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Navigating Claims-Made Policies: Five Lessons from Match Group LLC v. Beazley Underwriting Ltd.

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As many policyholders are acutely aware, the insurance landscape is complex, with numerous insurers offering a wide range of available insurance programs. While some coverage forms are standard, many are unique to specific industries and even to individual insurance companies. This diversity makes it critically important for policyholders to know the risks that their particular insurance policy covers and their responsibilities when seeking coverage. And often nowhere are these coverage nuances more crucial to properly understand than in determining what constitutes a “claim” under a given insurance policy and knowing how and when to provide notice of that claim to the insurer. This is especially true in the context of “claims-made” policies, which generally only provide coverage for claims made during the policy period.

The Second Circuit’s recent decision in ***Match Group, LLC v. Beazley Underwriting Ltd.***, 2024 WL 3770709 (2d Cir. Aug. 13, 2024), highlights the significance of these issues and offers essential lessons that policyholders can leverage to better navigate their rights and obligations under claims-made policies, and to mitigate the risk of any missteps that may jeopardize the availability of their insurance coverage to protect against potential financial loss.

Match Group LLC v. Beazley Underwriting Ltd.

In *Match Group*, the parent company of the popular dating app Tinder was sued by John Mellesmoen, a product-development consultant who alleged that he was not paid for inventing the app’s “Super Like” feature.

Mellesmoen’s attorneys sent Tinder a letter in February 2016, outlining Mellesmoen’s alleged meeting with Sean Radd, Tinder’s then-CEO, at a shopping mall where Mellesmoen first pitched his idea for the “Super Like” feature. The letter alleged Tinder stole Mellesmoen’s idea without compensating him and threatened suit against Tinder if it did not contact him to resolve his claims. Tinder did not provide the letter to its liability insurer.

Mellesmoen later sued Tinder on August 18, 2016. Tinder provided notice of the lawsuit to its insurer on August 22 – two days after the end of the policy period. The insurer denied coverage. While Tinder’s policy provided a notice “grace period,” which allowed Tinder to report claims up to 60 days after the end of the policy period, the grace period applied only to claims made within the last 60 days

of the policy period. The insurer contended that Mellesmoen's February 2016 letter constituted a "claim" under the policy, thereby obviating the protections of the policy's grace period and rendering Tinder's notice untimely.

The policy defined a "claim" as a "demand . . . for money or services, including the service of a suit or institution of arbitration proceedings" or "a threat . . . of a suit seeking injunctive relief." In its federal declaratory action, Tinder argued that while the letter was explicitly a "threat of a suit," it did not seek injunctive relief. And further, the letter was not a demand for money, service of a suit, or institution of arbitration, but rather simply an invitation to negotiate toward an amicable resolution of the dispute. According to Tinder, although Mellesmoen's grievance might be resolved with the payment of money, his grievance might also be resolved another way – such as by providing Mellesmoen with recognition for his idea, or employment with Tinder, or by bestowing him with some other benefit besides money. The district court agreed with Tinder and denied the insurer's motion to dismiss.

On review, the Second Circuit sided with the insurer, holding that Mellesmoen's letter qualified as a "claim" under the policy, thereby triggering Tinder's obligation to report the claim before the end of the policy period. The court reasoned that even though Mellesmoen did not outright demand a sum certain from Tinder, by stating in his letter that he had legal claims against Tinder that he believed he was entitled to compensation and that he would sue if Tinder did not contact him to resolve his claims, Mellesmoen was clearly seeking payment of money.

While the *Match Group* case resulted in an unfortunate outcome for Tinder, it offers valuable lessons for other policyholders navigating the complexities of claims-made policies, particularly in understanding their obligations regarding claim identification and notice reporting.

Lesson 1: Understand the definition of a "claim."

Policyholders must recognize that what constitutes a "claim" can vary significantly among policies. In *Match Group*, the court construed Mellesmoen's letter as a claim because it indicated a right to compensation and threatened legal action. While a similar letter might not qualify as a "claim" under the provisions of other liability policies, policyholders should familiarize themselves with their policy's definition of a "claim" to avoid missing critical reporting windows.

