State Of Insurance: Q3 Notes From Illinois

By **Matthew Fortin** (November 6, 2026)



Matthew Fortin

The third quarter of 2026 featured three notable decisions applying Illinois insurance law, one from the Appellate Court of Illinois, First District, and two from the U.S. Court of Appeals for the Seventh Circuit.

In Direct Auto Insurance Co. v. Macon-Hamblet, the First District held, on Sept. 11, that the time to commence uninsured motorist arbitration is tolled while an insurer's own declaratory judgment action disputing coverage stays arbitration.

The Seventh Circuit, meanwhile, again sidestepped the split between its own precedent and the Illinois Appellate Court regarding the illusory coverage doctrine in Nautilus Insurance Co. v. Bee Quality Inc., decided on July 9.

And on Aug. 5, the court also predicted, in Consolidated Chassis Management LLC v. Northland Insurance Co., that the Illinois Supreme Court would confine an insured's right to independent counsel at its insurer's expense to circumstances involving a serious, actual conflict between insurer and insured.

The First District tolls uninsured motorist arbitration deadlines during an insurer's coverage action.

Section 143.1 of the Illinois Insurance Code tolls a policy's limitation period from the date proof of loss is filed until the claim is denied.[1]

While an insurer's filing of a declaratory judgment action disputing coverage legally prevents an insured from initiating arbitration proceedings until the coverage dispute is resolved, neither Section 143.1 nor existing case law addressed what happens to a limitation period that expires while that action is pending.

More From This Column

State Of Insurance tracks the regulatory and litigation developments that are shaping the insurance bar.

In Direct Auto Insurance Co. v. Macon-Hamblet, the First District filled that gap, holding that a limitation period is tolled when the insured's arbitration and litigation rights are stayed pending resolution of an insurer's declaratory judgment action.[2]

The policyholders were involved in a hit-and-run accident in October 2014 and sought uninsured motorist coverage under Direct Auto's policy requiring that arbitration be commenced within two years of the accident.[3] They submitted proof of loss on April 23, 2015, tolling the limitation period under Section 143.1 until Direct Auto denied their claim 15 days later, on May 8, 2015.

The insureds demanded arbitration in August 2015, but those proceedings were administratively dismissed in March 2017 for nonpayment of arbitration fees.[4]

In the interim, on July 1, 2016, Direct Auto filed a declaratory judgment action seeking a declaration of no coverage due to late notice. Under Illinois law, that triggered an automatic suspension of the pending arbitration proceedings until the coverage dispute was resolved seven years later, in July 2023.

When the insureds refiled their arbitration demand in October 2023, Direct Auto filed another declaratory judgment action, arguing that the demand was untimely because it was not filed within two years and 15 days of the accident.[5]

The First District affirmed summary judgment for the insureds. The court identified two tolling periods. First, in accordance with Section 143.1, the limitation period was tolled for the 15-day period between the insureds' submission of proof of loss and Direct Auto's denial of their claim. Second, the court held that the limitation period was tolled the entire time Direct Auto's declaratory judgment action was pending.

The court noted that Direct Auto's filing of its initial declaratory judgment action triggered a mandatory stay of arbitration proceedings, making any further demand for arbitration futile until the coverage dispute was resolved. The court reasoned that tolling the limitation period during the pendency of a declaratory judgment action initiated by an insurer aligned with the purpose of Section 143.1, which is to prevent insurers from sitting on claims while limitation periods run.[6]

The court found additional support for its holding in estoppel principles, holding that "an insurer should equally be estopped from raising a limitations defense when its pending declaratory judgment action legally prevents the insured from litigating their claim until that action is resolved."[7]

Direct Auto represents an incremental extension of Illinois law regarding suit limitation provisions in insurance policies. Just as Section 143.1 prevents an insurer from running out the clock by sitting on a proof of loss, Direct Auto prevents an insurer from doing the same by filing a protracted coverage action and then arguing that the insured's postresolution arbitration demand is time-barred.

