

Case No. 15-55777

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

THE LOS ANGELES LAKERS, INC., a California corporation

Plaintiff/Appellant,

vs.

FEDERAL INSURANCE COMPANY, an Indiana corporation

Defendant/Appellee.

On Appeal from the United States District Court
For the Central District of California

**MOTION OF UNITED POLICYHOLDERS FOR LEAVE TO FILE
BRIEF AS *AMICUS CURIAE* IN SUPPORT OF PETITION FOR
REHEARING EN BANC**

Pursuant to Federal Rule of Appellate Procedure 29(b), United Policyholders respectfully requests leave to file an *amicus curiae* brief in support of a petition for rehearing en banc. The proposed brief is attached to this motion.

United Policyholders' participation in this appeal will help inform this Court's disposition of the pertinent issues. United Policyholders and their

counsel all have extensive experience in cases regarding insurance recovery issues.

Pursuant to Ninth Circuit Rule 29-3, United Policyholders can state that the Plaintiff/Appellant consents to this filing. United Policyholders requested consent from Defendant/Appellee, but has not received a response to that request as of the filing of this motion.¹

INTEREST OF AMICUS CURIAE

United Policyholders submits this *amicus curiae* brief in support of Plaintiff/Appellant Los Angeles Lakers, Inc.'s petition for rehearing *en banc*. The panel's Majority Opinion violates fundamental principles governing the interpretation of insurance contracts that were designed to protect insurance consumers – large and small, corporate, family, and individual – in their dealings with insurance companies. The importance of this case is underscored by the exponential growth in litigation under the TCPA.

United Policyholders is a non-profit organization dedicated to helping preserve the integrity of the insurance system by serving as a voice and an

¹ Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E), no counsel for a party authored this brief in whole or in part and no person other than *amicus curiae*, its members or its counsel contributed money to fund preparation or submission of the brief.

information resource for consumers in all 50 states. United Policyholders' work is supported by donations, grants, and volunteer labor. United Policyholders does not sell insurance or accept funding from insurance companies. While much of United Policyholders' work is aimed at helping individuals and businesses purchase appropriate insurance, United Policyholders engages with regulators, public officials, academics, and various stakeholders regarding legal and marketplace developments relevant to all policyholders and all lines of insurance.

ARGUMENT

United Policyholders' proposed brief will aid this Court in examining the complex issues before it. A diverse range of individual and commercial policyholders throughout the United States regularly communicate their insurance concerns to United Policyholders which allows United Policyholders to submit *amicus curiae* briefs to assist state and federal courts in deciding cases involving important insurance principles. United Policyholders' *amicus curiae* brief was recently cited by the California Supreme Court in *Association of California Insurance Cos. v. Dave Jones, Insurance Commissioner*, Case No. S226529, Cuellar, J., January 23, 2017 (Ct.App. 2/1B248622, Los Angeles County Super. Ct. No. BC463124) and

its arguments have been adopted by the Supreme Court in *TRB Investments, Inc. v. Fireman's Fund Ins. Co.*, 40 Cal. 4th 19 (2006) and *Vandenburg v. Superior Court*, 21 Cal. 4th 815 (1999). United Policyholders has filed *amicus curiae* briefs in over 400 cases throughout the United States.

Amicus curiae briefs are important to assist courts in “case[s] of general public interest” and to “supplement[] the efforts of counsel . . . [in] drawing the court’s attention to law that escaped consideration.” *Miller-Wohl Co. v. Commissioner of Labor & Industry*, 694 F.2d 203, 204 (9th Cir. 1982); *see also Community Ass’n for Restoration of the Env’t v. Deruyter Bros. Dairy*, 54 F. Supp. 2d 974, 975 (E.D. Wash. 1999) (“*amicus curiae* . . . suggests the interpretation and status of the law, gives information concerning it, and advises the [c]ourt in order that justice may be done[.]”). United Policyholders aims to assist this Court, through its *amicus curiae* brief, in examining the important insurance principles at issue in this matter.

CONCLUSION

For the foregoing reasons, United Policyholders respectfully requests that the Court grant its motion for leave to file an *amicus curiae* brief in support of the petition for rehearing en banc.

DATED this the 18th day of September, 2017.

/s/ David E. Weiss

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CERTIFICATE OF SERVICE

I certify that on September 18, 2017, I electronically filed a copy of the foregoing motion with the Clerk of Court for the U.S. Court of Appeals for the Ninth Circuit via the appellate CM/ECF system, which will send electronic notification to all registered CM/ECF users in this case.

/s/ David E. Weiss _____

David E. Weiss