

STATE OF CALIFORNIA
IN THE COURT OF APPEAL
SECOND APPELLATE DISTRICT

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Lebas Fashion Imports of USA, Inc.

Plaintiff-Appellant,

vs.

ITT Hartford Insurance Group

Defendant-Respondent.

**AMICUS CURIAE BRIEF OF
UNITED POLICYHOLDERS IN
SUPPORT OF LEBAS FASHION
IMPORTS OF USA, INC.**

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Dated: July 19, 1996

FACTS

United Policyholders adopts the statement of facts as set forth in the brief of the appellant, Lebas Fashion Imports of USA Inc.'s ("Lebas") Statement of Facts.

Amicus curiae respectfully requests that this Court take judicial notice of all documents in the accompanying appendix.¹

DISCUSSION

Since insurance contracts are drafted by insurers, it is beyond doubt that they are to be construed so as to protect the insured as fully as fairness will permit.

Brief of Plaintiff-Appellant, Hartford Accident and Indemnity Company, Hartford Accident & Indem. Co. v. Aetna Life & Casualty Ins. Co., No. A-1595-82T2, (N.J. Super. Ct., App. Div.) (filed May 12, 1983), at 9 (emphasis added) (Appendix Ex. 1).

I. THE ADVERTISING INJURY LIABILITY COVERAGE PROVISION PROVIDES COVERAGE FOR ACTS THAT MAY ALSO GIVE RISE TO ALLEGED TRADEMARK INFRINGEMENT LIABILITY.

Many courts, including the Second Appellate District of the California Court of Appeal, have determined that trademark infringement claims are covered under standard form advertising injury insurance policies. Their decisions have been based on one or more of the following grounds: 1) an expanding number of

1. See Brown v. Board of Education, 347 U.S. 483 (1954) (Court referred to articles and other publications in rendering its landmark decision); American Guarantee & Liab. Ins. Co. v. Vista Medical Supply, 699 F. Supp. 787, 789 n.2 (N.D. Cal. 1988) (insurance company permitted to submit non-party's complaint filed in related case).