

Reported decisions in which Meckler Bulger Tilson Marick & Pearson LLP attorneys have appeared as principal counsel as of June 4, 2010 include the following:

#### **UNITED STATES SUPREME COURT**

Safeco Ins. Co. of Am. v. Burr; GEICO Gen. Ins. Co. v. Edo; 127 S. Ct. 2201 (2007) (Credit Scoring/Fair Credit Reporting Act/Standard for Willfulness).

#### **UNITED STATES COURTS OF APPEALS**

##### **First Circuit**

MSM Industries, Inc. v. Zurich Ins. Co., 125 F.3d 841 (1st Cir. 1997) (environmental coverage dispute).

##### **Third Circuit**

Kaufman v. Allstate New Jersey Ins. Co., 561 F.3d 144 (3d Cir. 2009) (vacating grant of motion to remand under CAFA in putative class action matter involving automobile insurance coverage).

Little v. MGIC Indemnity Corporation, 836 F.2d 789 (3rd Cir. 1987) (*amicus* brief on behalf of reinsurer; D&O policy ambiguous as to whether it imposed upon insured duty to pay insured's defense costs as they were incurred).

##### **Fourth Circuit**

Rowzie v. Allstate Ins. Co., 556 F.3d 165 (4th Cir. (S.C.) 2009) (defending validity of medical payments offset provision related to UIM coverage under automobile insurance policy).

Northern Ins. Co. of NY v. Baltimore Business Communications, Inc., 68 Fed. Appx. 414 (4th Cir. 2003) (coverage for underlying cell phone product liability claims).

### **Fifth Circuit**

Potomac Ins. Co. of Illinois v. Jayhawk Medical Acceptance Corp., 198 F.3d 548 (5th Cir. 2000) (duty to defend; what constitutes professional services for purposes of a professional services exclusion).

Webb v. B.C. Rogers Poultry, Inc., 174 F.3d 697 (5th Cir. 1999) (federal court abstention for actions brought by Receivers of Insolvent Insurers).

Sentry Ins. Co. v. R.J. Weber Co., Inc., 2 F.3d 554 (5th Cir. 1993) (advertising injury coverage/burden of proof).

### **Sixth Circuit**

Northfield Ins. Co. v. Kentucky Ass'n of Counties All Lines Fund Trust, 124 Fed.Appx. 427 (6th Cir. 2005) (insurance coverage; underlying claims against municipality for sexual assaults by County executive).

Standard Constr. Co. v. Maryland Cas. Co., 359 F.3d 846 (6th Cir. 2004) (coverage under GL policy for property contamination).

Hendricks v. Comerica Bank, 122 Fed.Appx. 820 (6th Cir. 2004) (injunction proceeding against Bermuda reinsurance captive for fraud in connection with operation of captive).

Allstate Ins. Co. v. Plummer, 1996 U.S. App. LEXIS 27355 (6th Cir. Oct. 17, 1996) (whether homeowners liability policies provide coverage for damages arising from physical and sexual abuse of minors).

Affiliated FM Insurance Co. v. Owens-Corning Fiberglas Corp., 1992 WL 404399 (N.D. Ohio 1992), rev'd, 16 F.3d 684 (6th Cir. 1994) on remand, (N.D. Ohio, August 30, 1994) (coverage of defense costs for asbestos bodily injury cases).

### **Seventh Circuit**

Milwaukee Metropolitan Sewerage Dist. v. American Intern. Specialty Lines Ins. Co., 598 F.3d 311, 2010 WL 785887 (7th Cir. Mar. 10, 2010) (coverage and reformation claims against environmental insurer arising out of pollution clean up costs).

Federal Ins. Co. v. Arthur Andersen LLP, 530 F.3d 513 (7th Cir. 2008) (coverage dispute arising out of underlying claims for certain employment and partnership benefits due and related settlement consummated without insurer's consent).

Federal Ins. Co. v. Arthur Andersen LLP, 522 F.3d 740 (7th Cir. 2008) (coverage dispute arising out of underlying claims for certain employment and partnership benefits due and related settlement consummated without insurer's consent).

Skylink Technologies, Inc. v. Assurance Co. of America, 400 F.3d 982 (7th Cir. 2005) (judgment in favor of client insurer finding no duty to defend underlying false advertising and copyright infringement action).

American Patriot Ins. Agency, Inc. v. Mutual Risk Management, Ltd., 364 F.3d 884 (7th Cir. 2004) (fraud action against Bermuda reinsurance captive in connection with operation of captive).

Commercial Underwriters Ins. Co. v. Aires Environmental Services, Ltd., 259 F.3d 792 (7th Cir. 2001) (environmental contamination).

Oto v. MetLife, 224 F.3d 601 (7th Cir. 2000) (dispute over proper beneficiary under life insurance policy).

Stone Container Corp. v. Hartford Steam Boiler Inspection and Ins. Co., 165 F.3d 1157 (7th Cir. 1999) ("explosion" exclusion in "boiler and machinery insurance").

Old Republic Ins. Co. v. Chuhak & Tecson, P.C., 84 F.3d 998 (7th Cir. 1996) (professional liability coverage dispute).

Bankers Trust Co. v. Old Republic Ins. Co., 7 F.3d 93 (7th Cir. 1993) (professional liability coverage dispute, standing of injured tort claimant).

National Union Fire Ins. Co. of Pittsburgh v. Baker & McKenzie, 997 F.2d 305 (7th Cir. 1993) (claims made and reported issues under professional liability policy).

National Wrecking Co. v. St. Paul Surplus Lines Ins. Co., 11 F.3d 685 (7th Cir. 1993) (insured obligation to pay portion of defense costs based on SIR endorsement).

Bankers Trust Company v. Old Republic Insurance Company, 959 F.2d 677 (7th Cir. 1992) (coverage action between insured and insurer and effect on underlying plaintiff).

Alpine State Bank v. Ohio Casualty Ins. Co., 941 F.2d 554 (7th Cir. 1991) (coverage dispute under banker's blanket bond for forged checks).

Winstead v. Indiana Ins. Co., 855 F.2d 430 (7th Cir. 1988) (coordination of coverage between ERISA health care and auto insurance).

Lazzara v. Howard A. Esser, Inc., 604 F.Supp. 1205 (N.D.Ill. 1985), aff'd in part and rev'd on other grounds, 802 F.2d 260 (7th Cir. 1986) (insurance broker has no claim for contribution against excess insurer which fails to "drop down" to cover gap in coverage; broker is agent of insured for purposes of procuring coverage).

### **Eighth Circuit**

Upsher-Smith Laboratories, Inc. v. Federal Ins. Co., 67 Fed. Appx. 382 (8th Cir. 2003) (no duty to defend underlying Federal Trade Commission complaint and related private class actions based on policy's "antitrust" exclusion).

### **Ninth Circuit**

Reynolds v. Hartford Financial Servs. Group, Inc., 435 F.3d 1081, replacing 426 F.3d 1020, which replaced 416 F.3d 1097 (9th Cir. 2006), cert. granted, 127 S.Ct. 36 (2006) rev'd 127 S. Ct. 2201 (2007) (Credit Scoring/Fair Credit Reporting Act).

Hendricks v. Bank of America, N.A., 398 F.3d 1165 (9th Cir. 2005) (injunction proceeding against Bermuda reinsurance captive for fraud in connection with operation of reinsurance captive).

Mosten Management Co. v. Zurich-American Ins. Group, 62 Fed.Appx. 175 7963 (9th Cir. 2003) (bad faith failure to settle case involving hostile fire spreading asbestos -- tried to verdict with finding of no bad faith).

Connolly v. Allstate Ins. Co., 1997 U.S. App. LEXIS 9369 (9th Cir. Apr. 28, 1997) (statutory interpretation of the Arizona insurance statute pertaining to offers of underinsured motorists coverage).

