

ADI Worldlink, LLC v. RSUI Indemnity Company

Year: 2019

Court: United States Court of Appeals for the Fifth Circuit

Case Number: 17-41050

In this amicus brief, UP argues against allowing insurers to improperly use a general interrelatedness provision, while disregarding a manuscript change, to impute late notice from a separate and earlier lawsuit and deny coverage during the current policy period. Interrelated provisions are often found in business insurance policies. Typically, they state that all claims that flow from the same or related facts, circumstances, transactions, or events are treated as a single claim deemed to have been made on the date of the earliest claim. That date is then used to determine if coverage applies and under what policy. The purpose is to aggregate similar claims from different policy years into a single policy and try and avoid double payment on the same claim. UP first contends that, following Texas precedent, the change made by the prior litigation endorsement controls over the general interrelatedness provision, and thus an insurer cannot then relate back the lawsuit to deny coverage under the current policy (when the endorsement “backdates” coverage for prior litigation for more than just the current policy period). UP next argues that if the court declines to apply precedent, that a minimum, it should certify this issue for interpretation to the Texas Supreme Court. UP reminds the court that the implication of this case goes beyond the parties involved and will impact future cases involving professional liability and environmental liability policies; particularly noting the energy-related industry.

This brief was drafted pro bono by G. Andrew Veazey of Veazy Felder & Renegar