

## [Pitzer College v. Indian Harbor Ins. Co.](#)

Year: 2017

Court: California Supreme Court

Case Number: S239510

The notice prejudice rule protects policyholders from undue forfeiture of benefits when they fail to report a claim within the applicable insurance policy's deadline. California's notice-prejudice rule allows a policyholder to file a claim after the reporting deadline if it can show that the late notice did not result in any prejudice to the insurance company. However, under New York law, an insurance company need not demonstrate actual prejudice to deny coverage for a late-reported claim. UP argued that where a policy issued to a California policyholder contains a choice of law provision applying less-favorable New York law, California's law should prevail. Related, a consent provision in a first-party policy should also be subject to California's notice prejudice rule. Unlike a third party claim, there is no risk of collusion between the policyholder and a third-party claimant where a settlement is reached without the insurer's consent, nor does the insurer lose the right to control the defense. UPdate: The Supreme Court of California agreed with UP that (1) the notice-prejudice rule is a fundamental policy of the state, and that (2) the notice-prejudice rule should be applied to the consent provision in this case. UP's brief was cited – opinion and brief below.

UP's brief was authored pro bono by Richard C. Giller, Esq. and Michelle Buckley, Esq., of Posinelli PC