

## Policyholder Playbook Episode 54: Avoiding Late Notice Denials Under New York Law

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### Show Notes:

Today's episode is about what it means to provide prompt notice under New York law, based on a decision that was issued just a few weeks ago in the Southern District of New York. In that decision, captioned *Deja Realty v. Travelers*, the court considered whether notice under a first-party property policy that was provided approximately a year after damage was first observed was “prompt.” The court said it was not, citing along the way decisions finding that a six-month delay was not prompt, a one- or two-month delay was not prompt and a 53-day delay was not prompt.

Now, other decisions, like the First Department’s decision in *Power Authority v. Westinghouse*, have collected cases where 22-day delays, or even a 10-day delay, was found to be late.

Now, are there ways to distinguish those cases? Are those decisions not applicable in all cases? Are some not binding? Yes, yes and yes.

But the bottom line is that in the wake of a property claim, property damage or some other event that is possibly insured, policyholders have to be mindful of notice requirements in policies. Saying “we’ll get to that next month,” “we’ll consider it at our next board meeting,” “we’ll see what happens”—that type of thinking, and that kind of delay, can result in an insurer’s denial of coverage on late notice grounds. And even if that’s a wrongful denial of coverage, you’ve created friction, transaction costs and an issue you now need to deal with that you otherwise would not need to deal

with. So the takeaway: in the wake of an event that is possibly insured, consider providing notice right away—the same day, the following day but right away.