

FILED
SUPREME COURT
STATE OF WASHINGTON
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BY ERIN L. LENNON
CLERK

SUPREME COURT
OF THE STATE OF WASHINGTON

THE EVERETT CLINIC, PLLC,

Respondent,

v.

PREMERA and
PREMERA FIRST, INC.,

Petitioners.

No. 101683-2

MOTION FOR
LEAVE TO FILE
MEMORANDUM OF
AMICUS CURIAE
UNITED
POLICYHOLDERS

1. Identity and Interest of Moving Party

United Policyholders (“UP”) is familiar with, and maintains, a strong interest in, the issues in this case. 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. UP provided long term recovery and insurance problem-solving assistance to victims of the Carlton Complex Fire in Pateros, Washington, and is currently providing similar assistance to households impacted by the 2020 Labor Day Complex fires in Okanogan and Douglas Counties. Additionally, through its Advocacy and Action program, UP helps solve claim and 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 Counsel and Executive Director Amy Bach has served as an official, appointed consumer representative to the National Association of Insurance Commissioners ("NAIC") since 2009 and works closely with Insurance Commissioner Mike Kriedler and his office on a variety of issues affecting Washington residents. The late former Washington Insurance Commissioner Deborah Senn completed a term of service on the

United Policyholders' board of directors.

UP regularly submits *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 500 cases nationwide and its arguments have been adopted by numerous state and federal appellate courts. 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 before this Court such as *Alpert v. Nationstar Mortgage, LLC*, 198 Wn.2d 228, 494 P.3d 419 (2021); *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.3d 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).

UP has a particular interest in this case because it pertains to health care costs and insurance. It was an *amicus curiae* at

Division I.

Washington has a strong public policy supporting competition in the health care marketplace and avoiding provider consolidation, thereby limiting attendant cost escalation in health insurance for policyholders. UP will provide an important policyholder perspective for the Court regarding the issues at stake here.

2. Statement of Relief Sought

UP seeks leave to file an *amicus curiae* memorandum pursuant to RAP 13.4(b) which is filed contemporaneously with this motion.

3. Record Relevant to Motion

Undersigned counsel are authorized by UP to file the *amicus curiae* memorandum on its behalf. Counsel have read Premera's petition for review and the Everett Clinic's answer to same, and have researched relevant authority.

4. Argument for Granting Motion

This case implicates important issues about health

insurance and Washington's public policy regarding competition in the health care market, meriting review by this Court. RAP 13.4(b).

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).

5. Conclusion

In accordance with RAP 13.4(b), UP respectfully asks the Court to grant leave to file its *amicus curiae* memorandum.

This document contains 631 words, excluding the parts of the document exempted from the word count by RAP 18.17.

DATED this 3rd day of April, 2023.

Respectfully submitted,

/s/ Philip A. Talmadge

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DECLARATION OF SERVICE

On said day below I electronically served a true and accurate copy of the *Motion for Leave to File Memorandum of Amicus Curiae United Policyholders* in Supreme Court Cause No. 101683-2 to the following:

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I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

DATED: April 3, 2023 at Seattle, Washington.

/s/ Matt J. Albers
Matt J. Albers, Paralegal
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TALMADGE/FITZPATRICK

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Transmittal Information

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