

Dean Craft v. Philadelphia Indemnity Insurance Company

Year: 2014

Court: Colorado Supreme Court

Case Number: 2014SA43

The notice-prejudice rule supports insurance consumers by avoiding disproportionate forfeiture when an insured fails to report a claim within the time stated in the policy. UP argued in its brief that insurers may not avoid responsibility for a covered claim unless the insurer can show “substantial prejudice” to its interests. Claims made policies contain many pitfalls and traps for even the most sophisticated consumers and insurers should not be able escape their obligation to pay based on “technical violations.” UP further argued that payment should not be required to the extent the carrier proves “substantial prejudice” (i.e. a claim for \$1 million would have only been worth \$500,000 had the carrier been made timely aware of the claim by the insured). In such an instance (certainly not the case here) the carrier should only be required to pay the lower amount. The test should be whether the late notice had a material effect on the claim and if not, there would be no basis for imposing a forfeiture of coverage.

UP's brief was authored pro bono by Tim Law, Esq. and James Davis, Esq. of Reed Smith LLP and UP Executive Director Amy Bach, Esq.