

Contractors: Recent Decision Impacts Status of "Additional Insured"

The Supreme Court of New York, Appellate Division, First Department recently found that a contractor was not an additional insured under its subcontractor's insurance policy. *Illinois National Insurance Co. v. American Alternative Insurance Corp.*, 2009 WL 139492 (1st Dep't 2009). In *Illinois National*, the court found that the insurer of an asbestos abatement subcontractor was not obligated to defend or indemnify the general contractor based on the definition in the policy of the term "insured." The policy defined an "insured" as "any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as additional insured on your policy." The subcontractor's contract with the general contractor did not contain an agreement that the general contractor be named as an additional insured. Although the general contractor's bid documents stated that the performance of asbestos work "shall be governed by" certain terms and conditions, including the requirement to add the general contractor as additional insureds, the court held that the bid document did not constitute "an agreement." This case highlights the importance of a contractual provision requiring that an entity be added as an additional insured when this is the intent of the parties. [A]

The policy defined an "insured" as "any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as additional insured on your policy."

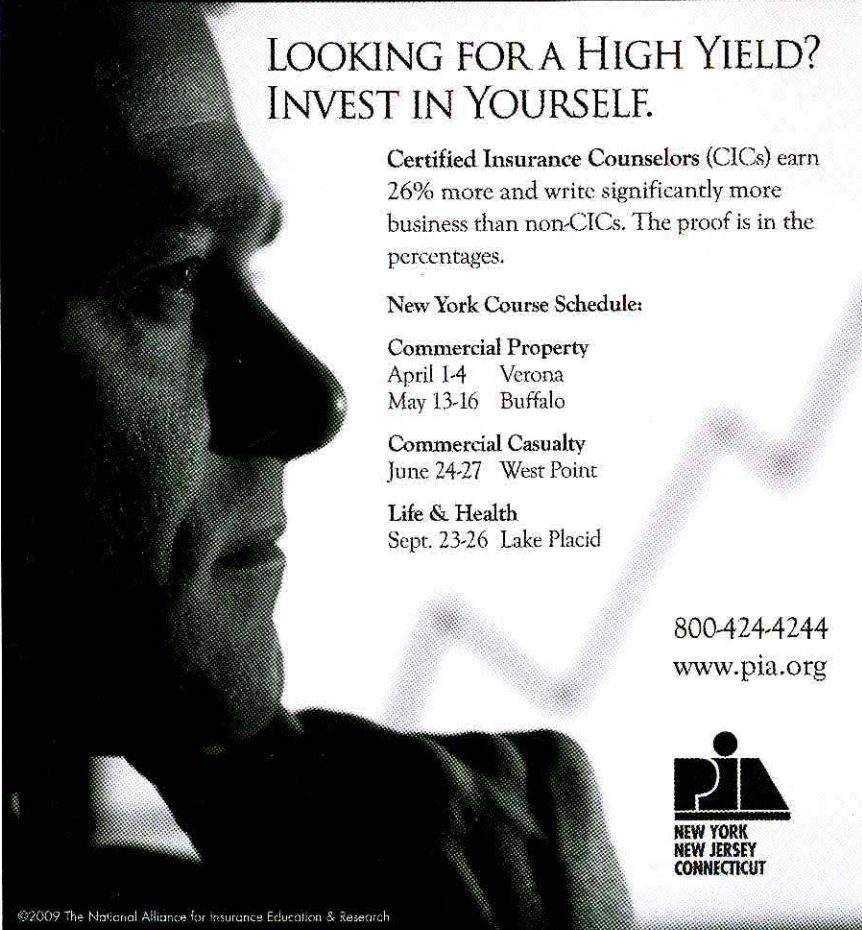
tor's contract with the general contractor did not contain an agreement that the general contractor be named as an additional insured. Although the general contractor's bid documents stated that the performance of asbestos work "shall be governed by" certain terms and conditions, including the requirement to add the general contractor as additional insureds, the court held that the bid document did not constitute "an agreement." This case highlights the importance of a contractual provision requiring that an entity be added as an additional insured when this is the intent of the parties. [A]

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