

# Prior Knowledge Provision Implicated by Insured's Pre-Policy Inception Knowledge of Employee Allegations of Workplace Harassment

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The United States District Court for the Eastern District of Missouri, applying Missouri law, has held that a prior knowledge provision barred coverage for an employee's suit when the insured received a letter from the employee alleging workplace harassment and a Notice of Charge by the U.S. Equal Employment Opportunity Commission. *City of Maplewood, Missouri v. Northland Cas. Co.*, 2012 WL 3578695 (E.D. Mo. Aug. 20, 2012). The court also held in the alternative that coverage was unavailable because the insured did not provide notice of the claim until nearly two years after the claims-made-and-reported policy period expired.

The insured, a municipality, sought coverage for a suit by its employee alleging workplace harassment. The insurer denied coverage for the suit based on the policy's prior knowledge provision, which carved out coverage for any claim arising from any "facts and circumstances which would cause a reasonable person to believe a claim would be made and which are known to any Insured" before the inception of the policy. The insurer also contended that the employee's suit did not trigger coverage under the claims-made-and-reported policy because it was not tendered during the policy period.

The court held that the prior knowledge provision barred coverage for the employee's suit. The court reasoned that the municipality had knowledge before the policy's inception date of the employee's allegations in the suit because the employee sent a letter to the municipality asserting workplace harassment, and the municipality received a Notice of Charge filed by the employee with the U.S. Equal Employment Opportunity Commission. The court explained that these facts "would cause a reasonable person to believe that a claim would be made."

The court also held that no coverage was available for the employee's suit because the municipality did not provide notice of the employee's suit until two years after the expiration of the claims-made-and-reported policy.