



PUBLICATIONS

## ‘Zeig’ Still Governs Exhaustion of Underlying Policy Limits in New York

June 30, 2011

On Jan. 9, 1928, Judge Augustus Hand, then sitting on the U.S. Court of Appeals for the Second Circuit, called it as he saw it in *Zeig v. Massachusetts Bonding & Ins. Co.*, and to this day courts across the nation have followed and continue to follow this seminal decision on triggering excess insurance. In the last few years, however, several courts have taken the time to reexamine *Zeig*. While a few courts, most notably in California, have questioned Judge Hand’s rationale and strayed from *Zeig*’s holding, most courts, including most notably the Southern District of New York and the U.S. Court of Appeals for the Seventh Circuit, have reaffirmed *Zeig*’s guiding principles with regard to the exhaustion of underlying policy limits.

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**Howard  
Epstein**

Of Counsel  
New York



**Theodore  
Keyes**

Partner  
New York

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