

No Duty to Defend When Remaining Claims Allege Only Legal Malpractice

January 2006

In an unreported decision, the Pennsylvania Court of Common Pleas for Philadelphia County has held that a professional liability insurer's duty to defend and indemnify was extinguished when the allegation against the insured in his capacity as director was dismissed and the remaining claims alleged only legal malpractice.

Hunt v. Nat'l Union Fire Ins. Co., 2005 WL 3003471 (Pa. Com. Pl. Nov. 8, 2005). The insured was sued in his capacity as director and as general counsel of a corporation. The court held that the claim against the insured for his actions as general counsel was clearly excluded under the policy's malpractice exclusion. Nevertheless, the insurer's duty to defend was triggered, at least initially, because other counts sought damages for the insured's actions as a director. Once those counts were dismissed, however, the court determined that the insurer's duty "to pay defense costs and to indemnify . . . evaporated."

For more information, please contact us at 202.719.7130