Oldfather v. Cigna Insurance Co., 1997 U.S. App. LEXIS 8564 (9th Cir. Apr. 27, 1997) (bad faith failure to settle under attorneys' professional liability claims made extended reporting ("tail") endorsement).

Association for Retarded Citizens-Santa Barbara Council v. North American Specialty Ins. Co., 87 F.3d 1317 (9th Cir. 1996) (policy rescission action based on application misrepresentation).

## **Tenth Circuit**

American Cas. Co. of Reading PA v. Health Care Indem., Inc., 520 F.3d 1131 (10th Cir. 2008) (pro-rata apportionment applies to defense costs incurred under professional liability policy).

Horn v. Government Employees Ins. Co., 86 Fed. Appx. 405 (10th Cir. 2004) (uninsured motorist coverage/bad faith: whether claimant was a resident of the insured's household).

National American Insurance Co. v. American Re-Insurance Co., 358 F.3d 736 (10th Cir. 2004) (ambiguity in reinsurance agreement; parol evidence).

Bituminous Cas. Corp. v. St. Clair Lime Co., 69 F.3d 547 (10th Cir. 1995) (pollution exclusion bars coverage for the costs of settling wrongful death and toxic tort claims).

## **Eleventh Circuit**

MRI Scan Center, Inc. v. Allstate Ins. Co., 273 Fed.Appx. 835, 2008 WL 1700205 (11th Cir. (Fla.), April 14, 2008) (confirming statutory compliance with regard to Auto Med Pay coverage claim payments practices)

Atlanta Gas Light Co. v. Aetna Cas. and Sur. Co., 68 F.3d 409 (11th Cir. 1995) (environmental - manufactured gas contamination).

## **UNITED STATES DISTRICT COURTS**

### **District of Arizona**

American Family Mut. Ins. Co. v. Nat'l Fire & Marine Ins. Co., 2010 WL 761309 (D. Ariz. Mar. 4, 2010) (insurers, as prevailing parties, entitled to recover taxable costs and fees).

American Family Mut. Ins. Co. v. National Fire & Marine Ins. Co., 2009 WL 2870185 (D. Ariz. Sept. 3, 2009) (failure to provide timely notice held to preclude coverage obligations under general liability policy).

American Family Mut. Ins. Co. v. National Fire & Marine Ins. Co., 2009 WL 2870188 (D. Ariz. Sept. 3, 2009) (failure to provide timely notice held to preclude coverage obligations under general liability policy).

American Family Mut. Ins. Co. v. National Fire & Marine Ins. Co., 2009 WL 2870195 (D. Ariz. Sept. 3, 2009) (failure to provide timely notice held to preclude coverage obligations under general liability policy).

American Family Mut. Ins. Co. v. National Fire & Marine Ins. Co., 2009 WL 2870202 (D. Ariz. Sept. 3, 2009) (failure to provide timely notice held to preclude coverage obligations under general liability policy).

American Family Mut. Ins. Co. v. National Fire & Marine Ins. Co., 2009 WL 2916817 (D. Ariz. Sept. 3, 2009) (failure to provide timely notice held to preclude coverage obligations under general liability policy).

### **District of Colorado**

Valley Forge Ins. Co. v. Health Care Management Partners, Ltd., 2009 WL 1505418 (D. Colo. May 28, 2009) (awarding Valley Forge recoupment of all the defense costs and expenses it incurred in defending insureds).

Apodaca v. Allstate Ins. Co., 2008 WL 113844 (D. Colo. January 08, 2008) (whether Personal Injury Protection coverage would be implied into personal umbrella liability policies).

Apodaca v. Allstate Ins. Co., 2007 WL 678625 (D. Colo. February 28, 2007) (whether Personal Injury Protection coverage would be implied into personal umbrella liability policies).

Valley Forge Insurance Company v. Health Care Management Partners, Ltd., 2006 WL 2050962 (D. Colo. July 20, 2006) (obtained summary judgment that professional liability insurer had no duty to defend or indemnify insureds against underlying False Claims Act and common law false billing claims and that it is entitled to recoup defense costs from insureds), aff'd, 529 F.3d 916 (10<sup>th</sup> Cir. 2008), on remand, 2009 WL 1505418 (D. Colo. May 28, 2009) (awarding Valley Forge recoupment of all the defense costs and expenses it incurred in defending insureds).

Sanford v. Allstate Indem. Co., 2006 WL 3262840 (D. Colo. Nov. 09, 2006) (statutory interpretation of the Colorado Personal Injury Protection statute pertaining to offers of enhanced Personal Injury Protection).

### **District of Delaware**

Johnson v. Geico Cas. Co., 673 F.Supp.2d 255 (D. Del. 2009) (denial of benefits dispute arising under personal injury protection coverage in automobile insurance policies).

In re Reliance Securities Litigation, 135 F.Supp.2d 480 (D. Del. 2001) (securities class action).

### **Middle District of Florida**

Harris Specialty Chemicals, Inc. v. U.S. Fire Ins. Co., 2000 WL 345 33982 (M.D. Fla. 2000) (your product and impaired property exclusions).

### **Southern District of Florida**

MRI Scan Center, Inc. v. Allstate Ins. Co., 2007 WL 2288149 (S.D. Fla. Aug. 7, 2007) (interpretation of the Florida Personal Injury Protection law imposing certain fee schedule limitations for covered MRI services).

### **Northern District of Georgia**

Arrow Exterminators, Inc. v. Zurich American Ins. Co., 136 F. Supp.2d 1340 (N.D.Ga. 2001) (termite damage and GL coverage).

Atlanta Gas Light Co. v. Aetna Cas. & Sur. Co., 1993 WL 545704 (N.D. Ga. 1993) (manufactured gas plant environmental coverage action).

### **Northern District of Illinois**

Ario v. American Patriot Ins. Agency, Inc., 2010 WL 487092 (N.D. Ill. Feb. 5, 2010) (claim by liquidator of insolvent insurance company to recover premiums).

Federal Ins. Co. v. Illinois Funeral Director's Ass'n, 2009 WL 2252200 (N.D. Ill. July 29, 2009) (intervention and standing issues arising out of coverage dispute under ForeFront Portfolio Policy issued to industry association).

National Union Fire Ins. Co. of Pittsburgh, Pa. v. Westport Ins. Corp., 2009 WL 528686 (N.D. Ill. Feb. 25, 2009) (application and enforcement of arbitration agreement related to umbrella liability policy).

Ario v. American Patriot Ins. Agency, Inc., 2007 WL 2743204 (N.D. Ill. Sept. 07, 2007) (reinsurance dispute with Liquidator of Pennsylvania Department of Insurance).

Koken v. American Patriot Insurance Agency, Inc., 2007 WL 914251 (N.D. Ill. Mar. 23, 2007) (reinsurance dispute with Liquidator of Pennsylvania Department of Insurance).

Ellis v. Allstate Insurance Co., 479 F. Supp.2d 782 (N.D. Ill. 2006) (automobile insurer is not unjustly enriched, does not commit fraud and does not violate the Illinois Insurance Code by delaying payment to insured of a portion of funds received from other motorists, as to which insurer asserts subrogation rights).

Koken v. American Patriot Ins. Agency, Inc., 2006 WL 3497318 (N.D. Ill. Dec. 04, 2006) (reinsurance dispute with Liquidator of Pennsylvania Department of Insurance).

Koken v. American Patriot Ins. Agency, Inc., 2006 WL 1749689 (N.D. Ill. Jun. 20, 2006) (reinsurance dispute with Liquidator of Pennsylvania Department of Insurance).

Executive Risk Indemnity Inc. v. Chartered Benefit Services, Inc. 2005 WL 1838433 (N.D. Ill. July 29, 2005) (claims-made and late notice issues).

