COLORADO SUPREME COURT 2 East 14th Avenue Denver, CO 80203	
Colorado Court of Appeals, Opinion issued By Judge Richman (Dunn and Davidson, J.J., concurring) Case No. 2023CA117, Denver County District Court Case No. 2021CV32904, Hon. Alex C. Myers	
Petitioner: THE HERTZ CORPORATION, v. **Respondents:** STANISLAV BABAYEV and OLEG CHIKOV.	▲ COURT USE ONLY ▲
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BRIEF OF AMICUS CURIAE THE COLORADO TRIAL LAWYERS ASSOCIATION AND THE AMERICAN ASSOCIATION OF JUSTICE IN SUPPORT OF RESPONDENT

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 29 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The amicus brief complies with the applicable word limit set forth in C.A.R. 29(d). It contains 4,508 words (does not exceed 4,750 words).

The amicus brief complies with the content and form requirements set forth in C.A.R. 29(c).

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 29 and C.A.R. 32.

s/Robyn Levin
Robyn Levin

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I. IDENTITY AND INTEREST OF THE *AMICUS CURIAE*

Established in 1953, the Colorado Trial Lawyers Association ("CTLA") is the largest specialty bar association in Colorado. CTLA is comprised of approximately 1,000 Colorado attorneys who represent claimants in a wide variety of litigation in the trial and appellate courts of this State. CTLA desires that this Court have the advantage of its statewide perspective in deciding the issues before it. Specifically, this appeal concerns whether renting motor vehicles to the public is mutually exclusive with that same company offering insurance policies.

The American Association for Justice ("AAJ") is a national, voluntary bar association established in 1946 to strengthen the civil justice system, preserve the right to trial by jury, and protect access to the courts for those who have been wrongfully injured. With members in the United States, Canada, and abroad, AAJ is the world's largest plaintiff trial bar. AAJ members primarily represent plaintiffs in personal injury actions, employment rights cases, consumer cases, and other civil actions. Throughout its 78-year history, AAJ has served as a leading advocate for the right of all Americans to seek legal recourse for wrongful conduct.

This Amicus Brief addresses matters which are helpful to the Court. The Brief discusses: (1) the underlying decision; (2) the history and purpose of Colorado's insurance statutes; (3) the relationship between those statutes and operating a

business that both rents motor vehicles to the public and sells insurance; and (4) the public policy ramifications of this relationship.

II. SUMMARY OF THE ARGUMENT

Boiled to its core, the Court is asked a simple question: Can a company that rents cars also indemnify their passengers for injuries in those cars? Given that the Petitioner here – the Hertz Corporation – does both, the Court of Appeals was correct in concluding that a rental company can also act as an insurer.

Petitioner argues that, under the relevant statutory framework, a company must either rent cars or sell insurance. Yet, nothing in the relevant statutes or case law makes those businesses mutually exclusive. Certainly, there is support for the position that a rental company does not *automatically* become an insurer by virtue of renting cars But, where a rental company *affirmatively elects* to insure the cars it rents, there is no reason—statutory or otherwise—to exclude them from an insurers' obligation to uphold their contracts in good faith.

Hertz argues that Respondents were actually in contract with Chubb Ace American Insurance Company ("CHUBB") for their insurance. That turns a blind eye to the well-known concept of a "fronting policy." Under a fronting policy, an established insurer nominally issues a policy (often for licensing purposes) to a single entity. That entity, in turn, carries 100% of the indemnification obligations

under the policy. That, of course, is exactly the situation here.

And, because Hertz has affirmatively and voluntarily assumed the obligation to indemnify (*i.e.*, insure) Respondents, they can't be excluded from the laws which are intended to ensure that such contracts are upheld in good faith. Furthermore, because Petitioner has elected to take on the risk associated with indemnification, the public policy justifications for insulating them from bad faith suits are necessarily unfounded. Because all entities that issue insurance in this state must uphold their contracts in good faith, *amici* CTLA and AAJ respectfully ask this Court to affirm the decision of the Court of Appeals.

III. ARGUMENT

A. Introduction

The fallacy of composition is an ancient concept. For centuries, it has been recognized as a faulty argumentative structure. At core, it is a false statement which equates a part with a whole. For example: "The leaves on the tree are green, so the entire tree must be green." While this statement is true with respect to one part, it does not necessarily describe the whole.

