

UNPACKING THE “PAC MAN” POLICY: CONSIDERATIONS FOR PROFESSIONAL LIABILITY CLAIM PROFESSIONALS

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1. Claims-Made Policies and Prior Acts
2. Claim
3. Notice
4. Prior Knowledge
5. Insurance Limits

CLAIMS-MADE POLICIES

- Claims-Made Policies: typically provide coverage that are made against an insured during the policy period, regardless of when the events giving rise to the claim occurred
- Typically limit coverage for "Prior Acts"

PRIOR ACTS

- Discovery Clause
 - Provides coverage for acts or omissions that are reported within the policy period, but that have not yet resulted in a claim.

CLAIM

- What is a “Claim”?

NOTICE

- Condition precedent to coverage.
- Failure to report potential incidents may result in a claim for rescission due to misrepresentation.

PRIOR KNOWLEDGE

SUBJECTIVE COMPONENT

Did the insured subjectively know of certain facts?

OBJECTIVE COMPONENT

Would a reasonable lawyer have recognized that an act or omission had occurred that might lead to a claim?

LIMITS

- Payment of defense costs
- Do defense costs reduce the liability limits?
- Defense counsel
- Deductible
- Types of limits
- Minimum limits required by law



Questions?