Coltec Industries Inc. v. Zurich Ins. Co., 2004 WL 413304 (N.D. Ill. Jan 30, 2004) (lost policy dispute - environmental contamination).

Continental Cas. Co. v. Southern Co., 248 F.Supp.2d 1118 (N.D. Ill. 2003) (asbestos and environmental coverage action).

Utica Mutual Ins. Co. v American Mutual Reinsurance Co., 2003 U.S. Dist. LEXIS 8025 (N.D. Ill. May 12, 2003) (reinsurance dispute - scope of arbitration issues).

American Patriot Ins. Agency, Inc. v. Mutual Risk Management, Ltd., 248 F.Supp.2d 779 (N.D. Ill. 2003) (injunction proceeding against Bermuda reinsurance captive for fraud in connection with operation of captive).

Commercial Underwriters Ins. Co. v. Aires Environmental Services, Ltd., 2002 U.S. Dist. LEXIS 16919 (N.D. Ill. Sept. 9, 2002) (environmental contamination).

Great West Casualty Co. v. Rogers Cartage Co., 2001 U.S. Dist. LEXIS 20486 (N.D. Ill. Dec. 12, 2001) (coverage for punitive damages/late notice/estoppel).

Coltec Industries, Inc. v. American Motorists Ins. Co., 197 F.R.D. 368 (N.D. Ill. 2000) (asbestos coverage dispute).

Coltec Industries, Inc. v. Zurich American Insurance Co., 2000 U.S. Dist. LEXIS 12465 (N.D. Ill. Aug. 28, 2000) (asbestos coverage dispute).

Abbott v. Village of Winthrop Harbor, 1999 U.S. Dist. LEXIS 13346 (N.D. Ill. Aug. 24, 1999) (dispute over fees incurred by independent counsel representing municipal insured in civil rights case).

Old Republic Ins. Co. v. Chuhak & Tecson, P.C., 906 F.Supp. 1177 (N.D. Ill. 1995) (professional liability coverage dispute).

Old Republic Ins. Co. v. Chuhak & Tecson, P.C., 906 F.Supp. 1173 (N.D. Ill. 1995) (professional liability coverage dispute).

Bercoon, Weiner, Glick & Brook v. Manufacturers Hanover Trust Company, 818 F. Supp. 1152 (N.D. Ill. 1993) (motion to dismiss of defendant sublessor granted as to claims of breach of contract, fraud, and breach of duty of good faith alleged by prospective sublessee).

Safety Mutual Cas. Corp. v. Charles Machine Works, Inc., 1990 WL 251842 (N.D. Ill. Dec. 31, 1990) (excess insurer not obligated to “drop down”).

Bankers Trust Company v. Old Republic Insurance Company, 697 F. Supp. 1483 (N.D. Ill. 1988) (tort plaintiff not bound by settlement between insurer and insured in coverage action).

Evanston Insurance Company v. Security Assurance Company, 684 F. Supp. 1423 (N.D. Ill. 1988) (claims handling and estoppel).

### **Northern District of Indiana**

Estate of Moreland v. Sawdon, 2008 U.S. Dist. LEXIS 9407 (N.D. Ind. Feb. 7, 2008) (settlement of claims against Zurich's insured hospital/nurse after being hired during trial of civil rights/tort action and before a Indiana record \$53M verdict returned against remaining defendants).

Governmental Interinsurance Exchange v. City of Angola, Ind., 8 F.Supp.2d 1120 (N.D. Ind. 1998) (environmental contamination).

### **Southern District of Indiana**

Irving Materials, Inc. v. Zurich Am. Ins. Co., 2008 WL 4410195 (S.D. Ind. Sept. 23, 2008) (dispute regarding application of aggregate deductible agreements to exhaustion of primary general liability policies and trigger of excess policies).

Irving Materials, Inc. v. Zurich American Ins. Co., 2008 WL 1971468 (S.D. Ind. May 05, 2008) (application and enforcement of arbitration provision).

Irving Materials, Inc. v. Zurich American Ins. Co., 2007 WL 4616917 (S.D. Ind. Dec 28, 2007) (products/construction defect involving more than 300 residential and commercial individual claims and multiple insurers alleging defective concrete).

Irving Materials, Inc. v. Zurich American Ins. Co., 2007 WL 1035098 (S.D. Ind. Mar 30, 2007) (concrete cases; excess/primary dispute).

Eli Lilly v. Zurich American Ins. Co., 405 F. Supp. 2d 948 (S.D. Ind. 2005) (scope of products and GL coverage; bad faith).

### **District of Kansas**

Blake v. Transcommunications, Inc., Debtor, Federal Ins. Co., Garnishee, 2007 WL 2155681 (D. Kan. July 26, 2007) (late notice).

American Cas. Co. of Reading Penn. v. Healthcare Indem., Inc., 2002 U.S. Dist. LEXIS 9688 (D. Kan. Mar. 27, 2002) (contribution and indemnity among insurers).

### **Western District of Kentucky**

Seville Homes, Inc. v. Zurich North America, 2008 WL 4737661 (W.D. Ky. Oct. 29, 2008) (construction defects coverage dispute).

Seville Homes, Inc. v. Northern Ins. Co. of New York, 2008 WL 4542732 (W.D. Ky. Oct. 8, 2008) (construction defects coverage dispute)

Liberty Mut. Fire Ins. Co. v. Harper Industries, Inc., 2007 WL 528523, (W.D.Ky. Feb 12, 2007) (products/construction defect involving more than 200 residential and commercial claims and multiple insurers).

### **Eastern District of Louisiana**

Shields v. Allstate Ins. Co., 2009 WL 2868403 (E.D. La. Aug. 28, 2009) (dispute regarding federal tax withholding for attorneys' fees paid in connection with claim settlement payment).

Liberty Mut. Ins. Co. v. Jotun Paints, Inc., 2009 WL 86669 (E.D. La., Jan. 13, 2009) (duty to defend; recoverability of litigation expenses incurred prior to tender).

American Cas. Co. of Reading, Pa. v. Tenet Healthsystem Hospitals, Inc., 2006 WL 2631936 (E.D. La. Sept. 13, 2006) (obtained summary judgment that professional liability policy's "other insurance" provision enabled it to apply excess of the insured's self-insured retention under another line of coverage in connection with underlying medical malpractice case).

### **Western District of Louisiana**

Ieyoub ex rel. State of Louisiana v. American Tobacco Co., 1999 U.S. Dist. LEXIS 21742 (W.D. La. March 18, 1999) (coverage for State of Louisiana's costs incurred in providing health care to individuals with tobacco-related illnesses).

Ieyoub ex rel. State v. American Tobacco Co., 1997 U.S. Dist. LEXIS 24219 (W.D. La. Sept. 11, 1997) (coverage dispute for tobacco claims).

### **District of Massachusetts**

MSM Industries, Inc. v. Zurich American Ins. Companies, 1997 WL 260059 (D.Mass. Mar 25, 1997) (environmental contamination).

MSM Industries, Inc. v. Zurich American Ins. Companies, 1997 U.S. Dist. LEXIS 7076 (D.Mass. Feb. 13, 1997) (environmental contamination).

Safety Mutual Casualty Corp. v. Kenneth Hudson, Inc., Mealey's Litigation Reports, Insurance Insolvency, August 5, 1992 at 14 (U.S. Dist. Ct. D. Mass., June 22, 1992) (umbrella insurer not obligated to "drop down"); (slip op. Sept. 27, 1993) (late notice defense).

### **Eastern District of Michigan**

Delcor Associates, Inc. v. Executive Risk Indemnity Inc., Case No. 03-72078 (E.D. Mich. Dec. 21, 2004) ("prior and/or pending litigation" exclusion).

