

**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

THE DOE RUN RESOURCES CORPORATION,	)	
	)	No. ED98086
	)	
Respondent/Cross-Appellant,	)	Appeal from the Circuit Court of St. Louis County
	)	
vs.	)	
	)	
CERTAIN UNDERWRITERS AT LLOYD’S LONDON, et al.,	)	Honorable Mark D. Seigel
	)	
Appellant/Cross-Respondent.	)	Filed: April 16, 2013

Before Robert G. Dowd, Jr., P.J., Roy L. Richter, J., and Angela T. Quigless, J.

PER CURIAM.

The Doe Run Resources Corporation (Doe Run) and Certain Underwriters at Lloyd’s London et al. (LMI) cross-appeal from the trial court’s judgment after a jury verdict in favor of Doe Run. The underlying lawsuit was brought by Doe Run seeking coverage for environmental remediation costs under seven excess insurance policies issued by LMI.

**AFFIRMEND IN PART, REVERSED AND REMANDED IN PART WITH INSTRUCTIONS TO REINSTATE THE JURY VERDICT.**

Division Three Holds:

- (1) The trial court did not err in denying LMI’s motion for directed verdict because Doe Run made a submissible case to the jury.
- (2) The trial court did not err in denying LMI’s motion for directed verdict at the close of all the evidence as to Doe Run’s claims for unreasonable failure to pay because there was substantial evidence for the jury to find LMI acted recalcitrantly and vexatiously in its handling of Doe Run’s claim.
- (3) The trial court erred in finding New York law governed the interpretation and application of the insurance policies.
- (4) The trial court erred in finding New York’s pro rata allocation scheme applied to Doe Run’s damages.
- (5) The trial court erred in finding as a matter of law that there was no more than one occurrence per site.
- (6) The trial court erred in denying Doe Run’s motion for prejudgment interest.

Attorney for Appellant: Bruce D. Ryder

Attorney for Respondent: Thomas P. Hohenstein

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.**