Hertz and its *amici* engage this fallacy wholeheartedly. They emphasize that Hertz is a rental car company, and thus that is the only descriptor for its business activities. But the fact that renting cars constitutes *some*—or even *most*—of Hertz's

business does not mean that is *all* of Hertz's business. Just as Amazon is more than a bookseller, and Disney doesn't *just* sell theme park tickets, Hertz can rent cars *and* engage in other lines of business, including insurance.

Importantly, this Court is not being asked to conclude that all car rental companies should be considered *per se* insurers. Instead, the relevant question is whether car rental companies that buy fronting policies and, in fact, profit from premiums, indemnify drivers, and administer benefits themselves, are insurers.

With that in mind, there is no fundamental rule or law which dictates that operating an insurance company and operating a car rental company are mutually exclusive. On the contrary, they are mutually advantageous in many ways: insurance is a lucrative business, and car rental companies like Hertz can substantially pad their bottom lines by adding an insurance component to their rental agreements.

For example, in its 2024 10-K filing, Hertz itself admits that its insurance offerings are a materially important aspect of its financial operations. It explains that "[i]f customers decline to purchase supplemental liability insurance products from us. . . our results of operations, financial condition, liquidity and cash flows could be materially adversely affected." The Hertz Corp., Annual Report (Form 10-K) 32 (Feb. 18, 2025), https://s204.q4cdn.com/384814028/files/doc_financials/2024/q4/Hertz-Global-

2024-10-K.pdf [hereinafter Hertz 2025 Annual Report].

And, when rental car companies like Hertz do choose to offer insurance services in exchange for a premium, it makes no sense to permit them to later turn around and decry the obligations that legally follow from that financial decision because they also rent cars. Again, looking to Hertz's 10-K filing, the company explains its involvement as an insurer when it engages in a fronting arrangement:

> In our U.S. vehicle rental operations, we offer an optional liability insurance product, Liability Insurance Supplement ("LIS"), that provides vehicle liability insurance coverage substantially higher than state minimum levels to the renter and other authorized operators of a rented vehicle. LIS coverage is primarily provided under excess liability insurance policies issued by an unaffiliated insurance carrier, the risks under which are reinsured with a wholly owned subsidiary, HIRE Bermuda Limited. Our offering of LIS coverage in our U.S. vehicle rental operations is conducted pursuant to limited licenses or exemptions under state laws governing the licensing of insurance producers.

Id. at 27.

In other words, Hertz acknowledges that, even in a fronting arrangement, it assumes 100% indemnity obligations for LIS offerings. Thus, Hertz should be treated as an insurer for the simple reason that it sold insurance to the Respondents.

B. The Import and Logic of Laws Regulating Insurers

The laws surrounding insurance contracts reflect the fact that they are a

distinct type of agreement.

After all, the basic contract taught in law school is a one-for-one guaranteed exchange: I give you ten dollars, and you give me a widget. Insurance, meanwhile, is an exchange in the present for a service in the future. Insureds, unlike other consumers, "do not buy anything tangible that they can use immediately and return to the store if they do not like it." Ronen Avraham, *The Economics of Insurance Law-A Primer*, 19 Conn. Ins. L.J. 29, 32–33 (2012). An insured cannot return his insurance and begin comparison-shopping once he needs coverage. Rather, insureds "purchase a promise for future financial protection in the case of a covered occurrence." *Id.*

Stated differently, whereas typical contracting involves an exchange that is well-defined at the outset, insurance contracting operates as a gamble. The insurer gambles that calamity will not befall the insured, such that it will be able to collect premiums *ad infinitum* without ever needing to provide benefits in return. The insured, meanwhile, gambles that they may be stricken by a calamity, and in that instance is assured that they have purchased protection for their personal assets in the event of misfortune.

The unique qualities described above are central to the legal structures which have arisen to protect insureds. Many, if not most, of those structures are designed

to clarify and define what duties insurers must uphold when administering benefits. The proliferation of such laws reflects an understanding that insureds are particularly vulnerable contractors. Insurers have a financial incentive to collect premiums without proffering benefits when required. Running parallel to that incentive to breach, common sense dictates that insureds are uniquely *exposed* to such breaches given: (1) the complexity of insurance contracts; (2) the vulnerability of the insured at the time benefits are needed; and (3) the temporal attenuation between the time of purchase and the time of claims. So, while tortious breach is relatively rare in other areas of law, claims for tortious (or at least unreasonable) breach are more common and more accessible in insurance law, consistent with the systematic exposure to and likelihood of potential breach in this setting.

