



FUNK & BOLTON

ATTORNEYS AT LAW

A PROFESSIONAL ASSOCIATION
TWELFTH FLOOR
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND
21201-3111
PHONE: 410.659.7700
FAX: 410.659.7773
www.fblaw.com

DAVID M. FUNK
BRYAN D. BOLTON
BRYSON F. POPHAM
REN L. TUNDERMANN
CHARLES D. MACLEOD
STEPHEN Z. MEEHAN
DEREK B. YARMIS*
JEFFERSON L. BLOMQUIST
LINDSEY A. RADER
JOHN A. ANDRYSZAK
JAMES F. TAYLOR
MICHAEL R. MCCANN

ASSOCIATES
HUGH M. BERNSTEIN
PETER C. ISMAY*
MICHAEL P. CUNNINGHAM*
ALAN NOCHUMSON*
CHERYL A. C. BROWN
HISHAM M. AMIN
TAMAL A. BANTON

OF COUNSEL
TIFFANY C. HANNA
GARY C. HARRIGER
DONNA B. IMHOFF
JOYCE L. PATTERSON*
DEBORAH R. RIVKIN
JOHN R. STIERHOFF
JOSEPH B. TETRAULT
PAULINE K. WHITE

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* ALSO ADMITTED IN DISTRICT OF COLUMBIA
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* ADMITTED IN PENNSYLVANIA AND NEW JERSEY ONLY

INSURANCE LAW BULLETIN

Re: Court Holds Insured's Failure To Give Timely Notice of Suit Prejudiced Excess Liability Insurer As A Matter Of Law

In a case of first impression, the Court of Special Appeals of Maryland recently held that an insured's failure to notify its excess liability insurer of suit until after trial established prejudice as a matter of law.

After entry of a judgment and an unsuccessful appeal, the insured sought indemnification from its excess liability insurer. The excess liability insurer denied coverage, in part, because the insured's late notice violated several policy provisions requiring prompt notice. The insured sued, alleging breach of contract and seeking a declaratory judgment. The trial court granted the excess liability insurer's cross-motion for summary judgment.

On appeal, the excess liability insurer argued that the insured's failure to give notice until after the verdict deprived it of the opportunity to attempt to correct deficiencies in the insured's defense strategy. Affirming the grant of summary judgment, the appeals court held that the undisputed facts established, as a matter of law, that the excess liability insurer was prejudiced by the late notice.

For further information or a copy of the opinion, please contact **Bryan D. Bolton** at 410-659-7754 or bbolton@fblaw.com. Please visit our website at www.fblaw.com.

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