claims exclusion" applied and the policy did not cover the claims raised in the malpractice action.

However, the district court granted the plaintiffs' motion and denied OneBeacon's motion as to the breach of duty to defend claim. It was clear from the "four corners" of the complaint in the malpractice action that it gave rise to a duty to defend. As such, the legal uncertainty regarding the applicability of the known claims exclusion gave rise to a duty to defend and OneBeacon breached that contractual duty when it withdrew coverage.

Because, as a matter of law, OneBeacon breached its contractual duty to defend, the district court found the plaintiffs were entitled to general damages. Moreover, because it was foreseeable that the plaintiffs would suffer damages such as the loss of peace of mind as a result of OneBeacon's breach, the plaintiffs were entitled to general and consequential damages to be determined by a trier of fact.

## Exclusions

Indemnity	Business Liability
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#### Ambiguity in "stagehand" exclusion resolved in favor of nightclub owner insured

**Dzielski v. Essex Ins. Co.**, No. 09374 (N.Y. App. Div. Dec. 23, 2011)

The New York Supreme Court, Appellate Division, Fourth Department, affirmed a trial court's judgment in favor of two third parties who sued a nightclub owner's insurer seeking to recover the amount of a \$950,000 default judgment they secured against the nightclub owner. A "stagehand" exclusion was ambiguous and when interpreted in favor of the insured extended coverage for the underlying claim.

Mark Dzielski was injured when he fell from a loading dock after exiting a nightclub owned and operated by an insured of **Essex Insurance Co.** Dzielski and his wife sued the insured nightclub owner and secured a default judgment.

The Dzielskis then submitted a claim to Essex for the amount of the judgment. Essex disclaimed coverage, and the Dzielskis sued Essex seeking a declaration that Essex was obligated under its policy to indemnify its insured in the underlying personal injury action. A trial court awarded judgment in favor of the Dzielskis in the amount of \$950,000. Essex appealed.

The appellate division rejected Essex's contention that a "stagehand" exclusion operated to preclude coverage of the underlying claim. The exclusion barred coverage of bodily injury arising out of injury to any "entertainer, stagehand, crew, independent contractor, or spectator, patron or customer who participates in or is a part of any ... show."

The appellate division noted that Dzielski had supplied sound equipment for a band that performed at the insured's

premises and was injured while carrying equipment from the premises to his truck after the concert had concluded.

**Alternative interpretations of exclusion both reasonable.** The appellate division held that while the policy language could be interpreted broadly to encompass all persons who performed any tasks in connection with the show—including loading and unloading equipment—it could also reasonably be read narrowly to encompass only those persons who actually performed in the show or were injured as a result of activities occurring during the show.

Interpreting the ambiguous language of the exclusion narrowly in favor of the insured, the appellate division concluded that the policy extended coverage for Dzielski's damages. The court separately held, however, that a \$500,000 per occurrence policy limit applied to limit Dzielski's recovery to that amount. The trial court's judgment was modified in part and otherwise affirmed.

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## Potentiality of Coverage      Professional Liability

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### Professional liability coverage extends to attorney's work for entity that invested in attorney's company

**K Inv. Group L.L.C. v. Am. Guar. & Liab. Ins. Co.**, No. 00001 (N.Y. App. Div. Jan. 3, 2012)

The New York Supreme Court, Appellate Division, First Department, affirmed a trial court's judgment in favor of investment group plaintiffs who sued an attorney's professional liability insurer seeking to collect on a judgment secured against the attorney in an underlying action for legal malpractice. Policy exclusions for liability arising from acts performed by the insured as an officer of a business were inapplicable where the underlying claims arose from the insured's work as a legal representative of the plaintiffs.

**K Investment Group L.L.C.** and other corporate entities (collectively, K Investment) made multiple loans totaling approximately \$3 million to **Goldan L.L.C.** K Investment later sued Goldan member, attorney Jeffrey Daniels, alleging he undertook to record mortgages in K Investment's favor in order to secure the loans, and to secure title insurance, and that he failed to do so, rendering K Investment's investment unsecured. K Investment asserted claims of legal malpractice against Daniels and sought a \$450,000 settlement.

Daniels tendered defense and indemnity of the claim to his professional liability insurer, **American Guarantee & Liability Insurance Co.** (AGLIC). AGLIC disclaimed coverage based on an exclusion for claims arising out of the insured's capacity as an officer of a business, and based on an exclusion for claims arising out of any acts of the insured for any business enterprise in which he had a controlling interest.

