

SUPREME COURT OF PENNSYLVANIA

No. 52 WM 2020

JOSEPH TAMBELLINI, INC., D/B/A
JOSEPH TAMBELLINI RESTAURANT
Petitioner

v.

ERIE INSURANCE EXCHANGE
Respondent

On Emergency Application for Extraordinary Relief Pursuant
to Rule 3309, 42. Pa.C.S. § 726 and King's Bench Powers

**APPLICATION OF AMERICAN PROPERTY CASUALTY
INSURANCE ASSOCIATION, INSURANCE AGENTS AND
BROKERS OF PENNSYLVANIA, INSURANCE FEDERATION OF
PENNSYLVANIA, NATIONAL ASSOCIATION OF MUTUAL
INSURANCE COMPANIES, PENNSYLVANIA ASSOCIATION OF
MUTUAL INSURANCE COMPANIES, AND PENNSYLVANIA
DEFENSE INSTITUTE FOR LEAVE TO SUBMIT AMICI CURIAE
BRIEF IN OPPOSITION TO THE EMERGENCY APPLICATION**

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The American Property Casualty Insurance Association, Insurance Agents and Brokers of Pennsylvania, Insurance Federation of Pennsylvania, National Association of Mutual Insurance Companies, Pennsylvania Association of Mutual Insurance Companies, and Pennsylvania Defense Institute (collectively, “Amici”) request leave to file the attached amici curiae brief in opposition to the Emergency Application for Extraordinary Relief filed by Petitioner Joseph Tambellini, Inc.

The Emergency Application requests this Court to exercise its jurisdiction in an unprecedented manner that could ultimately lead to a declaratory judgment against Erie Insurance Exchange, as the insurance carrier, to require that it provide coverage for business interruption claims that were allegedly denied pursuant to the applicable insurance policy. Amici have a significant interest in advocating positions consistent with the interests of their members who could be affected by whatever ruling this Court delivers. Any ruling on the merits in this case could have substantial adverse effect on businesses and insurance carriers who are not before this Court.

I. Identity and Interest of Amici

The American Property Casualty Insurance Association (“APCIA”) is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.

APCIA's member companies write nearly 60% of the entire U.S. property-casualty insurance market, including 67% of the countrywide commercial property insurance market. On issues of importance to the insurance industry and marketplace, APCIA advocates sound public policies on behalf of its members in legislative and regulatory forums at the federal and state levels and regularly submits amicus curiae briefs in significant cases before federal and state courts.

Insurance Agents and Brokers of Pennsylvania ("IA&B") is a trade association representing nearly 1,000 independent insurance agencies and brokers in Pennsylvania. Among the many services it provides, IA&B counsels insurance agents on compliance with the various laws and regulations as they pertain to the business, and advocates the member interest before the government and legal system.

The Insurance Federation of Pennsylvania (the "Federation") is the Commonwealth's leading trade organization for commercial insurers of all types. The Federation consists of nearly 200 member companies and it speaks on behalf of the industry in matters of legislative and regulatory significance. It also advocates on behalf of its members and their insureds in important judicial proceedings.

The National Association of Mutual Insurance Companies ("NAMIC") is a national trade association consisting of more than 1,400 companies. The association supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC member companies write \$268 billion in annual premiums, including writing 29 percent of the

business insurance market. Through its advocacy programs, NAMIC promotes public policy solutions that benefit NAMIC member companies and the policyholders they serve.

The Pennsylvania Association of Mutual Insurance Companies (“PAMIC”) is a trade association formed in 1907 that represents the Pennsylvania mutual insurance industry and the property and casualty insurance market in general. Its mission offers advocacy, education, and networking programs. Through its advocacy programs, PAMIC promotes public policy solutions that benefit member companies and the policyholders they serve. Additionally, PAMIC fosters greater understanding and recognition of the unique alignment of interests between insurer management and policyholders. PAMIC represents 119 property and casualty insurers licensed to do business in Pennsylvania with a national premium totaling \$28.6 billion and \$4.3 billion in Pennsylvania. Beyond insurance companies, PAMIC represents over 130 market members who are crucial in upholding the value and operations of its members. Its associate members include law, accounting, reinsurance, property restoration, claims adjusting, financial, and technology firms.

The Pennsylvania Defense Institute (“PDI”) was organized in 1969 as a non-profit association of defense counsel and insurance company executives. PDI is a forum for developing public policy initiatives; for exchange of ideas; for the pursuit of its goals, including the prompt, fair and just disposition of claims, preservation of the administration of justice, the enhancement of the legal profession’s services to the

public, the elimination of court congestion and delays in civil litigation; and promotion of other public related activities. To achieve these ends, PDI represents its members in a wide variety of matters, including legislation and litigation.

II. The Court Should Grant Leave to File the Brief of Amici Curiae

The Court should grant leave to Amici to file the attached brief because a ruling in this case about the obligations of Erie under its business interruption and property insurance policy will potentially affect the obligations and liability of Amici's members. Indeed, Petitioners expressly request a ruling that is of broad, industry-wide impact. The impropriety of such a request is discussed in the attached brief. Amici have numerous members who conduct business across the Commonwealth. The attached amici brief provides distinct arguments relevant to the broader interests and liabilities of insurance carriers who operate in the Commonwealth but are not present before this Court. Amici's arguments in the attached brief will be helpful to the Court in deciding the Emergency Application for Extraordinary Relief.

Respectfully submitted,

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