

# **Aloha Petroleum v. National Union Fire Insurance Company**

Year: 2024

Court: Hawaii Supreme Court

Case Number: SCCQ-23-0000515

In the Aloha Petroleum case, the Hawaii Supreme Court accepted a certified question from a Hawaii Federal District Court asking: (1) For any insurance policy defining a covered “occurrence” in part as an “accident,” can an “accident” include recklessness? and (2) For an “occurrence” insurance policy excluding coverage of “pollution” damages, are greenhouse gases “pollutants,” i.e., “gaseous” “irritant[s] or contaminant[s], including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste”? Regarding whether greenhouse gases constituted pollutants, the energy company argued for a distinction between greenhouse gases and “traditional environmental pollution.”

In its amicus brief, United Policyholders argues that “recklessness” just like negligence or gross negligence constitutes an “occurrence” and triggers coverage under a liability insurance policy. Insurance companies should bear the burden of demonstrating that an injury was subjectively intended by a policyholder in order to deny coverage. United Policyholders further argues that pollution exclusions in standard insurance policies must be read narrowly to only apply to the traditional environmental pollutants understood by the parties at the time of contract formation.

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