

[MarkWest Energy Partners, LP v. Zurich American Ins. Co.](#)

Year: 2016

Court: Colorado Court of Appeals

Case Number: 15CA0770/2016COA110

Colorado's notice-prejudice protects policyholders from a forfeiture of coverage for late reporting of a claim by requiring the insurer to show actual prejudice as a result of the late reporting before it can disclaim coverage. Colorado law authorizes a departure from traditional contract law principles (i.e., that an unexcused delay in reporting a claim results in a forfeiture of coverage) in the uninsured motorist context because of the adhesive nature of insurance contracts, the public policy objective of compensating tort victims, and the inequity of the insurer receiving a windfall due to a technicality. UP reminded the court that this rule has been extended to other types of liability cases (e.g., "occurrence-based" commercial liability policies and should be extended to "claims made and reported" policies with a date certain) , thus, under the notice-prejudice rule, an insured who gives late notice of a claim to his or her insurer does not lose coverage benefits unless the insurer proves by a preponderance of the evidence that the late notice prejudiced its interests. In other words, an insurer can deny benefits only where its ability to investigate or defend the insured's claim was compromised by the insured's failure to provide timely notice. UPdate 7/14/16: The Colorado Court of Appeals, agreeing with UP's characterization of the notice-prejudice rule, reversed the decision of the trial court. See opinion below.

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