

No Coverage for Lawsuit Brought After Expiration of Claims Made Period

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The United States District Court for the District of New Jersey has held that a claims-made-and-reported policy afforded no coverage for a lawsuit filed thirty months after the expiration of the relevant policy's claims-made-and-reported period. *Century 21 Frontier v. Arch Ins. Group*, No. 2:10-cv-1997, 2010 WL 4226515 (D.N.J. Oct. 21, 2010).

A real estate company sought defense costs it had incurred in connection with its successful defense of a malpractice lawsuit. The conduct at issue in the lawsuit occurred in 2003, but the suit was not filed until 2006. The real estate company sought coverage under a claims-made-and-reported policy in place during 2003, as well the policy in place at the time the suit was filed. The 2003 insurer denied coverage on the basis that its policy had long expired by the time the suit was filed. The 2006 insurer also denied coverage, arguing that its retroactive coverage period did not extend back to the time of the 2003 incident.

The court granted summary judgment for the 2003 insurer. Because the claim was not made or reported until after the 2003 policy's expiration date, the court held that the policy issued by the 2003 insurer afforded no coverage. In so holding, the court applied the plain language of the policy and rejected the real estate company's reasonable expectations argument. The court reasoned that if the real estate company had really expected coverage for claims made and reported after the expiration of the 2003 policy, there would have been no reason for it to have purchased the subsequent policy.

The court also denied the real estate company's motion for summary judgment with respect to the 2006 insurer, concluding that the liability issue was not ripe for decision on summary judgment because the parties had not yet conducted discovery.