

RECEIVED, 12/1/2016 5:03 PM, Mary Cay Blanks, Third District Court of Appeal

**IN THE DISTRICT COURT OF APPEAL  
THIRD DISTRICT OF FLORIDA**

CASE NO. 3D16-915  
L.T. CASE NO. 15-12314 CA 01 (25)

SERVANDO VAZQUEZ and  
SILVIA VAZQUEZ,

*Appellants,*

vs.

SOUTHERN FIDELITY  
PROPERTY & CASUALTY, INC.,

*Appellees.*

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**UNITED POLICYHOLDERS' MOTION FOR LEAVE TO FILE  
AN AMICUS CURIAE BRIEF IN SUPPORT OF APPELLANTS**

United Policyholders (“UP”), pursuant to Fla. R. App. P. 9.370, respectfully requests leave to file the attached brief as *amicus curiae* in support of the Appellants, Servando and Silvia Vazquez, and states as follows:

1. United Policyholders 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 400 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: *Altman Contractors, Inc. v. Crum and Forster Specialty Ins. Co.* Case No. SC16-1420 (Fla. 2016); *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 it presents a significant legal issue concerning a policyholder's right and ability to challenge a property insurer's actual cash value payment, as mandated by Fla. Stat. § 627.7011. The disposition has broad public policy implications for Florida's homeowners.

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 counsel for the Appellant, and Appellant consents to the requested relief. Counsel for UP has attempted to confer with counsel for Appellee by e-mail on November 28, 2016 and by telephone on November 30, 2016, however, counsel for Appellee has not responded regarding whether it consents to the requested relief.

WHEREFORE, United Policyholders respectfully moves this Court for permission to file an *amicus curiae* brief in support of the position of the Appellant.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by e-mail on December 1, 2016 to:

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