

White and Williams Team Wins Summary Judgment in Connecticut Declaratory Judgment Actions

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The Connecticut Superior Court granted summary judgment in favor of White and Williams's client, Twin City Fire Insurance Company ("Twin City"), in two separate but related declaratory judgment actions. The plaintiffs in each action sought a declaration that Twin City was liable under the Connecticut Direct Action Statute for payment of two default judgments entered against Twin City's insured issued in the New York Supreme Court. The plaintiffs commenced the Connecticut DJ Actions after their NY DJ Actions that sought the same relief but under New York's Direct Action Statute, Insurance Law §3420, were dismissed and their cross-motions for summary judgment were denied. The motions for summary judgment in the Connecticut DJ Actions raised questions regarding the application of the doctrines of full faith and credit and *res judicata* as well as substantive insurability issues.

In rendering its decisions, the Connecticut Superior Court adopted Twin City's argument that the New York dismissal decisions were entitled to full faith and credit because the New York Court's determinations that the Twin City D&O policy fell outside the scope of Insurance Law §3420 and that the loss at issue was uninsurable, were substantive elements of the plaintiffs' cause of action, not jurisdictional and therefore those determinations affected only the New York Court's ability to render judgment in plaintiffs' favor, (because they failed to state a cause of action), not the court's competency to entertain the actions, as plaintiffs contended.

The Connecticut Court also agreed with Twin City that the doctrine of *res judicata* barred the Connecticut DJ Actions because the New York Supreme Court's dismissal decisions were not based on a technical defect in the pleadings, rather they were based upon the facts and the merits of the plaintiffs' claims, and therefore the plaintiffs could have appealed the New York Supreme Court's decisions if they disagreed with them.

Based upon these determinations, the Connecticut Court ruled that the Connecticut DJ Actions were procedurally improper and therefore the Court did not need to reach the merits of the other arguments raised by Twin City.

White and Williams attorneys, Scott Casher and Phyllis Ingram represented Twin City in the Connecticut Superior Court DJ Actions and Jay Shapiro represented Twin City in the New York Supreme Court DJ Actions.