

**PUBLICATIONS**

## Second Circuit Clarifies Justiciability Standard for Declaratory Judgment Actions Concerning the Duty to Defend

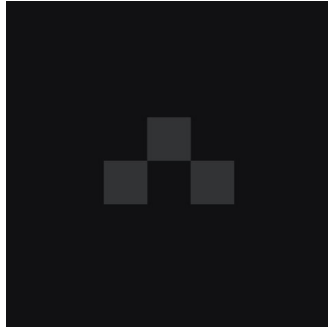
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In an article for the *New York Law Journal* titled “Second Circuit Clarifies Justiciability Standard for Declaratory Judgment Actions Concerning the Duty To Defend,” SRZ attorneys Howard B. Epstein and Theodore A. Keyes discuss the Second Circuit’s ruling in *Admiral Insurance Co. v. Niagara Transformer Corporation*, which clarifies the justiciability standard for declaratory judgment actions related to the duty to defend and the duty to indemnify.

Parties to insurance coverage disputes often file declaratory judgment actions in an attempt to resolve disagreements over the duty to defend and the duty to indemnify. The Declaratory Judgment Act permits federal courts to declare the rights and obligations of parties prior to the time that further relief, such as a coercive remedy, can be sought. But the duty to defend and the duty to indemnify are distinct in ways that may impact whether a federal district court has jurisdiction to resolve a dispute under the Declaratory Judgment Act. For example, the duty to defend is triggered by the mere filing of a lawsuit against the insured whereas the duty to indemnify is not triggered until the insured is held liable to a third party for loss.

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## Related People



**Howard  
Epstein**

Of Counsel  
New York



**Theodore  
Keyes**

Partner  
New York

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