

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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CERTIFIED QUESTION FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

J. Michelle Childs, United States District Judge

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Appellate Case No. 2020-001285

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**RECEIVED**

**Jan 25 2021**

**S.C. SUPREME COURT**

Miriam Butler and Evelyn Stewart, in her capacity as  
personal representative of Joseph Stewart and  
individually and on behalf of others similarly situated.....Plaintiffs,

v.

The Travelers Home and Marine Insurance Company, and  
The Standard Fire Insurance Company..... Defendants.

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MOTION FOR LEAVE TO FILE BRIEF OF  
UNITED POLICYHOLDERS AS *AMICUS CURIAE*

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Pursuant to Rule 213, SCACR, United Policyholders (“UP”) respectfully seeks leave of the Court to file a brief as *amicus curiae* in this matter. In support of this motion, UP respectfully states the following:

UP is a non-profit 501(c)(3) organization whose mission is to be a trustworthy and useful information resource and an effective voice for consumers of all types of insurance in all fifty states. UP has filed *amicus curiae* briefs in approximately 450 cases throughout the United States since the organization’s founding in 1991. Arguments from UP’s *amicus curiae* briefs have been cited with approval by numerous state and federal appellate courts, including the United States Supreme Court.

Much of UP's work is aimed at helping insured individuals and businesses successfully navigate the claim process and reach full, fair, and timely settlements so that they can restore or replace assets that have been damaged or destroyed. UP assists South Carolina residents through a "Roadmap to Recovery" program that focuses on hurricane and flood recovery, and an online publication library. UP maintains communication with the South Carolina Director of Insurance through the proceedings of the National Association of Insurance Commissioners, wherein UP is an official consumer representative.

Insurer formulas and policy language related to actual cash value, replacement value, and recoverable and non-recoverable depreciation are a primary cause of claim delays and underpayments that defeat the indemnity purpose of property insurance. Because insurers' inconsistent approaches to applying depreciation is such a chronic source of conflict and consumer frustration, United Policyholders strives to educate insureds on this important topic.

One way UP seeks to assist individual and business policyholders to successfully navigate the claim process is by advocating for greater transparency by insurance companies in the claim process. In other words, UP advocates to require insurance companies to clearly disclose how they calculate what they owe on a claim. UP also advocates for preventing insurers from minimizing claim payments by depreciating items that should not rightly be subject to depreciation. Labor is a primary example.

Because the certified question in this case goes to the very heart of South Carolina insurance consumers' rights, the question falls squarely within UP's interests. UP's library of publications, tools, and guidance includes many publications that address the topic of proper and improper depreciation. UP believes that its submission of an *amicus curiae* brief would be helpful to the Court. The brief examines the policy and practical considerations of insurers depreciating

labor costs, particularly where insurers elected to not disclose to their policyholders that they would engage in such a practice.

For these reasons, UP respectfully requests that the Court grant leave to file the *amicus curiae* brief, which is conditionally filed herewith pursuant to Rule 213, SCACR.

Respectfully submitted,

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