

# Duty to Insured to Obtain Release Insurance Coverage Update

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*The e-POST*

## Duty to Insured to Obtain Release – Montana

### *High Country Paving, Inc. v. United Fire & Cas. Co.*

--- P.3d ---, 2019 WL 7374362 (Mont. Dec. 31, 2019)

The Montana Supreme Court held that, under certain circumstances, it is not a breach of an insurer's duty to its insured to pay policy limits to an injured third party without first obtaining a release for its insured. In answering a certified question from a Montana federal court, the Supreme Court held that insurer United Fire & Casualty Company (United Fire) was not required to obtain a release from insured High Country Paving, Inc. (High Country) when paying out the policy limit for an accident in which the liability and damages were "reasonably clear."

The underlying case arose out of a car accident involving High Country's employee. The employee was driving a vehicle with an equipment trailer, which detached and hit another vehicle. The other vehicle's driver was killed and its passenger was seriously injured. Following the accident, the victims' attorney demanded payment of the \$3 million policy limit but refused, when requested, to release the claims against High Country.

Following a dispute between United Fire and High Country regarding the need for a release, United Fire unilaterally settled with the victims for the \$3 million policy limit with no release of the claims against High Country. Additionally, the victims increased their damages estimate, demanding another \$1.3 million from High Country. When High Country paid the additional amount and sought coverage from United Fire for it, United Fire denied that it owed coverage.

In determining whether United Fire breached its duty to High Country, the Supreme Court noted that "this case presents the dilemma faced by insurers in balancing its duties to both its insured and to injured third-party claimants." The Supreme Court determined that United Fire did not breach its duty because High Country's liability for the underlying action was reasonably clear and the total damages were reasonably proven to exceed the policy limits. The Supreme Court further stated that demanding a full release where the potential damages exceed the policy limits would in fact be improper under the state's unfair trade practices law.

Thus, the Supreme Court held that an insurance company is not required to secure a full release of a third-party's claims against its insured before entering into a settlement with the third party under which

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the full policy limits are paid.

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