IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ALLIED WORLD SURPLUS LINES INSURANCE COMPANY, Plaintiff, v. GEORGIA CRYOSERVICES, INC., et al., Defendants.	CIVIL ACTION FILE NO. 1:23-CV-3443-TWT

OPINION AND ORDER

This is a declaratory judgment action. It is before the Court on Plaintiff Allied World Surplus Lines Insurance Company ("Allied World")'s Motion for Summary Judgment [Doc. 29] and the Plaintiff's Motion for Leave to File Amended Motion for Summary Judgment [Doc. 30]. For the reasons explained below, the Plaintiff's Motion for Summary Judgment [Doc. 29] is GRANTED and the Plaintiff's Motion for Leave to File Amended Motion for Summary Judgment [Doc. 30] is GRANTED.

I. Background[1]

This case involves an insurance coverage dispute. Defendant Georgia Cryoservices, Inc. is the holding company of Defendants Xytex Corporation and

[1] The operative facts on the Motion for Summary Judgment are taken from the parties' Statements of Undisputed Material Facts and the responses thereto. The Court will deem the parties' factual assertions, where supported by evidentiary citations, admitted unless the respondent makes a proper objection under Local Rule 56.1(B).

Xytex Cryo International Ltd.[2] (Defs.' Resp. to Pl.'s Statement of Undisputed Material Facts ¶ 1; Answer ¶ 5). Xytex operates a sperm bank, selling vials of semen to clients. (Pl.'s Statement of Undisputed Material Facts ¶ 3). Defendant J. Todd Spradlin is the medical director of Xytex Corporation, and Defendant Mary Hartley is an employee of Xytex Corporation. (Defs.' Resp. to Pl.'s Statement of Undisputed Material Facts ¶ 2; Answer ¶¶ 8-9). Plaintiff Allied World issued Miscellaneous Medical Facilities Professional and General Liability Insurance Policy No. 0308-1207 to Named Insured Georgia Cryoservices, Inc. for the Policy Period of March 9, 2020 to March 9, 2021 ("Policy"). (Pl.'s Statement of Undisputed Material Facts ¶ 22). Each of the Defendants constitute insureds under the Policy. (*Id.* ¶ 23).

In the course of its business, Xytex sold semen from an individual known as "Donor 3116" to various clients ("Donor 3116 Clients"). (*Id.* ¶ 4). On or around February 8, 2019, Xytex notified the Donor 3116 Clients regarding certain genetic abnormalities discovered in some of Donor 3116's offspring and advised that Xytex was testing Donor 3116 for the same chromosomal abnormality. (*Id.* ¶ 5). By February 11, 2019, Xytex confirmed to the Donor 3116 Clients that Donor 3116 is a carrier of a chromosome duplication that has risk implications for his offspring. (*Id.* ¶ 6; Fisher Decl., Ex. 9, at 3; Answer ¶ 65). In response to this correspondence, several of the Donor 3116 Clients

[2] The Court will refer to these Defendants collectively as "Xytex."

sent emails between February 8, 2019 and May 10, 2019, reacting to the information. (Pl.'s Statement of Undisputed Material Facts ¶¶ 7-8, 10-15). The Defendants did not report these emails to Allied World at the time. (*Id.* ¶¶ 16-17).

In September 2020, various Donor 3116 Clients filed seven lawsuits in Canada ("Canadian Actions") against a related entity, Outreach Health Services, Inc. ("Outreach"). (*Id.* ¶ 18). The Defendants reported the Canadian Actions to Allied World on October 5, 2020. (*Id.*). Then, on February 3, 2021, the Defendants reported two more lawsuits filed in Georgia ("Georgia Actions") by various Donor 3116 Clients (*Id.* ¶ 20). The lawsuits in both the Canadian Actions and the Georgia Actions assert, among other things, that Outreach (for the Canadian Actions) or the Defendants (for the Georgia Actions) failed to test for and failed to disclose that Donor 3116 had genetic abnormalities. (*Id.* ¶¶ 19, 21). On November 4, 2020, Allied World agreed to provide a defense to the Defendants in the Canadian Actions under the Policy, subject to a complete reservation of rights. (*Id.* ¶ 34). Allied World did the same for the Georgia Actions on March 17, 2021. (*Id.* ¶ 35). Then, Allied World filed the present suit on August 2, 2023 requesting that the Court declare that the Policy affords no coverage or duty to defend to the Defendants for either the Canadian Actions or the Georgia Actions. (Compl. ¶ 82). Allied World now moves for summary

judgment on its claim for declaratory relief.[3]

