

<p>COLORADO SUPREME COURT  2 East 14th Avenue  Denver, CO 80203  (720) 625-5150</p>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p> <hr/> <p>Case No.: 2016SC916</p>
<p>COLORADO COURT OF APPEALS  Case No. 2015CA964  DISTRICT COURT, DENVER COUNTY  Case No. 2009CV7321</p>	
<p><b>Petitioners:</b>  ROSALIN ROGERS AND MARK L.  THOMPSON,</p> <p>v.</p> <p><b>Respondent:</b>  CATLIN INSURANCE COMPANY (UK) LTD.</p>	
<p><b><i>Counsel for United Policyholders:</i></b> On the Brief:  Damian J. Arguello, Esq., #15983  COLORADO INSURANCE LAW CENTER  8690 Wolff Court, Suite 200  Westminster, CO 80031  (303) 427-2454  <a href="mailto:damian@coloradoinsurancelawcenter.com">damian@coloradoinsurancelawcenter.com</a></p> <p>Of Counsel: Amy R. Bach, Esq.  <a href="mailto:amy.bach@uphelp.org">amy.bach@uphelp.org</a>  Daniel R. Wade, Esq. <a href="mailto:dan.wade@uphelp.org">dan.wade@uphelp.org</a></p> <p>United Policyholders  381 Bush Street, 8th Floor  San Francisco, CA 94104  (415) 393-9990  (415) 677-4170 Fax</p>	
<p style="text-align: center;"><b>UNITED POLICYHOLDERS' MOTION FOR LEAVE TO SUBMIT A  BRIEF AS AMICUS CURIAE IN SUPPORT OF PETITIONERS ROSALIN  ROGERS AND MARK L. THOMPSON</b></p>	

*Amicus Curiae* United Policyholders, by and through its Colorado counsel for this matter, Damian J. Arguello of Colorado Insurance Law Center, respectfully moves for leave to submit and have this Honorable Court accept its *amicus curiae* brief in support of Petitioners Rosalin Rogers and Mark L., Thompson. As grounds therefor, UP states as follows:

Since 1992, the mission of United Policyholders (“UP”), a nonprofit 501(c)(3) corporation, has been to preserve the integrity of the insurance system by serving as an information resource and voice for insurance policyholders in Colorado and the other 49 States. UP assists individual and business policyholders of all types (as well as those harmed by insurers’ actions or operations) be their own advocate when faced with insurable events, such as natural disasters.

In Colorado, UP has been engaged with public officials in El Paso, Boulder, and Larimer counties, and the Colorado Insurance Commissioner’s office, since 2010, when UP began providing local recovery support services to residents and businesses after a series of wildfires and flooding events. Loss adjustment, construction, and financing delays during the recovery process led UP to help draft and support the Colorado Homeowners Insurance Act of 2013 (House Bill 12-1225, signed on May 10, 2013 by Governor John Hickenlooper).

UP's work is supported by donations, grants, and volunteer labor. UP does not sell insurance or accept funding from insurance companies. UP publishes free-of-charge materials that give practical guidance to insurance consumers in print and online at [www.uphelp.org](http://www.uphelp.org).

In addition to general advocacy, UP advances policyholders' interests in courts across the U.S. by filing *amicus curiae* briefs in cases involving important insurance principles. UP has filed *amicus curiae* briefs on behalf of policyholders in more than 400 cases throughout the United States, including numerous cases before the United States Supreme Court, the U.S. Circuit Courts of Appeal, and the courts of the State of Colorado.<sup>1</sup> UP's *amicus* brief was cited in the United States Supreme Court's opinion in *Humana, Inc. v. Forsyth*, 525 U.S. 299, 314 (1999).

In fact, UP has been invited by many courts to participate in oral argument as *amicus curiae* and UP's arguments have been cited with approval in opinions issued by numerous state and federal courts, including, *e.g.*, *Association of California Insurance Companies v. Dave Jones, Insurance Commissioner*, Case No.

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<sup>1</sup> See, *e.g.*, *MarkWest Energy Partners v. Zurich American Ins. Co.*, 2016COA110, July 14, 2016 (Court of Appeals Case No. 2015CA770, District Court Case No. 14CV31489).

S226529, Cuellar, J., January 23, 2017 (Ct.App. 2/1 B248622, Los Angeles County Super. Ct. No. BC463124).

In the proposed brief here, 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). This is an appropriate role for *amicus curiae*. As commentators have stressed, an *amicus curiae* is often in a superior position to “focus the court’s attention on the broad implications of various possible rulings.”<sup>2</sup> Given its experience with insurance matters generally, UP is uniquely suited to provide context to the issue of whether a prevailing garnishor (typically a victim of an insured accident and/or loss) can recover prejudgment interest.

In the instant case, UP contends that the public interest, public policy, and the text of the relevant statutory provisions favor an award of prejudgment interest to a prevailing garnishor, as set forth in the *amicus* brief that will be filed conditionally and concurrently with this motion.

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<sup>2</sup> Robert L. Stern, *et al.*, *Supreme Court Practice* 570-71 (6th ed. 1986) (quoting Bruce J. Ennis, *Effective Amicus Briefs*, 33 CATH. U. L. REV. 603, 608 (1984)).

No fee has been paid or will be paid to UP by any party, interested or otherwise, for preparing this brief.

WHEREFORE, UP respectfully requests this Court grant it leave to appear as *amicus curiae* and respectfully requests the Court accept the *amicus curiae* brief submitted herewith.

RESPECTFULLY SUBMITTED November 27, 2017.

COLORADO INSURANCE LAW CENTER

By: /s/ Damian J. Arguello  
Damian J. Arguello

Attorney for  
**UNITED POLICYHOLDERS**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on November 27, 2017, a true and correct copy of the foregoing **UNITED POLICYHOLDERS' MOTION FOR LEAVE TO SUBMIT A BRIEF AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS ROSALIN ROGERS AND MARK L. THOMPSON** was filed with this Court and served to all counsel of record via ICCES:

*/s/ Damian J. Arguello*

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Damian J. Arguello

*Pursuant to C.A.R. 30(f), this document with original signatures will be maintained by the filing party and made available for inspection by other parties or the Court upon request.*