

IN THE SUPREME COURT OF NEVADA

JAMES NALDER, Guardian Ad Litem on
behalf of CHEYANNE NALDER; and GARY
LEWIS, Individually,

Appellants,

vs.

UNITED AUTOMOBILE INSURANCE
COMPANY,

Respondent.

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Elizabeth A. Brown
Clerk of Supreme Court

MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF

The Complex Insurance Claims Litigation Association (“CICLA”), the American Insurance Association (“AIA”), and the Property Casualty Insurers Association of America (“PCI”) jointly request leave to file an *amicus curiae* brief, pursuant to NRAP 29(c), in support of the Respondent.

The proposed amici are trade associations of major property and casualty insurance companies, which collectively represent over a thousand insurers across the country. They seek to assist courts in understanding and resolving important coverage issues that are of great consequence to insurers, policyholders, and the public.

The question certified to this Court by the United States Ninth Circuit Court of Appeals could have a far-reaching effect on the insurance industry. This Court

has been asked to decide the proper measure of damages when an insurer breaches its duty to defend but does not act in bad faith.

The Appellants' position would throw into doubt settled law regarding the construction of insurance contracts and the scope of damages available for simple breach of contract. The proposed amici are vitally interested in this case because their members provide a substantial percentage of the commercial liability coverage within the state of Nevada and across the country through insurance policies similar or identical to the one at issue in this case.

As trade associations whose membership collectively comprises most of the country's major property and casualty insurers, CICLA, AIA and PCI will provide a unique and broader perspective about the impact of this Court's decision on the insurance system, including the insurer's right to dispute coverage in good faith and the use of extra-contractual damages as a deterrent for bad faith conduct. As amicus curie, CICLA, AIA and PCI will demonstrate that the proper measure of damages when an insurer breaches its duty to defend but does not act in bad faith is (1) the costs of defending the underlying action, and (2) if covered, indemnity for any judgment up to the insurance policy limits.

Because of their members' extensive experience, CICLA, AIA, and PCI respectfully submit that their participation as amicus curiae may assist this Court in deciding the issue before it.

CONCLUSION

For these reasons, the Court should grant our motion for leave to file an *amicus curiae* brief in the above captioned case.

DATED this 13th day of January 2017.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

LAURA A. FOGGAN, *pro hac vice pending*
CROWELL AND MORING LLP
1001 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 624-2774

By /s/ Joel D. Henriod
DANIEL F. POLSENBERG (SBN 2376)
JOEL D. HENRIOD (SBN 8492)
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 474-2681

Attorneys for Complex Insurance Claims Litigation Association, American Insurance Association and Property Casualty Insurers Association of America

CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2017, I filed the foregoing “Motion for Leave to File Amicus Curiae Brief” through the Supreme Court of Nevada’s electronic filing system. Electronic service of the foregoing shall be made in accordance with the Master Service List as follows:

Dennis M. Prince, Esq.
Robert T. Eglet, Esq.
Eglet Prince
400 South 7th Street, 4th Floor
Las Vegas, NV 89101

Richard Christensen, Esq.
Thomas Christensen, Esq.
Christensen Law Offices
1000 South Valley View Blvd.
Las Vegas, NV 89107

Matthew J. Douglas, Esq.
Atkin, Winner & Sherrod
1117 South Rancho Drive
Las Vegas, NV 89102

David T. Pursiano, Esq.
Pursiano Barry Bruce Lavelle, LLP
8551 South Rampart Blvd., Ste. 260
Las Vegas, Nevada 89145

Matthew L. Sharp, Esq.
Matthew L. Sharp, Ltd.
432 Ridge Street
Reno, Nevada 89501

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, at Las Vegas, Nevada, addressed as follows:

Thomas Winner, Esq.
Susan Sherrod, Esq.
Atkin, Winner & Sherrod
1117 South Rancho Drive
Las Vegas, NV 89102

Scott A. Cole, Esq.
Thomas E. Scott, Jr., Esq.
Cole, Scott & Kissane
9150 South Dadeland Blvd., Ste. 1400
Las Vegas, NV 89101

/s/ Jessie M. Helm

An Employee of Lewis Roca Rothgerber Christie LLP