

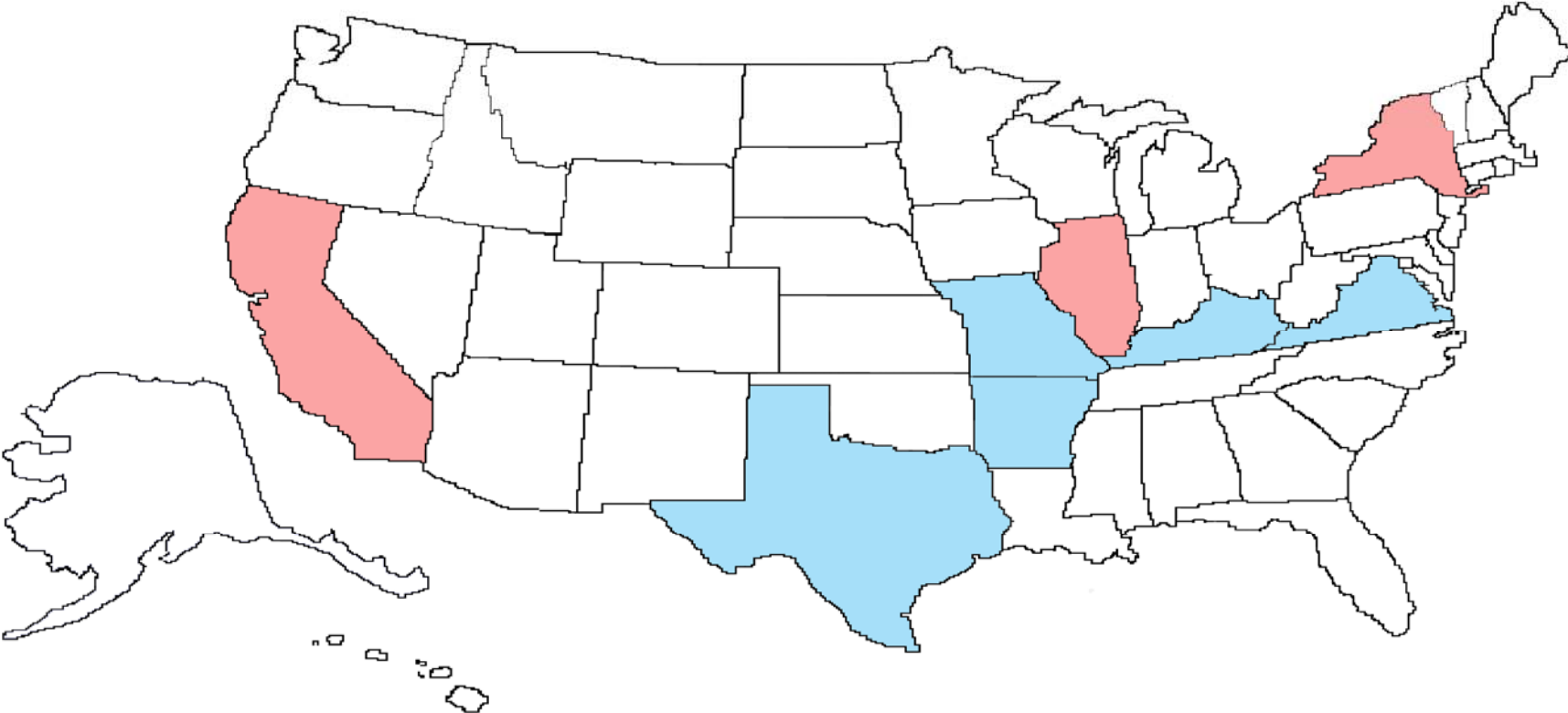





# **HORIZONTAL/VERTICAL EXHAUSTION IN THE ADDITIONAL INSURED CONTEXT**

*“Attorneys For Policyholders in Insurance Coverage Disputes”*

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# HORIZONTAL/VERTICAL EXHAUSTION IN THE AI CONTEXT



-  States highest Court applies Vertical Exhaustion
-  Lower Court or federal court applies Vertical Exhaustion
-  States highest Court applies Horizontal Exhaustion
-  Lower Court or federal court applies Horizontal Exhaustion

\*This survey is as of November 1, 2010. Courts may change their views at any time.