II. Legal Standard

Summary judgment is appropriate only when the pleadings, depositions, and affidavits submitted by the parties show that no genuine issue of material fact exists, and that the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a), (c). The court should view the evidence and draw any inferences in the light most favorable to the nonmovant. *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 158-59 (1970). The party seeking summary judgment must first identify grounds that show the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323–24 (1986). The burden then shifts to the nonmovant, who must go beyond the pleadings and present affirmative evidence to show that a genuine issue of material fact exists. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 257 (1986).

III. Discussion

This dispute ultimately comes down to when a "claim" was first made to the Defendants under the terms of the Policy. Allied World argues that a claim

[3] Allied World inadvertently forgot to file the Motion for Summary Judgment when it filed its brief and other supporting documents. (Pl.'s Br. in Supp. of Mot. for Leave to File Amended Mot. for Summ. J., at 1-2). Three days after it had docketed its documents to support its Motion for Summary Judgment, Allied World realized its mistake and filed a motion seeking leave to file an amended motion for summary judgment to include the Motion for Summary Judgment. (*Id.*). Given that Allied World quickly rectified the oversight and that the Defendants have offered no response or opposition, the Court will grant the Motion for Leave to File.

was first made—at the latest—by May 10, 2019, when the last email sent by one of the Donor 3116 Clients was sent to the Defendants. (Pl.'s Br. in Supp. of Mot. for Summ. J., at 17). Accordingly, Allied World asserts that the claim was made prior to the inception of the Policy and that the Policy does not provide coverage to that claim or any related claims, including the Canadian and Georgia Actions. (*Id.*, at 17-25). On the other hand, the Defendants maintain that none of the emails the Donor 3116 Clients sent to them constitute a claim under the terms of the Policy. (Defs.' Br. in Opp'n to Mot. for Summ. J., at 12-17). Thus, the first claim was when the Canadian Actions were filed, which occurred during the Policy's term and was timely reported to Allied World. (*Id.*, at 12). After reviewing the arguments and authorities from each side, the Court concludes that a claim was made in 2019 and that summary judgment for Allied World is appropriate.

The Court will start its analysis by looking to the language of the Policy. Under Georgia law, the Court must interpret an insurance policy under ordinary rules of contract construction. *Boardman Petroleum, Inc. v. Federated Mut. Ins. Co.*, 269 Ga. 326, 327 (1998) (citation omitted). Specifically, "[a]ny ambiguities in the contract are strictly construed against the insurer as drafter of the document; any exclusion from coverage sought to be invoked by the insurer is likewise strictly construed; and insurance contracts are to be read in accordance with the reasonable expectations of the

insured where possible." *Id.* at 328 (quotation marks and citation omitted). That being said, "the plain meaning of [unambiguous] terms must be given full effect, regardless of whether they might be beneficial to the insurer or detrimental to the insured." *Tripp v. Allstate Ins. Co.*, 262 Ga. App. 93, 96 (2003) (quotation marks and citation omitted). Furthermore, "[t]he contract is to be considered as a whole and each provision is to be given effect and interpreted so as to harmonize with the others." *Boardman Petroleum, Inc.*, 269 Ga. at 328 (citation omitted).

The Policy provides claims-made-and-reported professional liability coverage. (Pl.'s Statement of Undisputed Material Facts ¶ 24). "A claims-made policy is a policy wherein the coverage is effective if the negligent or omitted act *is discovered* and brought to the attention of the insurer within the policy term." *Serrmi Prods., Inc. v. Ins. Co. of Pa.*, 201 Ga. App. 414, 414 (1991) (emphasis added) (quotation marks and citation omitted). Thus, "[c]overage depends on the claim being made and reported to the insurer during the policy period." *Id.* at 415 (citation omitted). The Policy Period runs from March 9, 2020 to March 9, 2021, unless cancelled before the expiration date. (Fisher Decl., Ex. B, p. 1; § II.II).

The Policy states: .

