

Extended Reporting Period Available Even Where Policy Is Renewed

December 2003

The United States Court of Appeals for the Eleventh Circuit, applying Florida law, has held that the extended reporting period in a claims-made and reported professional liability insurance policy is available even where a policy is renewed, thereby requiring the insurer to provide coverage for a claim that was made during one policy period and reported during a subsequent policy period. *Cast Steel Prods., Inc. v. Admiral Ins. Co.*, 2003 WL 22434728 (11th Cir. Oct. 28, 2003).

The insurer issued a claims-made professional liability policy to a mining and waste energy product manufacturer, which subsequently renewed the policy. The policy contained an extended reporting period provision stating that "[i]f the policy is cancelled or not renewed by the Named Insured, an automatic thirty (30) day Claims Extension Period shall apply to claims provided such claims are not covered under any subsequent insurance purchased by the Named Insured." The policy did not explicitly address whether this extended reporting period applied in case of renewal.

During the initial policy period, a third-party claimant alleged that one of the company's products was defective. As a result of an error by the company's insurance agent, however, the claim was not reported to the insurer until after the inception of the subsequent policy period. The insurer sought to deny coverage based on late notice and litigation ensued.

The court initially acknowledged that, under a claims-made and reported policy, coverage is generally afforded only for those claims that accrue and are reported during the policy period. The company argued, however, that the extended reporting period should also apply to a renewed policy, notwithstanding the language in the extended reporting provision. The court agreed with the company, reasoning that the extended reporting clause was ambiguous through its silence regarding whether the provision applied in cases of renewal. The court stated that the ambiguity must be interpreted against the insurer, concluding that the provision allowed for the reporting of a claim under a renewed policy where the claim accrued under the initial policy period. In so ruling, the court observed that it would be "both illogical and inequitable to deny coverage to the insured who chooses to renew its claims-made policy for successive years with the same insurer...." Therefore, renewing the policy "should not precipitate a trap where claims spanning the renewal are denied." The court thus held that "the most reasonable interpretation of the extended reporting clause is that it automatically extends the reporting period through renewal."

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