

FILED  
Court of Appeals  
Division III  
State of Washington  
7/5/2019 10:14 AM

No. 365174

**COURT OF APPEALS  
DIVISION III  
OF THE STATE OF WASHINGTON**

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ALLAN MARGITAN and GINA MARGITAN, husband and wife,

Appellants,

v.

RISK MANAGEMENT, INC., a Washington corporation and  
ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY,

Respondents.

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**REPLY BRIEF OF APPELLANTS MARGITAN TO BRIEF OF  
RESPONDENT ALLSTATE PROPERTY AND CASUALTY  
INSURANCE COMPANY**

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TABLE OF AUTHORITIES

Cases

*Keodalah v. Allstate Insurance Company*  
413 P.3d 1059 (2018) ..... 1

Statues

WAC 284-30-330 ..... 1,2  
RCW 49.01.030 ..... 1  
RCW 48.01.030 ..... 1,2

The Respondent, Risk Management Inc., (RMI) asserts that the Washington Consumer Protection Act does not apply as WAC 284-30-330 and RCW 49.01.030 does not apply to them as an “insurance producer”.

However, RCW 48.01.030 does not exempt an “insurance producer”. As previously argued In *Keodalah v. Allstate Insurance Company*, 413 P.3d 1059 (2018), the court held at 35-36 that RCW 48.01.030 imposes a duty of good faith on "all persons" involved in insurance, including the insurer and its representatives.

The statute itself and its application by the *Keodalah* court, in specifically holding RCW 48.01.030 applies to the insurer and its representatives clearly and unambiguously included insurance agents who are the persons interacting with the public as the Respondent Allstate’s representative. The Respondent Allstate only interacts with the public through its captive agents and brokers.

The argument that the individuals who interact with the public on behalf of Allstate are exempt from liability, defeats the public policy of RCW 48.01.030 imposing a duty of good faith on "all persons" involved in insurance, including the insurer and its representatives.

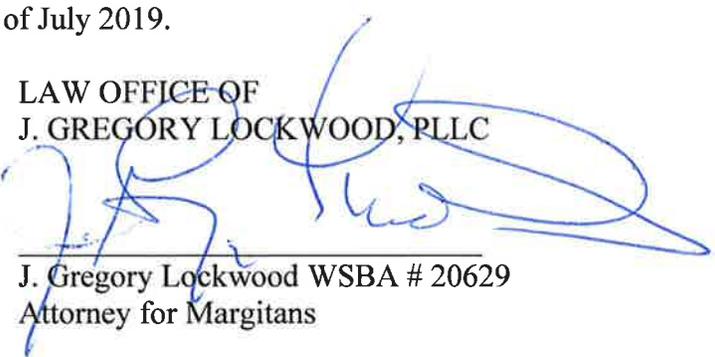
The Defendant's argument challenges the intent and public policy behind the wording "all persons" involved in insurance" RCW 48.01.030.

Further, RMI argues that WAC 284-30-330 was inapplicable as they are an insurance provider and not an insurer. However, the Respondent RMI is a captive agent for Allstate Insurance, selling only for Allstate. They are Allstate's agent and representative to the public. All Allstate insurance agreements are negotiated and sold through their agents, such as the Respondent RMI.

It is respectfully requested the Court reverse the summary judgment Order and remand for trial on the merits.

Respectfully submitted this 5<sup>th</sup> day of July 2019.

LAW OFFICE OF  
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Attorney for Margitans

CERTIFICATE OF SERVICE

I, VICKIE FULTON, do declare that on July 5, 2019, I caused to be served a true and correct copy of the foregoing to the following listed party(s) via the means indicated:

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DATED July 5, 2019.

  
\_\_\_\_\_  
Vickie Fulton

**LAW OFFICE OF J. GREGORY LOCKWOOD PLLC**

**July 05, 2019 - 10:14 AM**

**Transmittal Information**

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