

FILED
SUPREME COURT
STATE OF WASHINGTON
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Case No. 100466-4

SUPREME COURT OF THE STATE OF WASHINGTON

PREFERRED CONTRACTORS INSURANCE COMPANY,
RISK RETENTION GROUP, LLC,

Plaintiff,

v.

BAKER AND SON CONSTRUCTION, a Washington for-profit corporation; ANGELA COX, as Personal Representative of the Estate of RONNIE E. COX, deceased; ANGELA COX, individually and as mother of G.C., a minor,

Defendants.

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

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I. IDENTITY AND INTEREST OF MOVING PARTY

United Policyholders (UP) seeks leave to file an amicus curiae brief. 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. Through its *Roadmap to Recovery*TM 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 victims of the Carlton Complex Fire in Pateros, Washington. 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 Executive Director Amy Bach has served as an official consumer representative to the National Association of Insurance Commissioners (NAIC) and works closely with Insurance Commissioner Mike Kreidler and the Washington Office of the Insurance Commissioner on issues affecting insurance consumers in Washington. Former Insurance Commissioner Deborah Senn served a term as a 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 *McLaughlin v. Travelers Commercial Ins. Co.*, 196 Wn.2d 631, 476 P.3d 1032 (2020);

Thornell v. Seattle Serv. Bureau, Inc., 184 Wn.2d 793, 363 P.2d 587 (2015); *Jones v. Allstate Ins. Co.*, 146 Wn.2d 291, 45 P.3d 1068 (2002); *Kent Farms, Inc. v. Zurich Ins. Co.*, 140 Wn.2d 396, 998 P.2d 292 (2000); and *Mathis v. State Farm Mut. Auto. Ins. Co.*, 230 F.3d 1376 (9th Cir. 2000) (unpublished).

II. RELIEF SOUGHT

UP seeks leave to file an *amicus curiae* brief which is filed contemporaneously with this motion.

III. RECORD RELEVANT TO MOTION

Undersigned counsel are authorized by UP to file the *amicus curiae* brief on its behalf. Counsel have read the briefs, reviewed the record on appeal, and researched relevant authority.

IV. ARGUMENT FOR GRANTING MOTION

UP has an interest in this case because Washington has a declared public policy requiring contractors to carry insurance, yet the policies at issue in this case fail to meaningfully carry out that purpose. As discussed in UP's accompanying brief, the

failure of these policies to do so has been known in the insurance industry for many years. 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., Inc. v. Comm’r of Labor & Indus. State of Mont.*, 694 F.2d 203, 204 (9th Cir. 1982). Because this case could affect insurance consumers across Washington, UP is particularly well-suited to provide necessary background and authority as an *amicus curiae*. See RAP 10.6(b).

V. CONCLUSION

UP respectfully asks the Court to grant leave to file the *amicus curiae* brief.

RESPECTFULLY SUBMITTED this 1st day of April,
2022.

I hereby certify that this document contains 575 words in
accordance with RAP 18.17.

KELLER ROHRBACK L.L.P.

By *s/ Ian S. Birk*

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CERTIFICATE OF SERVICE

I, Jeffrey S. McClimans, certify that on the date below, I caused a copy of the foregoing document to be served, via the Supreme Court File Upload Manager, on the individuals identified below:

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SIGNED this 1st day of April, 2022, at Seattle,
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s/ Jeffrey S. McClimans
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KELLER ROHRBACK L.L.P.

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Motion for Leave to File Brief of Amicus United Policyholders

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