

IN THE SUPREME COURT FOR THE STATE OF TENNESSEE

FILED  
APR 19 2018  
Clerk of the Appellate Courts  
Rec'd By

OPRY MILLS MALL LIMITED )  
PARTNERSHIP, ET AL., )

Court of Appeals No. )  
M2016-01763-COA-R3-CV )

Petitioners/Appellants/Plaintiffs, )

v. )

ARCH INSURANCE COMPANY, )  
ET AL., )

Supreme Court No. )  
M2016-01763-SC-R11-CV )

Respondents/Appellees/Defendants. )

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MOTION OF UNITED POLICYHOLDERS FOR LEAVE TO FILE BRIEF AS  
*AMICUS CURIAE*

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Pursuant to Rule 31 of the Tennessee Rules of Appellate Procedure, United Policyholders, by and through the undersigned counsel, respectfully moves this Court for leave to file a brief as *amicus curiae* in support of the Appellant, Simon Property Group, L.P. and Opry Mills Mall Limited Partnership (collectively, "Opry Mills").

United Policyholders is a non-profit organization founded in 1991 and dedicated to educating the public on insurance issues and advocating for consumer rights. United Policyholders serves as an information resource and a voice for a diverse range of insurance consumers across the United States, from low income homeowners to small and large businesses. United Policyholders' work is divided into three program areas: Roadmap to Recovery (helping disaster victims navigate the insurance claim process and recover fair settlements), Roadmap to Preparedness (promoting disaster preparedness and insurance literacy for homeowners and businesses), and Advocacy and Action (advancing the interests of insurance consumers in courts of law and before regulators). United Policyholders' work is funded by donations (generally of \$5,000 or less), foundation grants and volunteer labor.

United Policyholders serves an important purpose by representing the interests of policyholders – a diverse collection of individuals and businesses whose resources, organization and influence is dwarfed by the highly organized and well-financed insurance industry and its trade organizations and lobbyists. Most consumers can scarcely afford legal counsel to pursue their rights under their insurance policies, whereas insurance companies have extensive resources to retain lawyers and other experts when they oppose policyholders’ claims. United Policyholders seeks to level the playing field by offering similar resources and comparable counsel to represent policyholders in cases raising important insurance coverage and consumer issues.

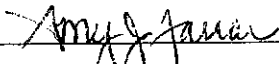
Even in cases involving corporate policyholders already represented by fine counsel, United Policyholders often files amicus briefs in an effort to draw attention to the impact that the precedent at hand will have on individual homeowners and consumers in the affected jurisdiction – as is the case with this important appeal. United Policyholders has filed amicus curiae briefs in numerous federal and state courts in over 450 cases since its founding in 1991. More information about United Policyholders’ Amicus Project can be viewed at [www.uphelp.org/amicus](http://www.uphelp.org/amicus).

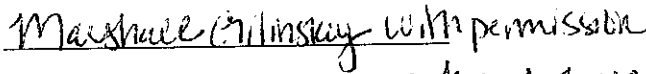
United Policyholders’ positions have been adopted by the Texas Supreme Court in *Excess Underwriters at Lloyd’s, London v. Frank’s Casing Crew & Rental Tools Inc.*, 246 S.W.3d 42 (Tex. 2008), as well as by the California Supreme Court in *Vandenberg v. Superior Court*, 88 Cal. Rptr. 2d 366 (1999) and *Association of California Insurance Companies v. Dave Jones, Insurance Commissioner*, (S226529, January 23, 2017) and numerous other proceedings including *TRB Investments, Inc. v. Fireman’s Fund Insurance Co.*, 145 P.3d 472 (Cal. 2006), and *In Re Salem Suede, Inc.*, 221 B.R. 586 (D. Mass. 1998). United Policyholders has also been


granted leave to file briefs as an amicus curiae in numerous U.S. Supreme Court cases, including the following: *Heimeshoff v. Hartford Life & Accident Insurance Co.*, 134 S. Ct. 604 (2013); *US Airways, Inc. v. McCutchen*, 569 U.S. 88 (2013); *Hardt v. Reliance Standard Life Insurance Co.*, 560 U.S. 242 (2010); *Metropolitan Life Insurance Co. v. Glenn*, 554 U.S. 105 (2008); *Aetna Health, Inc. v. Davila*, 542 U.S. 200 (2004); and *Rush Prudential HMO, Inc. v. Moran*, 536 U.S. 355 (2002). Because of the impact this issue has on the industry as a whole, United Policyholders respectfully submits this brief as a “friend of the Court” to assist the Court in its consideration of these important issues.

WHEREFORE, United Policyholders respectfully requests that this Court grant its motion for leave to file the accompanying brief as *amicus curiae*, and that the brief, which is submitted conditionally, be filed with the Court.

Respectfully submitted,

  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon the following counsel of record on April 19, 2018, by U.S. Mail:

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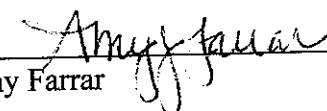
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