

No. 07-3886
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

ST. PAUL FIRE AND MARINE INSURANCE COMPANY
Plaintiff – Appellee,

v.

BROTHER INTERNATIONAL CORPORATION D/B/A BROTHER MALL
Defendant – Appellant.

ON APPEAL FROM THE ORDERS OF THE UNITED
STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY DATED
AUGUST 29, 2007 AT
CIVIL ACTION NO. 06-2759 (FLW)

**UNITED POLICYHOLDERS' RESPONSE TO THE ST. PAUL FIRE AND
MARINE INSURANCE COMPANY OPPOSITION TO ITS MOTION TO
APPEAR AS *AMICUS* AND TO ITS APPENDIX**

Eugene R. Anderson
Anderson Kill & Olick, P.C.
1251 Avenue of the Americas
New York, New York 10020
Tel: 212-278-1751
Eanderson@andersonkill.com

OF COUNSEL

Amy Bach, Esq.
United Policyholders
222 Columbus Avenue
San Francisco, California 94133
Tel: 510-763-9740

This Response is submitted by Eugene R. Anderson, a member of the Bar of this Court, on behalf of United Policyholders.

I. UNITED POLICYHOLDERS' BRIEF

The insurance company in this case has asked this Court to ignore or discount the *amicus* brief earlier submitted by United Policyholders.

The insurance companies have amassed an array of anti-policyholder and anti-United Policyholder material which, if put in perspective, shows how active United Policyholders, a not-for-profit organization operating almost entirely with non-paid lawyers, has been.

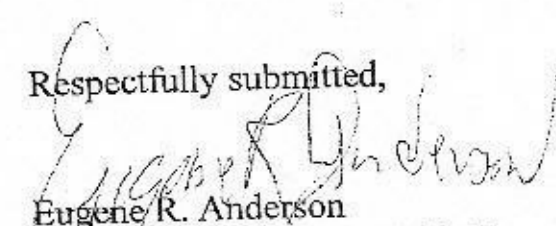
This case is a New Jersey case. Brother is a New Jersey company. New Jersey law will determine the outcome. Glaringly missing from the insurance company screed is any discussion of United Policyholders pro-bono lawyers role in the New Jersey Supreme Court case. *Morton Int'l, Inc. v. General Acc. Ins. Co. of Am.*, 629 A.2d 831 (N.J. 1993). United Policyholders litigation record in New Jersey has been incredibly good.

In *Morton*, United Policyholders regular New Jersey counsel working with the League of New Jersey Municipalities filed an *amicus* brief before the New

Jersey Supreme Court. *Morton* is probably one of the ten most important insurance decisions in the recent past.

Finally, the opposition of the insurance companies implicates the principles set forth in General Refractories v. Fireman's Fund. *General Refractories v. Fireman's Fund, et al.*, 337 F.3d 297 (3rd Cir. 2003).

Respectfully submitted,



Eugene R. Anderson

A Member of the Bar of this Court
Anderson Kill & Olick, P.C.
1251 Avenue of the Americas
New York, New York 10020
Tel: 212-278-1751

OF COUNSEL

Amy Bach, Esq.
United Policyholders
222 Columbus Avenue
San Francisco, California 94133
Tel: 510-763-9740