

Emmis Communications Corporation v. Illinois National Insurance Company

Year: 2019

Court: United States Court of Appeals for the Seventh Circuit

Case Number: 18-3392

In its brief, UP argues against the panel’s decision that would force insurance agents, reporting under a D&O policy at an early stage of litigation, to judge whether a claim is “related” to an earlier claim and select among potentially triggered policies the one policy they think applies. This selection comes with the risk that they will limit or destroy coverage if they are wrong. UP argues that the panel’s decision upends important reliance interests and fundamentally restructures how claims-made insurance works. The panel’s decision creates practical problems for brokers and policyholders reporting claims, and obliterates the established structure of giving notice. The “Emmis clause,” as the panel’s decision sets out, would put the policyholder in a position that could unreasonably forfeit coverage. Brokers could be on the hook for this forfeiture of coverage since they often undertake the reporting duty. UP argues for a favorable reading of the related claims clause using common insurance interpretation canons. UP also argues that the reading of the clause deprives policyholders of valuable coverage rights and dispute-resolution tools.

This brief was drafted pro bono by George M. Plews and Gregory M. Gotwald of Plews Shadley & Braun, LLP