

Letter to American Law Institute regarding allocation rules in the draft Restatement (formerly Principles) of the Law of Liability Insurance

“The default rule [in allocation cases] should be “all sums” or joint and several liability, and that the burden for contribution and subrogation should be on the insurer, not the policyholder. Without a doubt, the law should encourage the timely availability of insurance funds to facilitate environmental cleanups, and discourage unnecessary litigation between policyholders and insurers. This is particularly true in complex long-tail environmental claims triggering multiple policies. The “all sums” rules stated in Preliminary Draft No. 6 accomplish those objectives far more effectively than the alternative allocation and contribution theories that have been advanced by others in connection with this draft.”

[ALI Adviser Letter To Reporters 8-11-14 \(1\).pdf](#)

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