The fact that such laws reflect historical industry breach is not mere speculation. This Court recently concluded that the statutes in question (C.R.S. §§ 10-3-1115 and 16) do not authorize a "punishment for . . . a civil wrong," but rather provide a remedial scheme for unreasonable conduct. *See Rooftop Restoration, Inc. v. Am. Fam. Mut. Ins. Co.*, 418 P.3d 1173, 1177 (Colo. 2018). Indeed, the legislative history of Colorado's bad faith statute reflects the same. During hearings on the statutes, witnesses testified as follows:

> At some point, when you delay and deny enough claims, and they can earn interest on unpaid claims, and they can lose through attrition a

> certain number of entitled people who will go away from benefits they have paid for…that becomes part of your model for making money, and when you can make more money by doing the wrong thing than by doing the right thing, we have not set the policy incentives the right way. In fact, as part of the business plan it needs to cost you more money to unreasonably delay or deny care than to do the right thing in the first place.

Ex. 1, Legislative Testimony.

As illustrated by this testimony, insureds are specifically vulnerable to tortious breaches, and that was a distinct concern when the Legislature passed Colorado's bad faith statute. Colorado, like most other states, has formulated specific statutory remedies in anticipation of high rates of breach.

With this in mind, the position of *Hertz* and its similarly situated *amici* are particularly troubling. They seek to have their cake and eat it too. They wish to collect premiums, offer future benefits in event of calamity in exchange for those premiums, and also to be excused from the (non-punitive) laws that were specifically engineered in anticipation of breach. That is illogical, and counter to the underlying concerns which generated Colorado's statutory strictures in the first place.

C. There Is No Reason To Conclude That *Hertz* is Not An Insurer.

1. Renting Vehicles and Operating as an Insurer Are Not Mutually Exclusive.

Returning to the fallacy of composition, Hertz's argument is particularly disingenuous. Hertz relies on the definition of a "Motor Vehicle Rental Company"

in C.R.S. § 10-1-102 in support of its argument: "Motor vehicle rental company means an entity that is in the business of renting, pursuant to motor vehicle rental agreements, motor vehicles. . . ." Hertz contends that, by engaging in business that fits the description above, Hertz has ensured that it can never be considered an insurer. It says that is "common sense." Petitioner's Opening Brief at 6, *Hertz Corp. v. Babayev*, No. 24SC183, 2024 WL 5229024, at *1 (Colo. 2024)[hereinafter Opening Brief].

So, the question is this: what happens if an insurer, like USAA or Allstate or CHUBB, decides to open a rental car business? After all, there are plenty of occasions when its insureds need rental cars. Surely opening a rental car business can't exclude a company from the duty to engage in the basic task of operating in good faith when called on to pay benefits owed under a pre-existing insurance contract. But under Hertz's argument, it seems such an insurer would be excused from Colorado's statutory regulations for insurer conduct because it now rents cars.

This hypothetical is not far from fact: a cursory review of public financial information shows that Hertz itself operates insurance businesses. In February 2020, when Respondents' coverage was purchased from Hertz, Hertz's SEC filings stated its ownership of the following subsidiaries: (1) Thrifty Insurance Agency, Inc.; (2) Hertz Claim Management SA; (3) Hertz Claim Management S.r.l.; (4) Hertz Claim

Management B.V.; and (5) Hertz Claim Management Limited. *See* The List of Subsidiaries (Exhibit 21.1 to Form 10-K), https://www.sec.gov/Archives/edgar/data/1657853/000110465921133392/tm2128732d4_ex21-1.htm. Hertz also owns its own captive insurance company, Probus, which operates throughout the European Union. *Id.*

2. Hertz Is an Insurer Under Colorado Law.

Hertz and its *amici* urge this Court to re-define the term "insurer" as stated in Colorado law. Colorado defines an insurer as "every person engaged as a principal, indemnitor, surety, or contractor in the business of making contracts of insurance." C.R.S. § 10-1-102(13). The word "primarily" does not appear in the statutory definitions of insurer or rental company; that is an addition made by Hertz to suit its needs here. No matter how many times Hertz and *amici* write the phrase, "insurers are those companies who are primarily involved in transacting insurance," they cannot rewrite the extant statutes. Nor can this Court. To the extent that Hertz believes the legislative declaration is too broad, they should lobby the State Assembly, rather than ask this Court to re-define "insurer" in their favor.