Northern Ins. Co. of NY v. Addison Products, Inc., 148 F.Supp.2d 859 (E.D. Mich. 2001) (jurisdictional issues under 28 USCA §§2201 and 2202).

### **Western District of Michigan**

TIG Ins. Co. v. Stryker Corp., 2009 WL 3255550, 74 Fed.R.Serv.3d 1199 (W.D. Mich. Oct. 7, 2009) (exhaustion dispute related to trigger of obligations under excess policy).

Stryker Corp. v. XL Ins. America Inc., 2009 WL 3256081 (W.D. Mich. Oct. 7, 2009) (scope of recovery for consequential damages resulting from breach of duty to defend products liability claim).

### **District of Minnesota**

UnitedHealth Group Inc. v. Columbia Cas. Co., 2010 WL 317521 (D. Minn. Jan. 19, 2010) (managed health care company liability coverage dispute; applicability of blanket billing exclusion).

UnitedHealth Group Inc. v. Columbia Cas. Co., 2009 WL 5559050 (D. Minn. April 2, 2009) (managed health care company liability coverage dispute).

UnitedHealth Group, Inc. v. Lexington Ins. Co., 2006 WL 695523 (D. Minn. Mar. 17, 2006) (coverage dispute regarding ripeness of claim).

### **Eastern District of Missouri**

Assurance Co. of America v. Synthrax Innovations, Inc., 4:03CV960HEA, United States District Court, E.D. Missouri, October 7, 2005) (rescission based on application misrepresentations).

May v. Maryland Cas. Corp., 792 F. Supp. 63 (E.D. Mo. 1992) (applied exposure theory to molestation claims and addressed notice issue).

### **District of Montana**

Semitool v. Zurich, No. 49F12-0303-PL-000752, United States District Court for the District of Montana, Missoula Division (2004) (total pollution exclusion to a product liability claim).

### **District of New Hampshire**

SIG Arms Inc. v. Employers Ins. of Wausau, 122 F.Supp.2d 255 (D.N.H. 2000) (coverage dispute involving claims brought by NAACP and municipalities for increased costs of healthcare due to deaths and injuries caused by handguns).

### **District of New Jersey**

Lincoln Fuel Co. v. Zurich Insurance Company, No. 99-CV-3444-TPG, United States District Court for District of New Jersey (forum dispute based on the forum selection provision).

Booker v. Blackburn, 942 F. Supp. 1005 (D.N.J. 1996) (policy rescission claim).

### **Southern District of New York**

Olin Corp. v. INA, et al., 986 F.Supp. 841 (S.D.N.Y. 1997) (allocation of environmental losses).

### **Northern District of Ohio**

Zurich Ins. Co. v. Cooper Tire & Rubber Company, 465 F.Supp. 2d 827 (N.D. Ohio 2006) (coverage dispute regarding allocation among multiple insurers).

Affiliated FM Insurance Co. v. Owens-Corning Fiberglass Corp., 1992 WL 404399 (N.D. Sep. 17, 1992) (summary judgment in favor of excess insurer, finding that defense costs are not payable in addition to policy limits), rev'd, 16 F.3d 684 (6th Cir. 1994) (excess policy language is ambiguous), on remand, Mealey's Litigation Reports: Insurance, Vol. 8, Issue 42 (N.D. Ohio, August 30, 1994) (insurers of Owens-Corning which paid defense costs under Wellington Agreement ordered joined as real parties in interest).

### **Western District of Oklahoma**

American Cas. Co. of Reading, Pa. v. Health Care Indem., Inc., 2006 WL 15489 (W.D. Okla. Jan. 4, 2006) (obtained summary judgment against coinsurer as to priority of coverage and defense cost contribution issues under professional liability policies, despite adverse state appellate court

precedent as to defense cost contribution), aff'd, 520 F.3d 1131 (10<sup>th</sup> Cir 2008).

### **District of Oregon**

Regence Group v. TIG Specialty Ins. Co., 2010 WL 476646 (D. Or. Feb. 4, 2010) (managed health care company liability coverage dispute).

### **Eastern District of Pennsylvania**

Manor Care, Inc. v. Continental Ins. Co., No. 01-2524, 2003 U.S. Dist. LEXIS 20202 (E.D. Pa. Oct. 27, 2003) (choice of law under nursing home professional liability policy).

### **Western District of Pennsylvania**

Mt. McKinley Ins. Co. v. Pittsburgh Corning Corp., 2006 U.S. Dist. LEXIS 72144 (W.D. Pa Oct. 3, 2006).

In re Mid-Valley Inc., 2004 Bankr.LEXIS 121 (W.D. Pa. Feb. 11, 2004) (coverage and bankruptcy issues involving asbestos claims against Halliburton subsidiaries in context of policyholder bankruptcy).

### **District of Rhode Island**

Allstate Ins. Co. v. Russo, 829 F. Supp. 24 (D. R.I. 1993) (coverage under homeowners' and personal umbrella policies for claims against the insured arising from his activities as an officer and director of a credit union).

### **Eastern District of Texas**

Reaud Morgan & Quinn, Inc. v. Old Republic Ins. Co., 144 F.Supp.2d 680 (E.D. Tex. 2001) (duty to defend legal malpractice claim).

### **Northern District of Texas**

88 King Street, LLC v. The Travelers Companies, Inc., 2009 WL 330236 (N.D. Tex. Feb. 10, 2009) (application and enforcement of arbitration provision in general liability policy).

Nutmeg Ins. Co. v. Employers Ins. Co. of Wausau, 2006 U.S. Dist. LEXIS 7246 (N.D. Tex. Feb. 24, 2006) (priority of coverage between CGL and E&O coverage for blast fax claims).

Greil v. GEICO, 184 F. Supp. 2d 541 (N.D. Tex. 2002) (first party bad faith; duty to tender uncontested value of claim).

### **Southern District of Texas**

Leal v. Government Employees Ins. Co., 2009 WL 4852670 (S.D. Tex. Dec. 14, 2009) (CAFA issues pertaining to class action claim to recover benefits under automobile policy).

### **Western District of Texas**

Allstate Ins. Co. v. Mauldin, 869 F. Supp. 478 (W.D. Tex. 1994) (homeowners insurance policy excluded coverage for injuries from insured's alleged sexual molestation of child and allegedly negligent failure to obtain treatment for pedophilia).

## **STATE COURTS**

### **Alaska**

#### *Supreme Court*

C.P. v. Allstate Insurance Co., 996 P.2d 1216 (Alaska 2000) (insurer's salaried adjustor owes duty of care, enforceable in tort action against adjustor personally, to exercise reasonable care in connection with claims by insureds that are assigned to adjustor for investigation).

### **Arizona**

#### *Appellate Court*

Jeffrey Stone, Inc. d/b/a Summit Builders, Inc. v. Acceptance Insurance Company, No. 1 CA-SA 04-0286 (Ariz. Ct. App., Div. One 2006) (enforceability of stipulated judgment/crime/fraud exception to attorney-client privilege).

## **Arkansas**

### *Supreme Court*

Deschner v. State Farm Mut. Auto. Ins. Co., Inc., 375 Ark. 281, 290 S.W.3d 6 (Ark. 2008) (confirming that neither homeowners insurance policy nor automobile insurance policy provides coverage for injuries suffered by plaintiff who was shot in the eye by a paintball fired from vehicle).

## **California**

### *Appellate Court*

Griffin Dewatering Corp. v. Northern Ins. Co. of New York, 176 Cal. App. 4th 172, 97 Cal.Rptr.3d 568 (Cal. App. 4th Dist. 2009) (denial of coverage under pollution exclusion where existing law is unsettled was reasonable and did not give rise to potential bad faith damages).