The Seventh Circuit again declines to resolve the illusory coverage split.

In 2023, the Seventh Circuit **held**, in Citizens Insurance Co. of America v. Wynndalco Enterprises LLC, that a violation-of-law exclusion was ambiguous because its language was "so broad that it would eviscerate a good amount of the coverage offered by the insurer."[8]

Wynndalco has been criticized by Illinois appellate courts as not accurately reflecting Illinois law, which takes the view that an exclusion renders coverage illusory only when it swallows the coverage entirely.[9]

In Nautilus Insurance Co. v. Bee Quality Inc., the Seventh Circuit acknowledged the tension between its holding in Wynndalco and the view espoused by the First District in June 2023 in National Fire Insurance Co. of Hartford v. Visual Pak Co., but again declined to resolve that split.[10]

Bee Quality, a roofing contractor, was sued by the estates of two individuals killed in April 2022 when a building façade it had repaired a few years earlier collapsed on them.[11] Bee Quality's commercial general liability policy provided completed operations coverage, but a

prior work exclusion barred coverage for bodily injury arising out of work completed before the policy incepted in February 2022.

Bee Quality argued that the exclusion rendered its completed operations coverage illusory, contending it had paid a premium for unrestricted coverage of its past 10 years of operations.[12]

The Seventh Circuit disagreed. Affirming judgment on the pleadings for Nautilus, the court expressly declined to predict whether the Illinois Supreme Court would follow Wynndalco or Visual Pak, because Bee Quality's policy still left "plenty of room for coverage" for work completed after the policy's inception.[13]

The court was "exceedingly reluctant to disturb the arms-length negotiation of sophisticated parties" based on the alleged mismatch between premium and coverage, and held that illusory coverage is a question of law ripe for judgment on the pleadings without the need for discovery into the insurer's underwriting.[14]

Nautilus is notable not so much for its result as for its acknowledgment of the live divergence between the Seventh Circuit's view of the illusory coverage doctrine and the view taken by the Illinois Appellate Court, without signaling any intention to soften its stance.

For the time being, then, insured-side practitioners looking for every edge might find Illinois' federal courts more receptive to illusory coverage arguments than its state courts.

The Seventh Circuit predicts that adversity between co-insureds alone does not trigger a right to independent counsel.

Under Illinois law, a liability insurer's duty to defend ordinarily carries with it the right to control the defense, subject to an exception requiring the insurer to pay for independent counsel where there is a serious, actual conflict of interest.[15]

The Illinois Supreme Court has not squarely addressed whether adversity between co-insureds alone, without a concurrent insurer-insured conflict, triggers the right to independent counsel. In Consolidated Chassis Management LLC v. Northland Insurance Co., the Seventh Circuit predicted that the Illinois Supreme Court would rule that it does not.[16]

Consolidated Chassis arose out of a 2016 traffic accident between a semi-tractor and a passenger vehicle. The driver of the passenger vehicle sued Northland's insureds: the tractor's owner, its driver and Consolidated, which controlled the chassis.

Northland retained separate counsel for each of them.[17] Consolidated nevertheless retained its own counsel and filed contribution claims against its co-insureds.

Consolidated then sued Northland, demanding that it pay for Consolidated's chosen counsel, citing Northland's reservation of rights, its co-insureds' adverse interests and, later, the risk of a judgment exceeding the $1 million policy limit.[18]

Northland withdrew its reservation of rights the next day and ultimately settled the underlying suit within limits. The U.S. District Court for the Northern District of Illinois nevertheless held that Consolidated was entitled to independent counsel at Northland's expense and awarded it $115,000.[19]

The Seventh Circuit reversed. The court found no Illinois authority recognizing an exception to an insurer's right to control its insureds' defense where the insureds' interests are adverse, without a concurrent conflict between insurer and insured.[20]

The court noted that there was no clear conflict between Northland and its insureds, as the underlying complaint alleged only negligence, Northland was "on the hook no matter how [the contribution claims] were resolved," and its temporary reservation of rights, which was promptly withdrawn, created no risk that Northland would lay the groundwork to disclaim coverage.[21]

