

## **Fox Paine & Company, LLC, et al. v. Twin City Fire Insurance Company, et al.**

Year: 2025

Court: Supreme Court of California

Case Number: S287404

In its amicus brief, United Policyholders urges the California Supreme Court to reverse the Court of Appeal's ruling in Fox Paine, which held that a policyholder cannot seek declaratory relief against excess insurers until the immediately underlying insurer has actually paid its policy limits. UP argues that this "actual exhaustion" requirement departs from decades of California precedent, produces unworkable consequences for policyholders and the courts, and could effectively immunize excess insurers from bad faith and breach of contract liability.

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