

IN THE SUPREME COURT OF PENNSYLVANIA

DOCKET NO. 52 WM 2020

JOSEPH TAMBELLINI, INC., d/b/a JOSEPH TAMBELLINI RESTAURANT

v.

ERIE INSURANCE EXCHANGE

**APPLICATION OF AIG APPLICANTS FOR LEAVE
TO PARTICIPATE AS *AMICI CURIAE***

Appeal from Matter Pending in the
Allegheny County Court of Common Pleas
No. GD 20-005137

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Pro Hac Vice Application
Forthcoming

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On behalf of AIG Amici Curiae

**APPLICATION OF AIG APPLICANTS FOR LEAVE TO
PARTICIPATE AS *AMICI CURIAE***

Pursuant to Pennsylvania Rules of Appellate Procedure 106, 123, and 531, the Applicants seek leave to participate as *amici curiae* in this proceeding seeking this Court's consideration as an "emergency application for extraordinary relief."

Identification of the Applicants Seeking To Participate As *Amici Curiae*

1. The Applicants here, collectively identified here as "AIG Applicants," are all insurance companies that are subsidiaries of AIG Property Casualty U.S., Inc., which is subsidiary of American International Group, Inc.. The AIG Applicants, which insure commercial property insurance policyholders in Pennsylvania, are:

- New Hampshire Insurance Company
- Granite State Insurance Company
- Illinois National Insurance Co.
- American Home Assurance Company
- The Insurance Company of the State of Pennsylvania
- National Union Fire Insurance Company of Pittsburgh, Pa.
- Lexington Insurance Company
- AIG Specialty Insurance Company

2. The policies that these insurers have issued in Pennsylvania include commercial insurance and property insurance.

Relevant Background and Nature of the “Emergency Application”

3. On April 17, 2020, Joseph Tambellini, Inc. d/b/a Joseph Tambellini Restaurant (“Tambellini”) filed an action against Erie Insurance Exchange (“Erie”) in the Court of Common Pleas of Allegheny County, seeking a declaration that its Erie policy covers all of its losses, damages and expenses as caused by the COVID-19 pandemic and the Closure Order.

4. Less than two weeks later, on April 29, 2020, Tambellini filed with this Court an “Emergency Application for Extraordinary Relief Pursuant to Rule 3309, 42 Pa.C.S. § 726 and King’s Bench Powers” (“Emergency Application”).

5. With its Emergency Application, Tambellini asks this Court not only to assume jurisdiction over its Court of Common Pleas action against Erie, as its insurer, but also asks the Court, on behalf of all insured businesses throughout the Commonwealth, to exercise its King’s Bench powers to assume control of all litigation – by all business owners against all insurance companies – for losses that may have resulted from the COVID-19 crisis and the Closure Order.

Reasons For Allowing Participation Of The AIG Applicants As *Amici Curiae*

6. Tambellini’s Emergency Application asks this Court to declare the coverage obligations of all “insurers in the Commonwealth” and to enforce those obligations as to “all businessowners in the Commonwealth.” Emergency Application at ¶¶ 52, 53, 54.

7. The Emergency Application does not even purport to provide any of the unnamed insurers referenced in the application, including the AIG Applicants, with notice or an opportunity to be heard.

8. Yet, the Emergency Application asks this Court to grant relief that would significantly and irreparably affect the rights of the AIG Applicants and other insurers.

9. Given the relief requested in the Emergency Application and its possible effect on the AIG Applicants, the AIG Applicants respectfully ask the Court for permission to participate as *amici curiae* in this matter and to file an *amicus* brief.

10. Given the emergency nature of this matter, the AIG Applicants have attached the *amicus* brief they propose to file as Attachment A to this Application.

Respectfully submitted,



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