

Tenth Circuit Affirms Narrow Construction of "Related Claims" Provision

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Applying Colorado law, the United States Court of Appeals for the Tenth Circuit has affirmed a federal district court's holding that claims against an attorney for professional negligence and for breach fiduciary duty were not "related" under the insured's legal malpractice liability policy even though the claims involved the same clients and arose out of events surrounding the same transaction. *Professional Solutions Ins. Co. v. Mohrlang*, 2010 WL 325903 (10th Cir. Jan. 29, 2010).

The insured was sued by two brothers alleging separate acts of malpractice: first, Bruce Mohrlang alleged that the insured negligently structured the sale of a family-owned business; second, Harry Mohrlang alleged that, weeks after the sale of the business, the insured breached his fiduciary duty to Harry by persuading him to release a promissory note owed to him by the business. Applying a narrow definition of the term, the court found that the alleged acts of malpractice were not "related claims," which the policy defined as claims "arising out of all acts or omissions in the rendering of professional services that are temporally, logically or casually connected by any common fact, circumstance, situation, transaction, event, advice or decision."

The court found that the breach of fiduciary duty claim was not "temporally connected" to the claims related to the structure of the sale because the release of the promissory note was signed three weeks after the sale of the business. Similarly, the fiduciary duty claim was not "logically connected" to the other claims because the release of the promissory note was not part of the sale of the business, and in fact was a separate transaction conducted on behalf of the new owners and for their benefit. The court found no underlying facts that linked the two acts either logically or causally.