



The Voice

And The Defense Wins

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A team of three from **Bullivant Houser Bailey**, including DRI members [Ron Clark](#) and [Matthew Hedberg](#), secured a unanimous jury verdict for their client Travelers Insurance Company. At stake was a \$500,000 claim by Wild Waters, a water park in Coeur d'Alene, Idaho, for a 2011 vandalism and theft incident. The coverage case hinged on a "vacancy" clause in the insurance policy.

After a partial summary judgment in favor of the insurance company as to the vacancy clause, the case went to trial on the insured's claims of waiver and estoppel. The principal question at trial was whether Travelers had waived the vacancy clause or should be estopped from asserting it, based on statements attributed to the insurance agent.

The Bullivant team argued, successfully, that the insurance agent, Tim Warner, was acting on behalf of Wild Waters and failed to inform Travelers that the water park would not be opening.

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