### *Trial Court*

Safeskin Corp. v. Federal Ins. Co., Mealey's Litigation Reports: Insurance, Vol. 14, Issue 1 (Cal. Sup. Ct., San Diego Cnty., July 22, 1998) (coordination of claims-made and occurrence coverages).

## **Colorado**

### *Supreme Court*

Hoang v. Assurance Co. of America, 149 P.3d 798 (Colo. 2007) (coverage for subsequent purchaser of home for construction defects).

### *Appellate Court*

Apodaca v. Allstate Ins. Co., 2009 WL 4069576 (Colo.Ct.App. Nov. 25, 2009) (automobile insurance statute does not require inclusion of UM/UIM coverage in umbrella liability policies), cert. granted, 2010 WL 2185010 (Colo. June 1, 2010).

Mullen v. Allstate Ins. Co., 2009 WL 2782224 (Colo.Ct.App. Sept. 3, 2009) (rejecting "illusory coverage" claim related to UM/UIM coverage in automobile insurance policy).

Heritage Village Owners Ass'n, Inc. v. Assurance Co. of America, 2006 WL 1350040 (Colo.Ct.App. May 18, 2006) (reversal of summary judgment to Association on coverage issues for construction defect claims).

Hoang v. Monterra Homes (Powderhorn) LLC, 129 P.3d 1028 (Colo.Ct.App. 2005) (garnishment proceeding related to judgment in coverage action).

Allstate Indem. Co. v. Gonzales, 902 P.2d 953 (Colo.Ct.App. 1995) (insurers' compliance with statutes mandating offers and/or inclusion of uninsured and underinsured motorist coverage and personal injury protection coverage in automobile liability policies).

## **Connecticut**

### *Superior Court*

Steadfast Ins. Co. v. The Purdue Frederick Co., 2006 WL 1461092 (Conn. Super. Ct. May 11, 2006) coverage/fee litigation challenging the reasonableness and necessity of costs incurred by insured for bodily injury claims.).

## **Delaware**

### *Supreme Court*

Liggett Group, Inc. v. Ace Property & Cas. Ins. Co., 798 A.2d 1024 (Del. 2002) (affirming summary judgment that insurers have no duty to defend tobacco-related bodily injury claims based upon various exclusions).

### *Trial Court*

Liggett Group Inc. v. Affiliated FM Ins. Co., 2001 WL 1456818 (Del.Super.Ct. Sep. 12, 2001) (coverage dispute for Liggett's underlying smokers' suits).

Liggett Group Inc. v. Affiliated FM Ins. Co., 2001 WL 1456811 (Del.Super.Ct. Sep. 12, 2001) (coverage dispute for Liggett's underlying smokers' suits).

Continental Cas. Co. v. General Battery Corp., 1994 WL 682320 (Del.Super.Ct. Nov. 16, 1994) (environmental contamination).

## **Florida**

### *Supreme Court*

Derius v. Allstate Indem. Co., 837 So.2d 406 (Fla. 2003) (whether Personal Injury Protection insurers are barred from defenses to claims where the insurers did not assert such defenses before the expiration of the statutory “thirty day” payment requirement for benefits under Florida law).

United Auto. Ins. Co. v. Rodriguez, 808 So.2d 82 (Fla. 2001) (whether Personal Injury Protection insurers are barred from defenses to claims where the insurers did not assert such defenses before the expiration of the statutory “thirty day” payment requirement for benefits under Florida law).

### *Court of Appeals*

Allstate Ins. Co. v. Holy Cross Hosp., Inc., 895 So.2d 1241 (Fla.Dist.Ct. App. 4th Dist. 2005) (statutory interpretation regarding the legality of Personal Injury Protection insurers' agreements with health care provider networks to permit insureds access to reduced, negotiated rates for medical services covered by Personal Injury Protection insurance).

Advanced Diagnostics Testing v. Allstate Ins. Co., 2004 WL 2347554 (Fla.Dist.Ct. App. 3 Dist. Oct. 20, 2004) (interpretation of the Florida Personal Injury Protection law imposing certain fee schedule limitations for covered MRI services).

Allstate Ins. Co. v. Kaklamanos, 843 So. 2d 885 (Fla. 2003) (standing of health care providers as assignees of Personal Injury Protection insurance benefits to challenge determinations regarding whether medical care services for which the benefits were sought were billed at reasonable rates as required by Florida law).

Nationwide Mut. Fire Ins. Co. v. Central Florida Psychiatrists, P.A., 851 So.2d 762 (Fla.Dist.Ct. App. 5th Dist. 2003) (statutory interpretation regarding the legality of Personal Injury Protection insurers' agreements with health care provider networks to permit insureds access to reduced, negotiated rates for medical services covered by Personal Injury Protection insurance).

Nationwide Mut. Ins. Co. v. Jewell, 862 So.2d 79 (Fla.Dist.Ct. App. 2nd Dist. 2003) (statutory interpretation regarding the legality of Personal Injury Protection insurers' agreements with health care provider networks

to permit insureds access to reduced, negotiated rates for medical services covered by Personal Injury Protection insurance).

Rushing Co., Inc. v. Assurance Co. of America, Inc., 864 So. 2d 446 (Fla.Dist.Ct. App. 1st Dist. 2003) (affirming summary judgment in favor of insurer holding no coverage in the context of a construction defect claim).

State Farm Mut. Auto. Ins. Co. v. West Gables Open MRI Services, Inc., 846 So.2d 538 (Fla.Dist.Ct. App. 3rd Dist. 2003) (interpretation of the Florida Personal Injury Protection law imposing certain fee schedule limitations for covered MRI services).

Cannarella v. Allstate Indem. Co., 809 So.2d 73 (Fla.Dist.Ct. App. 2nd Dist. 2002) (whether Personal Injury Protection insurers are barred from defenses to claims where the insurers did not assert such defenses before the expiration of the statutory “thirty day” payment requirement for benefits under Florida law).

Allstate Indem. Co. v. De La Rosa, 800 So.2d 245 (Fla.Dist.Ct. App. 3rd Dist. 2001) (effect of payment to named Personal Injury Protection class representative on potential liability to class and on standing to prosecute class action).

Allstate Ins. Co. v. Chaple, 774 So.2d 742 (Fla.Dist.Ct. App. 3rd Dist. 2000) (effect of payment to named Personal Injury Protection class representative on potential liability to class and on standing to prosecute class action).

White v. Allstate Ins. Co., 530 So.2d 967 (Fla.Dist.Ct. App. 1 Dist. 1988) (insurers' compliance with statutes mandating offers and/or inclusion of uninsured and underinsured motorist coverage and personal injury protection coverage in automobile liability policies).

## **Idaho**

### *Supreme Court*

Featherston By and Through Featherston v. Allstate Ins. Co., 125 Idaho 840 (1994) (insurance agents' obligations to advise applicants and policyholders regarding their decisions to purchase or decline coverage).

## **Illinois**

### *Supreme Court*

Zurich Am. Ins. Co. v. Key Cartage, Inc., 236 Ill. 2d 117, 923 N.E.2d 710 (Ill. 2009) (interpretation of reciprocal coverage provision in commercial trucking insurance policy).

Governmental Interinsurance Exchange v. Judge, 212 Ill.2d 1959, 850 N.E.2d 183, (2006) (subrogation action by insurer against former defense counsel for failing to protect insured's appeal rights).

Travelers Ins. Co. v. Eljer Mfg., Inc., 197 Ill.2d 278, 757 N.E.2d 481 (2001) (defective plumbing system -- property damage and trigger under GL policy).

McKinney v. Allstate Ins. Co., 188 Ill.2d 493, 722 N.E.2d 1125 (1999) (insurers' compliance with statutes mandating offers and/or inclusion of uninsured and underinsured motorist coverage and personal injury protection coverage in automobile liability policies).

