

Additional Insured Coverage Update

January 15, 2018

New York Coverage Case

The e-POST

Additional Insured – New York Supreme Court

Samsung Fire & Marine Ins. Co. v. RLI Ins. Co. d/b/a Mt. Hawley Ins. Co.

No. 655169/2016, 2018 WL 310322 (N.Y. Sup. Ct. Jan. 3, 2018)

The New York Supreme Court held that the plain and unambiguous terms of an additional insured provision were not satisfied, resulting in the putative insured being precluded from obtaining coverage as an additional insured. Gurrmeet Singh (Singh) was performing construction work at the Dream Hotel located in New York, when he fell to his death from scaffolding onto the sidewalk-shed deck below. The scaffolding was provided and set up by Everest Scaffolding, Inc. (Everest). The administratrix of Singh's estate filed a wrongful death action against the Dream Hotel. The Dream Hotel filed a third-party complaint against Everest for common law indemnification, contractual indemnification, contribution and breach of contract. The Dream Hotel also filed a declaratory judgment action asserting that it was entitled to coverage under Everest's insurance policy. The insurance policy provided that the following was an additional insured: "Any person or organization for your operations during the policy period when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy." After review of New York case law holding that this policy language is unambiguous, the court stated "in light of the absence of a written contract or agreement between the [Dream Hotel] and Everest as required by the unambiguous policy terms, [the Dream Hotel] cannot establish entitlement to additional insured coverage." As a result, the court ruled that the insurer did not have a duty to defend or indemnify the Dream Hotel.

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