

COMMISSIONER OF SECURITIES & INSURANCE

MONICA J. LINDEEN
COMMISSIONER



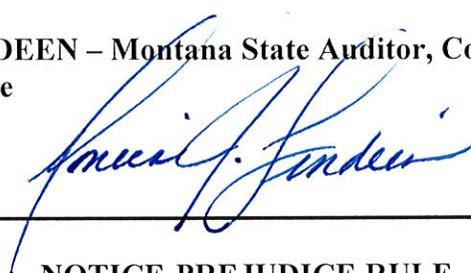
OFFICE OF THE MONTANA
STATE AUDITOR

ADVISORY MEMORANDUM

To: ALL INTERESTED INSURERS

From: MONICA J. LINDEEN – Montana State Auditor, Commissioner of Securities
and Insurance

Date: August 17, 2016



NOTICE-PREJUDICE RULE

PLEASE TAKE NOTICE that in *The Estate of Gleason et al. v. Central United Life Insurance Company et al.*, 2015 MT 140, ¶ 39, 379 Mont. 219, 350 P.3d 349, the Montana Supreme Court explicitly adopted the notice-prejudice rule, and extended the rule to all first party insurance claims. In *Atlantic Casualty Insurance Company v. John P. Gretak et al.*, 2015 MT 149, ¶ 16, 379 Mont. 332, 350 P.3d 63, the Court held that the notice-prejudice rule likewise applies to third party claims.

Pursuant to the notice-prejudice rule, an insurer may not deny coverage for late notice of a claim unless the insurer can demonstrate that it was injured or prejudiced by the lateness of the claim. *Estate of Gleason et al.*, at ¶ 33. The notice-prejudice rule does not require taking proof of claim time limits out of policies. It only limits the circumstances under which a failure to comply with the time limit can be the basis of a denial of policy benefits.

All insurance practices must conform to the notice-prejudice rule. For any questions regarding this advisory memorandum, please contact the Office of the Montana State Auditor, Commissioner of Securities and Insurance, Legal Services Bureau at (406) 444-2040.