K Investment secured a default judgment against Daniels, and then sued AGLIC seeking to collect on the judgment. A trial court entered judgment in favor of K Investment, and AGLIC appealed.

The court of appeal concluded that the exclusions relied on by AGLIC were patently inapplicable. Although K Investment alleged that Daniels was a member of Goldan, the basis of the legal malpractice action was that Daniels agreed to act as K Investment's attorney in the preparation of mortgages and related notes and in other related actions and that his failure to perform those actions constituted legal malpractice.

As a result, the underlying action was based exclusively on Daniels' obligation to K Investment, and not his obligations to Goldan, and his liability to K Investment was premised solely on their attorney-client relationship, and not on any interest that he had in Goldan. Accordingly, the trial court's judgment in favor of K Investment was affirmed.

**Counsel for AGLIC:** Ronald W. Weiner, **Steinberg & Cavaliere L.L.P.**, 914-761-4200, White Plains, N.Y.

**Counsel for K Investment:** Michael A. Haskel, 516-294-0250, Mineola, N.Y.

## No-Fault

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## Potentiality of Coverage      Auto

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### Insurer cannot repeatedly demand verification from same healthcare provider

**Brownsville Advance Med. P.C. v. Country-Wide Ins. Co.**, No. CV-046441-10 (N.Y. Dist. Ct. Dec. 19, 2011) *unpublished*

The New York District Court, Nassau County, held an insurer cannot repeatedly demand verification from the same healthcare provider where the information demanded has previously been provided or where the information demanded is public record.

**Brownsville Advance Medical P.C.** provided medical care and treatment to Alejandro Ramos for injuries sustained in a motor vehicle accident. Ramos assigned his right to receive no-fault benefits for the treatment provided to Brownsville. Brownsville submitted the claim for treatment to **Country-Wide Insurance Co.**

Country-Wide mailed a verification request to Brownsville dated Apr. 23, 2010. The verification requested a completed NF-3 signed by the doctor with "no stamps or initials with Q.16 listing of all treating providers & Q.17 listing of all owners" and "corporation with their license number, (Rev 1/04) Assignment of Benefits signed no stamps or initials and medical notes." Country-Wide asserted Brownsville did not respond or object to this verification request or a follow-up verification request to Brownsville.

Brownsville claimed the repeated verification requests it received from Country-Wide were unduly burdensome and designed to harass Brownsville. Brownsville asserted Country-Wide had responded to its no-fault claims by demanding identical verification for every claim it submitted. Country-wide had mailed an identical verification request to Brownsville in response to at least seven separate claims. Brownsville claimed it should not be required to repeatedly provide the same documentation.

Brownsville sued Country-Wide; and Country-Wide moved for summary judgment, asserting Brownsville's claim was premature because it did not have to pay or deny the claim until Brownsville provided the demanded verification.

**Insurer's repeated verification demands violate state law.** The trial court denied Country-Wide's motion. Country-Wide's repetitive verification demands upon Brownsville were contrary to 11 NYCRR 65-3.2(b) which provides an applicant or claimant should not be treated as an adversary and verification of facts should not be requested unless the insurer has a good reason for doing so. In this case, Country-Wide offered no reason why it had repeatedly demanded identical verification from Brownsville even though the information demanded in the verification requests had previously been provided.

The trial court explained that an insurer cannot obtain summary judgment when, as in this case, a provider fails to respond or object to a repetitive verification demand when the verification demand seeks information not relevant to the claim, has previously been provided to the insurer by the claimant, the material demanded can easily be obtained from free, publicly accessible sources, and seeks material that cannot be obtained through verification.

## Potentiality of Coverage

### Class Action

### Homeowners

#### Class action complaint against insurers over fire damage coverage is dismissed

**Woodhams v. Allstate Fire & Cas. Co.**, No. 10-4389 (2d Cir. Jan. 3, 2012) *unpublished*

The Second U.S. Circuit Court of Appeals ruled that a district court did not err in dismissing insureds' putative class action complaint against their insurers for failure to state a claim.