> The Insurer will pay on behalf of the Insured, Loss, and Defense Expenses in excess of the Deductible . . . and subject to the Limits of Liability . . . which the Insured becomes legally obligated to pay as a result of a Claim alleging a Medical Incident, provided

always that:

1. such Medical Incident takes place on or after the Retroactive Date stated in Item 5(a) of the Declarations and before the end of the Policy Period;

2. such Claim is first made against the Insured during the Policy Period or any applicable Extended Reporting Period;

3. notice of such Claim is given to the Insurer in accordance with Section IV.B. of this Policy; and

4. such Medical Incident takes place in the Coverage Territory.

(*Id.*, § I.A).

The Policy defines "Loss" as "any monetary amount paid on account of an award, judgment or settlement, including punitive and exemplary damages where insurable by law, in excess of the applicable Deductible or self-insured retention, if any, . . . which the Insured is legally obligated to pay as a result of a Claim." (*Id.*, § II.X). Several types of Losses are explicitly excluded by the Policy, including "the return, restitution, refund or disgorgement of fees, profits charges for products or services rendered, capitation payments, premium, other funds or amounts allegedly wrongfully held, obtained and/or retained by an Insured." (*Id.*, § II.X.5).

"Medical Incident" means, in relevant part, "an actual or alleged act, error or omission in connection with the Insured's performance of quality assurance activities." (*Id.*, § II.Z.4).

The definition of a "Claim" under the Policy is "a judicial proceeding or other written demand seeking monetary damages otherwise covered by this Policy." (*Id.*, § II.F). Furthermore, "a Claim shall be deemed first made when any Insured first receives notice of the Claim." (*Id.*). The Policy also provides that "[a]ll Related Claims, whenever made, shall be deemed to be a single Claim and shall be deemed to have been first made on the earliest of the following dates:

> 1. the date on which the earliest Claim within such Related Claims was received by an Insured; or
>
> 2. the date on which written notice was first given to the Insurer of an act, error, omission or Occurrence which subsequently gave rise to any of the Related Claims, regardless of the number and identity of claimants, the number and identity of Insureds involved, or the number and timing of the Related Claims, and even if the Related Claims comprising such single Claim were made in more than one Policy Period.

(*Id.*, § IV.C). "Related Claims" is defined under the Policy as "all Claims based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the same or related facts, circumstances, situations, transactions, events or involved individuals or the same or related series of facts, circumstances, situations, transactions, events or involved individuals, whether related logically, causally or in any other way." (*Id.*, § II.MM).

Given these definitions, the Court turns to the question at bar: does the Policy afford coverage to the defense expenses of the Canadian and Georgia Actions? The answer to that question is largely determined by whether any of

the emails from the Donor 3116 Clients constitute a "Claim" under the Policy.[4] Allied World says yes; the Defendants disagree and argue instead that the emails only provided notice of a wrongful act. The Court concludes that at least one of the emails fits the Policy's definition of a Claim.

Since none of the emails are a "judicial proceeding," the issue is whether any of them qualify as a Claim in virtue of being a "written demand seeking monetary damages otherwise covered by this Policy." The Defendant argues that none of the emails seek monetary damages and that—to the extent that any of them do seek monetary damages—there is a fact issue as to whether the damages sought are "otherwise covered by this Policy." (*See generally* Defs.' Br. in Opp'n to Mot. for Summ. J.). The Court will focus on two emails: one sent on April 1, 2019, and another sent on May 10, 2019. The April 1 email states in part:

> Our solicitor has advised us to contact you in the first instance to see if this can be resolved amicably between all parties.
>
> We would like a full refund for all 3 vials that were purchased, along with associated shipping and 2 year storage costs at the Herts & Essex Fertility Clinic in the UK.

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[4] As explained below, the emails are related to the Canadian and Georgia Actions under the terms of the Policy. Because all the emails were received prior to the policy coverage date and because Related Claims are deemed to have been made on the date that the insured received the earliest Claim among the Related Claims, only one of the emails needs to fall under the Policy's definition of a Claim for coverage to be excluded. The Court will thus focus on the emails that most strongly fit under the Policy's definition of a Claim.

> Your fees: £2354.88 (at current exchange rate)
> Herts & Essex Admin Fee £750.00
> Semen Storage £525.00
> Semen Storage Year 2 £360.00
>
> Total: £3989.88
>
> Furthermore we would like a full refund for the full complete cycle of IVF that was completed by Herts & Essex Fertility Clinic with this donor sperm in 2018.
>
> We are awaiting this complete cost from Herts & Essex – in the region of £8000.00.

