

Single Limit of Liability for Physicians with Same Patient

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The Texas Court of Appeals has held that a lawsuit brought against two doctors, covered under the same policy, for their treatment of the same patient constitutes one "loss event" for purposes of determining policy limits. *Columbia Cas. Co., v. CP Nat'l, Inc.*, 2004 WL 1171877 (Tex. App. May 27, 2004).

The insurer issued a professional liability policy to a physician practice management company in which both doctors practiced. Two physicians in the practice were sued after they allegedly made separate errors interpreting and following up on the same chest x-ray, which they reviewed at separate times. The policy provided for a \$1 million dollar limit per loss event and defined the per loss event limit to apply to "all insureds for all damages to all persons for injuries to one patient." The court held that the language in this provision clearly and unambiguously limited coverage to one limit since only one patient was involved in the underlying case.

The practice management company argued that language in another provision of the policy, which provided that "the limit of liability stated for 'each claim' is the limit of our liability for all injury or damage arising out of, or in connection with, the same or related medical incident," supported its argument that two loss events occurred because the doctors' actions were not causally related to one another since the physicians made separate errors. The court noted that the meaning of "related" was an issue of first impression in Texas and, using the term's "plain, ordinary, and general accepted meaning," it defined "related" as "having a logical or causal connection." The court held that since the medical incidents "involved the same patient, at the same facility, during the same period of time, with regard to the same x-ray, with the same result," all of the alleged acts of malpractice were related medical incidents under the plain meaning of the policy language. Thus, only one policy limit applied.

For more information, please contact us at 202.719.7130.