Cummins v. Country Mut. Ins. Co., 178 Ill.2d 474, 687 N.E.2d 1021 (1997) (insurers' compliance with statutes mandating offers and/or inclusion of uninsured and underinsured motorist coverage and personal injury protection coverage in automobile liability policies).

Lapham Hickey Steel Corp. v. Protection Mutual Ins. Co., 166 Ill.2d 520, 655 N.E.2d 842 (Ill. 1995) (amicus brief in support of insurer in environmental coverage case).

Central Illinois Public Service Co. v. Allianz Underwriters Inc. Co., 158 Ill.2d 218, 633 N.E.2d 675 (1994) (reversing preclusion ruling against insurers on due process grounds).

In re Liquidations of Reserve Insurance Company, 122 Ill. 2d 555, 524 N.E.2d 538 (1988) (priority of reinsureds' claims against insolvent reinsurers).

Fuoss v. Auto Owners (Mut.) Ins. Co., 118 Ill.2d 430, 516 N.E.2d 268 (1987) (insurers' compliance with statutes mandating offers and/or inclusion of uninsured and underinsured motorist coverage and personal injury protection coverage in automobile liability policies).

Appellate Courts

Chicago Hosp. Risk Pooling Program v. Illinois State Medical Inter-Insurance Exchange, 397 Ill. App. 3d 512, 925 N.E.2d 1216 (1st Dist. 2010) (applicability of selective tender rule to risk pooling trust).

SwedishAmerican Hosp. Ass'n of Rockford v. Illinois State Medical Inter-Ins. Exchange, 395 Ill. App. 3d 80, 916 N.E.2d 80 (2nd Dist. 2009) (duty to settle and subrogation rights of excess insurer).

Cincinnati Ins. Co. v. American Hardware Mfrs. Ass'n, 387 Ill.App.3d 85, 898 N.E.2d 216 (1st Dist. 2008) (general liability coverage for defamation, libel and Lanham Act claims).

United Stationers Supply Co. v. Zurich Am. Ins. Co., 386 Ill. App. 3d 88, 896 N.E.2d 425 (1st Dist. 2008) (language in certificate of insurance not sufficient to create additional insured coverage).

Steadfast Ins. Co. v. Caremark Rx, Inc., 373 Ill. App. 3d 869 N.E.2d 910 (1st Dist. 2007) (restitution of defense costs).

Baxter International, Inc. v. TIG Ins. Co., No. 2-07-0156 (2nd Dist. 2007), pet. For leave to appeal denied, 226 Ill. 2d 579, 879 N.E.2d 929 (2007) (scope of arbitration clause in insurer/insured partial settlement agreement).

State Auto. Mut. Ins. Co. v. Kingsport Dev., LLC, 364 Ill. App. 3d 946, 846 N.E.2d 974 (2d Dist. 2006) (duty to defend additional insured contractor).

Steadfast Ins. Co. v. CaremarkRx, Inc., 359 Ill. App. 3d 749, 835 N.E.2d 890 (1st Dist. 2005) (no duty to defend managed care claims).

Governmental Interinsurance Exchange v. Judge, 356, Ill.App. 264, 825 N.E.2d 729 (4th Dist. 2005) (subrogation action by insurer against former defense counsel for failing to protect insured's appeal rights).

American National Fire Ins. Co. v. National Union Fire Ins. Co. of Pittsburgh, PA, 343 Ill. App. 3d 93, 796 N.E.2d 1133 (1st Dist. 2003) (late notice and targeted tender issues in construction accident coverage dispute).

Johnson Press of America, Inc. v. Northern Ins. Co. of New York, 339 Ill. App. 3d 864, 791 N.E.2d 1291 (1st Dist. 2003) (first-party collapse coverage dispute).

Chicago Hospital Risk Pooling Program v. Illinois State Medical Inter-Insurance Exchange, 325 Ill. App. 3d 970, 758 N.E.2d 353 (1st Dist. 2001) (“selective tender rule” and risk pooling trusts).

Domin v. Shelby Ins. Co., 326 Ill. App. 3d 688, 761 N.E.2d 746 (1st Dist. 2001) (stacking of uninsured motorists limits).

Local 705 Int’l Bhd. of Teamsters Health & Welfare Fund v. Five Star Managers, L.L.C., 316 Ill. App. 3d 391, 735 N.E.2d 679 (1st Dist. 2000). (insured’s repayment of monies to which it was not entitled is not recoverable as “loss” and the insured’s remaining damages within the layer of coverage provided by the insurer).

Smith v. Allstate Ins. Co., 312 Ill. App. 3d 246, 726 N.E.2d 1 (1st Dist. 1999) (insurers' compliance with statutes mandating offers and/or inclusion of uninsured and underinsured motorist coverage and personal injury protection coverage in automobile liability policies).

Tribune Company v. Allstate Insurance Company, 306 Ill. App. 3d 779, 715 N.E.2d 263 (1st Dist. 1999) (environmental clean up coverage under GL policy) (summary judgment in favor insurer affirmed; insured publishing company provided late notice of an environmental lawsuit; insured’s estoppel argument rejected).

Klatz v. Western States Ins. Co., 298 Ill. App. 3d 815, 701 N.E.2d 1135 (1st Dist. 1998) (insurance arbitration award).

Ins. Co. of Illinois v. Federal Kemper Ins. Co., 291 Ill. App. 3d 384, 683 N.E.2d 947 (1st Dist. 1997) (duty to defend and application of estoppel doctrine).

International Ins. Co. v. Allied Van Lines, Inc., 293 Ill. App. 3d 513, 688 N.E.2d 680 (1st Dist. 1997) (first-party coverage dispute for business interruption).

Smith v. Allstate Ins. Co., 292 Ill. App. 3d 432, 686 N.E.2d 74 (1st Dist. 1997) (insurers' compliance with statutes mandating offers and/or inclusion of uninsured and underinsured motorist coverage and personal injury protection coverage in automobile liability policies).

Zurich Ins. Co. v. Carus Corp., 293 Ill. App. 3d 906, 689 N.E.2d 130 (1st Dist. 1997) (environmental contamination).

Bond County Cmty. Sch. Dist. No. 2 v. Indiana Ins. Co., 269 Ill. App. 3d 488, 647 N.E.2d 293 (5th Dist. 1995) (dispute over property insurance coverage for asbestos removal expenses),

Evergreen Park School Dist. No. 124 v. Federal Ins. Co., 276 Ill. App. 3d 766, 658 N.E.2d 1235 (1st Dist. 1995) (dispute over property insurance coverage for asbestos removal expenses).

Pikeland Community Unit School Dist. No. 124 v. Indiana Ins. Co., 269 Ill. App. 3d 976, 647 N.E.2d 301 (1st Dist. 1995) (dispute over property insurance coverage for asbestos removal expenses).

King v. Allstate Ins. Co., 269 Ill. App. 3d 190, 645 N.E.2d 503 (1st Dist. 1994) (insurers' compliance with statutes mandating offers and/or inclusion of uninsured and underinsured motorist coverage and personal injury protection coverage in automobile liability policies).

Padilla v. Norwegian-American Hospital, 266 Ill. App. 3d 829, 641 N.E.2d 572 (1st Dist. 1994) (equitable contribution).

Powell v. State Farm Fire and Casualty Company, 243 Ill. App. 3d 577, 612 N.E.2d 85 (1st Dist. 1993) (coverage for real property destroyed in a fire where jury found fraud and false swearing as to the personal contents claimed to have been destroyed).

American National Bank & Trust Co. v. Edgeworth, 249 Ill. App. 3d 52, 618 N.E.2d 899 (1st Dist. 1993) (landlord's insurer was not entitled to subrogation against tenant's insurer for fire damage to insured premises).

