

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE SUPREME COURT OF THE STATE OF NEVADA

\*\*\*

LOYAL CROWNOVER; LORA CROWNOVER; and  
MARION PROPERTIES, a Partnership, LOYAL  
CROWNOVER and JOHN BRONAUGH, partners,

Supreme Court No. 40234

Appellants/Cross-Respondents,

vs.

TRAVELERS CASUALTY AND SURETY  
COMPANY, formerly known as THE AETNA  
CASUALTY AND SURETY COMPANY,

Respondent/Cross-Appellant.

**RESPONDENT'S OPPOSITION TO MOTION FOR LEAVE TO FILE BRIEF OF  
AMICUS CURIAE ON BEHALF OF UNITED POLICYHOLDERS**

Respondent Travelers Casualty and Surety Company, formerly known as The Aetna  
Casualty and Surety Company, files this Opposition to United Policyholders Motion for Leave to  
file *Amicus Curiae* brief in support of Appellants ("Motion").

**I.  
INTRODUCTION**

This appeal involves interpretation of an insurance contract. United Policyholders'  
*Amicus Curiae* brief ("Brief") does not, and cannot, aid the Court's interpretation of a insurance  
contract between Appellant and Respondent. United Policyholders is an outsider — it is not a  
party to this contract. The Court's interpretation begins and ends with the contract. United  
Policyholders' brief is unnecessary. The brief does not bring anything to the Court's attention that  
has not or will not be brought to this Court's attention by the parties to the appeal. Respondent  
respectfully requests that the Court deny United Policyholders' Motion for Leave to file its  
*Amicus Brief*.

//  
//

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**II.**  
**ARGUMENT**

**A. United Policyholder's Brief Is Unnecessary; It Will Not Aid the Court.**

As a non-party, United Policyholders' interpretation of the contract is irrelevant and should not be considered. In effect, United Policyholders' Brief interposes its own interpretation of what it believes the parties' insurance policy intended and what it believes the parties rights and obligations are under the policy. In Nevada, "[a]n insurance policy is a contract that must be enforced according to its terms to accomplish the intent of the parties." Farmer's Ins. Exch. v. Neal, 119 Nev. Adv. Rep. 7, 64 P.3d 472, 473, 2003 Nev. LEXIS 8, at \*3 (Mar. 12, 2003). A contract defines the parties intent, rights, and obligations. Keddie v. Beneficial Ins., Inc., 94 Nev. 418, 421 (1978). Id. As such, issues of contract interpretation begins and ends with the contract itself. This Appeal involves an interpretation of the policy. As their Brief correctly notes, "[a]n insurance company's duty to defend and/or indemnify its policyholder arise from the provisions of the insurance policy." See Brief, at p. 1, lines 25-26.

United Policyholders is not a party to the contract, but it zealously advocates one party's position over another. Their Brief echoes arguments of the Appellant's Opening Brief. In fact, half of the cases cited in their Brief are also cited by Appellant.<sup>1</sup> The Brief also references parts of the policy and tells the Court what that part of the policy means. See Brief, at p. 5, lines 6-10. The Brief defines Appellant's respective "roles" and tells the Court how these roles should be interpreted under the policy. See Brief, at p. 4-5. The Brief even raises arguments that it anticipates Respondent will make and attempts to refute Respondents' anticipated position. See Brief, at p. 3, lines 20-21.

The issues in this Appeal will be resolved by the Court's interpretation of the policy. Even the "duty to defend" issue involves an analysis of the policy terms. See *Brief*, at p. 1, lines 25-26. Nothing in their Brief brings anything to the Court's attention that has not or will not be brought to its attention by the parties. As such, the Brief does not and cannot provide any insight

---

<sup>1</sup> Compare Appellant's Opening Brief, Table of Authorities, at p. iv-vii, with Brief of United Policyholders As *Amicus Curiae*, at p. iv.

1 to aid this Court's analysis. In the United States Supreme Court, *Amicus Curiae* briefs that do not  
2 aid the Court's analysis are considered a burden to the Court and are disfavored. See United  
3 States Supreme Court Rule 37(1). The same should hold true in this case.

4 **B. There Are No Interests or Public Policy Issues Worthy of an *Amicus* Brief**

5 United Policyholders' Motion and its Brief leaves an important question unanswered:  
6 How will the outcome of this Appeal affect the public interests it serves to advocate? In their  
7 Motion, United Policyholders' stated "interest" is broad and general. See Motion, at p. 1. The  
8 Motion does not establish the nexus or the unity of interest between United Policyholders and the  
9 Appellants. For example, the Brief does not explain how the Appellants are the type of persons  
10 that United Policyholders, as a non-profit organization, intends to protect. More importantly,  
11 their Motion does not identify any broad public policy interest at stake in this Appeal. The  
12 Motion does tell the Court what "bright line policy" it needs to adopt "for trial courts to follow  
13 when determining the duty to defend," but does not tell the Court why this Appeal will aid in  
14 fulfillment of the policy it endorses or why this bright-line policy is even necessary. Again, the  
15 outcome of this Appeal begins and ends with the policy. The issues in this Appeal can be  
16 determined without aid of an outside perspective.

17 **III.**  
18 **CONCLUSION**

19 United Policyholders should not be permitted leave to file its *Amicus Curiae* brief. Their  
20 Brief is unnecessary. There is nothing in their Brief that will aid this Court's determination of the

21 //

22 //

23

24

25

26

27

28

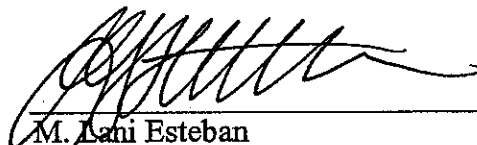
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

issues presented in this Appeal. Respondent's respectfully request that the Court deny United Policyholders motion for leave to file its *Amicus* Brief.

Dated this 24th day of June, 2003.

RESPECTFULLY SUBMITTED,  
SNELL & WILMER LLP.

By:



M. Lani Esteban  
Nevada Bar No. 6967  
Gregory Gilbert  
Nevada Bar No. 6310  
3800 Howard Hughes Parkway  
Suite 1000  
Las Vegas, NV 89109

Attorneys for Respondents

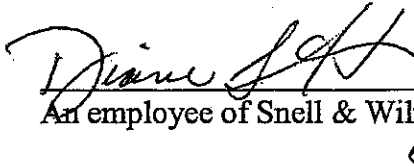
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CERTIFICATE OF MAILING

I hereby certify that service of the foregoing was made this date by depositing a true copy of the same for mailing at Las Vegas, Nevada, addressed to each of the following:

Mona Asberom, Esq.  
James Leonard Brown, Esq.  
Asberom & Brown  
2211 Paradise Road  
Las Vegas, Nevada 89104

Timothy S. Menter, Esq.  
Menter & Witkin  
3 Park Plaza  
Suite 1260  
Irvine, California 92614

  
An employee of Snell & Wilmer, LLP.