

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

GAMBLE FARM INN, INC., : CIVIL ACTION - EQUITY
Plaintiff :
v. :
SELECTIVE INSURANCE COMPANY; :
LARRY COPLOFF; MARY COPLOFF; :
RONALD DREWERY; DEBRA DREWERY; :
LOUIS WINNER; ROSE WINNER; and :
MAILE MARSHALL, :
Defendants. : NO. 92-01485

BRIEF OF AMICUS CURIAE UNITED POLICYHOLDERS
IN SUPPORT OF PLAINTIFF GAMBLE FARM INN, INC.'S
MOTION FOR PARTIAL SUMMARY JUDGMENT
PURSUANT TO PENNSYLVANIA RULE OF CIVIL PROCEDURE 1035

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INTEREST OF THE AMICUS CURIAE

Amicus Curiae United Policyholders incorporate herein by reference its statement of interest set forth in the brief submitted in support of plaintiff Gamble Farm Inn, Inc.'s ("Gamble Farm") motion to amend the complaint. ("United Policyholders Initial Brief").

STATEMENT OF THE FACTS

United Policyholders incorporates herein the Statement of Facts contained in its Initial Amicus Brief.

Amicus curiae respectfully requests that this Court take judicial notice of all documents in the Appendix.¹

ARGUMENT

GAMBLE FARM'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON ITS BAD FAITH CLAIM SHOULD BE GRANTED.

[All segments of the insurance community -- policyholders, their brokers, insurance regulators, the trade press and insurers -- described the new ISO (Insurance Services Office) pollution exclusion as "total" or "absolute." They did so with full knowledge that there were exceptions to it.]²

1. See Brown v. Board of Education, 347 U.S. 483 (1954) (Court referred to articles and other publications in rendering its landmark decision); American Guar. & Liab. Ins. Co. v. Vista Medical Supply, 699 F. Supp. 787, 789 n.2 (N.D. Cal. 1988) (insurance company permitted to submit non-party's complaint filed in related case).

2. Post-Argument Submission of National Union Fire Insurance Company of Pittsburgh, Pa. and Reply to Amicus Curiae Brief of Texas Department of Insurance, Mid-America Legal Foundation, and Texas Independent Producers & Royalty Owners Association ("National Union's Post-Arg Subm."), in National Union Fire Insurance Co. of Pittsburgh, Pa. v. CBI Industries, Inc., No. D-4353, 1995 WL 92215 (Tex. Sup. Ct. dated Nov. 4, 1994) ("CBI"), at 16 (second emphasis supplied). See Appendix, at Tab A.

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