Thomas Woodhams and Charlene Connors brought a putative class action complaint against **Allstate Fire & Casualty Co.**, **Allstate Insurance Co.**, **Allstate Indemnity Co.** and **Allstate Property & Casualty Insurance Co.** (collectively, Allstate) because Allstate denied them reimbursement for repairs from fire damage that were not completed within 180 days of Allstate's initial payment to the plaintiffs for the actual cash value of their damaged property. The district court dismissed the complaint for failure to state a claim, and the plaintiffs appealed.

The Second Circuit Court affirmed the district court's judgment. In so ruling, the Second Circuit rejected the plaintiffs' argument that Allstate's policy was inconsistent with New York law because it required repairs to be completed within 180 days. The plaintiffs claimed this did not allow a reasonable time for repairs after such loss.

The Second Circuit noted that New York only requires an insurer to pay the lesser amount of the actual cash value of the property, the cost of repair or replacement, or an otherwise fixed limitation-on-liability amount. Because Allstate had al-

ready paid the actual cash value at the time of the loss, Allstate satisfied its obligations under New York law.

The Second Circuit also rejected the plaintiffs' argument that Allstate's denial of payments for repairs in excess of the damaged property's actual cash value that were not completed within 180 days was inconsistent with the terms of the insurance policy. The policy stated Allstate would "reimburse an insured repair costs, provided that the insured repairs, rebuilds or replaces damages, destroyed or stolen covered property within 180 days of the actual cash value payment." The plaintiffs argued that since the word complete was missing from the policy, the policy was ambiguous as to whether their repairs should be paid for if the repairs were started but not completed within the 180 days.

The Second Circuit noted that the plaintiffs did not even start repairs within 180 days and therefore the absence of the word "complete" merited no discussion. The court found the rest of the policy language unambiguous and that the plaintiffs failed to state a claim because Allstate did not breach its policy.

**Counsel for plaintiffs:** Jonathan J. Wilkofsky, Mark Friedman, **Wilkofsky Friedman Karel & Cummins**, 212-285-0510, New York; Lee Squitieri, Garry T. Stevens Jr., **Squitieri & Fearon L.L.P.**, 212-421-6492, New York.

**Counsel for Allstate:** Robert H. King, Benito Delfin Jr., **SNR Denton U.S. L.L.P.**, 212-768-6700, New York.

### ERISA

### Life

#### Surviving spouse not entitled to proceeds under both group and conversion policies

**Dillon v. Metro. Life Ins. Co.**, No. 09-7958 (S.D.N.Y. Dec. 28, 2011)

The U.S. District Court for the Southern District of New York granted summary judgment in favor of the issuer of an ERISA-regulated employee benefits plan in an action brought by the surviving spouse of a plan participant alleging wrongful denial of a claim for group life insurance policy proceeds. The spouse received full benefits under a converted individual policy and was not entitled to duplicate benefits under the group policy.

Jack Dillon participated in an ERISA-regulated employee benefits plan issued by **Metropolitan Life Insurance Co.** (MetLife) to his employer, **Parker Hannifin**. In early 2008, Dillon was diagnosed with cancer. As a result, he was unable to continue working, and on Mar. 24, 2008, Parker placed him on a medical leave of absence. Contrary to the terms of the plan and Parker's employment practices, Dillon's group basic and optional life insurance benefits were mistakenly terminated on Sept. 24, 2008.

On Oct. 8, 2008, Parker contacted MetLife to determine whether Dillon could convert his life insurance benefits to an individual policy. Dillon later completed a related application form, and an individual group basic life insurance policy was issued to Dillon on Oct. 28, 2008. Dillon died three days later.

Parker thereafter determined that it should not have terminated Dillon's group benefits and instructed MetLife to rein-

state the policy, which MetLife did. MetLife later determined that Dillon's widow, Karen Dillon, was not eligible for benefits under both the group policy and the individual policy.

Karen filed claims under both policies, and MetLife refused to pay under the converted individual policy. Karen sued MetLife for wrongful denial, and both parties moved for summary judgment.

**Participants not entitled to duplicative recovery.** The district court noted that the plain language of the group plan did not permit participants to have both a group policy and a conversion policy at the same time. Moreover, based on the record presented, it was clear that the parties intended that Dillon have one policy.

The name "conversion" was itself a signal that the parties understood that he was entitled to one policy at any given time, and the application contained prominent language indicating that coverage would be transferred from the group policy and not provided in addition to the group policy. Accordingly, MetLife's motion for summary judgment was granted.

