

<p>COLORADO SUPREME COURT 2 East 14th Avenue Denver, Colorado 80202</p>	<p>DATE FILED: June 11, 2024 11:29 AM FILING ID: 29FF0F1968DDB CASE NUMBER: 2024SA113</p>
<p>District Court, City and County of Denver Case No. 2023CV31492 Jill D. Dorancy, District Court Judge</p>	
<p>In re: HILL HOTEL OWNER, LLC, a Colorado limited liability company, Respondent, v. HANOVER INSURANCE COMPANY, a New Hampshire corporation, Petitioner.</p>	<p>▲ COURT USE ONLY ▲</p>
<p>Attorneys for Amicus Curiae United Policyholders Marshall Gilinsky (Colo. Bar No.: 30439) Carrie Maylor DiCano (Colo. Bar No.: 56313) ANDERSON KILL 600 17th Street Suite 2856 Denver, CO 80202 Main: 303.353.0066 Email: MGilinsky@andersonkill.com Cdicano@andersonkill.com</p> <p>John N. Ellison (<i>pro hac vice</i> pending) Luke E. Debevec (<i>pro hac vice</i> pending) REED SMITH LLP Three Logan Square, Suite 3100 1717 Arch Street Philadelphia, PA 19103 Main: 215.851.8100 Facsimile: 215.851.1420 Email: JEllison@ReedSmith.com LDebevec@ReedSmith.com</p> <p>Of Counsel Amy Bach UNITED POLICYHOLDERS 917 Irving Street, Suite 4 San Francisco, CA 94122 Telephone: 415.393.9990 Facsimile: 415.677.4170 Email: amy.bach@uphelp.org</p>	<p>Case No.: 2024SA000113</p>
<p>MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF BY UNITED POLICYHOLDERS IN SUPPORT OF RESPONDENT</p>	

Pursuant to Colo. R. App. P. 29(b) United Policyholders (“UP”) seeks this Honorable Court’s permission to file a Brief of *Amicus Curiae* United Policyholders In Support Of Respondent, conditionally filed and attached hereto as **Exhibit A**. As stated in the May 24, 2024, 2024 Order granting the Motion for an Extension of time to file Response and Amicus Briefs, briefs of *amicus curiae* are due June 11, 2024.

For nearly 30 years, the non-profit (501)(c)(3) United Policyholders has been a source of insurance coverage and claim information and an advocate for the interests of individual and commercial insurance consumers throughout the entire United States. UP assists purchasers of insurance and those pursuing claims for loss indemnification. UP is routinely called upon to help policyholders secure paid-for benefits in the wake of large-scale national disasters such as floods, windstorms, and hurricanes and recently, pandemics. In the state of Colorado UP provides extensive assistance to policyholders navigating insurance recovery issues. Currently, UP staff work routinely with Marshall wildfire survivors through UP’s involvement in long term recovery groups and through the partnership with local Colorado attorneys to provide limited-scope *pro bono* insurance help. UP also works with the Colorado Division of Insurance and state legislators to promote important legislation, regulation, and guidance that benefits

policyholders on a range of issues including consumer protection rules as well as accessibility and affordability of insurance.

In furtherance of its mission, UP cautiously chooses cases and regularly appears as an *amicus curiae* in courts across the country in order to provide policyholders' perspectives on insurance cases likely to have widespread impact. UP has been doing this for decades. Since 1991, it has filed hundreds of *amicus curiae* briefs in state and federal courts across the country. A list of those submissions can be found here: <https://uphelp.org/advocacy/amicus-library>. UP's briefs have been cited in the opinions of state high courts and by the U.S. Supreme Court. See *Humana Inc. v. Forsyth*, 525 U.S. 299, 314 (1999); *Julian v. Hartford Underwriters Ins. Co.*, 110 P.3d 903, 911 (Cal. 2005); *Cont'l Ins. Co. v. Honeywell Int'l, Inc.*, 188 A.3d 297, 322 (N.J. 2018); *Allstate Prop. & Cas. Ins. Co. v. Wolfe*, 105 A.3d 1181, 1185-6 (Pa. 2014).

By submitting a brief in this matter, UP seeks to fulfill the classic role of *amicus curiae* in a case of general public interest, supplementing the efforts of counsel, and drawing the court's attention to law that escaped consideration. This is an appropriate role for *amicus curiae*. As commentators have often stressed, an *amicus* is often in a superior position to "focus the court's attention on the broad implications of various possible rulings." R. Stern, E. Greggman & S.

Shapiro, Supreme Court Practice, 570-71 (1986) (quoting Ennis, *Effective Amicus Briefs*, 33 Cath. U.L. Rev. 603, 608 (1984)).

This matter concerns whether attorney-client privilege attaches to ordinary business activities of an insurance company, conducted for business rather than legal purposes. As a voice for insurance consumers in Colorado and across the nation, United Policyholders believes that Colorado should recognize that neither the attorney-client nor work-product privileges should shield regular insurance company business records imbued with good faith from routine discovery. Claims handling, investigation, and adjustment are a part of the ordinary course of business in the insurance industry and should be discoverable even when these tasks are conducted by an attorney. This is an important discovery issue and an issue on which United Policyholders believes it can provide helpful guidance to this Honorable Court.

Respectfully submitted,

Dated: June 11, 2024

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CERTIFICATION OF SERVICE

I hereby certify that on the 11th day of June, 2024, a true and correct copy of the foregoing Motion for Leave to File Brief of *Amicus Curiae* United Policyholders in Support of Respondent was filed using the Honorable Court's electronic filing system, which provides notice to all Counsel of record:

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AMICUS CURIAE
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