Occurrence vs. Claims-Made Policy Forms

The two methods utilized by insurance policies for determining whether coverage is triggered are the “Claims-made” and “Occurrence” approaches.

Occurrence Form

Most personal and commercial general liability insurance policies are written on an “occurrence” policy form. In an occurrence policy, coverage is triggered based upon the date of the event giving rise to the claim. Occurrence policies do not provide coverage for events or acts occurring prior to the effective date of the policy. Because coverage is triggered based upon when the accident or injury occurred, the policy in force on the date of such event is the one which responds to the claim regardless of when the claim is presented to the insurance company. A claim may arise years after the occurrence policy has expired. However, the policy – in effect at the time that event occurred – must nonetheless respond with defense costs (principally attorney fees) and settlement or judgment indemnification.

Claims-Made Form

The “claims-made” policy form is commonly used with liability insurance such as directors & officers’ coverage, medical and legal malpractice insurance, and errors and omissions policies. In a claims-made policy, coverage is triggered by the date the insured first becomes aware of the claim and notifies the insurer. The insurance policy in force on the date the claim is made is the one which responds to the claim. A claims-made policy will extend backwards in time to a “retroactive date,” often the original inception date of coverage. Therefore, the policy will provide coverage for claims made today stemming from actions or events all the way back to that retroactive date. A claims-made policy requires the claim be made during the policy period or an extended reporting period. This form provides coverage only for losses which:

- Occur after the retroactive date and prior to the end of the policy period;
- Are first made and reported during the policy period or extended reporting period.