3. Hertz Is Also an Insurer in Fact

According to the record, Hertz is, in fact, an indemnitor of the insurance policies at issue, rather than a mere co-insured with its customers. Hertz's policy

with CHUBB is a fronting policy. *See, e.g.*, Esteban Carranza-Kopper, *Fronting Arrangements: Industry Practices and Regulatory Concerns*, 17 Conn. Ins. L.J. 227, 228 (2010). Therefore, even if CHUBB were to initially pay uninsured motorist ("UM") claims on behalf of Hertz up to the policy limit of $1,000,000, Hertz would repay that exact amount as a "deductible" to CHUBB (the policy limit and Hertz's deductible are the same amount). "Thus," as the Court of Appeal found, "CHUBB assumed no financial liability for damage caused by uninsured motorists, and all financial liability remained with Hertz." *Babayev v. Hertz Corp.*, 2024 COA 15, 548 P.3d 1180, 1182 n.2 (Colo. Dec. 23, 2024) (emphasis added). In short, no risk was ever actually transferred from Hertz to CHUBB.

In order for Hertz to be a co-insured under the relevant policy, it would need to have some kind of insurance from Chubb. Insurance, is "a contract whereby one, for consideration, undertakes to indemnify another or to pay a specified or ascertainable amount or benefit upon determinable risk contingencies." C.R.S. § 10-1-102 (12). And Hertz cannot answer this fundamental question: if it is a co-insured along with Petitioners, what risk did Hertz insure against? CHUBB did not indemnify Hertz, never owed Hertz a specified amount or benefit; to the contrary, Hertz indemnified CHUBB up to CHUBB's policy limit. So, the notion of Hertz as a co-insured – in an instance where it had *no* indemnification benefits - is simply and

factually wrong.

In its Opening Brief, Hertz nonetheless presents itself as a co-insured and asks the Court to decide whether it is an insurer "where its rental agreement incidentally offers customers the option of purchasing insurance coverage provided by a licensed, third-party insurer under the rental company's own pre-existing policy with that insurer."

As merits counsel for Respondents will no doubt address, when Hertz offered them insurance coverage, CHUBB wasn't mentioned. So, when Hertz offered insurance to its customers, it did not offer an option to purchase insurance through a third party, (*i.e.*, CHUBB). Accordingly, when Respondents accepted Hertz's offer, they were in privity with the offeror, Hertz.

Similarly, Hertz's framing of insurance coverage as an essentially "incidental" option in a rental agreement is dubious. Certainly, Hertz doesn't offer such supplements out of sheer goodwill. Again, looking to public financial records, there is ample evidence that rental companies offer these supplements because they make money from the premiums. A similarly situated rental car company—Avis[1]—

[1] Both Avis and Hertz are among the top five rental car companies in the United States, such that their business practices (while not identical) can help shed light upon one another. Avis (a member of ACRA) and other rental companies operating in Colorado would, of course, take advantage of a decision by this Court exempting

is particularly explicit about the financial upside of offering insurance. In its 10-K filing from 2020 (the year of the injury at issue), Avis provided categories of non-vehicle revenue sources. The document reads:

OTHER REVENUES

> In addition to revenues derived from time and mileage fees from our vehicle rentals. . . we generate revenues from our customers through the sale and/or rental of optional ancillary products and services. We offer products to customers. . . including: additional/supplemental liability insurance or personal accident/effects insurance products which provide customers with additional protections for personal or third-party losses incurred.

Avis Budget Grp. Inc., Annual Report (Form 10-K) 10 (Feb. 2, 2020), https://www.sec.gov/ix?doc=/Archives/edgar/data/0000723612/000072361220000011/car-20191231x10k.htm [hereinafter AVIS 2020 Annual Report].

The same filing elaborates:

> We offer our U.S. customers a range of optional insurance products and coverages such as supplemental liability insurance. . . which create additional risk exposure for us. When a customer elects to purchase supplemental liability insurance or other optional insurance related products, we typically retain economic exposure to loss, since the insurance is provided by an unaffiliated insurer that is reinsuring its exposure through our captive insurance subsidiary.

Id. at 15. (emphasis added).

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their obligations to Colorado consumers from the good faith requirements of Colorado law.

Hertz, similarly, concisely describes its "fronting policy" arrangement in its own 10-K from 2020, explaining the following:

> [I]n our U.S. operations, we are required by applicable financial responsibility laws to maintain insurance against legal liability for bodily injury. . . sometimes called "vehicle liability," in stipulated amounts. In most jurisdictions, we satisfy those requirements by qualifying as a self-insurer, a process that typically involves governmental filings and demonstration of financial responsibility, which sometimes requires the posting of a bond or other security. In the remaining jurisdictions, we obtain an insurance policy from an unaffiliated insurance carrier and indemnify the carrier for any amounts paid under the policy.

