

**IN THE
INDIANA SUPREME COURT**

NORTH RIVER INSURANCE)	On Petition to Transfer from the
COMPANY and RIVERSTONE)	Indiana Court of Appeals,
CLAIMS MANAGEMENT LLC,)	
)	Case No. 25A-PL-00375
Appellants (Defendants Below),)	
)	Appeal from the Tippecanoe
v.)	Superior Court 1
)	
LANDIS+GYR TECHNOLOGY, INC.,)	Trial Court Case No.
)	79D01-2107-PL-000079
Appellee (Plaintiff Below).)	
)	Hon. Randy J. Williams, Judge

**BRIEF OF *AMICUS CURIAE*
UNITED POLICYHOLDERS**

Jeffrey D. Featherstun (17035-49)
Gregory M. Gotwald (24911-49)
Christopher E. Kozak (35554-49)
PLEWS SHADLEY RACHER & BRAUN LLP
1346 North Delaware Street
Indianapolis, Indiana 46202
jfeatherstun@psrb.com
ggotwald@psrb.com
ckozak@psrb.com
Tel: (317) 637-0700
Fax: (317) 638-0873
*Attorneys for Amicus Curiae
United Policyholders*

Table of Contents

Table of Contents 2

Table of Authorities 3

Statement of the Interests of *Amicus Curiae* 5

Summary of the Argument..... 7

Argument 8

 I. The Court of Appeals applied *Standard Fusee* in a mechanical way that undermines Indiana’s “most intimate contact” approach..... 8

 A. The interplay between the “principal location of the insured risk” and “place of performance” factors is worthy of this Court’s consideration ... 10

 B. This inflexible interpretation of *Standard Fusee* is ill-suited to multistate insurance and modern commercial practice. 12

 II. Reservations of rights are a cornerstone of liability insurance and protect both insurer and insured..... 15

 A. The reservation of rights doctrine is essential to both parties in the liability-insurance transaction. 15

 B. Liability insurers cannot evade their duties by delegating claim handling to undisclosed third parties. 18

Conclusion..... 20

Table of Authorities

Cases

Allstate Prop. & Cas. Ins. Co. v. Wolfe,
105 A.3d 1181 (Pa. 2014) 5

Armstrong Cleaners, Inc. v. Erie Ins. Exch.,
364 F. Supp. 2d 797 (S.D. Ind. 2005)..... 15, 16

Cont’l Ins. Co. v. Honeywell Int’l, Inc.,
188 A.3d 297 (N.J. 2018)..... 5

Crum & Forster Spec. Ins. Co.,
25A-CT-2307, — N.E.3d —,
2026 WL 1782242 (Ind. Ct. App. June 22, 2026) 15

EB Holdings II, Inc. v. Illinois National Insurance Company,
108 F.4th 1211 (9th Cir. 2024)..... 12

Empl’rs Ins. Co. v. Coachmen Indus., Inc.,
838 N.E.2d 1172 (Ind. Ct. App. 2005)..... 11, 14

Empl’rs Ins. of Wausau v. Recticel Foam Corp.,
716 N.E.2d 1015 (Ind. Ct. App. 1999)..... 13, 16

Erie Ins. Co. v. Hickman, 622 N.E.2d 515 (Ind. 1993) 16, 19

Fed. Life Ins. Co. v. Kerr, 89 N.E. 398 (Ind. 1909) 19

Hartford Acc. & Indem. Co. v. Dana Corp.,
690 N.E.2d 285 (Ind. Ct. App. 1997) 13

Humana Inc. v. Forsyth, 525 U.S. 299 (1999)..... 5

Julian v. Hartford Underwriters Ins. Co.,
110 P.3d 903 (Cal. 2005) 5

Liberty Mut. Ins. Co. v. Metzler,
586 N.E.2d 897 (Ind. Ct. App. 1992) 16

Motorists Mut. Ins. Co. v. Johnson,
218 N.E.2d 712 (Ind. Ct. App. 1966) 16, 17

National Union Fire Insurance Co. of Pittsburgh, PA v. Standard Fusee Corp.,
940 N.E.2d 810 (Ind. 2010) passim

