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Seven Things About Professional Liability Coverage, Part 4: Related & Interrelated Acts

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This is the fourth in a series of posts from the [Federation of Defense & Corporate Counsel's \(FDCC\) Blog](#) on issues arising under professional liability policies. The aim of this series is to provide sufficient background information to allow the defense attorney to identify relevant issues frequently raised by professional liability policies and to formulate a plan for addressing them. This is not a treatise on how different jurisdictions view professional liability issues. For that, the reader should review the DRI's 2012 publication *Professional Liability Insurance: A Compendium of State Law*. There are, of course, other issues of importance not discussed here.

Related and Interrelated Acts

Closely related to the claims made coverage grant and the retroactive date, as illustrated by the *Summit* case discussed in Part 3 (610 N.W.2d 350 (Minn. App. 2000)), is the related and interrelated acts provision. This provision operates to merge claims based on related and interrelated acts into a single claim for limit of liability and deductible/self-insured retention purposes. Also, in a circumstance where an insured is facing multiple claims based upon the same wrongful acts, the related and interrelated acts provision can make claims made after policy expiration part of the original claim made before or during the policy period. Of course, if the original claim was made before the policy period, or if, as in *Summit*, the wrongful acts commenced before the retroactive date and continued after that date, neither claim will be covered.

A typical related and interrelated acts provision is found in the ISO Lawyer's Professional Liability policy, ISO LW 00 01 03 11:

All "claims" arising out of the same "wrongful act" or "interrelated wrongful acts" by one or more "insureds" shall be considered a single "claim". Such single "claim" will be deemed to have been made at the time the first of such "claim" arising out of such "wrongful act" or "interrelated wrongful acts" was first made, regardless of the number of "claims" subsequently made, pursuant to Paragraph C.1. of Section VI, Conditions, or notice of such "wrongful act" or "interrelated wrongful acts" was first reported, pursuant to Paragraph C.2. of Section VI, Conditions.

The term "Interrelated Wrongful Acts" is often defined. For example, in the ISO policy quoted above, the definition provides: "'Interrelated wrongful act' means all causally connected 'wrongful acts' arising out of the same or substantially the same facts, circumstances or allegations which are the subject of or the basis for any 'claim' or 'suit'."

Just as is the case with traditional occurrence based policies, whether the policy holder will benefit from the aggregation of multiple claims into a single claim depends on (1) whether there are different per claim and aggregate limits of liability and (2) the size of the deductible or self-insured retention. If higher limits are needed, the assignment of multiple claims to different policy limits will benefit the insured. If there are many smaller claims, the presence of many deductibles may limit severely the amount available for the insured's defense and indemnity.

In any situation where the interrelated wrongful acts provision may apply, and where the insured has changed insurers during the relevant period counsel should ensure that the claim is reported promptly to both the current insurer and the insurer who was on the risk when the first claim was reported.



Next up: A discussion of self-eroding (or "defense within limits") policies.