

The Biggest Property And Casualty Insurance Rulings Of 2019, Law360, ft. Aaron Cargain

Aaron Cargain, attorney in the KD San Francisco office, commented about the *Pitzer College v. Indian Harbor Insurance Co.* case in an article written by Jeff Sistrunk for Law360, published on December 20th, 2019.

Insurance attorneys received guidance on a host of critical issues this year, including precedent from the Connecticut Supreme Court on asbestos injury coverage and a ruling from Georgia's high court that made it harder to sue insurers for bad faith.

Law360 recaps insurance rulings that caught lawyers' attention in 2019.

Pitzer College v. Indian Harbor Insurance Co.

In a decision that could affect thousands of insurance policies, the California Supreme Court ruled in August that the Golden State's policyholder-friendly late notice rule can override policy provisions requiring other states' laws to apply to coverage disputes.

In an opinion steeped in arcane insurance terms, the justices found that California's "notice-prejudice rule" — which requires an insurer to prove it was substantially harmed by a policyholder's untimely notice to deny coverage on that basis — is a "fundamental public policy" of the state for the purpose of choice-of-law determinations. The case came to the high court via certified questions from the Ninth Circuit in Pitzer College's dispute with Indian Harbor Insurance Co.

Kaufman Dolowich & Voluck LLP attorney Aaron Cargain said the California Supreme Court's ruling is part of what he characterized as a troubling trend of courts creating avenues for policyholders to flout choice-of-law provisions they agreed to when purchasing their insurance policies.

"This could impact policies in a number of ways," Cargain said. "For instance, insurers might have to take this into account when determining their pricing structures."