

## Suit against Two Physicians Constitutes One "Loss Event"

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A state court of appeals, applying Texas law, has held that a lawsuit asserting medical malpractice against two physicians for "related" medical incidents involving one patient constituted a single "Loss Event." *Columbia Cas. Co. v. CP Nat'l* 2004 WL 2066247 (Tex. Ct. App. Sept. 16, 2004).

Two emergency room physicians, insureds under the same medical malpractice liability policy, were sued after they allegedly "misinterpreted, mishandled, and miscommunicated" the results of a chest x-ray of a former patient. The patient later died of cancer, which the underlying suit alleged would have been diagnosed earlier had the physicians not been negligent.

The insurance policy at issue contained a provision limiting liability to \$1 million per claim "for all injury or damage arising out of, or in connection with, the same or related medical incident." This \$1 million "per loss event" limit applied "to 'all Insureds for all Damages to all persons for injuries to one patient.'"

The appellate court concluded that this language clearly and unambiguously meant that if the physicians' conduct arose out of "related" medical incidents, the "all Insureds" language would serve to make all claims against both physicians one "loss event" for purposes of determining the limits of liability. After noting that the term "related" in the context of a medical malpractice policy appeared to be an issue of first impression for Texas, the appellate court determined that the term should be given its ordinary and generally accepted meaning. Thus, the reviewing court concluded that "'related' means having a logical or causal connection." Since the alleged acts of malpractice by both physicians involved the same patient, facility, time period and x-ray, and since they allegedly led to the same result (*i.e.* the alleged delay in proper diagnosis), the court held that the acts were related medical incidents under the plain meaning of the policy's provisions. Thus, the court held that only one loss event occurred and that insurer's total liability under the policy is limited to \$1 million.

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