## Law Journals

### Examining discrepancies between oil spill losses and coverage for those losses

Kenneth S. Abraham, *Catastrophic Oil Spills and the Problem of Insurance*, 64 Vand. L. Rev. 1769 (2011)

Generally, little attention is paid to the nature, scope and availability of insurance coverage for losses resulting from catastrophic environmental disasters such as oil spills. Kenneth S. Abraham describes the mismatch between the losses resulting from oil spills, the insurance available to the victims of spills, the liability of the parties responsible for the spills and the insurance available to the liable parties. The author then proposes two approaches for dealing with the financial consequences of oil spills.

Although businesses can purchase customized insurance policies that include liability coverage for cleanup costs related to pollution, general first-party property insurance policies, including homeowners' and commercial property insurance policies, do not cover property damage caused by pollution. Similarly, first-party business interruption insurance tends not to cover many of the pure economic consequences resulting from pollution.

Commentators have analyzed why insurance policies do not cover losses resulting from catastrophic disasters. The absence of insurance policies covering losses resulting from environmental disasters may be due to the difficulties associated with proving the cause of pure economic losses, the transitional problems associated with insuring against pollution related losses and liability, or the absence of a need for insurance by highly capitalized defendants.

Two proposals have been suggested as potential remedies to close the gap between the losses, liabilities and the amount of insurance available to cover damages resulting from catastrophic environmental disasters. One reform proposal suggests creating a prospective liability scheme under which drillers would be taxed for uncapped, expected liabilities beyond the amount that they are able to pay. The second reform proposal recommends mandating the purchase of liability insurance as a condition of participating in drilling activities. The author cautions that although the two proposed solutions may have advantages, they rely on questionable assumptions relating to their impact on the behavior of drillers and insurers.

## Docket★Trak™ - Part I

# Insurance Plaintiffs

Original Declaratory Actions Filed in the Federal District Courts **By** Insurance Companies

Insurance Company Plaintiffs	Citation	Counsel
Allstate Indem. Co.	<i>Allstate Indem. Co. v. Montalvo</i> , No. 12-CV-0071 (S.D.N.Y. filed 1/5/12)	For Allstate Indem. Co.: Thomas H. Cellilli, <b>Stern &amp; Montana L.L.P.</b> /New York, 212-850-7302
Am. Empire Surplus Lines Ins. Co.	<i>Am. Empire Surplus Lines Ins. Co. v. MJM Assocs. Constr. L.L.C.</i> , No. 12-CV-0080 (E.D.N.Y. filed 1/6/12)	For Am. Empire Surplus Lines Ins. Co.: Dominic M. Pisani, <b>L'Abbate Balkan Colavita &amp; Continin L.L.P.</b> /Garden City, N.Y., 516-294-8844
Aspen Ins. UK Ltd.	<i>Aspen Ins. UK Ltd. v. A&amp;R Able Corp.</i> , No. 12-CV-0261 (S.D.N.Y. filed 1/12/12)	For Aspen Ins. UK Ltd.: Tyler J. Lory, <b>Clausen Miller P.C.</b> /New York, 212-805-3900

Source: *Insurance Law & Litigation Week* research. (P) = plaintiff, (D) = defendant.

## Docket★Trak™ – Part I

### Insurance Plaintiffs (continued)

Insurance Companies Plaintiffs	Citation	Counsel
Principal Life Ins. Co.	<b>Principal Life Ins. Co. v. Levkovich</b> , No. 12-CV-0005 (E.D.N.Y. filed 1/3/12)	For Principal Life Ins. Co.: Steven P. Del Mauro, <b>McElroy Deutsch Mulvaney &amp; Carpenter L.L.P./Newark, N.J.</b> , 973-622-7711
	<b>Principal Life Ins. Co. v. Wong</b> , No. 12-CV-0002 (S.D.N.Y. filed 1/3/12)	For Principal Life Ins. Co.: Steven P. Del Mauro, <b>McElroy Deutsch Mulvaney &amp; Carpenter L.L.P./Newark, N.J.</b> , 212-483-9490
Tudor Ins. Co.	<b>Tudor Ins. Co. v. Sundaresen</b> , No. 12-CV-0174 (S.D.N.Y. filed 1/10/12)	For Tudor Ins. Co.: Richard J. Nicoletto, <b>Congdon Flaherty O'Callaghan Reid Donlon Travis &amp; Fish/Uniondale, N.Y.</b> , 516-542-5900

