

## In re: Hill Hotel Owner v. Hanover Insurance Company

Year: 2024 Court: Colorado Supreme Court Case Number: 2024SA113

In its amicus brief, United Policyholders weighs in on the important issue of whether attorney-client and work-product privileges attach to an insurer's claims handling materials when such documents were created by or sent to/from attorneys working on behalf of an insurance company. United Policyholder's argues that claims handling and investigation activities are a routine part of an insurance company's business and as such are not privileged. An insurance company should not be permitted to shield routine claim investigation materials from discovery simply by having outside counsel participate in the claims investigation process.

In October 2024, the Colorado Supreme Court issued a short order declining the insurance company's attempt to roll back established law holding that no privilege applies to attorneys acting as claims handlers in connection with the investigation or adjustment of insurance claims. The insurance company had seized upon a trial court's short order allowing discovery into communications with an expert consultant and argued that the ruling improperly invaded the attorney client privilege, reflective of a wider "crisis" regarding privilege rulings in Colorado. After the trial court admitted that its order was inartfully worded, the Colorado Supreme Court remanded the case without revisiting existing precedent, consistent with the law in other states nationwide, holding that no privilege applies when attorneys act as claims handlers.

Marshall Gilinsky and Carrie DiCanio of Anderson Kill PC; John Ellison and Luke Debevec of Reed Smith LLP

The information presented in this publication is for general informational purposes and is not a substitute for legal advice. If you have a specific legal issue or problem, United Policyholders recommends that you consult with an attorney. Guidance on hiring professional help can be found in the "Find Help" section of <u>www.uphelp.org</u>. United Policyholders does not sell insurance or certify, endorse or warrant any of the insurance products, vendors, or professionals identified on our website. Source: https://uphelp.org/amicus-briefs/in-re-hill-hotel-owner-v-hanover-insurance-company/ Date: November 25, 2024