

ALERT

News Report Not Notice of Potential Claim

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The Supreme Court of Nevada has held that a news report about a dentist's arrest for anaesthetizing patients with cocaine did not constitute a "claim" that triggered coverage under the dentist's claims-made-and-reported professional malpractice policy. *Physicians Insurance Co. of Wis., Inc. v. Williams*, 279 P.3d 174 (Nev. June 28, 2012).

In 2002, the insured dentist used cocaine to anaesthetize a patient during a root canal. The patient sent the dentist a demand letter in February 2004 and filed suit against the dentist in April 2004, one day after the expiration of the dentist's insurance policy. The dentist did not report the claim to his insurer at any time, and when the patient subsequently made direct demand on the insurer, the insurer took the position that coverage did not exist because the claim had not been made and reported during the policy period. The patient then sued the insurer.

The court rejected the patient's contention that a January 2004 news report about the dentist's practice of using cocaine as anesthetic gave the insurer constructive notice of a potential claim during the policy period. The patient argued that the news report satisfied the policy's definition of "claim," which included "the receipt by [the insurer] of an oral or written report from someone other than [the insured] regarding a professional health care incident that is reasonably likely to give rise to a demand for damages." According to the court, the policy's "repeated references to 'report' and 'reporting' denote more in the way of formal contact between the insurer and the insured or the reporting third party than generalized newspaper notice." Notably, the court continued, the news report had not identified when the wrongdoing had occurred, whether any patients had suffered injury as a result, and, if so, who the injured

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patients might be. The news account therefore did not contain “sufficient specificity” to alert the insurer to the existence of a potential demand for damages against its insured.

The opinion is available [here](#).