New York v. AMRO Realty Corp.,
936 F.2d 1420 (2d Cir. 1991)..... 17, 19

Pavia v. State Farm Mut. Auto. Ins. Co., 626 N.E.2d 24 (N.Y. 1993)..... 19

Prot. Ins. Co. v. Coca-Cola Bottling Co.,
463 N.E.2d 656 (Ind. Ct. App. 1981) 16

Starr Indem. & Liab. Ins. Co. v. Am. Commercial Barge Line, LLC,
25A-PL-1073, — N.E.3d — ,
2026 WL 1141405 (Ind. Ct. App. Apr. 28, 2026) 15

Travelers Indem. Co. v. Summit Corp. of Am.,
715 N.E.2d 926 (Ind. Ct. App. 1999) 13, 14

Utica Mut. Ins. Co. v. Gath, 265 A.D.2d 805 (N.Y. App. Div. 1999) 17

W.H. Barber Co. v. Hughes, 63 N.E.2d 417 (Ind. 1945) 9

Brief of *Amicus Curiae* United Policyholders

Statutes

Ind. Code 27-4-1-4.5..... 16

Other Authorities

Restatement (Second) of Conflicts §188..... 10

Restatement (Second) of Conflicts §193..... 9

Treatises

Couch on Insurance 3d 17

Statement of the Interests of *Amicus Curiae*

United Policyholders is a unique non-profit, tax-exempt, charitable organization founded in 1991, that educates and assists individual and business consumers on insurance matters and works to secure the loss indemnity objective for which people buy insurance. United Policyholders monitors legal developments in the insurance marketplace and serves as a voice for policyholders in legislative and regulatory forums. United Policyholders helps preserve the integrity of the insurance system by advocating for fair sales and claims practices. Grants, donations, and volunteers support the organization's work. United Policyholders does not accept funding from insurance companies.

In furtherance of its mission, United Policyholders keenly evaluates pending appeals and, where appropriate, appears as *amicus curiae* in significant cases nationwide to advance the policyholder's perspective on insurance issues likely to have widespread impact. Since 1991 United Policyholders has filed hundreds of *amicus curiae* briefs in federal and state appellate courts across the country.¹

Amicus briefs filed by United Policyholders have been expressly cited in the opinions of state supreme courts as well as 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, 1185-86 (Pa. 2014).

The decision below involves two issues where UP has an acute interest.

¹ A list of United Policyholders *amicus* submissions can be found here: <https://up-help.org/advocacy/amicus-library/>.

First, UP wants consumers to be subject to sound and predictable choice of law rules. This Court has emphasized, correctly, that the choice-of-law analysis in insurance cases should turn mostly on where the risk is located. As a result, Indiana policyholders who insure sizeable, ongoing Indiana operations are among those who expect those policies to be subject to Indiana law. Here, the Court of Appeals saddled a long-standing Indiana business with a sizeable uninsured loss simply because more nominal insured locations of its parent holding company were at one time located in New York, even though the one Indiana location here represented all or nearly all of the risk. That rigid analysis neglects both the quantities and relative qualities of the risks insured. It is an important question that warrants this Court's review.

Second, as one of the few policyholder advocates, UP has an interest in law that ensures timely, transparent, and good-faith claims handling. Policyholders depend on liability insurers to provide prompt coverage positions and properly issued reservations of rights. When insurers fail to participate meaningfully in claims handling or delegate core duties to undisclosed third parties, policyholders face significant financial exposure and operational uncertainty. In considering this case, the Court should take into account policyholders' need to be kept informed of where an insurer stands so it can react accordingly.

Summary of the Argument

The Court of Appeals' overly rigid application of *National Union Fire Insurance Co. of Pittsburgh, PA v. Standard Fusee Corp.*, 940 N.E.2d 810 (Ind. 2010), in its choice of law analysis warrants transfer. In applying the most important factor of the choice-of-law analysis—the principal location of the insured risk—the Court of Appeals resorted to counting the absolute number of locations listed on the policy (most of which are in New York, as was the policyholder's headquarters). But it appears undisputed that the Indiana location at issue here represented all or nearly all of the risk Landis+Gyr paid to insure under the policy.

