

Errors & Omissions Liability

Medmarc.com

CASE STUDY: Original Equipment Manufacturers

Manufacturers and distributors of medical technology and pharmaceuticals readily understand their need for protection against products liability claims—allegations that their product caused bodily injury or property damage—but may not always consider their vulnerability to customer claims for consequential financial losses. Medmarc's new E&O coverage will respond if a failure in the insured's product or servicing causes its customer financial loss, including expenses associated with a recall. The coverage is designed to meet the unique needs of life sciences companies and provides protection that is broad enough to cover a wide range of activities these companies perform.

The Manufacturer & The Product

Dentaplants, Inc., is a manufacturer and distributor of dental implants. One of their newer, 510(k)-approved products is a one-stage implant that demonstrated decreased patient bone loss as compared to the traditional two-stage implants in clinical trials. Dentaplants emphasized these findings in its marketing of the new implants to dentists, along with their greater ease in implantation.

The Facts

In the months after the new implants were commercialized, Dentaplants began fielding complaints of discomfort and other complications from patients that had received the implants. Dentist users reported increased bone loss in these patients. In light of these complications, patients returned to their dentists demanding extraction of the one-stage implants and their replacement with traditional implants.

Upon investigating the complaints, Dentaplants isolated a design defect that was likely responsible for these unexpected results. Although the company ultimately determined a recall was necessary, it was not undertaken before almost 250 patients underwent extraction and replacement procedures at the expense of their dentists.

The Lawsuit

The more than 220 dentists that had performed extraction and replacement of the one-stage implants for their patients submitted claims to Dentaplants for their time and expense in performing the procedures.

Because the dentists had not experienced bodily injury or property damage, these claims were not covered under Dentaplants' products liability policy.

Result

Dentaplants settled with the dentists for just under \$4,000 each, for a total of \$880,000. In addition, the company incurred legal fees of about \$32,000 in negotiating and executing these settlements, making the total claim expense \$912,000.

Medmarc's E&O policy would handle the dentists' claims and cover all these costs.

Policy Features

- Up to a \$5m limit
- Claims made and reported
- Stand-alone, separate policy
- No co-insurance provision
- Automatic 90-day extended reporting period with optional additional 6 years
- Available to companies with a Medmarc products liability policy
- Policy is non-auditable so premium is known at outset
- Aggregate SIR

