

Mudpie v. Travelers Casualty Ins. Co.

Year: 2021

Court: United States Court of Appeals for the Ninth Circuit

Case Number: 4:20-cv-03213-JST

UP's February 9, 2021 brief discusses whether COVID-19 triggers "physical loss or damage" under a business interruption coverage policy. UP argues that given the insured's limited allegations in their initial complaint, the most appropriate course of action is for the Ninth Circuit to decline to certify the "physical loss or damage" issue to the California Supreme Court, decline to endorse the district court's physical injury analysis, and remand this case with instructions to permit re-pleading.

UP's November 4, 2021 brief supports Mudpie's petition for en banc review. UP demonstrates that the Ninth Circuit Panel's analysis of the efficient-proximate cause doctrine relied upon a definition later abandoned by the California Supreme Court.

The February 9, 2021 brief (Dkt. No. 33) was authored pro bono by Jad Khazem, Breanna Jones, and David Goodwin of Covington & Burling LLP. The November 4, 2021 brief (Dkt. No. 75) was authored pro bono by Jeffrey Ehrlich of the Ehrlich Law Firm and Michael Bidart of Shernoff Bidart Echeverria LLP.