

Recent Louisiana Supreme Court Decision Provides New Pro Rata Approach For The Allocation of Defense Cost Between Insurer and Insured in Long Latency Disease Cases

Earlier this month, in *Arceneaux v. Amstar Corp.*, 2015-0588 (La. 9/7/16), __ So.3d __ (2016), 2016 WL 4699163, the Louisiana Supreme Court decided whether the duty to defend in long latency disease cases may be prorated between insurer and insured when occurrence-based policies provide coverage for only a portion of the time during which exposure occurred. Citing to the language of the policy, freedom of contract, and equity, the court held that a pro rata approach to dividing up defense cost was appropriate. Additionally, the court found that the amount of time the insurer was “on the risk” would determine its respective proportion of defenses costs.

For more information and a detailed summary, please follow the link below:

LOUISIANA INSURER NEWS