



Lowenstein Sandler's In the Know Series
Video 36 – Spot the Claim. Secure the Coverage.

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NOVEMBER 2025

Heather Weaver: Hi everyone, I'm Heather Weaver, counsel in Lowenstein Sandler's [Insurance Recovery Group](#). Welcome to "[In the Know](#)." Today I want to talk about an important issue—especially under claims-made policies like D&O, E&O, and Employment Practices Liability—and that's understanding what actually counts as a "claim."

It's not just a lawsuit. A lot of policyholders—and even some lawyers—make the mistake of thinking a "claim" only starts when you get formally sued. But most claims-made policies define "claim" much more broadly. It could be a written demand for money or services, a regulatory investigation, a subpoena, or even a threat letter.

Let's say your client gets a letter from a former employee alleging wrongful termination and demanding severance. That could be a "claim" under an EPL policy—even if there's no lawsuit yet. Or you get a subpoena in connection with a government investigation—that's often enough to trigger coverage under a D&O policy.

And here's the kicker: if you don't recognize these as "claims," you might miss your window to notify the insurer. And with claims-made policies, late notice is one of the fastest ways to lose coverage. These policies are strict—if the claim arises during the policy period but you don't report it in time, you might be out of luck.

Now, if something doesn't quite rise to the level of a claim, but you think it might turn into one, look at whether your policy has a "notice of circumstances" provision. This lets you notify the insurer about a potential claim before it formally materializes—and if you do it right, it can lock in coverage under that policy year even if the actual claim comes later. It's a great tool for managing risk, especially if you're nearing the end of a policy period.

So here's your quick takeaway:

- Don't wait for a lawsuit.
- Review how your policy defines "claim."
- Train your clients and internal teams to flag demand letters, subpoenas, and investigation notices early.

And if you're unsure? Loop in coverage counsel early—we can help evaluate whether a claim exists and make sure notice is done correctly. That one email or letter you ignore could be the difference between full coverage and no coverage. So, when in doubt, consult coverage counsel and notify your insurers to make sure you preserve your rights to coverage.