

**SUPREME COURT OF LOUISIANA**

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DOCKET NO. 2015-C-588

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DANIEL ARCENEUX, LOUIS DAVEREDE, JR., VIVES LEMMON AND  
JULES MENESSES, ET AL.  
Plaintiffs-Appellees,

vs.

AMSTAR CORP., AMSTAR SUGAR CORP., TATE & LYLE NORTH AMERICAN  
SUGARS, INC. AND DOMINO SUGAR COMPANY,  
Defendant-Appellant.

*CONSOLIDATED WITH:*

EMETT BARBE, JR., ET AL.

vs.

AMERICAN SUGAR REFINING, INC., AMSTAR CORPORATION, AMSTAR  
SUGAR CORPORATION, TATE & LYLE NORTH AMERICAN SUGARS, INC., AND  
DOMINO SUGAR COMPANY

*CONSOLIDATED WITH:*

JOSEPH WAGUESPACK, ET AL.

vs.

AMERICAN SUGAR REFINING, INC., AMSTAR CORPORATION,  
AMSTAR SUGAR CORP., TATE & LYLE NORTH AMERICAN SUGARS, INC. AND  
DOMINO SUGAR COMPANY

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APPEAL FROM COURT OF APPEAL, FOURTH CIRCUIT  
No. 2014-CA-0271  
34th JUDICIAL DISTRICT FOR THE PARISH OF ST. BERNARD  
DOCKET NO. 86-959, DIVISION "B"  
Honorable Robert J. Klees, Judge Pro Tempore

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**MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE ON BEHALF OF  
UNITED POLICYHOLDERS IN SUPPORT OF APPELLEE AMERICAN SUGAR  
REFINING, INC.**

Paul E. Breene (*pro hac vice*)  
Reed Smith LLP  
599 Lexington Avenue  
22nd Floor  
New York, NY 10022  
Telephone: 212-205-6023  
Facsimile: 212-521-5450  
*Of Counsel*

Michael J. deBarros (#32422)  
Todd A. Rossi (#11478)  
Mark Mese (#14214)  
Kean Miller LLP  
400 Convention St., Suite 700  
Baton Rouge, LA 70802  
Telephone: 225-387-0999  
Facsimile: 225-388-9133  
*Counsel for United Policyholders*

**MAY IT PLEASE THE COURT:**

NOW INTO COURT, through undersigned counsel, comes United Policyholders, which respectfully moves this Honorable Court for leave to file an original brief of *amicus curiae* in support of Appellee, American Sugar Refining, Inc., in the above-captioned case.

United Policyholders is a unique national non-profit organization founded in 1991 that helps preserve the integrity of the insurance system. Donations, grants and volunteer labor support the organization's work. Through a Roadmap to Preparedness, Roadmap to Recovery and Advocacy and Action program, United Policyholders helps Louisiana residents to prepare for and recover from disasters and to protect their assets by making good insurance decisions. United Policyholders assisted Louisiana property owners after Hurricane Katrina, and regularly coordinates with Commissioner Jim Donelon and his staff to serve the State's insured home and business owners.

By submitting a brief in this matter, United Policyholders seeks to fulfill the "classic role of *amicus curiae* 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., Inc. v. Commissioner of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982). This is an appropriate role for *amicus curiae*. As commentators have often 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)).

Since it was founded in 1991, United Policyholders has filed over three hundred and fifty *amicus* briefs in state and federal appellate courts throughout the United States. United Policyholders' *amicus curiae* brief was cited in the U.S. Supreme Court's opinion in *Humana Inc. v. Mary Forsyth*, 525 U.S. 299 (1999). The organization has participated by court invitation in briefing and oral argument, and many of the arguments from United Policyholders' *amicus curiae* briefs have been cited with approval by reviewing courts.

United Policyholders has previously been granted leave to file *amicus curiae* briefs in the Louisiana Supreme Court, in the matters of *Sher v. Lafayette Ins. Co.*, 2007-2441 (La. 4/8/08), 988 So. 2d 186, *on reh'g in part* (July 7, 2008), and *Ducote v. Koch Pipeline Co., L.P.*, 98-0942 (La. 1/20/99), 730 So. 2d 432, *opinion modified on reh'g* (Feb. 26, 1999). United Policyholders

has also been granted leave to file *amicus curiae* briefs in the United States Court of Appeals for the Fifth Circuit, in the matters of *Pendergest-Holt v. Certain Underwriters at Lloyd's of London*, 600 F.3d 562 (5th Cir. 2010), *Tuepker v. State Farm Fire & Cas. Co.*, 507 F.3d 346, 348 (5th Cir. 2007), and *Motiva Enterprises, LLC v. St. Paul Fire & Marine Ins. Co.*, 445 F.3d 381, 383 (5th Cir. 2006).

The issue before this Court on appeal concerns the scope of the duty to defend owed by an insurance company to its policyholder when it handles long-latency disease claims on its policyholder's behalf. The Court's resolution of this issue will have significant ramifications for Louisiana insurance policyholders seeking to secure the defense they paid for when they purchased liability insurance that included a "duty to defend." This matter will have a substantial impact on the abilities of policyholders to hold their insurance companies accountable, and will also impact the consistency of court decisions on a statewide basis. This is an area of the law in which United Policyholders believes that it would be useful to the Court to hear the insurance policyholders' perspective. In addition, United Policyholders has a significant interest in ensuring that standard-form liability insurance policies, which are sold to millions of policyholders worldwide every year, are interpreted properly and consistently by insurance companies and courts.

The undersigned counsel for United Policyholders have significant experience in insurance litigation against major insurance companies, and believe that they will be able to provide assistance in analyzing the issues in this case and their public policy implications in a way that compliments the arguments raised by counsel for the parties to this appeal. Counsel for United Policyholders are retained *pro bono*, and will accept no money for their legal work in this case. The issue before this Honorable Court is of great importance to the citizens of the State of Louisiana.

WHEREFORE, United Policyholders respectfully requests leave of Court to file the attached brief as *amici curiae*.

Respectfully submitted:

Paul E. Breene (*pro hac vice*)  
Reed Smith LLP  
599 Lexington Avenue  
22nd Floor  
New York, NY 10022  
Telephone: 212-205-6023  
Facsimile: 212-521-5450  
*Of Counsel*

/s/ Michael J. deBarros  
Michael J. deBarros (#32422)  
Todd A. Rossi (#11478)  
Mark Mese (#14214)  
Kean Miller LLP  
400 Convention St., Suite 700  
Baton Rouge, LA 70802  
Telephone: 225-387-0999  
Facsimile: 225-388-9133

*Counsel for United Policyholders*

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been forwarded to all known counsel of record by e-mail, facsimile, or by depositing in the United States Mail, properly addressed and postage prepaid, this 26<sup>th</sup> day of October 2015, at Baton Rouge, Louisiana.

/s/ Michael J. deBarros  
Michael J. deBarros

**SUPREME COURT OF LOUISIANA**

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**ORDER**

Considering the foregoing United Policyholders's Motion for Leave to File *Amicus Curiae* Brief:

IT IS ORDERED that United Policyholders is hereby GRANTED leave to file the attached brief as *amicus curiae*.

THUS DONE AND SIGNED this \_\_\_\_ day of October, 2015, in New Orleans,  
Louisiana.

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JUSTICE, LOUISIANA SUPREME COURT