

COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT

MIDDLESEX COUNTY

NO. SJC-07216

JAMES A. CLEGG and KATHERINE M. CLEGG  
Plaintiffs/Appellants/Cross-Appellees

vs.

LOUIS C. BUTLER, Individually and as Administrator of the Estate  
of JEFFREY L. BUTLER, and HELENE M. BUTLER  
Defendants/Appellees

and

UTICA MUTUAL INSURANCE COMPANY  
Defendant/Appellee/Cross-Appellant

MOTION OF THE MASSACHUSETTS BAR ASSOCIATION TO JOIN  
IN THE AMICUS CURIAE BRIEF OF THE  
MASSACHUSETTS ACADEMY OF TRIAL ATTORNEYS  
AND TO JOIN IN THE BRIEF LATE

The Massachusetts Bar Association ("MBA") hereby moves, in accordance with Mass. R. App. P. 17, that it be permitted to join in the amicus curiae brief of the Massachusetts Academy of Trial Attorneys, which was filed with this Court on January 3, 1997, and to join in the brief late. As grounds therefore, the MBA states:

1. The MBA is a voluntary, non-profit, state-wide organization representing the interests of approximately 19,000 lawyer members and

the clients they represent. The purpose of the MBA includes improving the administration of justice, promoting reform of the law, and advancing the speedy, fair, and efficient adjudication of the rights of injured persons.

2. The MBA is extremely concerned about the propositions advanced by Utica Mutual Insurance Company, and the amici curiae who have filed briefs in support of Utica Mutual Insurance Company. The MBA has long supported the provisions of G.L. c.93A and G.L. c.176D, §§ 3 (9) and it is the MBA's view that the suggestions set forth in the appeal by Utica Mutual Insurance Company would weaken the protections afforded by those statutes. In particular, it is the position of the MBA that third-party claimants who have been injured by the conduct of an insurer subject to G.L. c.93A and c.176D should not be required to obtain a judgment in order to recover damages caused by the misconduct of the insurer.

3. The MBA strongly believes that if the rights of Massachusetts consumers under G.L. c.93A and G.L. c.176D are limited in the manner requested by Utica Mutual Insurance Company and its amici curiae, then the orderly settlement of claims will be improperly delayed. In addition, it is likely that the courts, which suffer from inadequate resources, insufficient funding and a growing caseload, will be further burdened.

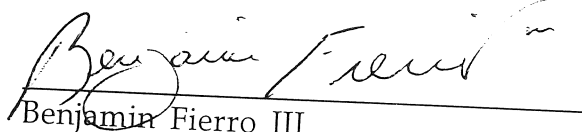
4. The MBA respectfully wishes to join in the brief of the Massachusetts Academy of Trial Attorneys, which forcefully articulates the many policy reasons against the changes in Massachusetts law urged by Utica Mutual Insurance Company.

5. The MBA seeks to join in said brief late because its procedure for approval for joining on the amicus curiae brief of the Massachusetts Academy of Trial Attorneys was not completed by the deadline for filing with this Court.

6. The Massachusetts Academy of Trial Attorneys assents to this motion to join in its brief.

WHEREFORE, the MBA respectfully requests that its motion be allowed.

Respectfully submitted,  
Massachusetts Bar Association

A handwritten signature in cursive script that reads "Benjamin Fierro III". The signature is written in dark ink and is positioned above a horizontal line.

Benjamin Fierro III  
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Massachusetts Bar Association  
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January 30, 1997