



# Insurance Coverage Update May 2013

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## Legal Blogs and Updates

on 04.27.2015

### NEW YORK

**Occurrence - Number of Occurrences/Allocation**     **Priest's Multiple Acts of Sexual Molestation Constitute Multiple Occurrences; Settlement of Resulting Liabilities Subject to Pro Rata Allocation** *Roman Catholic Diocese of Brooklyn v National Union Fire Ins. Co. of Pittsburgh, PA., 2013 N.Y. LEXIS 1186 (N.Y. May 7, 2013)*     The New York Court of Appeals considered for "the first time" the meaning of an "occurrence" in the context of numerous incidents of sexual abuse of a minor by a priest spanning several years and policy periods. Newly confirmed Court of Appeals Judge Jenny Rivera issued the Court's majority opinion. Applying New York's "unfortunate events" test to calculate the number of occurrences, the Court concluded that multiple acts of sexual abuse of a minor by a priest gave rise to multiple occurrences, and that responsibility to reimburse the resulting settlement sum must be allocated among all implicated policies on the risk on a pro rata basis.     Read the full summary...

**Fee-Shifting - Duty to Defend**     **New York Federal District Judge Requires Insurer to Reimburse Attorney's Fees Expended by its Insured in Obtaining Ruling that Insurer Owed Duty to Defend** *Danaher Corp. v. Travelers Indem. Co., 2013 U.S. Dist. LEXIS 49692 (S.D.N.Y. Apr. 5, 2013)*     Federal District Judge Paul Detken of the Southern District of New York upheld the Magistrate's recommendation that an insurer who brought a third-party complaint against its insured in a coverage action must reimburse its insured's attorney fees incurred in procuring a ruling that the insurer had a duty to defend it in connection with underlying asbestos and silica claims.     Read the full summary...

### NEW JERSEY

**Professional Liability Coverage - Interrelated Wrongful Acts**     **No Coverage for Sexual Harassment Suit Due to Interrelated "Substantial Overlap" with Prior Civil Rights Complaint** *Regal-Pinnacle Integrations Indus. v. Phila. Indem. Ins. Co., 2013 U.S. Dist. LEXIS 56941 (D.N.J. Apr. 22, 2013)*     The District of New Jersey ruled that an administrative Division of Civil Rights (DCR) complaint alleging gender discrimination filed before the policy period was sufficiently "interrelated" with a subsequent lawsuit containing similar allegations even though the later lawsuit added claims of sexual harassment. Notwithstanding, the court indicated that the insurer may have waived its coverage defense by verbally agreeing to fund a settlement of the underlying lawsuit.     Read the full summary...

**Compulsory Insurance Law - Public Entity Exception**     **Public Entity Exception to Compulsory Insurance Law Applies Even Where Party Suing Public Entity Has No Recourse to Other Insurance** *Robinson v. Zorn, 2013 N.J. Super. LEXIS 56 (App. Div. Apr. 17, 2013)*     The New Jersey Appellate Division refused to deviate from the plain language of the Compulsory Insurance Law as requested by a claimant left without recourse to insurance coverage to fund his judgment in connection with a traffic accident involving a New Jersey Transit bus.     Read the full summary...