The Hertz Corp., Annual Report (Form 10-K) 16 (Feb. 20, 2020), https://www.sec.gov/ix?doc=/Archives/edgar/data/0001657853/000165785320000007/hghthc201910-k.htm [hereinafter Hertz 2020 Annual Report] (emphasis added).

It cannot be ignored that Hertz does, in fact, offer insurance products, and does so because insurance is a good business to be in historically. Certainly, it should go without saying that insurance is an even better business if the insurer can somehow get away with offering insurance but be specifically and arbitrarily exempted from consumer obligations requiring you to resolve claims in good faith.

The American Car Rental Association ("ACRA"), in its *amicus* filing, urges this Court to avoid "transforming" rental car companies into insurers because doing so, it claims, would ignore the "pooling and pricing of risk" characteristics that

"define an 'insurer.'" Brief for American Car Rental Association as Amicus Curiae Supporting Petitioner's Opening Brief at 11, *Hertz Corp. v. Babayev* (No. 24SC183), 2024 WL 5229024, at *1 (Colo. Mar. 17, 2025) [hereinafter ACRA Brief]. To that end, ACRA asserts that treating rental companies as insurers will "force rental companies to bear the risks that they transfer to insurers in exchange for premiums, plus additional extra-contractual risks." *Id.* (emphasis added).

But the public filings show that those claimed consequences are illusory. Hertz already indemnifies insurance carriers for any amounts paid under the policy, and transfers no risk. Avis, similarly, acknowledges their willingness to "retain economic exposure to the loss," because it is worthwhile to generate revenue from premiums. Avis 2020 Annual Report, *supra*, at 15**.** Of course, the trade-off to earning revenue from premiums is, as a general matter, an obligation to honor the insurance contracts purchased with those premium dollars.

The arguments asserted by Hertz and its *amici*, which advise this Court that subjecting insurers to a requirement that they honor their contracts in good faith will somehow "make supplemental insurance more expensive or cause rental companies to stop offering it entirely," are not particularly compelling. ACRA Brief, *supra*, at 5. *Amici* write that, if rental car companies are required to honor their contracts they "will have every incentive to" excise "insurance products from their offerings

altogether."[2] *Id.* That simply can't be true; rental companies have already decided that the economic exposure associated with issuing an insurance policy is justified by the benefit of the premium dollars they can collect.

And, if the above statement is true, and rental car companies determine that honoring the insurance policies they issue is too expensive to justify issuing the policies, then the notion that they should be incentivized to continue issuing policies they never plan to honor in good faith is mystifying.

D. Upholding the Division Will Not Have Adverse Public Policy Implications

In its *amicus* brief, the Division of Insurance ("DOI") expresses concern that, if the underlying decision is affirmed, it will create ambiguity as to the DOI's regulatory obligations with respect to rental companies. Brief for Colorado Division of Insurance as Amicus Curiae Supporting Petitioner's Opening Brief at 12, *Hertz Corp. v. Babayev* (No. 24SC183), 2024 WL 5229024, at *1 (Colo. 2024)).. But the Colorado DOI is not the first entity to be concerned with the regulatory complications inherent in an insurance "fronting" arrangement, nor could this conceivably be the first time the DOI has encountered such a policy.

After all, the fronting policy in this matter is not unique. It involves a certified

[2] This ignores that minimum financial responsibility laws apply to rental companies (such that insurance can't be excised entirely). *See* Motor Vehicle Financial Responsibility Law, C.R.S. §§ 42-7-101 to 42-7-609.

insurer in Colorado, CHUBB, which has arranged a policy with an entity that is not a certified insurer in Colorado, Hertz. The non-certified entity carries 100% of the certified insurers indemnity obligations.[3]

It cannot be that, in this common situation, the only solution is for the consumer to be left out in the cold in the event of unreasonable breach. And, if the DOI believes this kind of fronting arrangement is improper, it must address that with the State Assembly. Regardless, this Court cannot issue an advisory opinion on the regulatory schemes associated with fronting policies, nor does it need to do so in order to address the issues that actually arise in this matter.[4]

That said, the DOI's apparent confusion as to how it can (or must) surveille or regulate a company that has obtained such fronting coverage is misplaced. The DOI asks this Court to clarify how it should handle regulation of an insurer without a "certificate of authority from the DOI to do insurance business in this state." DOI *Amicus* at 9. Yet, Title 10 offers myriad options. The DOI can assess whether the certified insurer (here, CHUBB) is engaged in a proper reinsurance arrangement

[3] The DOI's statement that the coverage is "indemnified by a third-party insurer" is incorrect; in fact, Hertz indemnifies the regulated/certified third-party insurer.

