

## **INSURANCE LAW BULLETIN**

### **Re: Federal Court Grants Summary Judgment To Insurer Based On Untimely Proof Of Disability**

The United States District Court for the District of Columbia recently granted an insurer's motion for summary judgment based on untimely proof of claim, holding compliance with the proof of claim provision is a condition precedent to coverage.

Plaintiff filed an action challenging the date of disability determined by an insurer for a claim filed six years late. The insurer moved for summary judgment based on failure to provide timely notice and proof of claim. Plaintiff opposed the motion arguing notice and proof was provided as soon as reasonably possible and claiming the insurer waived the policy requirements by accepting the claim. The insurer argued no waiver because the prior disability period was never approved, and the proof of claim provision limited the time to submit proof of loss to one year absent legal incapacity.

The court agreed with the insurer finding no evidence plaintiff suffered from any legal incapacity and otherwise failed to satisfy the proof of claim requirement. The court rejected plaintiff's attempt to conflate notice and proof of claim into a single notice obligation, recognizing they serve different functions. Finally, the court found no evidence of waiver when the insurer only approved the recent disability period and denied the prior periods based on late notice and proof.

For further information or a copy of the court's decision, please contact Bryan D. Bolton who represented the insurer in this matter. You can reach Bryan at 410.659.7754 or [bbolton@fblaw.com](mailto:bbolton@fblaw.com). To learn more about our firm, or review past law bulletins, please visit [www.fblaw.com](http://www.fblaw.com).

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