

Insurer Must Notify Insured of Changes in Renewal Policy

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A New Jersey court has held that a professional liability insurer owed a duty to defend and indemnify its policyholder, a real estate appraiser, because the insurer failed to notify the policyholder on renewal that the renewal policy contained a shortened reporting period. *Milbrook Tax Fund, et al. v. P.L. Henry Associates, et al.*, No. A-5592-99T3, 2001 N.J. Super. LEXIS 363 (App. Div. Sept. 28, 2001).

The policyholder, a real estate appraiser, sought defense and indemnity under a real estate appraiser's professional liability policy for claims alleging that he negligently appraised several properties. The policy required that a claim be made and notice be received by the insurer during the policy period or, if the policy was cancelled on nonrenewal, during a 60-day "limited reporting period" after the end of the policy period. The insurer disclaimed on the ground that the claim was not first made against the policyholder and reported to the insurer during the term of a policy or within the specified 60-day limited reporting period of the renewal policy.

The prior professional liability policy issued to the policyholder had contained a one year limited reporting period commencing upon the cancellation or nonrenewal of the policy period. When the policy was renewed, however, the insurer had reduced the limited reported period to 60 days. The renewal policy ultimately was cancelled for nonpayment of premium, and the policyholder failed to give notice of the claim within the 60-day period following the date of cancellation.

The court held that a policyholder is obliged to read the terms of a policy he receives and is bound by the plain terms of the policy. However, the court held that, under New Jersey law, a policyholder is not obligated to read the terms of a renewal policy unless the insurer provides specific notice of any material reductions in coverage. If the insurer does not provide this notice, the terms of the first policy apply. The court determined that the insurer did not provide the required notification here despite several opportunities to do so. Accordingly, the court held that the parties would be bound to the original one year limited reporting period contained within the policy. Because the policyholder provided notice within the one year limited reporting period following the date of cancellation, the insurer's coverage defense was rejected.