

Amended Complaint Relates Back to Previously Dismissed Complaint

October 2006

The U.S. District Court for the District of South Carolina, applying South Carolina law, has held that, for purposes of deciding whether a claim was made during the policy period, an amended complaint relates back to the original complaint, which had previously been dismissed. *Davidson & Bennett v. CNA Reinsur.*, 2006 WL 2475305 (D. S.C. Aug. 24, 2006).

The insurer issued to the policyholder a claims-made lawyers professional liability policy. Under the policy, the insurer agreed to pay all sums that the insured was legally obligated to pay resulting from a claim "first made against the Insured . . . during the policy period." The original policy was in effect from November 14, 2000 to November 14, 2001.

On August 26, 1999, a lawsuit was filed against the insured law firm alleging legal malpractice. The claim was dismissed in March 2001. In April 2001, the underlying plaintiffs filed an amended complaint.

The law firm did not include information about the lawsuit in its original application in October 2000 or in a renewal application submitted on November 7, 2001, but it did include information about the lawsuit in a supplemental application submitted on November 18, 2001. The insurer denied coverage for the claim, arguing that the claim was first made prior to the effective date of the original policy.

The court agreed with the insurer, stating that "amendments to a pleading relate back to the original date of the pleading where the claim asserted in the amended pleading arises out of the conduct, transaction, or occurrence set forth in the original pleading." The court explained that, because the claims made in the amended complaint were identical to those found in the original complaint, and because the claims that were dismissed continued through the appellate process, the amended complaint could not constitute a "new claim."
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