

Hinshaw Defends Insurance Company in Precedent-Setting Insurance Coverage Case

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Sina Bahadoran and Eric A. Hiller, attorneys in the Miami office of Hinshaw & Culbertson LLP, defended an insurance company in a precedent-setting declaratory judgment action. Defendant had issued an individual umbrella policy with limits of \$1 million, and plaintiff had issued a group personal umbrella with limits of \$5 million. Arguing that its policy was “super excess” and so was not triggered until defendant’s policy was exhausted, plaintiff relied on several New York decisions allowing “super excess” clauses. Defendant’s policy was controlled by Florida law, which was essentially silent on the issue.

As a matter of first impression under Florida law, the [U.S. District Court for the Middle District of Florida](#) granted defendant’s motion for summary judgment. The court ruled that: (1) Florida does not recognize “super excess” clauses but rather reverts to the mutual repugnancy rule, and (2) New York law may allow “super excess,” but it can yield to the ratable contribution rule depending upon the circumstances.

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