

No. 91393-5

SUPREME COURT OF THE STATE OF WASHINGTON

SANDRA C. THORNELL,

Respondent,

v.

SEATTLE SERVICE BUREAU, INC., d/b/a NATIONAL SERVICE
BUREAU, INC., and STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Appellants.

MOTION FOR LEAVE TO FILE AMICUS CURIAE
BRIEF BY UNITED POLICYHOLDERS

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TABLE OF CONTENTS

	<u>Page</u>
I. UNITED POLICYHOLDERS' INTEREST AND FAMILIARITY OF ISSUES	1
II. FAMILIARITY WITH ISSUES	3
III. SPECIFIC AMICUS ISSUES	4
IV. WHY AMICUS BRIEFING WILL ASSIST THE COURT	4
V. CONCLUSION.....	5

United Policyholders respectfully move pursuant to Rules of Appellate Procedure 10.1(e) and 10.6 to file a brief as amicus curiae in this case. In support of this motion, amicus offer the following:

I. UNITED POLICYHOLDERS' INTEREST AND FAMILIARITY OF ISSUES

United Policyholders ("UP") submits this brief to provide history and context for the Washington Consumer Protection Act, specifically its impact and effect on the insurance industry.

UP is intimately familiar with and maintains a strong interest in the issues in the underlying litigation. Founded in 1991, UP is a non-profit organization that serves as a voice and information resource for insurance consumers in all 50 states. UP is a tax-exempt § 501(c)(3) entity sustained by individual and corporate donations and grants from foundations. Volunteers across the country donate thousands of hours each year to support the organization's work. UP does not sell insurance or accept financial contributions from insurance companies.

By maintaining many focused programs, UP works closely with insurance consumers and can share with the Court its first-hand knowledge about the specific challenges facing Washington insurance consumers. Through its *Roadmap to Recovery*[™] program, UP promotes insurance and financial literacy, and helps individuals navigate the

insurance claim process and recover fair and timely settlements. For example, in 2014, UP provided claim assistance to many Carlton Complex Fire victims. Additionally, through its *Advocacy and Action* program, UP solves claims and related coverage problems by working with public officials, other non-profit and faith-based organizations, and a diverse range of other entities, including insurers and producers.

UP's Executive Director Amy Bach is serving her sixth consecutive term as an official consumer representative to the National Association of Insurance Commissioners ("NAIC") and works closely with NAIC Commissioner Mike Kriedler and the Washington Department of Insurance on a variety of issues affecting insurance consumers in Washington. Former Insurance Commissioner Deborah Senn is an *ex officio* Board Member of UP.

UP regularly submits informed *amicus curiae* briefs in cases involving insurance principles that are likely to impact large segments of the public and business community. UP has filed *amicus curiae* briefs in over 370 cases nationwide and its arguments have been adopted by numerous state and federal appellate courts. Notably, UP's *amicus curiae* brief was cited in the U.S. Supreme Court's opinion in *Humana Inc. v. Forsyth*, 525 U.S. 299, 314 (1999). In Washington, UP submitted *amicus* briefs in important cases such as *Pistorese v. Transamerica Life Ins. Co.*,

No. 14-35027 (9th Cir. 2014); *Kent Farms, Inc. v. Zurich Ins. Co.*, No. 67635-6 (Wash. 1998); *Mathis v. State Farm Mut. Auto. Ins. Co.*, No. 98-36001 (9th Cir. 1998); and *Terry v. Allstate Ins. Co.*, No. 46005-6-1 (Wn. Ct. App. 1999).

UP has a particular interest in this case because Washington, under its Consumer Protection Act (“WCPA”), has a strong interest in addressing the debt collection practices of State Farm Mutual Auto Insurance Company (“State Farm”) and its agent, Seattle Service Bureau (“Seattle Service”). Washington actors must be held accountable for violations of the WCPA, regardless of whether the wrongful act is committed in Washington or not. As Justice Sanders noted in a dissenting opinion in *Schnall v. AT&T Wireless Servs., Inc.*, 171 Wn.2d 260, 287 (2011), Washington has a strong interest in addressing the *nationwide* effects of unfair and dishonest behavior, lest “Washington should . . . become a harbor for [insurance companies] engaging in unscrupulous practices out of state.”

II. FAMILIARITY WITH ISSUES

Amicus has obtained copies of and are familiar with the brief submitted by both parties to this Court, the opinion of the lower court, and the proceedings below. *Amicus* is familiar with the scope of argument presented by the parties and issues involved.

III. SPECIFIC AMICUS ISSUES

UP will provide the Court with the legislative intent and context for the Washington Consumer Protection Act, focusing on the application of the WCPA in the insurance business. The WCPA was enacted to protect consumers from unfair business practices identical to those by State Farm and Seattle Service Bureau in this case. UP will address how courts have been especially vigilant in protecting insurance consumers due to the inherent unequal bargaining power between consumers and insurance companies, the broad-reaching scope of the insurance industry, and the State interest in preventing bad actors from gathering in Washington.

Additionally, by providing consumer stories for the Court's consideration, UP will demonstrate how State Farm and Seattle Service Bureau's aggressive behavior misleads and harms insurance consumers in Washington and nationwide. This practice undermines the nature and purpose of insurance – to provide piece of mind and economic security through indemnification in case of loss or injury.

IV. WHY AMICUS BRIEFING WILL ASSIST THE COURT

This case implicates important decisions about the scope and authority of the WCPA. The Court's ruling will affect, as a practical matter, not only Sandra Thornell, but countless others across the state of

Washington if not across the nation. UP has extensive experience in analyzing these questions from the historical and policy perspectives, and believes such considerations must have a place in the present case.

To that end, 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 escaped consideration.” *Miller Wohl Co. v. Commissioner of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982).

V. CONCLUSION

For the foregoing reasons, UP respectfully requests this Court’s permission to file a brief of *amicus curiae* in this case.

DATED: September 4, 2015

By: 

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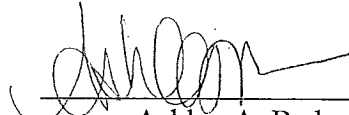
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Dated at Seattle, Washington this 4th day of September, 2015.



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