



COUGHLIN DUFFY LLP

CASE ALERT, NO. 26

SEPTEMBER 14, 2007



Kevin E. Wolff, Esq.
Member

P.O. Box 1917
350 Mount Kemble Avenue
Morristown, New Jersey 07962
Tel (973) 631-6007
Fax (973) 267-6442
kwolff@coughlinduffy.com



James P. Lisovicz, Esq.
Member

P.O. Box 1917
350 Mount Kemble Avenue
Morristown, New Jersey 07962
Tel (973) 631-6004
Fax (973) 267-6442
jlisovicz@coughlinduffy.com

Also located at:

Wall Street Plaza
88 Pine Street, 5th Floor
New York, New York 10005
Tel (212) 483-0105
Fax (212) 480-3899

www.coughlinduffy.com

New Jersey Adopts Law Prohibiting “Step-Down” Clauses In Uninsured And Underinsured Motorist Coverage In Commercial Automobile Policies

On September 10, 2007, Governor Jon Corzine signed a bill that amends N.J.S.A. 17:28-1.1 which governs uninsured and underinsured motorist coverage to prohibit “step-down” clauses in commercial automobile policies. The bill states that it is to “take effect immediately.”

As amended, N.J.S.A. 17:28-1.1(f) now states:

Notwithstanding the provisions of this section or any other law to the contrary, a motor vehicle liability policy or renewal of such policy of insurance, insuring against loss resulting from liability imposed by law for bodily injury or death, sustained by any person arising out of the ownership, maintenance or use of a motor vehicle, issued in this State to a corporate or business entity with respect to any motor vehicle registered or principally garaged in this State, shall not provide less uninsured or underinsured motorist coverage for an individual employed by the corporate or business entity than the coverage provided to the named insured under the policy. A policy that names a corporate or business entity as a named insured shall be deemed to provide the maximum uninsured or underinsured motorist cover-

age available under the policy to an individual employed by the corporate or business entity, regardless of whether the individual is an additional named insured under that policy or is a named insured or is covered under any other policy providing uninsured or underinsured motorist coverage.

The Sponsor Statement accompanying the bill says that it is “in response to the New Jersey Supreme Court’s decision in Pinto v. New Jersey Manufacturers Insurance Company, 183 N.J. 205 (2005)...,” in which the New Jersey Supreme Court had approved the inclusion of “step-down” clauses in commercial automobile policies.

We anticipate that this new law will generate litigation on a number of issues. Principal among these issues is whether the new law should be applied prospectively or retrospectively. The issue is highlighted by the terms “[t]his act shall take effect immediately” appearing in the law. Additionally, we anticipate litigation over what is considered a commercial automobile policy “issued in this State to a corporate or business entity with respect to any motor vehicle registered or principally garaged in this State” because it is only as to such policies that the law should apply.

About Coughlin Duffy LLP

Coughlin Duffy LLP is one of the fastest growing law firms in the northeastern United States, servicing a sophisticated national and international clientele. We provide a full range of legal services including all types of litigation, arbitration and transactional work on behalf of corporate, institutional, governmental and individual clients. We have one of the largest groups of attorneys dedicated to representing insurers and reinsurers throughout the United States and internationally, and specialize in the representation of multi-national organizations faced with international disputes.

The materials presented herein are for information purposes only and are not offered as legal advice. No reader should act on the basis of these materials without seeking appropriate professional advice as to the particular facts and applicable law involved. Opinions presented

We believe this law will have a significant impact on our insurance company clients involved in the commercial automobile insurance business. Accordingly, we will host a seminar within the next few weeks in which we will address the law and the changes in uninsured and underinsured motorist coverage that it has brought about. We will also address in that seminar the issue of whether the law applies prospectively or retrospectively and other issues that commercial automobile insurers can expect to be presented with.

If there are any questions about N.J.S.A. 17:28-1.1(f) or any other statutes directed to uninsured and underinsured motorist coverage in commercial automobile policies, please contact either Kevin E. Wolff, James P. Lisovicz, or Julia C. Talarick.