

ACE American Insurance Company vs. Underwriters at Lloyds and Companies, et al.

Year: 2007

Court: Pennsylvania Supreme Court

Case Number: No. 45 EAP 2008

Errors and Omissions, or “E&O” insurance. If an insurance company attempts to avoid its coverage obligations under a claims-made policy due to “late notice,” the insurance company must bear the burden to prove that notice was late, just like under an occurrence policy. Even when policies are drafted to require a policyholder to report a claim to the insurance company within the policy period or within a certain number of days thereafter, the insurance company still should be required to prove that notice was provided late and that the insurance company was materially prejudiced by the delay. Allowing an insurance company to collect full premiums yet refuse coverage based on mistake or technicality where the insurance company cannot demonstrate that it would have acted materially differently had it received notice earlier or that its costs will now be higher simply “is unduly severe and inequitable.”

UP's brief was written pro bono by Matthew J. Schlesinger, Esq., Timothy P. Law, Esq. and Matthew D. Rosso, Esq. of Reed Smith LLP.