Storm damage to roofs and siding is one of the most common homeowners’ insurance claims. When a only portion of a roof or a field of siding is damaged, repair or replacement will typically result in a mismatch in appearance. Even if the exact same material can be obtained, new shingles or siding will generally not match the appearance of existing materials that have been in place on the home for a number of years and thus have a weathered appearance. In these circumstances, insureds often claim that they are entitled to recover the cost of replacing all of the damaged materials, not just the damaged material. These are colloquially referred to a “matching claims.”

The insureds’ position is based on the premise that property insurance policies are intended to restore the insured to its pre-loss position, as in *Fazio v. State Farm Fire & Casualty*, No. 16-1987, 2017 U.S. Dist. LEXIS 41604, at *20 (E.D. Pa. 2017). Prior to the loss the insured had a home with a undamaged roof with a uniform appearance. Accordingly, insureds reason, the policy must pay the cost of providing the insured with an undamaged roof of uniform appearance.

While some states have statutes and regulations setting forth an insurer’s obligations with respect to matching claims, Pennsylvania is not one of them. Moreover, the Pennsylvania Supreme Court has not decided the issue. The law is unsettled. However, the weight of authority indicates that under Pennsylvania law an insurer has no obligation to pay a matching claim.

The most authoritative decision is the Superior Court’s decision in *Greene v. United Services Automobile Association*, 936 A.2d 1178 (Pa. Super. 2007). In *Greene*, the insured made a claim for damage to his roof. Although only one of 12 different roof slopes sustained physical damage, the insured sought replacement of the entire roof. The policy provided that the insurer would pay for the cost of repairing or replacing damaged property with materials of like construction and use. The insured claimed that because the damaged shingles on the roof were no longer in production, like construction meant an an entirely new roof, not a roof with mismatched shingles. The Superior Court interpreted the policy to clearly and unambiguously require the insurer to pay the replacement cost of the part of the building damaged. It characterized the insured’s interpretation that the provision required the insurer to pay the cost of replacing the entire roof as “unreasonable and absurd.” The Superior Court also found the insured’s argument regarding “like construction” unavailing. There was testimony at trial that although the identical shingles were no longer available, similar ones were. The court found that repair of the damaged slope of the roof with similar shingles satisfied the “like construction” requirement.

*Greene* has been followed in a number of federal district court cases.

In *Enwereji v. State Farm Fire & Casualty*, 2011 U.S. Dist. LEXIS 83417 *, Civil Action No. 10-cv-4967, (E.D.Pa. 2011) the insured asserted a claim for damage to the slate roof of their home. The insurer paid for the replacement of 100 slate roof tiles as well as damage to the gutters and the soffits/fascia. The insured objected to the insurer’s payment, contending that a total roof replacement was required because the insurer’s proposed partial repair was not the same like, kind or quality as existed prior to the loss. The court characterized the issue before it as whether the policy required the insurer to replace the entire roof or only the damaged slate tiles. The court pointed to the loss settlement provision of the policy and observed that it stated that the insurer would pay the cost to repair or replace “the damaged part of the property.” The court found that the
term “damaged part” was not ambiguous and that the insurer’s proposed construction of the term to refer to the entire roof was not reasonable. The court held that the insurer had an obligation for repair or replacement of the “damaged part” of the property, meaning the individual tiles that were cracked, missing or askew. Requiring the insurer to pay for an entirely new roof would be a windfall for the insured and contrary to the public policy rationale of insurance contracts.

Two years later in 2013, the U.S. District Court for the Eastern District of Pennsylvania again followed Greene in Pellegrino v. State Farm Fire & Casualty, 2013 U.S. Dist. LEXIS 105511; Civil Action No. 12-2065 (E.D. Pa. 2013). In Pellegrino, the insured sought the actual cash value of his entire roof, even though only portions of the roof were damaged. The insurer maintained it was not obligated to pay to replace the undamaged portions. The insured sued, claiming that the insurer had a contractual obligation to pay the actual cash value of the undamaged portion as well as the damage portion because it was unable to match the materials. The insured argued that the policy’s loss settlement terms, which required the insurer to pay for the cost of repair of replacement with “similar construction” required the insurer to replace undamaged portions of structures when it is unable to replace the damaged portion with similar materials. The court observed that the policy stated that the policy would pay only the actual cash value of the damaged part of the property. The court held that the import of this language was clear—the insurer was only obligated to pay the actual cash value of the property that was damaged. There was nothing in the policy stating that if only a portion of the property was damaged and replacement of the damaged portion would not match the undamaged portion, the insurer would also pay to replace the undamaged portions as well. The court in Pellegrino did note that Pennsylvania precedent on the issue of “matching claims” is unclear. It observed that matching claims may be appropriate where the insured seeks replacement value. The court conceded that the overall value of an insured’s property might be diminished where repaired or replaced portions did not match undamaged portions. But since the insured in the case sought only actual cash value, the court did not need to face this issue.

Most recently in 2017, Greene was again followed in Fazio v. State Farm Fire & Casualty, 2017 U.S. Dist. LEXIS 41604; Civil Action No. 16-1987 (E.D.Pa. 2017). In Fazio, the insured sought wholesale replacement of the home’s stucco cladding. In support of its claim, the insured offered an estimate from a contractor that stated that the entire stucco assembly needed to be replaced because it was impossible to match the existing texture and color of the stucco. The court distinguished Greene for summary judgment citing Greene v. State Farm Fire & Casualty, 2009 U.S. Dist. LEXIS 115778, at *1 (E.D. Pa. 2009). The court read this provision in unambiguously indicate that insurer was only obligated to pay for the cost to repair the actual physically damaged portion of stucco damaged but declined to pay the cost of replacing the entirety of the stucco cladding. The court observed that the loss settlement provisions of the policy provided that the insurer would pay the cost to repair or replace with similar construction and for the same use on the premises “the damaged part of the dwelling ...” The insured presented testimony from an expert who stated that it was custom to unambiguously indicate that insurer was only obligated to pay for the cost to repair the actual physically damaged portion of stucco and thus rejected the insurer’s claim that the entirety of the stucco needed to be replaced.

The only discordant note comes from Collins v. Allstate Insurance, 2009 U.S. Dist. LEXIS 115778, at *1 (E.D. Pa. 2009). In Collins, the insured claimed damage to his home’s slate roof and the home’s interior due to infiltration of water through the roof. The insurer paid for the interior damage and for damaged sections of the roof, but not the replacement of the roof in its entirety. Although the insurer did not cover replacement of the entire roof, it did cover replacement of entire sections of other portions of the property. For instance, it covered the painting of the entirety of certain ceilings, even though only a portion of the ceilings were actually damaged. In addition, the insured presented testimony from an expert who stated that it was custom and practice in the insurance industry to pay matching claims. The insurer moved for summary judgment citing Greene, observing that in Greene the evidence showed that replacement shingles matching the undamaged shingles were available. By contrast, in Collins, the insured presented evidence that matching replacement shingles were not available. While the Collins decision thus stands for the proposition that an insurer must pay to replace undamaged portions of a roof if replacement of actually damaged portions results in a mismatch, its application is arguably limited to its facts. Those facts indicated that the insurer had paid other matching items on the same claim along with testimony that payment of matching claims was an industry standard. It should also be noted that Collins includes no explanation of this holding and no citation to the policy language that purportedly gives rise to an obligation to pay for the replacement of undamaged property.