

Notice of Claim Coverage Update

April 15, 2025

Notice of Claim – Sixth Circuit (Ohio Law)

Columbia Cas. Co. v. State Auto. Mut. Co.

No. 24-3338, 2025 WL 1082120 (6th Cir. Apr. 10, 2025)

The U.S. Court of Appeals for the Sixth Circuit affirmed the trial court's order granting summary judgment to primary and excess errors and omissions insurers, finding that a demand letter issued to an insured motel operator and its insurer did not constitute a claim under the errors and omissions policies issued to the insurer.

Columbia Casualty Company (Columbia) and ACE American Insurance Company (ACE) issued primary and excess errors and omissions policies, respectively, to State Auto Mutual Insurance Company and its subsidiary, Rockhill Insurance Company (collectively, State Auto). State Auto insured Waves of Hialeah, Inc. (Waves) which owned and operated a motel in Florida.

In April 2016, a patron was murdered at Waves' motel and the patron's estate commenced a wrongful death lawsuit against Waves. The estate issued a demand letter to Waves and to State Auto seeking \$1 million to settle the lawsuit. State Auto did not accept the settlement demand. Afterward, the estate issued a second demand letter seeking \$5 million to settle the lawsuit. This letter asserted that State Auto had acted in bad faith in failing to accept the earlier settlement demand. State Auto did not accept the second settlement demand. The lawsuit culminated in a \$12 million verdict against Waves.

State Auto informed its insurers, Columbia and ACE, of the verdict and sought coverage for amounts in excess of the limits of the policy State Auto had issued to Waves. In the meantime, State Auto paid the eventual judgment that was rendered against Waves following an unsuccessful appeal of the verdict. Columbia and ACE denied coverage, noting that no claim had been made against State Auto under the policy issued by Columbia. Columbia commenced a lawsuit seeking a declaration that there was no coverage under its policy issued to State Auto. Following cross-motions for summary judgment, the trial court granted Columbia's and ACE's motions and denied State Auto's motion.

On appeal, the appellate court upheld the trial court's decision. Applying Ohio law, the appellate court found that the estate's second demand letter did not constitute a claim against State Auto. The letter "was directed at Waves, the party allegedly liable for Machado's death and the estate's resulting damages." The appellate court found that State Auto had failed to show that the letter was a "written demand for monetary damages or non-monetary relief" against State Auto" or that it otherwise met the definition of a claim under the policy.

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The appellate court further rejected State Auto's characterization of the demand letter as a conditional claim, noting that even if conditional claims were recognized under Ohio law and such a claim could trigger coverage, the demand letter could not constitute a conditional claim because the demand expired well before the event that, under State Auto's reading, would cause the conditional claim to ripen – the above-limits judgment against the insured. The appellate court also rejected State Auto's argument that the policy's definition of a "claim" could also include potential claims, noting that the policy contained a mechanism for reporting potential claims, defined as circumstances; and that "it would be odd for the policy to establish a reporting framework for actual claims versus potential claims if, as State Auto insists, a mere intention to hold the insured responsible was the same as an actual claim."

By Stephanie Brochert