

SUPREME COURT  
OF THE STATE OF WASHINGTON

THE PORT OF LONGVIEW, a  
Washington municipal corporation,

Respondent,

v.

ARROWOOD INDEMNITY  
COMPANY; et al.,

Petitioners.

No. 94066-5

PETITIONER LONDON  
MARKET INSURERS'  
RESPONSE TO BRIEF OF  
AMICUS CURIAE  
COMPLEX INSURANCE  
CLAIMS LITIGATION  
ASSOCIATION IN  
SUPPORT OF PETITION  
FOR REVIEW

*Amicus curiae* Complex Insurance Claims Litigation Association (“CICLA”) has filed an amicus brief under RAP 13.4(h) in support of the London Market Insurers’ (“LMI”) petition for review. LMI concurs with CICLA’s legal analysis and will not repeat it. However, LMI would like to briefly call this Court’s attention to the broader import of CICLA’s arguments.

This Court has acknowledged the “time-honored” role of *amicus curiae* in advising courts about the larger societal and policy implications of a particular issue. *Young Americans For Freedom v. Gorton*, 91 Wn.2d 204, 208, 588 P.2d 195 (1978). Parties to a case have an immediate, substantial interest in the result. *Id.* at 199. Amici by definition are not prejudicially affected – in the legal sense – by a particular ruling. 3B C.J.S. *Amicus Curiae* § 8. This lack of direct prejudice should lend more weight

LMI Response to Brief of Amicus  
Curiae CICLA in Support of Petition  
for Review - 1

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to CICLA’s opinion that the ruling might have indirect and far-reaching consequences. *Young Americans For Freedom*, 91 Wn.2d at 207 (Attorney General’s role as *amicus curiae* representing state agencies expressed the “overall concern” of the State even though only one state institution was directly involved).

When the question before this Court is whether to accept a petition for review, the role of an *amicus curiae* is particularly important. One of the criteria this Court examines is whether the petition involves an issue of “substantial public interest.” RAP 13.4(b)(4). Regardless of either the parties’ or this Court’s view of the merits of the petition, participation by an *amicus curiae* – particularly one that has considerable experience representing a large number of national entities in insurance claims – suggests that this criterion has been met.

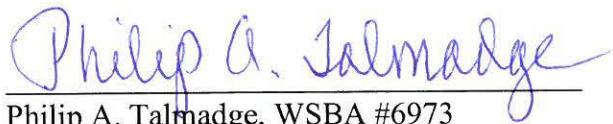
Here, CICLA powerfully explains why there is a substantial public interest in the Court of Appeals’ ruling. It notes that the opinion undermines, ignores, or eviscerates basic principles of insurance, and insurance law. Br. of Amicus Curiae CICLA at 6, 8, 9 n.3, 10. CICLA explains that the opinion ignores the very purpose of insurance and suggests that the most fundamental tenet upon which policies are issued is inoperative. *Id.* It observes that the Court of Appeals has created constitutional concerns for insurers going forward. *Id.* at 11-13. In sum,

the Court of Appeals' opinion represents an extreme interpretation of key elements of insurance law that is out of the mainstream of national and Washington insurance law. This Court must intervene to reaffirm Washington's commitment to basic insurance principles and well-recognized rules of insurance law.

CICLA has provided a valuable perspective in support of review. This Court should grant review based on the substantial public interest in the issues here, reinforced in CICLA's memorandum. RAP 13.4(b)(4).

DATED this 24th day of April, 2017.

Respectfully submitted,



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DECLARATION OF SERVICE

On said date set forth below, I e-filed a true and accurate copy of the Petitioner London Market Insurers' Response to Brief of Amicus Curiae Complex Insurance Claims Litigation in Support of Petition for Review in Supreme Court Cause No. 94066-5 with e-service on the following parties:

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I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

DATED: April 24, 2017 at Seattle, Washington.

  
\_\_\_\_\_  
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**TALMADGE/FITZPATRICK/TRIBE**

**April 24, 2017 - 3:21 PM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
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**Appellate Court Case Title:** Port of Longview v. Arrowood Indemnity, et al.  
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**The following documents have been uploaded:**

- 940665\_20170424134555SC749899\_1811\_Briefs.pdf  
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**Comments:**

Petitioner London Market Insurers' Response to Brief of Amicus Curiae Complex Insurance Claims Litigation Association in Support of Petition for Review

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