



December 15, 2007

The Hon. Ronald M. George
Chief Justice of the California Supreme Court
And the Honorable Associate Justices of the
California Supreme Court
350 McAllister Street
San Francisco, CA 94102-4797

Re: *Fidelity And Guaranty Insurance Company, et Al, vs. German Motors Corp. et Al.*
Case No. S158329

Dear Chief Justice George and Associate Justices of the Court:

This letter is submitted on behalf of United Policyholders to respectfully request that the Court grant the Petition for Review filed by German Motors Corporation [GMC] after the Court of Appeal filed its decision on October 11, 2007, granting summary judgment in favor of Fidelity.

United Policyholders is a non-profit organization that was founded in 1991 and dedicated to education and advocacy on insurance issues and consumer rights. The organization is an information and assistance resource for individuals, businesses and disaster victims on solving coverage and claim problems. United Policyholders advances and protects the interests of policyholders by filing *amicus curiae* briefs in cases involving important proceedings on policy issues. United Policyholders has filed over 250 *amicus* briefs in state and federal appellate courts across the country. UP's *amicus* brief was cited in the U.S. Supreme Court's opinion in *Humana Inc. v. Forsyth*, 525 U.S.299 (1999). Arguments from our *amicus curiae* brief were cited with approval by the California Supreme Court in *Vandenburg v. Superior Court*, 982 P.2d 229 (Cal. 1999), and contributed to *Watts Industries, Inc. v. Zurich American Insurance Co.*, (2004) 18 Cal. Rptr.3d 61. United Policyholders interest in this case is an outgrowth of its mission to advocate for and protect policyholders' rights.

There are two issues in GMC's Petition for Rehearing that are of particular interest to United Policyholders:

Board of Directors

Amy Bach, Esq.
Executive Director

Larry P. Ginsburg CFP®
*Associated Planners
Investment Advisory, Inc.*

William H. Hedden
Consolidated Adjusting, Inc.

E. Gerard Mannion, Esq.
Mannion & Lowe

Donald J. Pierce
Chevron Corporation

William M. Shernoff, Esq.
Shernoff, Bidart & Darras LLP

Tricia Swift
The Grubb Company

Alice J. Wolfson, Esq.
Policyholder Attorney

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Letter supporting review

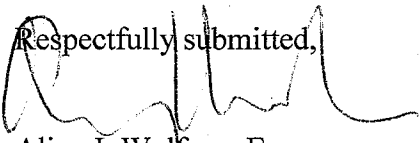
First, as expressed in the Petition, United Policyholders is concerned that the Court of Appeal's narrow reading of the phrase "necessary or incidental to" when evaluating the scope of coverage under a garage keepers' policy is not supported by the broader interpretation contained in published opinions in other states or any published opinions in California. We are concerned that insurance companies will attempt to apply this narrow interpretation as a means to deny coverage to California claims which would have been paid in other states. Allowing the restrictive interpretation of the Appellate Court to stand contravenes California's long standing interest in finding ways to grant rather than deny insurance coverage. *Mariscal v. Old Republic Life Ins. Co.* (1996) 42 CA 4th 1617.

A second important issue raised by the petition is whether an insurance company can rely on an exclusion in its policy after failing to deliver the policy to the insured in direct contravention of the provisions of Insurance Code 383.3 and furthermore, where the insurer expressly denied reliance on the exclusion during discovery.

Granting the petition for review will allow this Court to reaffirm long held California law regarding coverage and will allow it to reaffirm that those insurance companies that refuse to adhere to Insurance Code 383.3 and fail to deliver the policy to its insureds cannot rely on exclusionary language in the policy to deny coverage.

Clearly, important legal issues are at stake in the instant litigation. United Policyholders respectfully requests that this Court grant the Petition for Review.

Respectfully submitted,



Alice J. Wolfson, Esq.
Counsel for United Policyholders

Fidelity v. German Motors: Case No. S158329

Proof of Service by Mail

I declare that I am employed in the County of S.F., California. I am over the age of 18 years and am not a party to the within cause; my business address is 222 Columbus Ave, SF 94133.
On December 18, 2007, I served the enclosed

Letter to Hon. Ronald M. George and Associate Justices

on the parties listed below by placing copies thereof in sealed envelopes with adequate postage for first class delivery and depositing each with the U.S. Postal Service:

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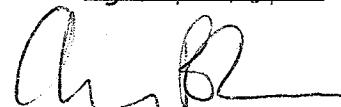
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Clerk of the Court of Appeal
First Appellate District, Division Five
350 McAllister St
San Francisco, CA 94102-3600

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on December 18, 2007 at San Francisco California.



Amy Bach