
IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION ONE

ASSOCIATION OF CALIFORNIA INSURANCE COMPANIES
and PERSONAL INSURANCE FEDERATION OF CALIFORNIA,

Petitioners,

v.

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES,

Respondent.

DAVE JONES in his capacity as Commissioner
of the California Department of Insurance,

Real Party in Interest.

From a Decision By the Los Angeles Superior Court
Case No. BC463124, Hon. Gregory W. Alarcon, Presiding

**APPLICATION BY INSURANCE BROKERS AND AGENTS OF THE WEST
FOR LEAVE TO FILE AMICUS BRIEF IN SUPPORT OF PETITIONERS**

KEKER & VAN NEST, LLP
STEVEN A. HIRSCH - #171825
Email: shirsch@kvn.com
633 Battery Street
San Francisco, CA 94111-1809
Telephone: 415 391 5400
Facsimile: 415 397 7188

*Attorneys for Amicus Curiae
Insurance Brokers and Agents of the West*

I. APPLICATION

Under California Rule of Court 8.520(f), Insurance Brokers and Agents of the West (“IBA West”) respectfully requests leave to file the accompanying brief of amicus curiae in support of the Association of California Insurance Companies and the Personal Insurance Federation of California (“petitioners”).

II. INTEREST OF THE AMICUS CURIAE

IBA West is a voluntary trade association representing independent insurance agents and insurance brokers. Our membership includes over 500 agencies and brokerages and tens of thousands of individual broker-agents.

As set forth in the proposed amicus brief, IBA West concurs in petitioners’ arguments that the Commissioner lacked statutory authority to promulgate 10 CCR § 2695.183 (“the Regulation”)¹ and that the Regulation is therefore a legal nullity. IBA West particularly opposes the Commissioner’s reliance on the Unfair Insurance Practices Act, Insurance Code § 790 *et seq.* (“UIPA”), as the basis for launching major regulatory initiatives for which he presently lacks statutory authority. The Regulation is a prime example of that practice.

The Regulation imposes a variety of burdensome duties on IBA

¹ “§ 2695.183” refers to the Regulation. All other section numbers refer to the California Insurance Code.

West members and other insurance producers. But the Regulation's centerpiece—and the focus of the proposed amicus brief—is a prohibition on communicating a “replacement-cost estimate” to a customer unless that estimate was calculated according to a detailed methodology that the Commissioner developed and set forth in the Regulation.

The burden of implementing the Regulation will fall primarily on the shoulders of insurance producers, including IBA West members—the people who make and communicate replacement-cost estimates to homeowners on a day-to-day basis, as an inherent aspect of their jobs.

III. HOW THE AMICUS BRIEF WILL ASSIST THE COURT

IBA West is familiar with the petition in this matter and with the issues raised therein. IBA West believes that further briefing is necessary to address two matters.

First, the proposed amicus brief details the specific burdens that the Regulation will place on IBA West members and other insurance producers.

Second, the proposed amicus brief focuses on the Commissioner's lack of statutory authority to promulgate the Regulation. IBA West believes that its exposition of this subject is clear and concise and will materially assist the Court.

V. DISCLOSURE OF AUTHORSHIP OR MONETARY CONTRIBUTION

Petitioners made a monetary contribution to fund the preparation of the proposed amicus brief; but IBA West's counsel independently authored the entire brief.

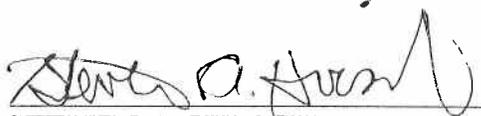
IV. CONCLUSION

For the foregoing reasons, IBA West respectfully requests that the Court accept the accompanying brief for filing in this case.

Respectfully submitted,

Dated: March 29, 2012

KEKER & VAN NEST LLP

By: 
STEVEN A. HIRSCH
*Attorneys for Amicus Curiae
Insurance Brokers and Agents of
the West*