

2 Wins in 2 Weeks!

Every day, UP staff and volunteers fight to level the playing field for insurance consumers. UP added 35 policyholder attorneys to our [Amicus Project](#) volunteer corps over the last 12 months, bringing our total count to 275!

Thanks to these heroes, we are celebrating two important victories for insurance consumers in as many weeks: Yesterday the [Ninth Circuit in Liberty Mutual v. Ash Grove](#) (applying Oregon law) held that a 104(e) letter from the Environmental Protection Agency triggers an insurers duty to defend and last week the New York Court of Appeals held in [Viking Pump and Warren Pumps, insurance appeals](#), that “all sums” allocation and vertical exhaustion apply for claims made against liability policies with non-cumulation clauses.

Both issues will be front and center when the full membership of the American Law Institute debates the first three chapters of a [Restatement of the Law of Liability Insurance](#) at it’s Annual Meeting in Washington D.C. next week. Executive Director Amy Bach is among the advisers who have been working to help shape the Restatement so it will appropriately guide the courts on resolving insurance disputes.

UP thanks our UPstanding volunteers: **David F. Klein** of Pillsbury, Winthrop, Shaw, Pittman LLP and **Barry S. Levin** of Orrick, Herrington & Sutcliffe LLP for their work on the Ash Grove matter, **Robert M. Horkovich** and **Edward J. Stein** of Anderson Kill, P.C. for their work on the Viking Pump matter, and **Lorelie S. Masters** of Perkins Coie, **Timothy P. Law** of Reed Smith LLP, and other policyholder counsel who are tenaciously advocating for policyholders on the ALI Restatement Project.

UP recently blogged about the Ash Grove matter and a related case, [Schnitzer Steel et al v. Continental Casualty Co et al.](#), earlier this week. UP thanks Seth H. Row of Miller, Nash, Graham and Dunn LLP for authoring our brief in the Schnitzer Steel matter and the aforementioned blog post.

Advocacy in Action



UP Staff Attorney Dan Wade with Amicus Project volunteers **Jay M. Levin** of Reed Smith LLP (left) and **Marshall Glinisky** of Anderson Kill PC (right) at the American Bar Association Property Insurance Law Committee Annual Meeting in Las Vegas, April, 2016.

Recent Amicus Briefs Filed:

[Patriot Cleaning Services v. Certain Underwriters at Lloyd's London](#) (S233277, California Supreme Court, 2016) Issues: Reasonable Expectations/Contra Proferentem, Contract Interpretation

[Tamarin Lindenberg v. Jackson National Life Ins. Co.](#) (M2015-02349-SC-R23-CV, Tennessee Supreme Court, 2016) Issues: Punitive Damages, Bad Faith. Authors: J. Brandon McWherter, Esq. and Emily S. Emmons, Esq. of Gilbert Russell McWherter Scott & Bobbitt PLC

[Cypress Point Condominium Association v. Evanston Insurance Co. et al](#) (A-13/14/15, New Jersey Supreme Court, 2016) Issues: What is an Occurrence, Reasonable Expectations. Authors: Timothy P. Law, Esq., Jay M. Levin, Esq., and Jill M. Priscott, Esq. of Reed Smith LLP

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[Association of California Insurance Companies et al. v. Dave Jones, in his capacity as Insurance Commissioner for the State of California](#) (B248622/S226529, California Supreme Court, 2016) Issues: Replacement Cost Value, Regulatory Authority, Underinsurance. Authors: Ivo Labar, Esq. and Daniel Veroff, Esq. of Kerr and Wagstaffe, LLP.

[General Refractories v. First State Ins. Co. et al](#) (15-3409, U.S. Supreme Court of Appeals, 3rd Circuit, 2016) Issues: Contract Interpretation, Ambiguous Terms. Authors: John Ellison, Esq. and Lisa Szymanski, Esq. of Reed Smith LLP

[Stephen Rumnock v. American Family Mut. Ins. Co.](#) (2016SA38, Colorado Supreme Court, 2016) Issues: Protective Orders, Claims handling Procedures. Author: “Chip” Merlin, Esq. of Merlin Law Group

For more information on the Amicus Project and to view all UP amicus briefs filed this year, visit our [Amicus Library](#).

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