

Travelers Insurance Company, et al. v. Bodell Construction Company

Year: 2023

Court: Hawaii Supreme Court

Case Number: SCCQ-22-0000658

In its amicus brief, United Policyholders addresses a critical question that has split state high courts around the country: whether an insurance company can seek reimbursement or recoupment of previously paid defense fees and costs when the insurance policy contains no express provision allowing for such reimbursement. United Policyholders amicus curiae brief provides the court with policy arguments and case law from around the country supporting the pro-policyholder position against recoupment.

In November of 2023, the Hawaii Supreme Court issued a strong opinion in favor of the insured: “We hold that an insurer may not recover defense costs for defended claims unless the insurance policy contains an express reimbursement provision. A reservation of rights letter will not do.”

Alan Van Etten and Tristan Andres of Deeley King Pang & Van Etten