

NO. 1120764

SUPREME COURT OF ALABAMA

OWNERS INSURANCE COMPANY,
Appellant,

vs.

JIM CARR HOMEBUILDER, LLC, PAT JOHNSON, THOMAS JOHNSON,
Appellees.

ON APPEAL FROM
THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA
CIVIL ACTION NO.: CV-09-900247

MOTION OF UNITED POLICYHOLDERS TO APPEAR AS *AMICUS CURIAE*

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ORAL ARGUMENT IS NOT REQUESTED

MOTION OF UNITED POLICYHOLDERS TO APPEAR AS AMICUS CURIAE

COMES NOW, United Policyholders ("UP") and moves for leave to appear as *amicus curiae* in this case. In support of this motion, UP states as follows:

STATEMENT OF INTEREST

1. UP is a non-profit 501(c)(3) organization, founded in 1991, that is a voice and an information resource for insurance consumers in Alabama and throughout the United States. UP assists and informs disaster victims and individual and commercial policyholders with regard to every kind of insurance product.

2. Grants, donations, and volunteers support our work. UP does not accept funding from insurance companies. UP is based in San Francisco, CA but operates nationwide.

3. UP's work is divided into three program areas: *Roadmap to Recovery*[™] (disaster recovery and claim help), *Roadmap to Preparedness* (insurance and financial literacy and disaster preparedness), and *Advocacy and Action* (advancing pro-consumer laws and public policy).

4. UP hosts a library of tips, sample forms, and articles on commercial and personal lines insurance

products, coverage and the claims process at www.uphelp.org.

5. UP has served Alabama residents after hurricanes and tornadoes and is currently part of a coalition with faith-based associations working to improve affordability and availability of home insurance in the state. After tornadoes wreaked havoc in the state in 2011, UP helped guide small business and home owners on insurance matters during the recovery process. UP also provided oral and written comments to Governor Bentley's Affordable Homeowners Insurance Commission regarding regulatory and legislative reforms to help bring prices down, restore competition and increase consumer choice in Alabama.

6. UP's Executive Director has been selected for six consecutive terms to be an official consumer representative to the National Association of Insurance Commissioners where she works with insurance regulators, including Alabama Insurance Commissioner Ridling and his staff.

7. Academics and journalists throughout the U.S. routinely engage with United Policyholders on insurance and legal matters.

8. UP also assists courts as *amicus curiae* in coverage and claim related appellate proceedings throughout the U.S.

9. UP has appeared as *amicus curiae* in the following Alabama cases: State Farm Fire and Cas. Co. v. Brechbill (CV-2010-900034) and Gilbert v. Alta Health & Life Ins. and Great-West Life & Annuity Ins. (Case No. 01-10829-GG, 2002, U.S. Court of Appeals, 11th Circuit).

MOTION

1. The issue of whether faulty workmanship can constitute a covered "occurrence" under Commercial General Liability policies has occupied the Supreme Courts of numerous jurisdictions in the past year, with the Supreme Courts of North Dakota, West Virginia, Connecticut and Georgia all deciding the issue in 2013 in a manner that was consistent with this Court's decision in this case.

2. Whether the initial insuring agreement operates to exclude the possibility of such coverage affects a great many Alabama policyholders and virtually every company involved in the construction business in this State.

3. This Court recently granted the motion of an insurance industry trade group to appear as *amicus curiae*

in this case. It is, therefore going to hear the views of parties aligned with the insurance industry and its interests. Accordingly, it is both fair and appropriate that the Court should have the benefit of information and argument from the policyholder community, whose interests UP represents.

WHEREFORE, PREMISES CONSIDERED, UP respectfully requests entry of an Order granting UP leave to appear as *amicus curiae* in this case.

Respectfully submitted this 25th day of April 2014.

/s/ Thomas H. Christopher
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CERTIFICATE OF SERVICE

I hereby certify that an exact copy of the foregoing instrument has been served by placing a copy of same in the United States Mail, postage prepaid and properly addressed to:

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This 25th day of April, 2014.

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