(Fisher Decl., Ex. 10). The May 10 email states in part:

> As starting point [sic], I would like to understand whether or not my fertilised eggs are still viable or whether they should be destroyed. I have been told by Mr[.] Trew that I should consultant [sic] with a genetics counsellor. The cost of that appointment is £300. I have been chasing Jamie Dokson to understand whether Xytex will cover the cost of that appointment for over a month and not received a substantive response. Instead, Mr. Dokson simply asserts that my request is with your management team.
>
> . . .
>
> In addition, I consider it Xytex's responsibility to reimburse me for the full treatment that I had in 2017, which was a waste of money (not to mention my time and the emotional trauma of dealing with the new after effects and how to manage this situation going forward). I have already asked for this compensation and rather than engaging with my request, I was told that Xytex will give me new sperm or a refund on the cost of the faulty sperm.
>
> . . .
>
> Not only has Xytex provided with a faulty product and caused me financial loss and emotional trauma but, to date, you cannot even take enough care of your customers to respond promptly to their requests and to provide appropriate support to deal with the after

> effects of a situation of your making.
>
> If I do not receive I [sic] response, I intend to seek legal advice and commence legal proceedings against Xytex.

(*Id.*, Ex. 12).

It is the Defendants' position that neither of these emails are "written demand[s] seeking monetary damages." (Defs.' Br. in Opp'n to Mot. for Summ. J., at 15-17). For the April 1 email, the Defendants assert that it is "more akin to a notice of intent to seek monetary damages in the future, not an actual demand." (*Id.*, at 16).[5] They argue this because "the email provides that the client is still 'awaiting this complete cost' from certain services the client received in 2018." (*Id.*). There are a couple issues with this argument. For starters, the Defendants point to nothing in the Policy or in the case law that requires the demand for money damages to provide an exact dollar figure of the damages the claimant is asking for. Second, even if such a requirement does exist, the email says that the Clients were only awaiting the complete cost for the IVF cycle they completed. They do provide the exact figures they are demanding for the Defendants' fees, the administrative fee for the fertility clinic, and the storage fees for storing the semen at the fertility clinic, altogether totaling £3989.88. (Fisher Decl., Ex. 10, at 2). The Defendants

[5] The Defendants' brief inadvertently refers to this email as the "May 1, 2019 email." No such email exists in this case, and it is clear from the quotation and description of the email that they are referring to the April 1 email.

provide no persuasive argument or authority for why the request for that money is "not an actual demand." (Defs.' Br. in Opp'n to Mot. for Summ. J., at 16).

As for the May 10 email, the Defendants contend that the email contains no demand for money, but instead "her demand is for a response to the email." (*Id.*, at 15). This is sophistry. The response she is asking for is a "response to my requests." (Fisher Decl., Ex. 12, at 1). Those requests are (1) £300 for an appointment with a genetic counselor and (2) £8,000 for the cost of the fertility treatment she had gone through. (*Id.*, at 1-2). She then states that if she does not receive a response, she "intend[s] to seek legal advice and commence legal proceedings against Xytex." (*Id.*, at 2). The only reasonable reading of this email is that the Client is demanding monetary compensation from the Defendants.

Finally, the Defendants point out that the lawsuits did not happen for over a year after these emails were sent and that "[i]f these clients were demanding monetary damages, and not just information, it is nonsensical that they would wait more than a year to file a lawsuit." (Defs.' Br. in Opp'n to Mot. for Summ. J., at 17). The timing of the lawsuits or whether these Clients were a part of those lawsuits are irrelevant. The Policy does not require any lawsuit at all. The Policy states that a Claim is "a judicial proceeding *or* other written demand seeking monetary damages otherwise covered by this Policy." (Fisher

Decl., Ex. B, § II.F). To require someone to file a lawsuit—much less filing one within a certain period of time—would be to improperly read the phrase "or other written demand seeking monetary damages" out of the Policy. *See ALEA London Ltd. V. Woodcock*, 286 Ga. App. 572, 576 (2007) ("[I]t is well established that a court should avoid an interpretation of a contract which renders portions of the language of the contract meaningless." (citation omitted)).

