Appellate Decision Highlights Key Issues in PFAS Coverage Litigation

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Summary

- *Harrietstown* highlights the interplay between pollution exclusions, causation issues, and combined claims provisions, and raises several important considerations.
- The decision reinforces that multiple alleged causes of contamination do not necessarily constitute multiple claims.
- Coverage counsel should carefully analyze pollution exclusions, related exceptions, and other carve-backs before concluding whether coverage exists.
- PFAS coverage disputes, like other insurance coverage disputes, turn on the policy language.

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Liabilities related to forever chemicals and per- and polyfluoroalkyl substances (PFAS) continue to spawn significant insurance coverage litigation on issues ranging from pollution exclusions, causation, trigger theories, allocation, and defense obligations. Because PFAS environmental damage claims often involve complex and multifaceted factual allegations, coverage litigation has increasingly focused on causation issues, with insurers asking courts to parse underlying claims into covered and excluded causes. The Second Circuit's recent decision in *Town of Harrietstown v. Westchester Fire Insurance Co.*, No. 25-2253-cv (2d Cir. May 4, 2026), highlights these issues and offers several practical takeaways for policyholders and coverage counsel.

The Decision

Harrietstown involved alleged PFAS environmental damage at the Adirondack Regional Airport in Lake Clear, New York, arising from the airport's use of aqueous film-forming foam (AFFF). The coverage dispute involved an airport owners and operators general liability policy with a pollution exclusion for "pollution and contamination of any kind whatsoever, unless caused by or resulting in a crash fire explosion or collision or a recorded in-flight emergency causing abnormal aircraft operation." The exclusion also contained a "combined claims" provision under which the insurer had no duty to defend "a claim or claims covered by the policy when combined with any claims excluded" by the pollution exclusion.

After receiving a potentially responsible party (PRP) letter from the New York State Department of Environmental Conservation, the town tendered the claim to its insurer, which initially defended the claim under a reservation of rights. But when the underlying investigation suggested AFFF was used not only for emergency response (covered) but also for training (excluded), the insurer withdrew its defense, taking the position that the matter was a "combined claim" subject only to a duty to reimburse defense costs allocable to covered contamination (i.e., contamination that resulted from a qualifying crash, fire, or in-flight emergency).

The Second Circuit rejected the insurer's position. Applying New York law, the court held that the combined claims provision applies only when the dispute involves multiple underlying "claims"—which dictionaries define as a "demand"—and the insurer can establish that one or more of those claims fall within the pollution exclusion. The provision does not apply when there are "two potential pollution *causes* under a single claim." (Emphasis added). Finding that the underlying dispute involved only one "claim," the court focused on the initial PRP letter, which was a single demand. The court also noted that the insurer's own communications referred to the demand as a single claim.

Although the dispute arose in the PFAS context, the court's reasoning is rooted in traditional duty-to-defend principles, including ambiguous or mixed allegations generally favor the policyholder, and the insurer bears the burden of establishing that an exclusion eliminates any possibility of coverage.

Key Takeaways

Harrietstown highlights the interplay between pollution exclusions, causation issues, and combined claims provisions, and raises several important considerations.

Consider tailored exceptions and pollution exclusion carve-backs.

While the "emergency" carve-back in *Harrietstown* was specific to airport operations, coverage counsel should closely review similar exceptions in other liability policies and consider how they might apply to the policyholder's unique operations. Coverage counsel should also consider other key language and exceptions often found in pollution exclusions, including whether the exclusion is qualified, "total," or "absolute," and whether the exclusion reaches only environmental claims, as opposed to product-liability claims. *Compare* *Wolverine World Wide Inc. v. The Am. Ins. Co.,* 2021 WL 4841167, at *11 (W.D. Mich. Oct. 18, 2021) (pollution exclusion with "sudden and accidental" exception did not exclude defense coverage for PFAS claims; the insurer had a duty to defend "so that a determination can be made regarding whether the discharge was sudden and accidental"), *and* *Colony Ins. Co. v. Buckeye Fire Equip. Co.*, 2020 WL 6152381, at *3 (W.D.N.C. Oct. 20, 2020) (although the insurer had no duty to defend PFAS environmental exposure claims, it did have a duty to defend product claims alleging direct exposure to PFAS-containing products, emphasizing that language in pollution exclusion reflected "environmental terms of art"), *with* *Grange Ins. Co. v. Cycle-Tex Inc.*, 2022 WL 18781187, at *7 (N.D. Ga. Dec. 5, 2022) (total pollution exclusion barred coverage for PFAS claims alleging that a thermoplastics recycling facility discharged PFAS contaminated wastewater). Those distinctions can be outcome determinative because qualified pollution exclusions containing exceptions, such as "sudden and accidental" exceptions, often require a more fact-intensive coverage analysis than absolute pollution exclusions.

Evaluate multiple-causation allegations and related issues and all potentially covered causes.

A liability insurer's duty to defend is extremely broad, and is typically triggered whenever the underlying allegations, construed broadly in favor of the policyholder, could reasonably fall within the policy coverages. Moreover, as with other exclusions under New York law, the insurer bears the burden of establishing that a policy exclusion applies and is subject to no reasonable interpretation favoring coverage. It is therefore critical to closely analyze the underlying claim—whether asserted through PRP letters, complaints, or other written demands—for any allegations that arguably bring the matter within a coverage grant, exception, or other carve-back. The court in *Harrietstown* observed that the insurer's internal communications acknowledged that AFFF had been used in response to crashes, supporting the conclusion that there was a reasonable possibility of coverage under the pollution exclusion's "emergency" exception. As PFAS coverage cases progress, carefully documenting and analyzing all incidents, chemical uses, and any emergency-response activities can be critical to establishing coverage for PFAS-related claims under similar policy language.

Assess the underlying claim against any combined claims provisions.

Harrietstown demonstrates that courts distinguish between competing factual theories of causation and the legal question of what constitutes a “claim” under the policy. The existence of multiple alleged environmental damage pathways does not necessarily transform a single underlying demand into multiple claims.

The primary issue in *Harrietstown* was whether the insurer could convert a single PRP letter into separate claims for each potential cause of contamination. The court held it could not, finding the policy’s “combined claims” provision inapplicable when there is a single demand, even if it involves multiple potential causes of PFAS contamination. In reaching that conclusion, the court focused on the fact that the initial New York State Department of Environmental Conservation PRP letter was written as a single demand. In New York, insurers generally cannot use extrinsic evidence to defeat the duty to defend, but policyholders may use extrinsic evidence to establish that coverage is possible. The court in *Harrietstown* also gave weight to the insurer’s own internal communications, which predominantly, although not exclusively, referred to the matter as a single claim.

PFAS coverage disputes involving “combined claims” issues may focus heavily on the language and nature of the underlying demand going forward. These issues are critical as PFAS claims increasingly involve not just PRP letters but also class actions and multidistrict litigation where insurers could similarly attempt to parse coverage disputes into more than one underlying “claim.”

Conclusion

Harrietstown underscores that PFAS coverage disputes, like other insurance coverage disputes, turn first and foremost on the policy language. The decision reinforces that multiple alleged causes of contamination do not necessarily constitute multiple claims and that coverage counsel should carefully analyze pollution exclusions, related exceptions, and other carve-backs before concluding whether coverage exists.

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