

The Inns By The Sea v. California Mutual Insurance Co.

Year: 2021

Court: Court of Appeal of the State of California Sixth Appellate District

Case Number: H048443

In its brief, UP writes in support of Inns' appeal to provide further context to this Court regarding: (1) why the insurance term "direct physical loss of or damage to" property does not require a showing of "physical alteration" to real property; (2) how the insurance industry, including California Mutual, has continued to use the phrase "direct physical loss of or damage to" property despite ample admonitions from courts that the term is at least ambiguous; (3) why California Mutual's bundle of favored authorities, including failed attempts by federal district courts to apply California law in this area, are inapposite; and (4) how the evolving science regarding COVID-19 compels that these coverage questions be decided on a full record, not just on the pleadings.

UP also submitted a letter to the California Supreme Court in support of Inns by the Sea's petition for review. In the letter, UP and other amici point out that the case raises important issues of California insurance law that should be decided by California's highest court as opposed to federal courts sitting in diversity jurisdiction.

This brief was authored pro bono by David E. Weiss and T. Connor O'Carroll of Reed Smith LLP