Summers v. U.S. Tobacco Co., 214 Ill. App. 3d 878, 574 N.E.2d 206 (1st Dist. 1991) (ERISA preemption of health care insurance claim).

Chemical Bank v. American National Bank & Trust Company of Chicago, 180 Ill. App. 3d 219, 535 N.E.2d 940 (1st Dist. 1989) (First mortgagee was not estopped from asserting priority of its mortgage liens and was entitled to agreed-upon additional interest charges upon default).

International Insurance Co. v. Morton Thiokol, Inc., 185 Ill. App.3d 686, 542 N.E.2d 6 (1st Dist. 1989) (environmental coverage dispute).

Goddard v. Continental Illinois National Bank, 177 Ill. App. 3d 504, 532 N.E.2d 435 (1st Dist. 1988) (trust provisions regarding settlor's intent concerning trustees' continued ownership of stock in family-controlled steel company were ambiguous; case remanded for hearing on settlor's intent).

Illinois Emcasco Ins. Co. v. Continental Casualty Co., 139 Ill. App. 3d 130, 487 N.E.2d 110 (1st Dist. 1985) (umbrella policy as excess over all primary).

Pekin Insurance Company v. Home Insurance Company, 134 Ill. App. 3d 31, 479 N.E.2d 1078 (1st Dist. 1985) (insurer's settlement by obtaining covenant not to sue in favor of one insured but not another did not constitute bad faith; defense under a reservation of rights did not create an impermissible conflict of interest).

Trial Courts

Zurich Insurance Co. v. Carus Chemical Corp., 1996 WL 34403031 (Ill. Cir. Ct. Jan 31, 1996) (environmental contamination).

Central Illinois Public Service Co. v. Allianz Underwriters Ins. Co., No. 90-L-11094 (Cir. Ct. Cook, Cty. Ill. Sept. 26, 1991), reported in Mealey's Ins. Litig. Rep. Vol. 5 No. 46 (Oct. 8, 1991) (late notice in manufactured gas plant environment property damage coverage action).

**Indiana**

Appellate Courts

Knightstown Banner, LLC v. Town of Knightstown, 838 N.E.2d 1127, (Ind.Ct.App. 2005) (scope of coverage dispute municipality's refusal to disclose settlement agreement under Indiana Access to Public Records Act).

City of South Bend v. Century Indem. Co., 824 N.E.2d 794 (Ind.Ct.App. 2005) (environmental contamination).

City of South Bend v. Century Indem. Co., 821 N.E.2d 5 (Ind.Ct.App. 2005) (environmental contamination).

**Iowa**

Appellate Courts

Farm Bureau Life Ins. Co. v. Chubb Custom Ins. Co., 780 N.W.2d 735 (Iowa April 9, 2010) (compliance with notice requirements under Insurance Company Professional Liability policy; failure to discharge duties with respect to underlying claimants' insurance application is excluded under Financial Institution and Commercial Umbrella policies).

## **Kentucky**

### *Appellate Courts*

Northern Ins. Co. of New York v. Seville Homes, Inc., 2006 WL 2520015 (Ky.Ct.App. Sep 01, 2006) (bad faith failure to settle claim arising out of home construction).

### *Trial Courts*

Aetna Cas. & Sur. Co. v. Nuclear Engineering Co., No. 87CI03359 (Cir. Ct. Jefferson Cty. Ky), reported in Mealey's Ins. Litig. Rep. Vol. 5, No. 13 (Feb. 5, 1991) (contamination at nuclear disposal site).

## **Louisiana**

### *Appellate Court*

K.P. v. M.L., 2009 WL 250914 (La.Ct.App. Feb. 4, 2009) (confirming denial of coverage for liability resulting from criminal sexual assault committed by mentally impaired insured).

Motorola, Inc. v. Associated Indem. Corp., 878 So.2d 824 (La.Ct.App. 2004) (defense of cell phone class action claims).

## **Maryland**

### *Trial Court*

Continental Cas. Co. v. Lexington Ins. Co., Circuit Court for Howard County, Maryland, Case No. 13-C-05-61122 (Mar. 24, 2009) (obtained summary judgment that excess liability policy had no defense or indemnity obligations in connection with settlement of underlying foster care sexual abuse case by insured and two other insurers, and that coinsurer therefore could not obtain contribution; no appeal pursued).

## **Massachusetts**

### *Appellate Court*

Eastern Products Corp. v. Maryland Cas. Co., 58 Mass.App.Ct. 16, 787 N.E.2d 1089 (2003) (environmental contamination and GL coverage; late notice and voluntary payments).

## **Michigan**

### *Trial Court*

Dow Corning Corporation, et al. v. Hartford Accident and Indemnity Company, et al., Case No. 93-325788, Circuit Court of Wayne County, Michigan (February 14, 1996) (scope of coverage for breast implant bodily injury claims).

## **New Jersey**

### *Supreme Court*

Owens-Illinois, Inc. v. United Ins. Co., (N.J. 1994), reported in Mealey's Ins. Litig. Rep. Vol. 9, No. 9 (Jan. 3, 1995) (New Jersey Supreme Court's decision regarding allocation of coverage).

### *Appellate Division*

Uniroyal v. American Re-Insurance Co., No. L-8172-94 (N.J. App. Div. April 22, 1999), reported in Mealey's Ins. Litig. Rep. Vol. 13, No. 27 (May 18, 1999) (denying policyholder's request for leave to appeal ruling holding that a pro rata allocation, as opposed to imposition of joint and several liability, was required).

Metex Corp. v. Federal Ins. Co., 675 A.2d 220 (N.J. Super. Ct. App. Div. 1996) (granting excess insurer's motion for reconsideration of reversal of motion to dismiss in environmental coverage action).

### *Trial Division*

Morton Thiokol, Inc. v. General Accident Insurance Co. of America, 1987 N.J. Super. LEXIS 1487 (N.J. Super. Ct. Chanc. Div. Aug. 27, 1987) (environmental coverage dispute).

## **New York**

### *Court of Appeals*

Appalachian Ins. Co. v. General Electric Co., 863 N.E.2d 994 (NY 2007) (number of occurrences with respect to asbestos bodily injury claims).

Supreme (Trial) Court

Foster Wheeler L.L.C. v. Affiliated Fm Ins. Co., 2010 WL 1945774 (N.Y. Sup. Mar. 16, 2010) (allocation of losses issues arising out of asbestos claims).

Union Carbide Corp. v. Affiliated FM Ins. Co., 68 A.D.3d 534, 891 N.Y.S.2d 347 (NY App. Div. 2009) (construction of limit of liability in multi-year excess umbrella liability policy).

Factory Mut. Ins. Co. v. Mutual Marine Office, Inc., 57 A.D.3d 304, 868 N.Y.S.2d 521 (NY App. Div. 2008) (application and enforcement of policy arbitration clause).

Ace Property & Cas. Ins. Co. v. Federal-Mogul Corp., 55 A.D.3d 479, 866 N.Y.S.2d 188 (NY App. Div. 2008) (asbestos claim coverage dispute).

Ace Fire Underwriter's Ins. Co. v. ITT Industries, Inc., 55 A.D.3d 346, 865 N.Y.S.2d 197 (NY App. Div. 2008) (contribution among insurers denied where insurers did not insure the same risk during the same period of time).

Purdue Frederick Co. v. Steadfast Ins. Co., 40 A.D.3d 285 (NY App. Div. 2007) (summary judgment in favor of insurer affirmed; no duty to defend underlying antitrust and anticompetitive practices lawsuits).

Appalachian Ins. Co. v. General Electric Ins. Co., 778 N.Y.S.2d 494, 8 A.D.3d 109 (NY App. Div. 2004) (dismissal of coverage claims).

