

Superior Dispatch vs. Insurance Corporation of New York

Year: 2008

Court: California Court of Appeal, 2nd District, Division 3

Case Number: B204878

The insurer's position in this appeal is that, despite its violation of Sections 2695.4 and 2695.7 of the Cal. Code of Regulations, it should not be estopped to assert the contractual limitations period. The plain meaning of the regulations commands an insurer to give the claimant (first or third party) notice of time limits that apply to the claim. The violations of the regulations occur when the insurer denies the claim but chooses not to inform the claimant about the applicable time limits. An insured's act of consulting a lawyer months later does not reverse the violation or relieve the insurer of the consequence of the violation. Equity, fairness and plain-dealing will not be fostered if the regulations are interpreted to render violations retroactively meaningless if the insured fortuitously consults an attorney after denial of the claim.

UP's brief was written pro bono by Steven B. Stevens.