

IN THE ILLINOIS APPELLATE COURT  
FIRST DISTRICT, FIRST DIVISION

No. 96-0536

BENOY MOTOR SALES, INC. et al.,	)	APPEAL FROM CIRCUIT
	)	COURT OF COOK COUNTY,
Plaintiffs-Appellants	)	ILLINOIS, COUNTY
	)	DEPARTMENT, CHANCERY
v.	)	DIVISION
	)	
UNIVERSAL UNDERWRITERS INSURANCE	)	Case No. 90 CH 6488
COMPANY, a corporation,	)	
	)	Hon. Dorothy K. Kinnaird
Defendant-Appellee	)	Judge Presiding

**BRIEF OF AMICUS CURIAE UNITED POLICYHOLDERS  
IN SUPPORT OF PLAINTIFFS-APPELLANTS  
BENOY MOTOR SALES, INC. ET AL.'S APPEAL**

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I. STATEMENT OF INTEREST

Amicus Curiae United Policyholders is a non-profit corporation dedicated to educating policyholders on their rights and duties under their insurance policies. Specifically, United Policyholders engages in charitable and educational activities by promoting greater public understanding of insurance issues and consumer rights. United Policyholders' activities include organizing meetings, distributing written materials, and responding to requests for information from individuals, elected officials, and governmental entities. These activities are limited only to the extent that United Policyholders exists exclusively on donated labor and contributions of services and funds.

United Policyholders has a vital interest in seeing that the standard-form insurance policies sold to policyholders throughout the United States are interpreted properly and consistently by insurance companies and the courts. As a public interest organization, United Policyholders seeks to assist and to educate the public and the courts on policyholders' insurance rights, and to have them enforced throughout the country.

Policyholders around the country face certain environmental liabilities pursuant to various federal and state environmental statutes and regulations. These

statutes imposing environmental liability on such policyholders include the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. ("CERCLA") and the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq. ("IEPA"). These statutes allow state and federal authorities to impose liability on potentially responsible parties by bringing administrative proceedings against them.

It is the position of United Policyholders that expenses incurred in mitigating liability, in response to the receipt of a Potentially Responsible Party ("PRP") letter pursuant to CERCLA or IEPA, fall within the scope of coverage provided under the indemnity provisions of standard-form general liability policies which are at issue here. United Policyholders therefore respectfully requests this Court, for the reasons stated herein, to clarify in this case that an insurance company is required under a general liability policy to reimburse its policyholder for loss mitigation costs, as opposed to defense costs, in the context of administrative suits initiated by government agencies in the environmental context.