

IN THE SUPREME COURT OF FLORIDA

QBE INSURANCE CORPORATION,

Appellant/Cross-Appellee,

vs.

CASE NO.: SC09-441

CHALFONTE CONDOMINIUM  
APARTMENT ASSOCIATION, INC.

Appellee/Cross-Appellant.

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**UNITED POLICYHOLDERS' UNOPPOSED MOTION FOR LEAVE TO  
FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF THE POSITION OF THE  
APPELLEE/CROSS-APPELLANT**

United Policyholders, pursuant to Fla. R. App. P. 9.370, respectfully moves the Court for an Order granting leave to file an *Amicus Curiae* brief in support of the position of the Appellee/Cross-Appellant, Chalfonte Condominium Apartment Association, Inc. As grounds therefore, United Policyholders briefly and respectfully shows:

1. The financial security that insurance policies provide is critical to business and property owners and to the fabric of our economy and our society. United Policyholders ("UP") is a unique non-profit charitable organization founded in 1991 that is helping preserve the integrity of the insurance system by serving as an information resource and a voice for policyholders' interests. Donations, grants and volunteer labor support the organization's work.

2. United Policyholders monitors the national insurance marketplace with a particular focus on regions impacted by large-scale natural disasters. The organization hosts and participates in public forums, disseminates information about the claim process, works with individuals and elected officials to solve insurance problems, and files *amicus* briefs in cases involving coverage and claim disputes. UP serves as a clearinghouse for information on coverage and claim issues related to commercial and personal lines insurance products.

3. United Policyholders has focused its efforts since the 2005 hurricane season on providing education and support to businesses and homeowners in the Gulf Coast states and working to help solve insurance problems. The organization hosts a free on-line "Road Map to Recovery" for Florida, Louisiana and Mississippi, and created and is maintaining a Hurricane Claim Help Library for residents of the impacted states. For more information, visit [www.unitedpolicyholders.org](http://www.unitedpolicyholders.org).

4. United Policyholders seeks to fulfill the "classic role of *amicus curiae* 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. v. Commissioner of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982). This is an appropriate role for *amicus curiae*. As commentators have often stressed, an *amicus* is often in a superior position to "focus the court's attention on the broad

implications of various possible rulings." Robert L. Stern, et al., *Supreme Court Practice* 570-71 (1986), quoting Ennis, *Effective Amicus Briefs*, 33 Cath. U. L. Rev. 603, 608 (1984).

5. United Policyholders has filed over two hundred and thirty-five *amicus* briefs, since it was founded, in state and federal appellate courts throughout the United States. United Policyholders' *amicus* brief was cited in the U.S. Supreme Court's opinion in *Humana Inc. v. Forsyth*, 525 U.S. 229 (1999). UP was the only national consumer organization to submit an *amicus brief* in the landmark case of *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408 (2003). The organization has participated by court invitation in briefing and oral argument, and many of the arguments from United Policyholders' *amicus curiae* briefs have been cited with approval by reviewing courts.

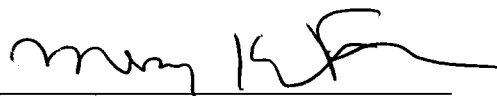
6. The issue involved in this case, concerning whether or not Florida law recognizes a claim for breach of the implied warranty of good faith and fair dealing by an insured against its insurer based on the insurer's failure to investigate and assess the insured's claim within a reasonable period of time, has significant ramifications for insurance policyholders seeking to hold their insurance companies responsible for their insurers' actions. This is an area of law in which United Policyholders and the undersigned attorneys submit it would be useful to the Court to allow the insurance policyholders' perspective to be heard.

7. The undersigned counsel for United Policyholders have significant experience in first-party property insurance litigation against major insurance companies, such as QBE Insurance Corporation, and honestly believe that they will be able to provide assistance to jurists analyzing the insurance issues of this case and their public policy implications in a way that compliments and dovetails with the arguments raised by counsel for the parties to this appeal. Counsel for United Policyholders is retained *pro bono*, and will accept no money for their legal work in this case.

8. The undersigned counsel has conferred with counsel for both parties and can represent that they do not oppose this request.

WHEREFORE, United Policyholders respectfully moves this Court for permission to file an *amicus curiae* brief in support of the position of the Appellee/Cross-Appellant.

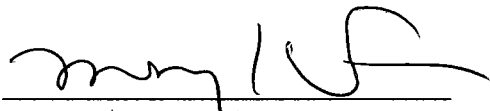
Respectfully Submitted,



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**CERTIFICATE OF SERVICE**

This is to certify that I have on this 9<sup>th</sup> day of June, 2009, served a true and correct copy of United Policyholder's Unopposed Motion for Leave to File *Amicus Curiae* Brief in Support of the Position of the Appellee/Cross-Appellant via U.S. Mail upon the following:

  
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