



*State of New York
Court of Appeals*

*Stuart M. Cohen
Clerk of the Court*

*Clerk's Office
Albany, New York 12207-1095*

NOTICE TO THE BAR

Amicus Curiae Participation

On November 19, 2009 the Court of Appeals granted leave to appeal in Kohl v American Transit Ins. Co., an insurance coverage dispute arising out of an accident in which a passenger of a taxicab, plaintiff Kristopher Kohl, upon exiting the vehicle, opened the rear door into the path of a bicyclist, causing the bicyclist to collide with the open door. The bicyclist commenced a personal injury action against Kohl, the owner and driver of the taxicab, and American Transit Insurance Co., which issued a commercial automobile insurance policy covering the taxicab. Thereafter, Kohl commenced this action for a judgment declaring that the insurer is required to defend and indemnify him in the underlying personal injury action. The issue is whether the Appellate Division correctly held that Kohl is "not entitled to a defense or to indemnity for his 'use' of a vehicle under the...commercial automobile policy insuring the owner and the driver of the taxicab." The Appellate Division decision appears at 59 AD3d 681, 874 NYS2d 213.

The Court invites amicus curiae participation from those qualified and interested.

Amicus motions must comply with section 500.23 of the Rules of the Court of Appeals. The text of the Rule is available on the Court's internet web site at:

<http://www.courts.state.ny.us/ctapps/500rules08.htm>.

Questions may be directed by telephone to the Clerk's Office at (518) 455-7705.

November 24, 2009

Stuart M. Cohen
Clerk of the Court