

Docket No. 07-2794-cv(L), 07-2818-cv(CON)

**UNITED STATES COURT OF APPEALS
For the Second Circuit**

BERNARD L. SCHWARTZ
Plaintiff-Counter-Defendant-Appellee,

TWIN CITY FIRE INSURANCE COMPANY,
Defendant-Cross-Defendant-Counter-Claimant-Appellee,

ROYAL INDEMNITY CO.,
Defendant-Cross-Defendant,

-v-

LIBERTY MUTUAL INSURANCE COMPANY,
Defendant-Cross-Claimant-Appellant,

NORTH AMERICAN SPECIALTY INSURANCE COMPANY,
Defendant-Counter-Claimant-Cross-Claimant-Appellant.

**Affidavit Of Eugene R. Anderson In Support Of United Policyholders Motion For
Permission To File Brief As Amicus Curiae In Support Of Bernard L. Schwartz,
Plaintiff-Counter-Defendant-Appellee, Supporting Affirmation**

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STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

Eugene R. Anderson, being duly sworn, deposes and says:

I am a member of the firm of Anderson Kill & Olick, P.C., attorneys for Amicus Curiae United Policyholders in the above-captioned matter, and am a member of the Bar of this Court. I am familiar with the facts set forth herein. I submit this affidavit in order to place before the Court this application of United Policyholders motion to file an amicus curiae.

Comes now the applicant United Policyholders and respectfully requests that this court grant it permission to file a Memorandum of Law as amicus curiae in the above captioned action on behalf of Bernard L. Schwartz, Plaintiff-Counter-Defendant-Appellee, Supporting Affirmation.

United Policyholders was founded in 1991 as a not-for-profit, 501(c)(3) organization dedicated to educating the public on insurance issues and consumer rights. United Policyholders is funded by donations and grants from individuals, businesses, and foundations. United Policyholders aids home, property and business owners who have suffered major losses, and is a policyholder-oriented information resource on all types of insurance coverage and claim issues. The organization monitors legal and marketplace developments that impact policyholders and participates in forums aimed at formulating public policy on insurance transactions. United Policyholders publishes materials that give practical guidance on insurance coverage and claim issues to property and business owners and advocates, including disaster relief personnel, attorneys and adjusters.

United Policyholders' activities are limited only to the extent that United Policyholders exists exclusively on donated labor and contributions of services and funds. This brief has been prepared pro bono by United Policyholders' counsel with no financial contributions from any source.

United Policyholders has filed over one hundred and thirty five *amicus* briefs since it was founded. UP's *amicus* brief was cited in the U.S. Supreme Court's opinion in *Humana Inc. et al v. Mary Forsyth*, 525 U.S. 299 (1999) UP was the only national consumer organization to submit an *amicus* brief in the landmark case of *State Farm v. Campbell*, 538 U.S. 408 (2003).

We have been invited by several divisions of the California Court of Appeal, to participate in oral argument as *amicus curiae*. 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.*, 18 Cal.Rptr.3d 61 (Ct. App. 2004).

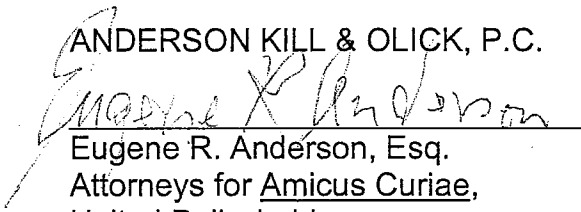
The issues addressed in the Schwartz decision will affect policyholders throughout the State of New York and nationwide. United Policyholders seeks to appear as amicus curiae to address public policy concerns presented by this appeal that are of significance well beyond the application of law to the specific facts of this case.

United Policyholders would like the opportunity to file a Memorandum of Law in this litigation.

Dated: November 16, 2007

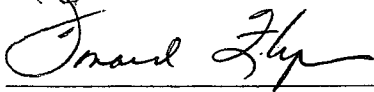
Respectfully submitted,

ANDERSON KILL & OLICK, P.C.


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Sworn to before me this
day of November, 2007



Notary Public

DONALD FLYNN
NOTARY PUBLIC, State of New York
No. 01FL5048358
Qualified in Nassau County
Certificate Filed in New York County
Commission Expires July 10, 2011

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