Without an actual, serious insurer-insured conflict, the Seventh Circuit predicted that the Illinois Supreme Court would not extend an insured's right to independent counsel at its insurer's expense to situations where the only conflicts are between insureds.[22]

Interestingly, U.S. Circuit Judge Michael Brennan concurred in the judgment, but wrote separately that he read Illinois law as recognizing an insured's right to independent counsel at an insurer's expense where the interests of multiple insureds are "diametrically opposed." He agreed with the majority, though, that the standard was not met in this case.[23]

The court also rejected Consolidated's reliance on the Seventh Circuit's 2011 decision in R.C. Wegman Construction Co. v. Admiral Insurance Co. for the proposition that a "nontrivial probability" of an excess judgment creates a qualifying conflict, warning that such a rule would risk an already narrow exception swallowing the rule.[24]

And because Northland committed no underlying breach, Consolidated's claim under Section 155 of the Illinois Insurance Code necessarily failed.[25]

Consolidated Chassis cabins the frequently litigated independent counsel exception on two fronts, rejecting the excess-judgment risk theory and requiring that adversity among insureds be paired with a direct insurer-insured conflict. In doing so, it preserves the insurer's default right to control the defense and reduces the circumstances in which an insurer must fund independent counsel.

Conclusion

Taken together, the quarter's decisions offer something for both sides of the coverage bar.

Consolidated Chassis preserves an insurer's default right to control the defense, rejecting both co-insured adversity and excess-judgment risk as stand-alone bases for independent counsel, while Direct Auto protects uninsured motorist claimants from limitations defenses built on delay caused by an insurer's own coverage litigation.

Looking ahead, the illusory coverage split acknowledged in Nautilus remains unresolved, and until the Illinois Supreme Court weighs in, policyholders may find Illinois' federal courts more receptive to illusory coverage arguments than its state courts.

Matthew P. Fortin is a partner at BatesCarey LLP.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective

affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

[1] Direct Auto Ins. Co. v. Macon-Hamblet, 2026 IL App (1st) 242530, ¶¶ 26-27 (Sept. 11, 2026); 215 Ill. Comp. Stat. § 5/143.1.

[2] Direct Auto, 2026 IL App (1st) 242530,Id. at ¶ 33.

[3] Id. at ¶¶ 3, 21.

[4] Id. at ¶¶ 4-5.

[5] Id. at ¶¶ 6-8, 36.

[6] Id. at ¶¶ 29, 34-36.

[7] Id. at ¶¶ 34, 37.

[8] Nat'l Fire Ins. Co. of Hartford v. Visual Pak Co., 243 N.E.3d 888 (Ill. App. Ct. 2023) (discussing Citizens Ins. Co. of Am. v. Wynndalco Enters., LLC, 70 F.4th 987 (7th Cir. 2023)).

[9] Id.

[10] Nautilus Ins. Co. v. Bee Quality Inc., 181 F.4th 737, 740-41 (7th Cir. 2026).

[11] Id. at 738-39.

[12] Id. at 741.

[13] Id.

[14] Id. at 741-42.

[15] Consol. Chassis Mgmt. LLC v. Northland Ins. Co., 185 F.4th 732, 738 (7th Cir. 2026).

[16] Id. at 741.

[17] Id. at 734-35.

[18] Id. at 735-36.

[19] Id. at 736.

[20] Id. at 739-41.

[21] Id. at 741-42.

[22] Id. at 742.

[23] Id. at 744 (Brennan, C.J., concurring in the judgment).

[24] Id. at 742-43 (discussing R.C. Wegman Constr. Co. v. Admiral Ins. Co., 629 F.3d 724 (7th Cir. 2011), and Joseph T. Ryerson & Son v. Travelers Indem. Co., 2020 IL App (1st) 182491, ¶ 57).

[25] Id. at 743-44.