The Restatement analysis compels a finding that Indiana law applies here. The decision below, in reaching a contrary result, marks a regression to the more rigid, formalistic approach the Restatement was drafted to avoid. Insurers—who are in the business of assuming risk—rate policies based on where they think the exposure might be. Policyholders, likewise, are acutely conscious of where they are most likely to face liability and pay to shift risk accordingly. As a result, where liability insurance covers a major manufacturing plant in Indiana—employing the vast majority of the policyholder's employees and producing well over fifty percent of its sales, where all but one of the company's officers and executives were located, and where decisions, communications and directives regarding its insurance program originated—but only small, mostly office, facilities and an empty warehouse in New York, the weight of the risk squarely falls in Indiana. The parties are naturally more concerned about explosions, leaks, injuries, and other catastrophes in Indiana than they are a slip-

and-fall in an office hallway. Transfer is warranted to clarify that fundamental point about the conflicts analysis.

Additionally, the Court of Appeals did not adequately consider North River's problematic claims handling in this case. An insurer is obligated to communicate with the insured and explain potential defenses to coverage it has so that an insured can protect its interests. It cannot delegate those responsibilities or take a "wait and see" approach about asserting defenses while its policyholder is making crucial decisions about defense and settlement. The Court of Appeals failed to appreciate how that issue affected this case. But these issues are fundamental to the rights of insureds, the proper application of law, and the protection of persons doing business in Indiana.

For these reasons, the Court should grant transfer.

Argument

I. The Court of Appeals applied *Standard Fusee* in a mechanical way that undermines Indiana's "most intimate contact" approach.

This case involves an insurance policy covering locations in multiple states. In *Standard Fusee*, this Court properly concluded that the uniform-contract-interpretation approach should be followed in such cases. 940 N.E.2d at 816. Under the Restatement (Second) of Conflicts, the law of the state in "most intimate contact with the facts" is to be applied to the entire dispute. *Id.* at 815-16.

This is a flexible inquiry involving multiple contextual factors: (1) the place of contracting; (2) the place of negotiation of the contract; (3) the place of performance; (4) the location of the subject matter of the contract; and (5) the domicile, residence, nationality, place of incorporation and place of business of the parties. *Id.* at 816-17.

Brief of *Amicus Curiae* United Policyholders

The goal is to match the applicable law to commercial realities by ascertaining “the closeness of factual contacts between the state and the significant acts of the parties.” *W.H. Barber Co. v. Hughes*, 63 N.E.2d 417, 423 (Ind. 1945) (citations and quotation marks omitted).

Because not all commerce is created equal, neither are the factors. Insurance is a good example. The policies are not negotiated. They are usually placed through brokers in states with little bearing on the substance of the transaction. Because the insurer is selling a promise to pay money, its location is largely immaterial (and has more to do with tax and regulatory convenience than anything).

The drafters of the Restatement recognized this. As a result, they concluded that insurance policies should typically be governed by “the location of the risk” insured, which is “a matter of intense concern to the parties to an insurance contract.” Restatement (Second) of Conflicts §193, cmt. c. “[I]t can often be assumed that the parties, to the extent they thought about the matter at all, would expect the law of the state where the risk is to be principally located would be applied” to the policy. *Id.* Thus, where that location can be ascertained, “it is given more weight than other factors.” *Std. Fusee*, 940 N.E.2d at 816.

In *Standard Fusee*, there was one manufacturing location in each state (Indiana and Maryland). *Id.* The Court concluded the sites were “relatively comparable;” it broke the tie by noting that the headquarters was located in Maryland. *Id.* But *Standard Fusee* did not transform the principal location of the insured risk analysis into a rigid presumption that elevates certain contacts—such as counting the number

of sites—into near-dispositive factors. If that were the case, a business could manipulate the choice of law analysis by maintaining multiple addresses within a state but with few operations or employees, while conducting significant operations—and significant risk—in another state. But the analysis of the principal location of the insured risk and most intimate contacts is supposed to be a flexible one, which varies from situation to situation.