[4] Notably, this is ordinarily the purview of legislators. Take, for example, California, where fronting arrangements like this one are barred, and a certified/domestic insurer must retain at least 10% of direct premiums per line of business. Cal. Code Regs. tit. 10, § 2303.15(b).

under C.R.S. § 10-3-701, *et seq.* If not, Title 10 at C.R.S. §§ 10-3-902, *et seq.*, authorizes investigation and penalties in when the DOI identifies "unauthorized insurance." That provision is explicitly geared towards the issuance of insurance that will present "the often insuperable obstacle of asserting [residents'] legal rights under such policies" and depriving them "of the benefit of Colorado laws regulating insurance." C.R.S. § 10-3-902 (2022). And, while that provision exempts rental companies from oversight for the sale of "authorized insurance by agents" of the rental company, it does not preclude enforcement if a rental carrier offers unauthorized insurance. At that point, the DOI has full regulatory authority at its disposal.

If nothing else, the DOI *amicus* is a distraction from the ultimate issue. The DOI - who, again, appears to have filed into this case under the mistaken impression that CHUBB had at least some indemnification obligations under the agreement with Hertz - has available enforcement mechanisms. And, if those are not satisfactory, the State Assembly should address this decades-old problem of regulation and fronting policies. What is not acceptable, of course, is a conclusion that a fronting policy that gives 100% indemnification obligations to an unauthorized entity will somehow leave insureds in a position where they have no protections under

Colorado insurance law, despite having purchased coverage in and for activities taking place in the state.

IV. CONCLUSION

Hertz and its *amici* each urge this Court to re-define the term "insurer" as stated in Colorado law. No matter how many times Hertz and *amici* write the phrase, "insurers are those companies who are primarily involved in transacting insurance," they cannot write those words into the statutes.

Hertz and its *amici* spill much ink decrying the unfairness of concluding that companies which fit the definition of a "motor vehicle rental company" can *also* fit the definition of "insurers." Certainly, a rental company can operate without offering to indemnify drivers for amounts of damage in excess of the amounts required by minimum financial responsibility laws. But where, as here, a sophisticated rental company makes the business decision to offer an insurance policy, collect premium dollars for that policy, and indemnify the policy fully, it cannot turn around and act as though its participation in the insurance business was merely "incidental." That is particularly so where, as here, the entity offering such a product (and accepting premiums) has the capacity to make all of the underwriting and actuarial determinations ordinarily taken on by insurance carriers (as demonstrated by their

ownership of subsidiaries devoted to insurance underwriting and claims management).

Again, insurance contracts are unique agreements in American law. Their unique components, taken together, make consumers singularly vulnerable to companies that would prefer to collect premiums *ad infinitum* without paying out the amounts owed in the event of personal loss. With that understanding, bad faith insurance laws and penalties aren't arbitrary punitive measures. Lawmakers didn't randomly take aim at insurance contracts when setting forth the remedial scheme for contractual breach in the insurance context. Insurance bad faith exists as a branch of law because insurance contracts are particularly likely to give rise to breaches, such that a deterrence scheme was developed and honed over time. And, if rental car companies elect to participate in the insurance business – which is one of the most lucrative businesses in this country – then there is no good reason to exempt them from the laws meant to deter companies in the insurance business from flouting their contractual obligations.

For these reasons, *Amici Curiae* the Colorado Trial Lawyers Association and American Association for Justice respectfully request that the Court uphold the order below.

DATED this 5th day of June 2025.

Respectfully submitted,

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AMERICAN ASSOCIATION FOR JUSTICE

s/Jeffrey R. White
Jeffrey R. White

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of June 2024, a true and correct copy of the foregoing **BRIEF OF AMICUS CURIAE THE COLORADO TRIAL LAWYERS ASSOCIATION AND THE AMERICAN ASSOCIATION OF JUSTICE IN SUPPORT OF RESPONDENT** was served via Colorado Court E-Filing to the following:

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