Lesson 2: Know the notice reporting requirements.

Every claims-made policy will have specific notice provisions that dictate how and when claims should be reported to the insurer. And critically, not all notice provisions are created equal. For example, the market standard for claims-made notice reporting requirements is to provide a 60-day grace period that extends coverage to any claim made during the policy period so long as it is reported to the insurer within 60 days of the end of the policy period. However, some claims-made policies, as was the case with the *Match Group* policy, include non-standard grace periods that allow for reporting only of claims made during the last 60 days of the policy period. *Match Group* illustrates the coverage consequences of a policyholder's failure to fully appreciate this potential difference.

Moreover, it is important for policyholders to recognize the impact of state laws on the calculation of their reporting deadlines. For example, in *Match Group*, the Second Circuit noted that New York's General Construction Law Section 25 allows for "an extension of time when contractual performance is authorized or required on a weekend." If a contract requires the performance of a condition on a weekend or public holiday, a party may have until the next succeeding business day "unless the

contract expressly or impliedly indicates a different intent.” Tinder’s policy period ended on August 20, 2016 – a Saturday. Because the district court concluded that the February 2016 letter was not a claim in the first place, it never analyzed the statute’s effect on the timeliness of Tinder’s notice to the insurer. The Second Circuit therefore remanded the case to the district court for further consideration of the issue.

Understanding the interplay between state laws and insurance policy requirements is essential for ensuring compliance with reporting deadlines. Policyholders must understand the impact of these nuances on their rights and obligations. By doing so, they can better protect themselves against potential pitfalls and maintain the coverage they need when faced with claims.

Lesson 3: Audit and negotiate policy terms.

The *Match Group* case underscores the potential risks associated with non-standard notice reporting requirements for insureds under claims-made policies. It also illustrates that the flexibility of market-standard notice provisions can offer essential protection to policyholders by providing broader reporting windows that account for unexpected delays in notifying insurers of a claim. Indeed, had Tinder’s policy included a standard 60-day grace period for claims reporting, the notice of suit to its insurer two days after the end of the policy period would have no doubt been timely.

To avoid similar issues, policyholders should regularly review their claims-made policies to pinpoint any stringent notice reporting requirements, such as those found in the *Match Group* policy. If they discover strict notice provisions, policyholders should feel empowered to negotiate for more favorable terms. Aligning notice reporting requirements with market standards can enhance flexibility and safeguard coverage. Recognizing these differences is vital for policyholders to ensure they do not unintentionally compromise their coverage due to discrepancies between their policy’s terms and common industry practices.

Lesson 4: Document communications.

Clear documentation and communication with the insurer in claim reporting is essential. In the event of a dispute, having a well-maintained record of communications can support an insured’s position on timely reporting and compliance with policy requirements. Further, erring on the side of over-reporting potential claims (as notice of circumstances, for example) can be a prudent strategy depending on the availability of insurance limits, as it ensures that no claim goes unaddressed. Tinder’s failure in the *Match Group* case to provide notice promptly led to complications that likely could have been avoided with better documentation and reporting practices.

Lesson 5: Seek legal counsel.

Finally, when in doubt, seeking legal advice can prevent costly mistakes. Legal professionals can explain obtuse policy language and ensure that notice requirements are met, helping policyholders safeguard their coverage. The complexities of the *Match Group* case highlight the importance of consulting with experienced legal counsel to navigate insurance policies effectively.

In sum, *Match Group* serves as a poignant reminder of the intricacies involved in navigating claims-made insurance policies. The decision underscores the necessity for policyholders to have a comprehensive understanding of their policies, particularly with respect to claim notice requirements. By recognizing these complexities and actively engaging with their policies, policyholders can

safeguard against the risk of financial loss due to misunderstandings or misinterpretations of key coverage provisions. In an era where the nuances of insurance law can have significant legal and financial implications, ensuring that all obligations are met and that claims are appropriately reported can make all the difference. Ultimately, proactive management of insurance policies and a keen awareness of their terms will equip insureds to effectively maintain critical coverage and protect against potentially debilitating and otherwise avoidable financial loss.

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