

Neuro-Communication Services, Inc. v. The Cincinnati Insurance Co. et. al.

Year: 2021

Court: The Supreme Court of Ohio

Case Number: 2021-0130

In its brief, UP tackles the issue of COVID-19 in support of Neuro-Communication Services, Inc. UP argues that businesses that were habitable and safe for their ordinary and intended use one day now have become unsafe for their ordinary and intended use due to the infiltration of COVID-19 disease. This has rendered property unsafe due to a physical condition outside the policyholder's control and is the exact type of "physical loss" of and "physical damage" to property the "all-risk" insurance policy here was purchased and sold to address. UP argues these point to support its claim.

I. The Insurance Industry has Known for Sixty Years That Courts Were Ruling That Its Standard-Form Language Covered Losses Like Those at Issue Here.

II. It is True That, Like Asbestos or Carbon Monoxide, Viruses are in General Circulation in the Air We All Breathe, But What is Important Under Property Insurance is The Concentration of Those Contaminants at Particular Times and Places.

III. The Briefs of the Insurance Industry Parties Well Demonstrate the Insurance Industry Strategy - Cite the Same Questionable Sources Over and Over and Declare Victory.

IV. The Court Should Not Be Swayed by Self-Serving Warnings About Ruining the Insurance Industry—Insurers Make These Claims After Every Disaster, and They Are Always Overstated.

This brief was authored pro bono by James M. Doerfler, John N. Ellison and Richard P. Lewis of Reed Smith

LLP

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