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## AN INSURANCE CONSUMER ORGANIZATION

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### UNITED POLICYHOLDERS

February 10, 1992

Honorable Malcolm M. Lucas  
Chief Justice of California  
Marathon Plaza, South Tower  
303 Second Street, Suite 800  
San Francisco, CA. 94107

Dear Chief Justice Lucas and Associate Justices:

This letter is submitted under rule 14(b) of the California Rules of Court, in support of the Petition for Review in Bischel v. Fire Insurance Exchange, No. S024563, (pet. filed 1/2/92), and the Motion for Leave to File an Amended Petition which we understand will be filed in that same action.

United Policyholders is a non-profit, public benefit corporation formed for the purpose of educating consumers on insurance policies and the insurance claims process. We have recently been conducting a series of workshops for victims of the October, 1991 fires in the Oakland and Berkeley hills.

Since the fire, United Policyholders has been contacted by well over a thousand affected homeowners who are experiencing insurance problems. Perhaps the most significant problem stems from the "code upgrade" issue which is squarely addressed in the Bischel case we hope will soon be before you.

Many homeowners who lost their homes had "guaranteed replacement cost" policies which they were told would cover the complete cost of rebuilding their homes. They are now being told that their insurers will not pay for compliance with current building codes. This discrepancy is cause for significant public concern, and merits further inquiry.

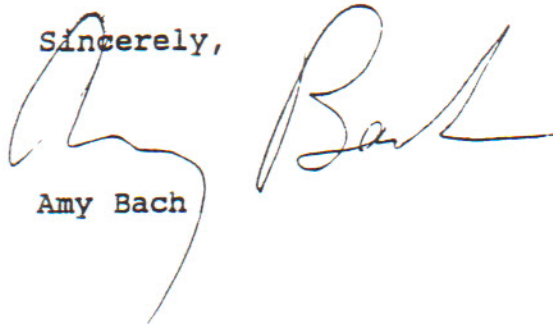
The extreme heat of the October fire caused unusual damage, such as the destruction of concrete foundations. Because many destroyed homes were built in the 30's and 40's, the position insurers are taking in reliance on Bischel and McCorkle v. State Farm Ins. Co., (1990) 221 Cal.App.3d 610, is likely to create shortfalls and confusion.

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This conflict between policy language, case law and reality is also likely to cause problems for insurers. It is possible that the only "guarantee" these policies provide is of disputes and litigation. We therefore urge the Court to grant review of Bischel, and to invite briefing on the code upgrade issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amy Bach". The signature is written in dark ink and is positioned to the right of the typed name.

Amy Bach