

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES NALDER, GUARDIAN AD
LITEM ON BEHALF OF CHEYANNE
NALDER; AND GARY LEWIS,
INDIVIDUALLY,

Appellants,

vs.

UNITED AUTOMOBILE INSURANCE
COMPANY,

Respondent.

No. 70504

FILED

JAN 24 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

*ORDER GRANTING MOTIONS TO FILE AMICUS BRIEFS AND TO
ASSOCIATE COUNSEL*

This is a certified question from the United States Court of Appeals for the Ninth Circuit pursuant to NRAP 5 questioning the extent of the liability of an insurer that has breached its duty to defend but has not acted in bad faith. Cause appearing, we grant the unopposed motion of United Policyholders to file an amicus brief in support of appellants. See NRAP 29; *Ryan v. Commodity Futures Trading Comm'n*, 125 F.3d 1062, 1063 (7th Cir. 1997) (an amicus brief is appropriate where “the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide”). We direct the clerk of this court to file the amicus brief of United Policyholders in support of appellants received on December 20, 2016.

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 respondent. Proposed amici are trade associations of major property and casualty insurance companies that represent insurers across the country. They

propose to provide this court a broad perspective about the potential 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. Cause appearing, we grant the motion. and we direct the clerk of this court to file the amicus brief received on January 17, 2017.

CICLA, AIA, and PCI have also filed a motion to associate attorney Laura Anne Foggan of Crowell & Moring LLP pursuant to SCR 42. Attached to the motion to associate Ms. Foggan is a verified application, a certificate of good standing from the District of Columbia Court of Appeals, and a statement pursuant to SCR 42 from the State Bar of Nevada. The State Bar of Nevada's Rule 42 statement indicates that Ms. Foggan has not applied to appear in Nevada courts within the past 3 years, *see* SCR 42(6) (stating that repeated appearances by any person or firm pursuant to this rule shall be cause for denial of the motion).

Cause appearing, we grant the motion to associate. SCR 42(8). Ms. Foggan shall be permitted to appear on behalf of amici curiae CICLA, AIA, and PCI in this matter. Nevada attorney Joel D. Henriod of Lewis Roca Rothgerber Christie LLP shall be responsible for all matters presented by Ms. Foggan in this appeal. *See* SCR 42(14) (requiring the Nevada attorney of record to be responsible for and actively participate in the representation of a client in these proceedings, and to be present at all matters in open court); NRAP 25(a)(5) (requiring all documents submitted to the supreme court for filing to include the original signature of at least one attorney of record who is an active member of the State Bar of Nevada); NRAP 46(a)(3) (requiring Nevada counsel to sign all briefs, be

present during oral argument, and be responsible for all briefs and matters presented by foreign counsel).

It is so ORDERED.

Cherry, C.J.

cc: Eglet Prince
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