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Prior or Pending Litigation Exclusion Bars Coverage for Natural Resource Damages Claim

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In an article for the *New York Law Journal* titled "Prior or Pending Litigation Exclusion Bars Coverage for Natural Resource Damages Claim," SRZ of counsel Howard B. Epstein and special counsel Theodore A. Keyes discuss prior or pending litigation exclusions in the context of environmental insurance.

The vast majority of courts construe insurance policy exclusions narrowly, placing the burden on the insurer to demonstrate that the exclusion applies and that there is no other reasonable interpretation of the relevant policy language. In the case of prior or pending litigation exclusions, the policyholder-insurer dispute is typically over whether a later filed claim arises out of the same subject matter or alleged activities as a prior or pending litigation.

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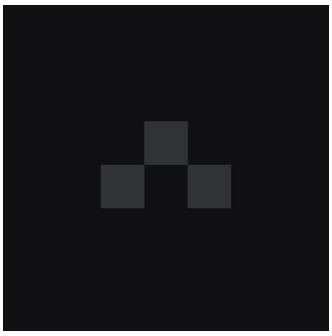

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