



Lowenstein Sandler's "In the Know" Series Video 40

Understanding "Related Claims" in Claims-Made Insurance Policies

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Hi. I'm Alex Corson, associate in Lowenstein Sandler's Insurance Recovery Group. Welcome to "[In the Know](#)." Today, we will discuss the concept of related claims in a claims-made policy and why policyholders must understand this concept to avoid forfeiting valuable insurance assets.

To begin with, what is a claims-made policy? Well, claims made policy provides coverage for claims that are first "made" during the policy period, regardless of when the underlying conduct occurred. This is distinct from occurrence-based policies, which cover incidents or events that happened during the policy period, even if a lawsuit or claim is then "made" at a later time. Under a claims-made policy, when the policyholder first received a complaint or written demand, and when the policyholder provided notice to its insurer, are common points of contention.

To make matters more complicated, most claims-made policies contain a related claims provision stating that if two or more claims arise out of the same facts or circumstances, they will be treated as a single "claim" under the policy. While confusing, the practical effect is that any and all related claims will be deemed "made" at the time of the earliest claim, even if the later claims fall outside the policy period.

So, to illustrate: suppose Company A is sued for discrimination by a former employee in 2020. Then in 2025, a class action is filed against company A alleging a pattern or practice of discrimination beginning in 2020. Under these circumstances, the 2025 class action may relate back to the 2020 lawsuit for purposes of determining which insurance policy or policies apply.

So, why does this matter? Well, the "related claims" concept can have significant impact on the amount and availability of coverage. For example, insurers sometimes use the "related claims" provision to argue that a new claim is not covered because it relates back to an earlier point in time before their policy began. Likewise, a policyholder might argue that a new claim relates back

to an earlier point in time when it had more insurance available to pay for a claim.

Particularly because insurers and policyholders take different positions depending on the circumstances of their case, case law regarding the “relatedness” of two claims is far from uniform. Courts have devised no bright-line rule or test for this fact-sensitive analysis, and outcomes vary significantly depending on the jurisdiction and the language and the facts of a case.

Given the complexity and high stakes involved, policyholders should seek expert advice when they suspect a claim may be related to a prior matter. Coverage counsel can and should be utilized to analyze the facts of a claim and the policy language in light of the applicable law to determine when and whether a claim may be positioned for coverage. Assuming that a matter is not related may have dire consequences, especially when that assumption is coupled with a decision not to notify insurers until it is too late.

Understanding the concept of a related claim can make or break a request for coverage. We hope this episode is helpful to policyholders facing potentially related claims that want to preserve their rights to coverage.

Thank you for joining us. We look forward to seeing you next time on “[In the Know](#).”