Ultimately, the Clients in both of these emails are doing more than simply telling the Defendants that the Defendants did something wrong. Rather, they are asking for sums of money to rectify the harm caused by the Defendants' alleged wrongdoing. *Compare, e.g.*, *Nat'l Fire Ins. v. Bartolazo*, 27 F.3d 518, 519 (11th Cir. 1994) (finding that a letter referencing a person's "claim for medical malpractice and other relief against him" does not count as a claim because there was no demand for money) *with, e.g.*, (Fisher Decl., Ex. 10, at 2) ("We would like a full refund for all 3 vials that were purchased, along with associated shipping and 2 year storage costs at the Herts & Essex Fertility Clinic in the UK[, totaling £3989.88]. Furthermore we would like a full refund for the full complete cycle of IVF that was completed by Herts & Essex Fertility Clinic with this donor sperm in 2018."). In other words, these Donor 3116 Clients were making a "written demand for monetary damages." (*Id.*, Ex. B, § II.F).

Thus, both Clients made Claims under the Policy if the monetary damages they sought are "otherwise covered by th[e] Policy." (*Id.*). The Policy provides that "[t]he Insurer will pay on behalf of the Insured, Loss, and Defense Expenses . . . which the Insured becomes legally obligated to pay as a result of a Claim alleging a Medical Incident," subject to four conditions. (*Id.*, § I.A). Those four conditions are that (1) the Medical Incident occurs on or after the retroactive date, (2) the Claim is first made against the insured during the policy period, (3) notice of such Claim is given to the insurer as required by the Policy, and (4) the Medical Incident takes place in the coverage territory. (*Id.*).

The emails allege a Medical Incident under the terms of the Policy since they complain of an error in the Defendants' quality assurance activities. *Compare* (*Id.*, § II.Z.4) *with* (*Id.*, Ex. 10, at 1) ("We can not explain how devastated we were by your letters dated 11th February 2019 and subsequent letter dated 21st march 2019. We were under the impression that the 3 vials we purchased from this donor were clear of all genetic abnormalities[.]" *and* (*Id.*, Ex. 12, at 2) ("Not only has Xytex provided [sic] with a faulty product and caused me financial loss and emotional trauma . . ."). Likewise, there is no dispute that the Medical Incident took place on or after the retroactive date and in the coverage territory. (*See id.*, Ex. B, §§ II.G., II.NN).[6] Instead, the

[6] The second and third conditions of Section 1.A of the Policy presupposes the existence of a Claim. It would be circular to say that a Claim does not exist because the Claim was not made during the policy period or

Defendants make two arguments for why the monetary damages requested in the emails are not "otherwise covered by this Policy." (*Id.*, § II.F). They argue that some of the damages the emails requested clearly are not covered as Losses under the Policy and that there is a genuine issue of material fact as to the rest of the requested damages due to Allied World's reservation of rights. (Defs.' Br. in Opp'n to Mot. to Dismiss, at 17-19). The Court agrees as to the first point but not the second.

First, as stated above, the Policy specifically excludes from its definition of Loss "the return, restitution, refund or disgorgement" of funds allegedly wrongfully retained by an insured. (Fisher Decl., Ex. B., § II.X.5). Thus, when the April 1 email requested a "full refund for all 3 vials that were purchased," that does not count as a demand for monetary damages otherwise covered by the Policy. (*Id.*, Ex. 10, at 2).[7] However, the rest of the requests in that email are for expenses the Clients paid for at Herts & Essex Fertility Clinic, which would not fit within the exclusion of the Policy's definition of Loss. (*See id.*). Similarly, the May 10 email includes requests that the Defendants pay for treatment and counseling not done by the Defendants and would not be excluded under Section II.X.5 of the Policy. (*See id.*, Ex. 12). There is no assertion that the other damages requested in the emails either do not fit the

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because notice of the Claim was not properly provided to the insurer.

[7] The same is true for the requests for refunds in the other emails.

general definition of Loss or fall within another exclusion. Nor do the Defendants argue that including a request for damages not covered by the Policy suddenly excludes coverage for the Losses that would otherwise be covered—perhaps because such a rule would make little sense. Therefore, while the Court agrees that some of the requests would not be covered under the Policy, that does not prevent these emails from being Claims.