Zurich American Insurance Company v. Audiovox Corp., 741 N.Y.S.2d 692 (NY App. Div. 2002) (no duty to defend cell phone class action claims).

**Ohio**

Supreme Court

Davidson v. Motorists Mut. Ins. Co., 91 Ohio St.3d 262, 744 N.E.2d 713 (2001) (whether uninsured and underinsured motorist coverage would be implied into homeowners policies that provided liability coverage for uses of vehicles that did not involve use of public roads or highways).

### Appellate Courts

Home Ins. Co. of Illinois v. OM Group, unpublished decision, 2003 Ohio 3666 (Ohio Ct. App. 2003) (deteriorating utility poles; occurrence, property damage and duty to defend).

Campo v. Daniel, 2002 WL 31883370 (Ohio App. 8th Dist. Dec. 26, 2002) (whether uninsured and underinsured motorist coverage would be implied into homeowners policies that provided liability coverage for uses of vehicles that did not involve use of public roads or highways).

Stevens v. Allstate Ins. Co., 2002 WL 1371034 (Ohio Ct. App. 6th Dist. Jun. 14, 2002) (whether uninsured and underinsured motorist coverage would be implied into homeowners policies that provided liability coverage for uses of vehicles that did not involve use of public roads or highways)

Hillyer v. State Farm Fire & Cas. Co., 97 Ohio St.3d 411, 780 N.E.2d 262 (2002) (whether uninsured and underinsured motorist coverage would be implied into homeowners policies that provided liability coverage for uses of vehicles that did not involve use of public roads or highways).

Allstate Ins. Co. v. Merrick, 1993 WL 224658 (Ohio Ct. App. 2nd Dist. 1993) (whether homeowners liability policies provide coverage for damages arising from physical and sexual abuse of minors).

### Trial Courts

Affiliated FM Ins. Co. v. Amcast Industrial Corp., Mealey's Litigation Reports: Insurance, Vol. 7, Issue 20 (Ohio Comm. Pls. Ct., Montgomery Court, March 3, 1993) (sudden and accidental pollution exclusion under GL policy).

## **Oregon**

### Appellate Court

Cain Petroleum Inc. v. Zurich Am. Ins. Co., 224 Or. App. 235, 197 P.3d 596 (2008) (confirming denial of coverage for clean up costs related to release of gasoline from underground storage tank at non-scheduled location under Storage Tank System Third Party Liability and Clean Up Policy).

Batzer Construction, Inc. v. Valiant Insurance Company, 158 Or. App. 126, 970 P.2d 700 (1999) (retained to participate in briefing and argue

appeal; summary judgment on application of absolute pollution exclusion due to property damage to commercial printing equipment caused by muriatic fumes affirmed), rev'd, 329 Or. 446, 988 P.2d 376 (1999) (failure of insured to join underlying plaintiff in action at the trial level resulted in reversal of appellate court ruling).

## **Rhode Island**

### *Supreme Court*

Allstate Ins. Co. v. Russo, 641 A.2d 1304 (R.I. May 1994) (coverage under homeowners' and personal umbrella policies for claims against the insured arising from his activities as an officer and director of a credit union).

## **Texas**

### *Supreme Court*

Zurich American Ins. Co. v. Nokia, Inc., 268 S.W.3d 487 (Tex. 2008) (coverage dispute arising out of underlying cell phone product liability claims).

Texas Association of Counties County Government Risk Management Pool v. Matagorda County, 52 S.W.3d 128 (Tex. 2000) (reimbursement of settlement of non-covered claims).

### *Appellate Courts*

KLN Steel Products Co., Ltd. v. CNA Ins. Cos., 278 S.W.3d 429 (Tex. Ct. App. 2008) (dispute as to duty to defend under general liability policy arising out of underlying claims of patent infringement, misappropriation of trade secrets, unfair business practices, unfair competition, and interference with a prospective business relationship).

Clark & Co., Inc. v. St. Paul Fire & Marine Ins. Co., 2008 WL 4635852 (Tex. Ct. App., Oct. 21, 2008) (action for recovery of premiums from managing general agent).

Cricket Communications, Inc. v. Trillium Industries, Inc., 235 S.W.3d 298 (Tex. Ct. App. – Dallas 2007) (judicial estoppel/attorneys' fees).

Service Lloyd's Ins. Co. v. J.C. Wink, Inc., 182 S.W.3d 19 (Tex. Ct. App. – San Antonio 2005, pet. filed) (Truth in Lending errors and omissions coverage/whether art. 21.55 applies to the duty to defend).

Aumada v. GEICO Gen. Ins. Co., 2004 Tex. App. LEXIS 11868 (Tex. Ct. App. – Corpus Christi Dec. 30, 2004, pet. denied) (UM/UIM consent to sue).

Westchester Fire Ins. Co. v. Admiral Ins. Co., 152 S.W.3d 172 (Tex. Ct. App. – Fort Worth 2004, pet. filed) (insurability of punitive damages; Texas Stowers doctrine).

Hawa v. Metropolitan Life Ins. Co., 2004 Tex. App. LEXIS 1179 (Tex. App. – Amarillo Feb. 6, 2004) (unearned life insurance premiums).

CU Lloyd's of Tex. v. Hatfield, 126 S.W.3d 679 (Tex. Ct. App. – Houston 2004, pet. denied) (owned auto exclusion in context of a sole proprietorship).

Westchester Fire Ins. Co. v. Admiral Ins. Co., 2003 Tex. App. LEXIS 5468 (Tex. App. -- Fort Worth Jun. 26, 2003) aff'd on rehearing en banc 152 S.W.3d 172 (Tex. App. – Fort Worth 2004, pet. filed) (insurability of punitive damages).

Saunders v. Commonwealth Lloyd's Ins. Co., 928 S.W.2d 332 (Tex. Ct. App.-San Antonio 1996, no writ) (bad faith/arson; innocent spouse doctrine).

Commonwealth Lloyd's Ins. Co. v. Thomas, 825 S.W.2d 135 (Tex. Ct. App.-Dallas 1992) vacated 843 S.W.2d 486 (Tex. 1993) (bad faith/arson).

International Ins. Co. v. Dresser Industries, Inc., 841 S.W.2d 437 (Tex. Ct. App. - Dallas 1992, writ denied) (excess carrier/self-insured dispute).

Martin v. Gulf Ins. Group, 788 S.W.2d 376 (Tex. Ct. App.—Dallas 1989) (writ denied after oral argument before Texas Supreme Court) (conflicts in jury findings).

Prudential Ins. Co. of American v. Henson, 753 S.W.2d 415 (Tex. Ct. App.—Eastland 1988, no writ) (submission of jury issues; cross claim procedure).

Food Source, Inc. v. Zurich Ins. Co., 751 S.W.2d 596 (Tex. Ct. App.—Dallas, 1988, writ denied) (boiler and machinery coverage).

Mary Kay Cosmetics, Inc. v. North River Ins. Co., 739 S.W.2d 608 (Tex. Ct. App.--Dallas 1987, no writ) (duty to defend; completed operations exclusion; bad faith).

Lone Star Dodge, Inc. v. Marshall, 736 S.W.2d 184 (Tex. App.—Dallas 1987) (discovery of insurer's investigation file) (RDA)

*Trial Court*

General Electric Co. v. Adriatic Ins. Co., No. D-156,875 (Tex. Dist., Jefferson Co. Jan. 11, 2000), reported in Mealey's Ins. Litig. Rep. Vol. 14, No. 11 (Jan. 19, 2000) (asbestos coverage action).

**Virginia**

*Trial Court*

EER Systems, Inc. v. Armfield, Harrison & Thomas, Inc., 1999 WL 1499532 (Va. Cir. Ct. Dec. 31, 1999) (action against insurance broker client dismissed as sanction for plaintiff's discovery abuses).