

Insurer Conduct Can Lead Policyholders Into Suit Limitation Traps

A white paper posted by Jones Day partner Tara Kowalski on the firm's Insurance Policy Advocate site says a recent string of cases addressing suit limitation provisions serves as a reminder of the numerous traps that surround such provisions and how insurer conduct can be misleading in those situations.

The article points out that suit limitation provisions are the contractual equivalent of statutes of limitations.

"They require policyholders to file coverage lawsuits within a specified period of time or risk forfeiting coverage for the claim at issue. The most common time period is one or two years – which is often shorter than the otherwise applicable statute of limitations," Kowalski writes. "Despite the potential for Draconian results, suit limitation provisions are generally enforceable, subject to certain limitations. And, some jurisdictions don't require a showing of prejudice from the insurer. Suit limitation provisions are often found in first-party policies and only rarely in liability policies." She offers a summary of some recent cases addressing suit limitation provisions, as well as some practice pointers based on the rulings in those cases.

Read the white paper.