

# Hartford Fire Ins. Co. v. Tempur-Sealy Int'l Ins. Co.

Year: 2017

Court: U.S. Court of Appeals, 9th Circuit

Case Number: 16-16056

The most fundamental obligation of a liability insurer is to defend its insured against suits alleging bodily injury or property damage. The duty to defend is broader than the duty to indemnify. This duty is triggered when any of the allegations of the complaint potentially fall within coverage. Here, joined by co-amicus the International Sleep Products Association (“ISPA”), a trade organization representing the bedding industry, UP argued that under California law, the coverage provisions of a liability insurance policy must be read broadly in favor of the insured. The plaintiff seeking damages is not the arbiter of coverage and cannot manipulate whether its opponent can obtain coverage through clever pleading tactics. In the underlying case, the plaintiffs had disclaimed damages for bodily injury in order to achieve class certification. The insurer denied coverage on the grounds that the plaintiffs were not seeking damages “for physical injuries” but rather were seeking damages “because of physical injuries.” The District Court disagreed, rejecting this distinction, and correctly held that the detailed factual allegations, even if the plaintiffs were disclaiming certain damages, presented at least the potential that they would assert a covered claim for damages because of bodily injury and/or property damage. Holding otherwise would violate an insured’s reasonable expectations of coverage. Thus, UP and the ISPA urged affirmance.

UP's brief was authored pro bono by David E. Weiss, Esq. of Reed Smith LLP