### Horizontal/Vertical Exhaustion in the Additional Insured Context

State	Vertical or Horizontal Exhaustion	Case Law
AK	N/A	N/A
AL	N/A	N/A
AR	Vertical Exhaustion	<u>Wal-Mart Stores, Inc. v RLI Ins. Co.</u> , 292 F.3d 583 (8th Cir 2002) (predicting AR law)
AZ	N/A	N/A
CA	Horizontal Exhaustion	<u>Reliance National v. General Star Indemnity</u> , 72 Cal.App.4th 1063(1999); <u>HDI-Gerling Am. Ins. Co. v. Homestead Ins. Co.</u> , 2008 US DISTRICT LEXIS 58618 (N.D. Cal.); <u>but see Travelers Cast. &amp; Sur. Co v. American Equity Ins. Co.</u> , 93 Cal.App.4th 1142 (2001)
CO	N/A	N/A
CT	N/A	N/A
DC	N/A	N/A
DE	N/A	N/A
FL	N/A	N/A
GA	N/A	N/A
HI	N/A	N/A
IA	N/A	N/A
ID	N/A	N/A
IL	Horizontal Exhaustion	<u>Kajima Construction Services, Inc. and Tokio Marine and Fire Ins. Co.</u> , 368 Ill. App.3d 665 (Ill. App. 1st Dist. 2006)
IN	N/A	N/A
KS	N/A	N/A
KY	Vertical Exhaustion	<u>Chandler v. Liberty Mut. Ins. Group</u> , No. 2005-71, 2005 U.S. Dist. LEXIS 44426 (E.D. Ky. Nov. 3, 2005) aff'd 212 Fed.Appx553 (6th Cir. 2007). (predicting KY law)
LA	N/A	N/A
MA	N/A	N/A
MD	N/A	N/A
ME	N/A	N/A
MI	N/A	N/A
MN	N/A	N/A
MO	Vertical Exhaustion	<u>Fed. Ins. Co. v. Gulf Ins. Co.</u> , 162 S.W.3d 160 (Mo. Ct. App. 2005); <u>Hertz Equip. Rental Corp. v. Ammon Painting Co.</u> , WD70191, 2009 Mo. App. LEXIS 1131 (Mo. App. 2009)
MS	N/A	N/A
MT	N/A	N/A

### Horizontal/Vertical Exhaustion in the Additional Insured Context

State	Vertical or Horizontal Exhaustion	Case Law
NC	N/A	N/A
ND	N/A	N/A
NE	N/A	N/A
NH	N/A	N/A
NJ	N/A	N/A
NM	N/A	N/A
NV	N/A	N/A
NY	Horizontal Exhaustion	<u>Bovis v. Great Amer. Ins. Co.</u> , 855 N.Y.S.2d 459 (App. Div. 1st Dept. 2008); <u>Indemnity Ins. Co. of N. Am. v. St. Paul Mercury Ins. Co.</u> , 2010 NY Slip Op 3254 1 (N.Y. App. Div. 1st Dept. 2010)
OH	N/A	N/A
OK	N/A	N/A
OR	N/A	N/A
PA	N/A	N/A
RI	N/A	N/A
SC	N/A	N/A
SD	N/A	N/A
TN	N/A	N/A
TX	Vertical Exhaustion	<u>American Indemnity Lloyds v Travelers Property Casualty Ins. Co.</u> , 335 F.3d 429 (5th Cir 2003) (predicting TX law)
UT	N/A	N/A
VA	Vertical Exhaustion	<u>St. Paul Fire &amp; Marine Ins. Co. v. Am. Int'l Specialty Lines Ins. Co.</u> , 365 F.3d 263 (4th Cir. 2004) (predicting VA law)
VT	N/A	N/A
WA	N/A	N/A
WI	N/A	N/A
WV	N/A	N/A
WY	N/A	N/A