

No Coverage for Claim Filed after Cancellation of Claims-Made Policy

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In an unreported decision, an Ohio appellate court, applying Ohio law, has held that a claims-made professional liability policy did not afford coverage for a claim that was filed after the policyholder cancelled the policy and received a pro-rated premium refund. *Dial v. Ostrander, et al.*, 2003 WL 22227987 (Ohio Ct. App. Sept. 23, 2003).

The Insurer issued a claims-made professional liability policy that provided coverage to the policyholder company and a psychologist employed by the company. The policy period at inception was June 28, 2001 to June 28, 2002. On March 29, 2002, however, the company cancelled the policy, the parties added an endorsement to the policy that cancelled the policy effective March 29, 2002, and the insurer issued a prorated premium refund. Subsequently, on May 17, 2002, a lawsuit was filed against the psychologist. The insurer denied coverage and litigation ensued.

The Ohio appellate court ruled in favor of the insurer, holding that the policy unambiguously precluded coverage. In doing so, the court rejected the argument that the policy was ambiguous because the claim was made within the stated policy period when the policy was issued, and the policy did not provide that the policy period would change in the event of cancellation. The court reasoned that such an interpretation was unreasonable because the primary purpose of an insurance contract is to afford coverage in return for compensation. Consequently, since the policyholder had cancelled the policy and the insurer had issued a prorated premium refund, the insurer had no obligation to cover a claim made after the date of cancellation. The court also held that even though the insurer had received notice of the claim within the extended reporting period, the policy did not afford coverage because the claim had been made outside of the policy period.

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