

# **General Refractories v. First State Ins. Co. et al**

Year: 2016

Court: U.S. Court of Appeals, 3rd Circuit

Case Number: 15-3409

Under Pennsylvania law, insurers have the burden to prove that an exception applies in order to deny coverage. Thus, a reviewing court must give more weight to extrinsic evidence presented by the insured promoting coverage than extrinsic evidence presented by the insurer who is trying to escape coverage under the policy at issue. This rule serves the interests of fairness and justice because insurance policies are standard form documents, meaning they are presented to the would-be policyholder on a take-it-or-leave-it basis (i.e., a contract of adhesion where the would-be policyholder does not have an opportunity negotiate the terms of the contract). Further, a insurer must be prohibited from arguing in one venue (here, the District Court) that an exclusion is ambiguous and then turn around and argue in another venue (here, the Third Circuit) that the exclusion was not ambiguous in an attempt to apply a different, inappropriate legal standard.

UP's brief was authored pro bono by John Ellision, Esq. and Lisa Szymanski, Esq. of Reed Smith LLP and UP Executive Director Amy Bach, Esq.