

**CASE NO. 16-10996-AA**

**UNITED STATES COURT OF APPEALS  
ELEVENTH CIRCUIT**

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**AUTO-OWNERS INSURANCE COMPANY,**

*Appellee,*

vs.

**ELITE HOMES, INC.,**

*Appellant.*

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On Appeal from the United States District Court, Middle District of Florida  
Case No. 3:14-cv-01182-TJC-MCR

**UNITED POLICYHOLDERS MOTION TO APPEAR AND FOR  
LEAVE TO FILE BRIEF AS *AMICUS CURIAE* IN SUPPORT OF  
APPELLANT, ELITE HOMES, INC. FOR REVERSAL**

June 3, 2016

**STEPHEN A. MARINO, JR., ESQ.**  
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**CERTIFICATE OF INTERESTED PERSONS**  
**AND CORPORATE DISCLOSURE STATEMENT**

The following list is provided pursuant to Federal Rule of Appellate Procedure 26 and Eleventh Circuit Rule 26.1:

Auto-Owners Insurance Company

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Corrigan, Honorable Timothy J., United States District Judge

Crozier, Emily

Crozier, Joseph

Elite Homes, Inc.

Hassebrock, Benjamin H., Esquire

Lambertson, Christopher

Home-Owners Insurance Company

Marino, Jr., Stephen A., Esquire

Morgan, James D., Esquire

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Owners Insurance Company

Property-Owners Insurance Company

Richardson, Honorable Monte Co., United States Magistrate Judge

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Southern-Owners Insurance Company

United Policyholders

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Appellant, Elite Homes, Inc., is a privately held Florida corporation which is not listed or traded on any stock exchange or bulletin board. Elite Homes does not have a parent corporation and no publicly held corporation owns 10% or more of its stock.

Amicus Curiae, United Policyholders, is a nonprofit, tax-exempt, 501(c)(3) corporation organized under the laws of the State of California and funded by donations and grants.

United Policyholders, by and through undersigned counsel and pursuant to Federal Rule of Appellate Procedure 29(a), respectfully requests leave to file the attached brief as *amicus curiae* in support of Appellant, Elite Homes, Inc., for reversal of the judgment below, and states as follows:

1. United Policyholders (UP) is a unique non-profit, tax-exempt, charitable organization founded in 1991 that provides valuable information and assistance to the public concerning insurers' duties and policyholders' rights. UP monitors legal developments in the insurance marketplace and serves as a voice for policyholders in legislative and regulatory forums. UP helps preserve the integrity of the insurance system by educating consumers and advocating for fairness in policy sales and claims. UP's activities in the State of Florida have included long-term hurricane recovery assistance, consumer advocacy related to homeowners insurance rates and availability, and coordination with the Office of Insurance Regulation on various policy matters.

2. In furtherance of its mission, UP regularly appears as *amicus curiae* in courts nationwide to advance the policyholder's perspective on insurance cases likely to have widespread impact. UP has filed over 300 amicus briefs in state and federal courts since it was founded. UP's amicus brief was cited in the U.S. Supreme Court's opinion in *Humana Inc. v. 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).

3. UP has been actively involved as *amicus curiae* in Florida courts and submitted briefs in recent cases, including: *Lemy v. Direct General Finance Co.*, Case No. 12-14794 (11th Cir. 2014); *Amelia Island Company v. Amerisure Ins. Co.*, Case No. 10-10960G (11th Cir. 2010); *Sebo v. American Home Assurance Co.*, Case No. SC14-897 (Fla. 2014); *Washington National Ins. Corp. v. Ruderman*, Case No. SC12-323 (Fla. 2012); and *Amado Trinidad v. Florida Peninsula Ins. Co.*, Case No. SC11-1643 (Fla. 2012).

4. UP seeks to fulfill the classic role of *amicus curiae* by assisting in a case of general public interest, supplementing the efforts of counsel, and drawing the court's attention to law that may have escaped consideration. *Miller-Wohl Co., Inc. v. Commissioner of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982). As commentators have stressed, an amicus is often in a superior position to focus the court's attention on the broad implications of various possible rulings. R. Stern, E. Greggman & S. Shapiro, *Supreme Court Practice*, 570-71 (1986) (quoting Ennis, *Effective Amicus Briefs*, 33 Cath. U.L. Rev. 603, 608 (1984)).

5. UP has a substantial interest in this appeal because the issue presented concerns Florida's broad standard for determining a liability insurer's duty to defend, which is vital to the protections afforded by general liability insurance and

impacts all Florida policyholders. This case involves an issue of general application and significance, and this Court's ruling could have an immediate and direct effect on many policyholder disputes.

6. UP can assist the Court in the disposition of this issue by drawing on its vast resources regarding policyholders' interests. Undersigned counsel, representing UP's interests *pro bono* in this matter, have significant experience litigating a wide variety of insurance disputes, and submit that UP's brief will assist this Court in analyzing Florida law and public policy as it applies to the facts of this case.

7. UP certifies that it has conferred with the parties' counsel regarding this motion. Appellant consents to the requested relief. Appellee opposes this motion and filing of the amicus brief.

WHEREFORE, United Policyholders respectfully requests leave to appear and file the attached brief as *amicus curiae* on behalf of the Appellant, Elite Homes, Inc., and for any other and further relief as this Court deems just and proper.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served by

CM/ECF on June 3, 2016 on:

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