No. 25-2991

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

SHAMROCK HILLS, LLC

Plaintiff-Appellant

v.

STATE OF IOWA, et al.

Defendants-Appellees

On Appeal from the United States District Court
for the Southern District of Iowa
No. 4:24-cv-00340-RGE
District Judge Rebecca Goodgame Ebinger

BRIEF OF *AMICUS CURIAE*
NATIONAL ASSOCIATION OF PUBLIC INSURANCE ADJUSTERS
IN SUPPORT OF APPELLEES AND SUPPORTING AFFIRMANCE

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STATEMENT OF IDENTITY, INTEREST AND AUTHORITY TO FILE[1]

National Association of Public Adjusters ("NAPIA") is a nationwide trade association of public insurance adjusters organized in 1951 to professionalize the growing profession of public adjusting.[2] NAPIA exists for primary purposes of professional education, certification, legal and legislative representation, scholarship and research, and marketing and promotion of the public insurance adjusting profession. NAPIA assesses its member firms annual membership fees to help further these several goals.

Public insurance adjusters are professionals licensed and regulated by state insurance departments to work for and assist insureds who have sustained a first-party property loss. Under Iowa law, a public adjuster acts on behalf of the insured and seeks to negotiate and resolve insurance claims on the most favorable possible terms for the insured. *See* Iowa Code §§ 522C.2, 522C.11[3] A public adjuster is hired

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[1] Attorney Brian S. Goodman has been general counsel to NAPIA since approximately 2000. NAPIA's board of directors has authorized attorneys Goodman and Arnold and the Rose Law Firm, to file this Amicus Brief in support of the Appellee on behalf of NAPIA. Undersigned counsel for NAPIA authored this Amicus Brief in its entirety and NAPIA (and no other person or entity) has funded the preparation and submission of this Amicus Brief.

[2] NAPIA is not a corporate entity, and as such, has not filed a Disclosure Statement under Fed. R. App. P. 26.1.

[3] Iowa amended its public adjuster laws during the pendency of this action. *See* Iowa 2025 Acts, ch. 28, § 52.

by the insured and will typically receive payment in the form of an hourly fee, a flat rate, or a percentage of the claim settlement. *See* Iowa Code § 522C.10. Once hired, a public adjuster is required to "serve with objectivity and complete loyalty to the interest of the insured." Iowa Code § 522C.11.

Two issues in this appeal by Appellant Shamrock Roofing are whether the District Court correctly concluded that Iowa's public adjuster licensing laws did not violate Appellant's First Amendment rights and is not invalid for vagueness under the Fourteenth Amendment. Iowa's public adjusting statutes, including Section 522 C.4's license requirement of anyone who acts as a public adjuster, are consistent with 45 other states plus the District of Columbia. The statues at issue in no way represent an infringement on Appellant's First Amendment rights of Fourteenth Amendment rights under the Constitution.

NAPIA's interest in the outcome of this appeal is a substantial and direct one. For over 70 years, NAPIA has worked closely with the insurance industry, state insurance departments, state governors and legislators, and attorneys general to ensure that public adjusters – the only professionals specifically licensed and regulated to prepare first-party insurance claims on behalf of a consumer or commercial insured – practice their profession in an ethical and accountable way. This includes public adjusters in Iowa who are directly regulated by the statues at issue.

For reasons explained further below, NAPIA and its public insurance adjuster members have a strong interest in ensuring that public adjusting licensing statutes are constitutionally upheld to prevent the unlicensed practice of public adjusting. Enforcement of statutes prohibiting the unlicensed practice of public adjusting not only protects the licensed public insurance adjuster profession, but it also protects consumers from financial conflicts of interest when unlicensed and sometimes unscrupulous contractors attempt to settle their claims. *See generally Lon Smith & Assocs., Inc. v. Key*, 527 S.W.3d 604, 618 (Tex. App. 2017).

NAPIA has been granted authority to file this Brief by Order of this Court.

ARGUMENT

Iowa's public adjusting statutes do not regulate speech protected by the first amendment, nor are the statutes unconstitutionally vague. Appellant seeks to use a constitutional challenge as a workaround to permit unlicensed contractors to work as public adjusters. Allowing unlicensed contractors to act as the insured's advocate or otherwise settle their claims would wreak havoc on the licensed and regulated public insurance adjuster profession and would allow contractors to take advantage of insureds – particularly in the face of a catastrophic natural disaster, when they are the most vulnerable – in situations where the contractors' financial interests conflict with those of the insured.

I. This Court Should Affirm The District Court's Conclusion That Iowa's Public Adjusting Laws Do Not Violate The First Amendment

Iowa's public adjusting statutes do not regulate speech protected by the First

Amendment but rather target nonexpressive commercial activities. *See Texas Dep't of Ins. v. Stonewater Roofing Co.*, 696 S.W.3d 646, 655, 656 (Tex. 2024), *reh'g denied* (Sept. 27, 2024). The fact that public adjusting entails "aiding an insured in negotiating for or effectuating the settlement of . . . or advising an insured about" does not change this fact. *See* Appellant's Br. at 14. As the Court held in *Texas Dep't of Ins. v. Stonewater Roofing Co.*, which involved similar regulatory statues to those of Iowa*:*

> It is true that "negotiating for" and "effecting" a settlement can involve communicative endeavors. And it is true that both the actuating activity (representative capacity) and the commercial objective (settlement of an insurance claim) may be manifested or carried out by those activities. But under a plain reading of the statute, speech is not remotely the defining characteristic of the public insurance adjuster's job.

