

Iowa Supreme Court Strictly Applies Notice Requirement of Claims-Made Policy

May 2010

The Supreme Court of Iowa has affirmed summary judgment in favor of liability insurers of a life insurance company on the grounds that the policyholder failed to give timely notice of the underlying claims and that coverage was barred under exclusions for insurance-related activities. *Farm Bureau Life Ins. Co. v. Chubb Custom Ins. Co.*, 2010 WL 1404976 (Iowa Sup. Ct. Apr. 9, 2010).

The policyholder was sued for negligence and breach of fiduciary duty by applicants for life insurance whose blood samples had tested positive for the Human Immunodeficiency Virus (HIV). The policyholder advised the applicants that their applications were denied "due to the blood profile results" and requested authorization to disclose the results to the applicants' physicians. The applicants did not grant the requested authorization and did not discover their HIV status until two years later. The policyholder sought coverage for the applicants' claims under Insurance Company Professional Liability policies, Financial Institutions policies and Commercial Umbrella policies.

The court held that no coverage was owed under the claims-made Professional Liability policies because the policyholder failed to give notice of the underlying claims until two years after the expiration of the policies, which required written notice of claims to the insurer's home office claims department "as soon as practical, but in no event later than ninety (90) days after the termination of the Policy Period." Although the policyholder provided notice of the claims to its broker during the policy period, the court rejected the contention that notice to the broker constituted "substantial compliance" sufficient to satisfy the notice requirement because it was the policyholder's "obligation to strictly, not merely substantially, comply with the notice-of-claim provisions of the claims-made ICPL policy."

The court also determined that coverage was barred under the Financial Institutions and Commercial Umbrella policies, which excluded coverage for "the failure to discharge, or the improper discharge of, any obligation or duty . . . with respect to any . . . contract of insurance . . . including any applications" and for claims arising out of "advising, reporting or making recommendations or the failure to do" specified actions in the insured's capacity as an insurance company. The court held that these exclusions were neither ambiguous nor unconscionable and clearly precluded coverage for claims arising out of the policyholder's alleged breaches of duty and failures to report in its capacity as a life insurer.