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Second Circuit Weighs In on Other Insurance and Additional Insured Dispute

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In an article for the *New York Law Journal* titled “Second Circuit Weighs In on Other Insurance and Additional Insured Dispute,” Schulte Roth & Zabel of counsel Howard B. Epstein and special counsel Theodore A. Keyes discuss the Second Circuit’s decision in *Amerisure Insurance v. Selective Insurance Group*.

Contracts and subcontracts entered into in connection with construction projects often include insurance and additional insured requirements that create a web of obligations running between owners, general contractors, subcontractors and their insurers. These contractual provisions can lead to litigation over the right to coverage as well as priority of insurer obligations, including which insurance policy pays first. Last month, the U.S. Court of Appeals for the Second Circuit weighed in on such a dispute, providing guidance with respect to competing other insurance provisions and additional insured clauses. See *Amerisure Insurance v. Selective Insurance Group*, No. 21-1516, 2023 WL 3311879 (2d Cir. May 9, 2023). In *Amerisure v. Selective*, the Second Circuit held that the subcontract terms governed the additional insured question while the other insurance clauses in the insurance policies governed the priority dispute.

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**Howard
Epstein**

Of Counsel
New York



**Theodore
Keyes**

Partner
New York

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