Here, New York had the highest number of insured sites from 1976 to 1978. The Court of Appeals reasoned from this that New York must be the principal location of the insured risk. But in so doing, the Court of Appeals disregarded evidence about the **nature of the risk and the operations** at each site, showing that the New York locations had little to no potential to generate claims. That is inconsistent with the Restatement standard and industry practice. If insurers rated liability policies simply by counting the number of addresses on the policy—without regard for what those addresses meant in real life—they would get upside-down on premiums very quickly. So they don't. The law should not either.

A. The interplay between the “principal location of the insured risk” and “place of performance” factors is worthy of this Court’s consideration

The Court of Appeals’ failure to consider the comparative nature of the risks appears rooted in a misunderstanding about another Restatement factor. The “principal location of the insured risk” is an insurance-specific substitute for “the location of the subject matter of the contract.” *See* Restatement (Second) of Conflicts §§188(2)(d), 193. As the Court said in *Standard Fusee*, this is the most important consideration, because it ties the analysis to commercial reality. 940 N.E.2d at 816.

Below, the insurers urged the Court of Appeals to reject Landis+Gyr's evidence of the nature of the risk. (Appellant's Reply Br. 26-27.) They did so based on a Court of Appeals decision pointing out that "the place of performance can bear little weight in the choice of the applicable law," because in the insurance context, "at the time of contracting it is either uncertain or unknown." *Empl'rs Ins. Co. v. Coachmen Indus., Inc.*, 838 N.E.2d 1172, 1180 (Ind. Ct. App. 2005) (quotations omitted). The Court of Appeals agreed.

Coachmen's statement is correct as far as it goes. But the Court of Appeals' application of it here was improper. In *Standard Fusee*, for example, the Court did not find Indiana law controlling merely because most of the funds at issue would be used in Indiana. 940 N.E.2d at 817. That is one consideration, but only one. The insurance product is meant to shift risk, which by very definition, is unknown. Fixating on the place of performance—like any other factor—distorts the analysis by making it dependent on factors the parties to the insurance policy neither knew about or controlled.

Where, as here, Indiana was the only place where the risk could emerge, it stands to reason that the parties were principally concerned with shifting that risk. As a result, they would expect Indiana law to apply. That does not violate the principles from *Coachman* or *Standard Fusee*, because it focuses on what the parties meant to do when the policy was actually purchased—not on post-purchase events that were necessarily unknown to the parties.

B. This inflexible interpretation of *Standard Fusee* is ill-suited to multistate insurance and modern commercial practice.

This rigid approach to *Standard Fusee* is particularly problematic in the context of nationwide insurance programs and complex commercial arrangements. Large insured entities routinely operate across multiple jurisdictions, and insurance policies often cover risks that are inherently dispersed. The number of locations insured by the policy is certainly important, but it cannot be made dispositive.

This is how insurers rate policies, and for good reason. No liability insurer in its right mind would insure a location without knowing whether it was a mailroom, office building, or a chemical refinery. Adding either location increases the risk on a theoretical level. But a mail carrier's negligence produces papercuts, and an office worker's negligence, perhaps, produces broken bones. A refiner's negligence produces explosions. The Court of Appeals' opinion treats all three as equal, even though an insurer never would.

The Court ought to grant transfer and clarify that the analysis must remain sensitive to the practical realities of these transactions. Such an approach would align Indiana with the prevailing national trend toward contextual, interest-based choice-of-law analysis as set forth in the Restatement and would prevent the distortions created by rigid application of isolated contacts. *See, e.g., EB Holdings II, Inc. v. Illinois National Insurance Company*, 108 F.4th 1211 (9th Cir. 2024) ("Each factor of the test must be evaluated according to [its] relative importance with respect to the particular issue that gave rise to the choice-of-law dispute in the first place.") (quotations omitted).

It is worth the Court's time to clarify how this analysis works. It certainly is not so simple as the counting of locations insured under the policy plus the headquarters. The approach Indiana follows is a flexible one that allows the application of Indiana law in a wide variety of circumstances.

In *Hartford Acc. & Indem. Co. v. Dana Corp.*, 690 N.E.2d 285 (Ind. Ct. App. 1997), *trans. denied*, the Court of Appeals found Indiana law applied to a large nationwide manufacturer even where the company's headquarters was out-of-state. *Id.* at 293. Indiana had more facilities and plants than any other state; it had twenty percent of Dana's United States workforce; it had significant Indiana divisions, sales (which the premiums were based on) and square footage of plants. *Id.* at 289. Landis+Gyr presented similar evidence, which the Court of Appeals disregarded.

