

Ontario Court of Appeal Revisits Layered Risk

Reported Case:	McKenzie v. Dominion of Canada General Insurance Co.
Citation:	2007 ONCA 480
At Issue:	Whether a personal liability umbrella policy ("PLUP") was required to contribute equally with a homeowner's policy to claims against the insured.
The Court:	Ontario Court of Appeal
Judgment Rendered:	June 27, 2007
Factual Summary:	A boat was involved in an accident, which resulted in two deaths and serious injuries to others. The operator was insured under three policies of insurance, the boat owner's policy and the PLUP (both issued by State Farm) and a homeowner's policy issued to the operator's parents by Dominion of Canada. Each policy denied primary liability for claims where other insurance was available to satisfy them. After proceedings were commenced against the operator, State Farm brought an application to determine scope and priority of liability under the policies.
Disposition By Lower Court:	The boat owner's policy was primary insurance first responsible to the scope of its coverage. The PLUP and the homeowner's policies were jointly and equally liable for claims over and above scope of boat owner's policy. State Farm appealed the second finding.
Appellate Decision:	The policies covered different layers of risk. The PLUP is not to respond to claims until limits of homeowner's policy are exhausted. Appeal allowed.