

COPY

**COURT OF APPEAL, STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

**BAUGH CONSTRUCTION COMPANY,)
et al.)
Plaintiffs and Appellants,)**

vs.)

**GRANITE STATE INSURANCE)
COMPANY,)
Defendant and Respondent.)**

**3 Civil No. C023071
Sacramento County
No. CV536906**

**Trial Judge:
Honorable Joe S. Gray**

**BAUGH CONSTRUCTION COMPANY,)
et al.)
Plaintiffs and Appellants,)**

vs.)

**HIGHLANDS INSURANCE)
COMPANY, et al.)
Defendants and Respondents.)**

**3 Civil No. C0233311
Sacramento County
No. CV536906**

**Trial Judge:
Honorable Joe S. Gray**

FILED

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**COURT OF APPEAL-THIRD DISTRICT
ROBERT L. LISTON, Clerk**

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**BRIEF OF AMICUS CURIAE UNITED POLICYHOLDERS
IN SUPPORT OF PLAINTIFFS AND APPELLANTS
BAUGH CONSTRUCTION COMPANY, ET AL.**

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**Clerk Court of Appeal
Third Appellate District**

insurance rights and to have those rights enforced consistently throughout the country.

STATEMENT OF FACTS

Amicus curiae adopts the Statement of Facts of the Plaintiffs and Appellants.

ARGUMENT

"THE OBLIGATION OF GOOD FAITH AND FAIR DEALING EXTENDS TO THE ASSERTION, SETTLEMENT AND LITIGATION OF CONTRACT CLAIMS AND DEFENSES."

-- [Aetna Casualty & Surety Company's] Brief In Opposition To Nestle's Motion For Partial Summary Judgment at 24, filed in Nestle Foods Corp. v. Aetna Casualty & Sur. Co., No. 89-1701 (CSF) (D.N.J.) (quoting Restatement (Second) Of Contracts §205 (1981)).¹

"NEW JERSEY LAW DOES EXTEND THE IMPLIED DUTY OF GOOD FAITH AND FAIR DEALING 'TO THE ASSERTION, SETTLEMENT AND LITIGATION OF CONTRACT CLAIMS AND DEFENSES'."

1. A copy of this brief is annexed hereto as Appendix 1.