In *Empl'rs Ins. of Wausau v. Recticel Foam Corp.*, 716 N.E.2d 1015 (Ind. Ct. App. 1999) there was a single cleanup site located out-of-state. However, the policyholder was headquartered in Indiana where more of its manufacturing operations was located. *Id.* at 1023-25. The Court of Appeals found the "number and quality of contacts favor Indiana over New York and, thus, we hold that the substantive law of Indiana applies to the insurance policies and non-waiver agreements." The quality of the contacts matters.

Travelers Indem. Co. v. Summit Corp. of Am., 715 N.E.2d 926 (Ind. Ct. App. 1999) applied Indiana law under in a slightly different scenario. Headquarters was out-of-state and manufacturing sites were located throughout the country. *Id.* at 929. Four of the seven sites from which the claims arose were in Indiana, one was

contaminated with wastes produced at an Indiana site and only one site was in the headquarters state *Id.* at 933. Looking at this combination of manufacturing and cleanup sites, the Court of Appeals concluded that “[w]ithout other evidence of the probability of risks at individual sites, we must summarily conclude that as the number of sites increase so does the risk of an occurrence.” *Id.* at 933. Landis+Gyr offered ample evidence about the qualities of the blend of insured and cleanup sites here—and it points squarely to Indiana.

In *Coachmen*, 838 N.E.2d 1172, there was a single cleanup site located out-of-state, adjacent to one of the company’s manufacturing facilities. *Id.* at 1175. The policyholder’s principal place of business was in Indiana. *Id.* at 1176. Through subsidiaries, it conducted manufacturing at facilities throughout the United States. *Id.* at 1174. The Court of Appeals determined that while Coachmen’s risks were scattered throughout the country, Indiana was the principal location of the insured risk because Indiana was the state with the largest number of insured manufacturing facilities. *Id.* at 1181. “Put another way, a prospective look at the time the contract was formed would lead to the conclusion that Indiana law should apply.” *Id.* In the end, it found while “none of the § 188 factors is compelling or conclusive” the “overall number and quality of contacts favor Indiana.” Thus the substantive law of Indiana applied. The vast majority of Landis+Gyr’s manufacturing occurred here as well, in addition to a number of other high quality Indiana contacts.

As shown by these cases, the proper application of this issue to insurance policies is a common and recurring one in a wide range of circumstances. The decision

below is also out of step with each of them. Other panels of the Court of Appeals have, in the last year, correctly looked at the substance of the contacts and the risk using a flexible approach. *Parsons v. Crum & Forster Spec. Ins. Co.*, 25A-CT-2307, — N.E.3d —, 2026 WL 1782242, *8-9 (Ind. Ct. App. June 22, 2026) (applying Indiana law where the only contact the policyholder had with Massachusetts was the single shipment of a product which caused bodily injury); *Starr Indem. & Liab. Ins. Co. v. Am. Commercial Barge Line, LLC*, 25A-PL-1073, — N.E.3d —, 2026 WL 1141405, *2-3 (Ind. Ct. App. Apr. 28, 2026) (applying Indiana law to a Louisiana environmental claim where the policyholder had semi-national shipping operations based out of Indiana and an Indiana headquarters).

II. Reservations of rights are a cornerstone of liability insurance and protect both insurer and insured.

The Court of Appeals’ treatment of the reservation-of-rights issue also warrants consideration on transfer.

A. The reservation of rights doctrine is essential to both parties in the liability-insurance transaction.

When an insurer gets a claim, it has a variety of choices. *Armstrong Cleaners, Inc. v. Erie Ins. Exch.*, 364 F. Supp. 2d 797, 805-06 (S.D. Ind. 2005) (summarizing Indiana law). It can elect to simply defend the claim and give up any doubts it has about coverage. *Id.* If it is confident the claim is not covered, it can deny coverage and a defense—telling the policyholder to defend the claim on its own. *Id.* If that decision is wrong, the doctrine of first material breach, repudiation, and collateral estoppel

will bar the insurer from asserting certain defenses when the policyholder sues for coverage. *Id.*; *Recticel Foam*, 716 N.E.2d at 1027.

