

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.

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