The Defendants' second contention is that the fact that Allied World maintains its reservation of rights to deny coverage is sufficient to create a genuine issue of material fact. There are several issues with this argument. First, the Court will not consider any of the facts that the Defendants use to support this argument. The Local Rules state that "[a] respondent to a summary judgment motion shall include . . . [a] statement of additional facts which the respondent contends are material and present a genuine issue for trial. Such separate statement of material facts must meet the requirements set out in LR 56.1(B)(1)." LR, N.D.Ga. 56.1(B)(2)(b). Under LR 56.1(B)(1), "[t]he Court will not consider any fact . . . set out only in the brief and not in the movant's statement of undisputed facts." LR, N.D.Ga. 56.1(B)(1)(d). Since the Defendants did not submit a statement of additional facts and since all of the facts about Allied World's reservation of rights appear in the Defendants' brief, the Court will not consider those facts.

Without any supportive facts, the Defendants cannot rebut Allied World's showing that no genuine issue of material fact exists. Moreover, the Defendants fail to point to any authority that shows that reserving the right to deny coverage necessarily means that there is a genuine dispute of material fact as to whether a particular demand would be covered by an insurance policy. (*See* Defs.' Br. in Opp'n to Mot. for Summ. J., at 17-19). The only citation to authority in this section of their brief is for the statement that "[c]ourts have long 'held that the determination of whether a given demand is a "claim" within the meaning of a claims made policy requires a fact-specific analysis to be conducted on a case-by-case basis.'" (*Id.*, at 17) (quoting *FDIC v. Mijalis*, 15 F.3d 1314, 1331 (5th Cir. 1994)). That is exactly what the Court has done throughout this Opinion and Order. After conducting such an analysis, the Court has determined that both the April 1 email and May 10 email fall under the Policy's definition of a Claim.

Since the emails constitute Claims, the only remaining question is whether they are related to the Canadian and Georgia Actions. The Policy's definition of Related Claims—reproduced above—is quite broad. If the Canadian and Georgia Actions are based on, arise out of, directly or indirectly result from, are in consequence of, or in any way involve the same or related facts (whether related logically, causally, or in any other way) as the Claims made in the April 1 and May 10 emails, then they are related. (*See* Fisher

Decl., Ex. B, § II.MM). Courts give broad effect to such policy terms. *See, e.g.*, *Am. Cas. Co. of Reading, Pa. v. Belcher*, 709 F. App'x 606, 609-10 (11th Cir. 2017); *Direct Gen. Ins. Co. v. Indian Harbor Ins. Co.*, 661 F. App'x 980, 983-84 (11th Cir. 2016); *Kilcher v. Cont'l Cas. Co.*, 747 F.3d 983, 989-90 (8th Cir. 2014). The Defendants do not provide any argument that the Claims here are not sufficiently related. Their only argument is that they cannot be Related Claims because the emails are not Claims. The Court has already considered and rejected this argument. Allied World states, "the pre-Policy Donor 3116 Client Demands and the Actions are all based on, arise out of, and involve the same factual core: the Defendants' and Outreach's alleged acts and omissions with respect to the screening and sale of Donor 3116's sperm for the same genetic issue." (Pl.'s Br. in Supp. of Mot. for Summ. J., at 24). The Court agrees.

Since the Canadian Actions, the Georgia Actions, the April 1 email, and the May 10 email are all Related Claims, they are all deemed to be a single Claim made—at the latest—on the date that the earliest Claim within such Related Claims was received by an Insured. (*See* Fisher Decl., Ex. B, § IV.C). The earliest Claim received by the Defendants would be the email received on April 1, 2019. (*See id.*, Ex. 10). That is before March 9, 2020, the inception date of the Policy Period. (*Id.*, Ex. B, p. 1; § II.II). Since the Claim was first made to the Insured outside of the Policy Period (and there is no applicable Extended Reporting Period), Allied World is not obliged to pay for the Defense Expenses

related to the Canadian and Georgia Actions. (*See id.*, § 2.A.2). Accordingly, the Court will grant summary judgment to the Plaintiff and declare that Allied World has no duty to defend or indemnify the Defendants in the Client Demands, the Canadian Actions, or the Georgia Actions.

IV. Conclusion

As set forth above, the Plaintiff's Motion for Summary Judgment [Doc. 29] is GRANTED and the Plaintiff's Motion to Amend Motion for Summary Judgment [Doc. 30] is GRANTED. The Clerk is DIRECTED to enter judgment in favor of the Plaintiff, and to close the case.

SO ORDERED, this 19th day of December, 2024.

Thomas W. Thrash

THOMAS W. THRASH, JR.
United States District Judge