

Horizontal vs. Vertical Exhaustion of Insurance: Priority of Coverage and Settlement for Below Policy Limits

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Insurance counsel face challenging issues in accessing excess coverage when multiple policies, issued to a single insured, provide coverage to a single claim. Sometimes issues arise when a loss extends over several years, and several sequential policies. In this case, questions may arise as to whether the primary coverage exhausts horizontally, or vertically: in other words, whether the insured has to exhaust one primary policy, or all primary policies, before excess coverage becomes available.

Sometimes issues arise when the insured settles a claim with its primary carrier for less than the policy limits. Tapping the excess policies in these situations requires close attention to the policies' language and the rapidly evolving law in this area. Resolving these insurance coverage disputes hinges on understanding the policy language, the contracts between the parties, and the relationship between the primary and excess insurers who may be called on to respond to the loss.

Partner Eric Hermanson serves on a authoritative panel of insurance attorneys discussing vertical and horizontal insurance coverage principles, triggering excess policies, and resolving issues with the excess carrier when the primary carrier settles for less than the policy limits.

This CLE webinar will provide insurance counsel with a review of essential issues in horizontal and vertical exhaustion, the interrelationship between the primary carrier's obligation and those of the excess insurer, and best practices to resolve coverage priority disputes.

The panel will review these and other vital issues:

- When additional insured coverage involves both primary and excess policies, what are the best strategies for resolving vertical vs. horizontal exhaustion?
- How can counsel resolve issues that arise between the insured, the excess carrier and primary carrier when the primary carrier settles for less than the policy limits?
- How do you identify potentially problematic policy language when triggering excess insurance for continuous injury claims?

KEY ATTORNEYS

Eric B. Hermanson

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