

DISSENTING OPINION OF FOLEY, J.

I respectfully dissent. Under Wilson v. AIG Hawaii Ins. Co., 89 Hawai'i 45, 968 P.2d 647 (1998), Dacanay was not the real party in interest to pursue claims against Liberty Mutual before the Insurance Commissioner. Under Wilson, only Dacanay's health providers had standing to contest Liberty Mutual's denial of billing statements submitted by the health providers.

Because Dacanay had no standing to pursue these claims against Liberty Mutual before the Insurance Commissioner, she had no standing to seek attorney's fees and costs under Hawaii Revised Statutes § 431:10C-211(a) for a claim she was not authorized to make. Neither the Insurance Commissioner nor Liberty Mutual could bestow standing to Dacanay that the legislature has refused to grant and the Hawai'i Supreme Court has refused to recognize.