

Tom, J.P., Friedman, Nardelli, Buckley, Renwick, JJ.

3827-

3827A The Trustees of Princeton
University,
Plaintiff-Respondent,

Index 650202/06

-against-

National Union Fire Insurance
Co. of Pittsburgh, Pa.,
Defendant-Appellant,

American International Group, Inc.,
Defendant.

Cahill Gordon & Reindel LLP, New York (Edward P. Krugman of
counsel), for appellant.

Anderson Kill & Olick, P.C., New York (William G. Passannante of
counsel), for respondent.

Judgment, Supreme Court, New York County (Helen E. Freedman,
J.), entered September 10, 2007, awarding plaintiff recovery from
defendant National Union Fire Insurance Co. of Pittsburgh, Pa. in
the amount of \$9,607,021.93, and bringing up for review orders,
same court and Justice, entered April 23, 2007 and August 20,
2007, to the extent they denied defendants' motion to dismiss the
causes of action for breach of contract and declaratory judgment,
granted plaintiff's cross motion for summary judgment on said
causes of action, and directed entry of judgment accordingly, and
order, same court and Justice, entered February 20, 2008, which
denied National Union's motion to vacate the judgment,
unanimously affirmed, with costs.

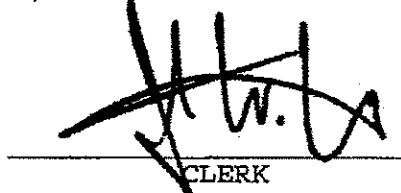
We reject National Union's contention that the subject insurance policy's \$5 million sublimit for claims that seek equitable relief applies also to claims arising from the same underlying occurrence that seek legal relief based on tort and contract law principles, as it relies on a strained construction of the terms of the policy (see *Seaboard Sur. Co. v Gillette Co.*, 64 NY2d 304, 311 [1984]; *242-44 E. 77th St., LLC v Greater N.Y. Mut. Ins. Co.*, 31 AD3d 100, 103 [2006]). Similarly, we reject the contention that the policy's "insured versus insured" exclusion applies to claims brought against the insured entities by individual insureds acting in their individual capacities.

As the policy obligates National Union to advance all defense costs as they are incurred, subject to a right of recoupment of payment for noncovered costs after the underlying litigation is completed, the court had no obligation at this juncture to rule on the allocation of defense expenses.

We have considered defendant's remaining arguments and find them unavailing.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: JUNE 5, 2008


CLERK