

COLORADO SUPREME COURT  
2 East 14th Avenue  
Denver, CO 80203  
(720) 625-5150

United States District Court  
Case No. 2015CV2560-WJM-MJW

**Plaintiff:**  
ROOFTOP RESTORATION, INC., a Colorado corporation,

v.

**Defendant:**  
AMERICAN FAMILY MUTUAL INSURANCE COMPANY, a Wisconsin corporation.

***Counsel for United Policyholders:***

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Case No.: 2017SA31

**UNITED POLICYHOLDERS' MOTION FOR  
LEAVE TO SUBMIT A BRIEF AS AMICUS CURIAE**

COMES NOW, Amicus Curiae United Policyholders by and through its Colorado counsel for this matter, Timms R. Fowler, The Fowler Law Firm, LLC, and Scott D. Smith, Taussig, Taussig & Smith, P.C., and respectfully moves for leave to submit and have this Honorable Court accept its amicus curiae brief. As grounds therefor, UP states as follows:

Since 1992, the non-profit 501(c)(3) United Policyholders (“UP”) has assisted in disaster recovery and worked to preserve the integrity of the insurance system by serving as an information resource and voice for insurance policyholders in Colorado and in all 50 states. UP’s work is supported by donations, grants, and volunteer labor. UP does not sell insurance or accept funding from insurance companies.

UP has been engaged with public officials in El Paso, Boulder, and Larimer counties and the Colorado Insurance Commissioner’s office since 2010 when we began providing local recovery support services to residents and businesses after a series of wildfires and flooding events. Loss adjustment, construction, and financing delays during the recovery process led our organization to help draft and support the Colorado Homeowners Insurance Act of 2013 (House Bill 12-1225, signed on May 10, 2013 by Governor John Hickenlooper). UP publishes free-of-

charge materials that give practical guidance to consumers in print and online at [www.uphelp.org](http://www.uphelp.org).

UP advances policyholders' interests in courts across the U.S. by filing amicus curiae briefs in cases involving important insurance principles. UP has filed amicus curiae briefs on behalf of policyholders in more than 400 cases throughout the United States, including numerous cases before the United States Supreme Court, U.S. Courts of Appeal, and the courts of the state of Colorado.<sup>1</sup> UP's amicus brief was cited in the United States Supreme Court's opinion in *Humana, Inc. v. Forsyth*, 525 U.S. 299 (1999). UP has been invited by many courts to participate in oral argument as amicus curiae and UP's arguments have been cited with approval in opinions issued by numerous state and federal courts, including, e.g., *Association of California Insurance Companies v. Dave Jones, Insurance Commissioner*, Case No. S226529, Cuellar, J., January 23, 2017 (Ct.App. 2/1 B248622, Los Angeles County Super. Ct. No. BC463124).

In this brief, UP seeks to fulfill the "classic role of *amicus curiae* by assisting in a case of general public interest, supplementing the efforts of counsel, and drawing the court's attention to law that escaped consideration." *Miller-Wohl*

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<sup>1</sup> See, e.g., *MarkWest Energy Partners v. Zurich American Ins. Co.*, 2016COA110, July 14, 2016 (Court of Appeals Case No. 2015CA770, District Court Case No. 14CV31489).

*Co. v. Commissioner of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982). This is an appropriate role for *amicus curiae*. As commentators have stressed, an *amicus curiae* is often in a superior position to “focus the court’s attention on the broad implications of various possible rulings.”<sup>2</sup> Given its experience with disaster victims, UP is uniquely suited to provide context to the statute of limitations issue as applied to victims of natural disasters. No fee has been paid or will be paid by any party, interested or otherwise, for preparing this brief.

In the instant case, UP is concerned about the certified issue regarding the statute of limitations for the civil action created by C.R.S. §§ 10-3-1115 and -1116. UP contends that the public interest, public policy, and the text of the relevant statutory provisions provide for a two-year statute of limitations as set forth in the *amicus* brief that will be filed conditionally and concurrently with this motion.

WHEREFORE, UP respectfully requests this Court grant it leave to appear as *amicus curiae* and respectfully requests the Court accept the *amicus curiae* brief submitted herewith.

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<sup>2</sup> Robert L. Stern, et al., *Supreme Court Practice* 570-71 (6th ed. 1986) (quoting Bruce J. Ennis, *Effective Amicus Briefs*, 33 CATH. U. L. REV. 603, 608 (1984)).

RESPECTFULLY SUBMITTED this 26th day of May 2017.

THE FOWLER LAW FIRM, LLC

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Timms R. Fowler

TAUSSIG, TAUSSIG & SMITH, P.C.

By: /s/ Scott D. Smith  
Scott D. Smith

Attorneys for  
**UNITED POLICYHOLDERS**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies on this 26th day of May 2017, a true and correct copy of the foregoing **UNITED POLICYHOLDERS' MOTION FOR LEAVE TO SUBMIT A BRIEF AS AMICUS CURIAE** was filed with this Court and served to the following via ICCES:

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*Pursuant to C.A.R. 30(f), this document with original signatures will be maintained by the filing party and made available for inspection by other parties or the Court upon request.*