

IN THE SUPREME COURT OF NEVADA

CENTURY SURETY COMPANY,

Appellant,

vs.

DANA ANDREW, AS LEGAL GUARDIAN OF
RYAN T. PRETNER; AND RYAN T. PRETNER,

Respondents.

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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 Appellant.

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 District Court of the District of Nevada 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.

This issue is of substantial importance, and this Court's ruling will impact interests well beyond those of the parties here. If Nevada were to impose extra-limits liability for an ordinary breach of the duty to defend - without any finding of bad faith - it would improperly penalize insurers for reasonably disputing coverage and inject undesirable uncertainty into the insurance bargain. Amici have significant experience with legal issues related to property and casualty insurance, and seek to provide valuable insight to assist this Court in deciding the issue presented.

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 20th day of October, 2017.

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CERTIFICATE OF SERVICE

I hereby certify that on October 20, 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:

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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:

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