If the insurer is unwilling to risk either extreme, it has two other options. One, it can file its own declaratory judgment action to clarify its obligations. *Armstrong*, 364 F. Supp. 2d at 805. And two, it can defend, but under a reservation of rights. *Id.*

The reservation of rights letter thus protects both parties to the contract. By notifying the policyholder of the insurer's defenses—or its “reservations” about coverage—the policyholder can know where the insurer's interests diverge from its own. This is important to ensure defense counsel is not operating under a conflict of interest. *Id.* at 806. It is also important to illuminate whether a resolution is possible. A reservation may simply note that the insurer does not cover the loss if a jury finds the policyholder acted with an intent to harm, rather than negligently. Or it may rest on a sharply disputed coverage question that needs judicial intervention sooner rather than later. The letter also protects the insurer by guarding it against claims of bad faith and estoppel by creating a paper trail of its position.

For those reasons, Indiana common law (and the Indiana code to boot) has long required insurers to promptly and specifically respond to claims by reserving any rights it has. *Prot. Ins. Co. v. Coca-Cola Bottling Co.*, 463 N.E.2d 656, 661 (Ind. Ct. App. 1981); *Liberty Mut. Ins. Co. v. Metzler*, 586 N.E.2d 897, 900-01 (Ind. Ct. App. 1992); Ind. Code 27-4-1-4.5(2)-(3). The failure to do so risks waiver, estoppel, or breach. *Id.*; *Motorists Mut. Ins. Co. v. Johnson*, 218 N.E.2d 712, 718 (Ind. Ct. App. 1966); *Erie Ins. Co. v. Hickman*, 622 N.E.2d 515, 518-19 (Ind. 1993).

New York law is analogous. An insurer that fails to timely and specifically reserve rights risks waiver of defenses. *See New York v. AMRO Realty Corp*, 936 F.2d 1420, 1431-33 (2d Cir. 1991) (failure to assert defenses constitutes waiver); *Utica Mut. Ins. Co. v. Gath*, 265 A.D.2d 805, 806 (N.Y. App. Div. 1999) (insurer waives defenses not specified in disclaimer). Disclaimers and reservations must be prompt, explicit, and comprehensive.

In short, the reservation of rights doctrine is not ancillary—it is a gateway requirement for asserting limitations or defenses to coverage. Indiana and New York law converge on the central principle that insurers cannot remain silent or equivocal while preserving defenses for later use. *Johnson*, 218 N.E.2d at 718-19; *AMRO Realty Corp*, 936 F.2d at 1431-33. Where an insurer delays coverage determinations, fails to communicate, improperly and indirectly delegates all decision making to third parties, and fails to clearly reserve rights, it risks forfeiting defenses. This case presents an opportunity for the Court to clarify that:

1. Insurers must **meaningfully communicate** reservation-of-rights positions, even if done by a third-party administrator;
2. Delegation does not relieve insurers of duties to the insured; and
3. Coverage defenses or limitations, whether grounded in allocation, policy language, or otherwise, must be **properly preserved or are lost**.

The doctrine is also essential to an insurer’s obligation of good faith and fair dealing. It developed to prevent insurers from benefitting from delay and ambiguity by shifting the goalposts or taking a “wait and see” approach to claims handling. *See Couch on Insurance* 3d §§ 202:48, 202:63. An insurer’s failure to communicate in a

timely and specific manner undermines the fundamental fairness embedded in the liability insurance relationship.

That tactic imposes real-world harms on policyholders. It paralyzes them: can a policyholder settle on its own or must it get approval from the insurer? Is coverage litigation necessary, or can the issue be worked out? Unless the insurer says what it is thinking about the claim in real time, those decisions are rendered impossible. The result is further distrust in the insurance system, delay in the resolution of claims, and the proliferation of lawsuits. Requiring the insurer to state its position—and holding the insurer to it in the absence of new information—brings order to that chaos.