696 S.W.3d at 657.

The fact that there are expressive elements as a byproduct of a professional relationship between a public adjuster and an insured does not change the plain reality that Iowa's licensing statutes seek to regulate conduct, not speech. *See id*. As such, the District Court correctly held that Iowa's public adjusting statutes have a mere incidental impact on speech through appropriate regulation of professional conduct. This very issue was fully briefed and argued last year before the Texas Supreme Court under the Texas Public Adjuster Licensing Statute. The Texas Supreme Court held that the statute there, similar to the ones here, did not restrict any First Amendment free speech right. *Id.*

II. This Court Should Affirm The District Court's Conclusion That Iowa's Public Adjusting Laws Are Not Void For Vagueness Under The Fourteenth Amendment

Iowa's public adjusting laws survive either an as-applied or a facial challenge of vagueness under the Fourteenth Amendment. *See* Appellant's Br. at 25-27. An "ordinary industry participant exercising common sense" would understand what conduct violates the prohibition of an unlicensed individual acting as a public adjuster under section 522C.4. *See Stonewater Roofing Co.*, 696 S.W.3d at 662. Though Appellant's brief invites numerous hypothetical situations, the Court need not entertain these or look for "an exhaustive articulation of prohibited conduct" because Iowa's public adjusting laws provide fair notice what conduct amounts to public adjusting (and thus requires a license). *See id*.

III. Public Policy Strongly Favors Strict Enforcement Of Laws Prohibiting Contractors From Engaging In The Unlicensed Practice of Public Adjusting

Particularly following a catastrophic event like a fire, tornado, hurricane, or hail storm, insured homeowners seeking to rebuild or repair the resulting damage can be quite vulnerable. Victims of such catastrophes often are looking for help from anyone willing to offer it and are unlikely to check the offering party's training or qualifications. It is unfortunately, and increasingly, common for unscrupulous contractors to target these victims in their weakened state by offering to "work with the insurance company" to obtain the highest insurance payment possible to perform the necessary repairs. The inherent conflict of interest in allowing an unlicensed and unregulated contractor performing the repair work to negotiate the final price that the insurance company will pay for its work is insidious and inescapable.

In the absence of prohibitions against the unlicensed practice of public adjusting, the incentive for contractors to "adjust" the insured's claim with the insurer and then only to perform the minimum repairs necessary on the insured's property is simply too great. *See Building Permit Consultants, Inc. v. Mazur*, 122 Cal. App. 4th 1400, 1414 (Cal. Ct. App. 2004) (requiring public adjusters to be licensed provides "safeguards of accountability, competence, [and] professionalism").

Not only does the unlicensed practice of public adjusting pose a serious threat to insureds, it poses a threat to insurers and licensed public insurance adjusters as well. With respect to insurers, while some insurers knowingly may negotiate with unlicensed contractors purportedly acting as adjusters, many insurers may do so unknowingly and thus may fall victim to misleading statements by the unlicensed contractors concerning the scope of the repairs or construction, the materials to be used, etc.

With respect to NAPIA members and other properly licensed and regulated public insurance adjusters, in Iowa and in other states, the unlicensed practice of public adjusting poses a double threat to the industry and legitimate public adjusters.

First, the unlicensed contractors unfairly compete with licensed public adjusters who must, among other things, pass an exam and subject themselves to ongoing state oversight. Additionally, many states require that licensed adjusters complete continuing education courses to maintain their licenses. These laudable licensing requirements ensure that licensed public adjusters adhere to ethical and regulatory standards that unlicensed contractors can and often do ignore with impunity.

Second, the unlicensed practice of public adjusting unfairly portrays insurance adjusters as untrustworthy and as placing their own interests above those of the insureds. On the contrary, public adjusters are the true and impartial intermediary between the insured and the insurer to protect the insured's best interests. This is particularly important to NAPIA and its member firms, who consistently strive to promote the licensed public adjusters' standard of ethical and loyal representation of their insured clients.

Allowing the unlicensed practice of public adjusting creates an inherent and substantial conflict of interest that immediately puts the unlicensed contractor's best interests ahead of the insured's. Without strict enforcement of deterrent laws prohibiting unlicensed public adjusting, the incentive to take advantage of the insured will only increase. The Iowa Legislature has worked to guarantee that homeowners receive the services of a licensed public adjuster who will honestly and competently assist with the insurance claim process. An unlicensed adjuster without the training and supervision necessary to ensure that the promised claims-handling services will be provided honestly and competently is directly contrary to that guarantee.

CONCLUSION

For the reasons set forth above, this Court should affirm the ruling of the District Court.

Respectfully submitted,

/s/ Byron J. Walker

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the appellate CM/ECF system on the 3rd of March 2026. I further certify that all participants are registered CM/ECF users.

/s/ Byron J. Walker

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Brief is presented in Times New Roman font, 14 point, in compliance with the Court's Rules. The undersigned also certifies that the sections of the Motion application to the length requirements contain 1,695 words in compliance with the Court's Rules, as measured by Microsoft Word, the word processing program used to create the brief. The electronic version of this document has been scanned and is virus-free.

/s/ Byron J. Walker