**Source:** *Insurance Law & Litigation Week* research. (P) = plaintiff, (D) = defendant.

## Docket★Trak™ - Part II

### Insurance Defendants

Original Declaratory Actions Filed in the Federal District Courts Against Insurance Companies

Insurance Company Defendants	Citation	Counsel
Cont'l Cas. Co.	<b>Dormitory Auth. of the State of N.Y. v. Cont'l Cas. Co.</b> , No. 12-CV-0281 (S.D.N.Y. filed 1/13/12)	For Dormitory Auth. of the State of N.Y.: Stephen B. Shapiro, <b>Holland &amp; Knight L.L.P./New York</b> , 212-457-7032
Empire Blue Cross Blue Shield	<b>Gabriel v. Empire Blue Cross Blue Shield</b> , No. 12-CV-0097 (E.D.N.Y. filed 1/9/12), <i>Other Parties: Empire HealthChoice HMO Inc. (D); Wellpoint Holding Corp. (D); Anthem UM Servs. Inc. (D)</i>	For Nick Gabriel: Frank S. Russell, <b>Lite &amp; Russell/W. Islip, N.Y.</b> , 631-669-3710
Granite State Ins. Co.	<b>WCHCC (Bermuda) Ltd. v. Granite State Ins. Co.</b> , No. 12-CV-0094 (S.D.N.Y. filed 1/6/12)	For WCHCC (Bermuda) Ltd.: Barry G. Saretsky, <b>Saretsky Katz Dranoff &amp; Glass L.L.P./New York</b> , 212-973-9797
Greenwich Ins. Co.	<b>Two Farms Inc. v. Greenwich Ins. Co.</b> , No. 12-CV-0050 (S.D.N.Y. filed 1/4/12)	For Two Farms Inc.: Gabriel Kaszovitz, <b>Feder Kaszovitz L.L.P./New York</b> , 212-888-8200
Hartford Fire Ins. Co.	<b>Pro's Choice Beauty Care Inc. v. Hartford Fire Ins. Co.</b> , No. 12-CV-0101 (E.D.N.Y. filed 1/9/12), <i>Other Parties: Hartford Cas. Ins. Co. (D)</i>	For Pro's Choice Beauty Care Inc.: Karen I. Hansen, <b>Bracken Margolin Besunder L.L.P./Islandia, N.Y.</b> , 631-234-8585
OneBeacon Am. Ins. Co.	<b>Oakdale Mall II L.L.C. v. OneBeacon Am. Ins. Co.</b> , No. 12-CV-0074 (S.D.N.Y. filed 1/5/12)	For Oakdale Mall II L.L.C.: Charles A. Stewart III, <b>Stewart Occhipinti L.L.P./New York</b> , 212-239-5500

**Source:** *Insurance Law & Litigation Week* research. (P) = plaintiff, (D) = defendant.

## Docket + Trak™ - Part III

# Transfers Into Federal Courts

Declaratory Actions Transferred Into The Federal District Courts

Insurance Company Parties	Citation	Court Of Original Filing	Counsel
John Hancock Life Ins. Co.	<b>Blumenberg v. John Hancock Life Ins. Co.</b> , No. 12-CV-0084 (E.D.N.Y. filed 1/6/12)	N.Y. Sup. Ct., Kings Cty., No. 500757/2011	For John Hancock Life Ins. Co.: Jaclyn Marie Metzinger, <b>Kelly Drye &amp; Warren L.L.P.</b> /New York, 212-808-7800; For Benzion Blumenberg: Ira S. Lipsius, <b>Lipsius-BenHaim Law L.L.P.</b> /New York, 212-981-8440
Liberty Mut. Ins. Co.	<b>Franco Belli Plumbing &amp; Heating &amp; Sons Inc. v. Liberty Mut. Ins. Co.</b> , No. 12-CV- 0128 (E.D.N.Y. filed 1/11/12)	N.Y. Sup. Ct., Kings Cty., No. 25860/11	For Liberty Mut. Ins. Co.: Marshall T. Potashner, <b>Jaffe &amp; Asher L.L.P.</b> /New York, 212-687-3000; For Franco Belli Plumbing & Heating & Sons Inc.: Frances A. Krische, <b>Terrence O'Connor P.C.</b> /Bronx, N.Y., 718-328-1610

**Source:** *Insurance Law & Litigation Week* research. (P) = plaintiff, (D) = defendant.

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