

UNITED STATES COURT OF APPEALS  
FIFTH CIRCUIT

NO. 97-31222

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RICHARD P. IEYOUB, ATTORNEY GENERAL,  
*ex rel*  
STATE OF LOUISIANA  
versus  
THE AMERICAN TOBACCO COMPANY, et al.

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BRIEF OF AMICUS CURIAE UNITED POLICYHOLDERS IN SUPPORT  
OF THE STATE OF LOUISIANA'S ORIGINAL BRIEF

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Civil Proceeding  
On Appeal from Western District of Louisiana  
Lake Charles Division  
Civil Action No. 97-1174  
(Consolidated with CVA 97-1241)  
The Honorable James T. Trimble, Jr., Presiding

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Respectfully submitted,

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## SUMMARY OF ARGUMENT

Arbitration of insurance disputes undermines the American legal system because it erodes an already disappearing landscape of pro-policyholder common-law decisions interpreting insurance policies. Arbitration's cloak of secrecy has a two-fold effect: First, it strips states of the power to regulate the business of insurance; and second, it vitiates the insurance buying public's ability to predict the interpretation of contractual terms.

Furthermore, arbitration of insurance disputes is inherently unfair to the policyholder or the party seeking benefits under an insurance policy. The process is unfair because it exacerbates an already existing information imbalance and because the process is dominated by the insurance industry. Arbitration has been closely scrutinized in the securities, health and employment contexts. Courts and government agencies have undertaken a review of the process and many have concluded that arbitration has not lived up to its promise as a method of "fair" dispute resolution.