The record contains evidence—some of which is sealed and not fully available to this *amicus*—that suggests the reservation of right process was not followed here by a third-party claims administrator. It is also not clear that the administrator was acting on North River’s behalf, but rather at the behest of another third party. Transfer is warranted to clarify insurers’ obligations to not only properly reserve their rights, but also to supervise those they hire to send such reservations on their behalf.

B. Liability insurers cannot evade their duties by delegating claim handling to undisclosed third parties.

The Court of Appeals stated that RiverStone, a third-party claims “administrator,” handled the claim “on behalf of” North River. But the opinion treats this arrangement as legally inconsequential. It deserved far more scrutiny than the Court of Appeals gave it.

Both Indiana and New York recognize that the insurer—not a third party—owes duties of good faith, communication, and fair dealing to the insured. *See Hickman*, 622 N.E.2d at 518-19; *Pavia v. State Farm Mut. Auto. Ins. Co.*, 626 N.E.2d 24, 26-27 (N.Y. 1993). Delegation cannot extinguish those duties. An insurer cannot outsource coverage positions, avoid direct communication, and later rely on defenses never properly preserved. Even under New York law, which the Court of Appeals ultimately adopted, insurers remain responsible for ensuring that disclaimers and reservations are timely and issued on their behalf. *AMRO Realty Corp*, 936 F.2d at 1431-33.

This problem is compounded where, as here, decision-making is influenced by entities outside the insurer–insured relationship. The record (which is not fully available to UP) suggests that there was a serious gap between the entity making coverage decisions (the third-party administrator and its unknown reinsurer) and the entity ultimately accountable to the policyholder. The Court of Appeals failed to appreciate that, to the extent the administrator’s and reinsurer’s actions failed to discharge North River’s duty to its insured, North River was bound by those failures unless and until the policies were formally transferred to someone else. *Fed. Life Ins. Co. v. Kerr*, 89 N.E. 398, 401-03 (Ind. 1909) (strictly enforcing the requirement that policyholders be notified of and consent to an assumption of their policies that changes the terms on which the insurance is granted).

This is not to say that an insurer may never use a third-party administrator. It also does not mean the insurer cannot reinsure its risks or involve that reinsurer

in the claims process. It just means that unless those entities formally assume the relationship of an insurer **with the policyholder**, the insurer does so at its own peril and must take appropriate actions to supervise those entities. Like in all principal-agent contexts, the principal cannot hide behind its agent's actions and argue it is not responsible when things go awry. Transfer is warranted to examine that aspect of this case and confirm North River's obligations in that regard.

Conclusion

Landis+Gyr's Petition to Transfer should be granted.

Respectfully submitted,

/s/ Christopher E. Kozak _____ /
Jeffrey D. Featherstun (17035-49)
Gregory M. Gotwald (24911-49)
Christopher E. Kozak (35554-49)
PLEWS SHADLEY RACHER & BRAUN LLP
1346 North Delaware Street
Indianapolis, Indiana 46202
jfeatherstun@psrb.com
ggotwald@psrb.com
ckozak@psrb.com
Tel: (317) 637-0700
Fax: (317) 638-0873
Attorneys for Amicus Curiae
United Policyholders

WORD COUNT CERTIFICATE

I verify that this Brief contains no more than 4,200 words, excluding those portions exempted by App. R. 44(C).

/s/ Christopher E. Kozak _____ /

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of June, 2026, the foregoing was served electronically via the Indiana E-Filing System upon the following persons, in accordance with Indiana Appellate Rule 24:

Bryan H. Babb
Bradley M. Dick
Bose McKinney & Evans LLP
bbabb@boselaw.com
bdick@boselaw.com

Erik Mroz
Elizabeth Straw
Drewry Simmons Vornehm, LLP
emroz@dsvlaw.com
estraw@dsvlaw.com

John D. LaBarbera
Bevin Carroll
Kennedys CMK LLP
John.LaBarbera@kennedyslaw.com
Bevin.Carroll@kennedyslaw.com

Brent W. Huber
Robert A. Jorczak
McCarter & English, LLP
bhuber@mccarter.com
ljorczak@mccarter.com

Attorneys for Appellee Landis+Gyr Technology, Inc.

/s/ Christopher E. Kozak _____ /