

ALERT

Coverage Properly Denied Where Insured Sends Notice of Claim to Wrong Address

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The United States Court of Appeals for the Third Circuit, applying New Jersey law, has held that an insurer properly denied coverage for an underlying lawsuit brought against the insured where notice of the lawsuit was included in the insured's renewal applications but was not sent to the address designated in the policy's claim and reporting provisions. *Atlantic Health Sys., Inc. v. Nat'l Union Fire Ins. Co.*, 2012 WL 640033 (3d Cir. Feb. 29, 2012).

The insured sought coverage under a claims-made policy for a lawsuit brought against it for alleged antitrust violations. The insurer denied coverage for the lawsuit, claiming that notice of the lawsuit was not provided to the insurer during the policy period or within the policy's 30-day notice period. The insured then brought a coverage action against the insurer, alleging that it had provided the insurer with proper notice of the claim by submitting two renewal applications during the policy period that revealed the insured's involvement in the underlying antitrust lawsuit.

Concluding that the insurer properly denied coverage for the lawsuit, the court first noted that the policy's notice and claim reporting provisions required written notice of a claim to a specified address within a specified time period. Because the insured's renewal applications were sent to a different address than the one specifically designated in the reporting provisions, the court held that the insured failed to strictly comply with the policy's claim and reporting requirements and thus was not entitled to coverage. The court rejected the insured's argument that the policy afforded coverage because the insurer actually received the renewal applications within the time specified by the policy. The court reasoned that the insured must give notice of a purportedly covered

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claim at the address specified by the insurer to facilitate the claims-handling process, and that it was unreasonable for an insured to insist that its insurer's underwriting department sift through a renewal application and decide what should be forwarded to the claims department on the insured's behalf.