

ABSTRACT

Thesis Title : Problems and Procedures Associated with the Creation of
the Insurance Contract

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According to the law, there is no prescribed form for the formation of an insurance contract. Subsequently, a contract may be made even by oral agreement. In practice, the Insured will fill in the application form prepared by the Insurer and after the contract has been made, the Insurer will issue in insurance policy. The law declares that the insurance policy should conform to the insurance contract, but the Insurer usually adds conditions that limit their liability within the insurance policy, which are not represented in the application. Such circumstances are unfair to the parties, and are deemed to be unjust contracts, as is evidenced by the petitions given to the Insurance Department of the Ministry of Commerce and which includes the controversy presented to the Court of Justice, concerning the limitation of liability among the various types of insurance policy.

Therefore, for the benefit of fairness, to eliminate a loop hole in the insurance contract, to decrease the number of controversial cases brought to the court, and to comply with the doctrine of justice in entering the contract; upon

entering into the insurance contract, the Insurer company should disclose all of the limitations on liability contained in the insurance policy to the Insured in order to eliminate any doubts regarding such limitations, so the parties to contract will be aware of all the conditions contained in the contract. Therefore the Insured can make a more informed decision before entering into a contract.

If the above mentioned amendment is made, it will benefit the insurance business, as the public will gain confidence in the insurance business, which will result in an expansion and development of the insurance industry. This will also specifically serve the government's policy for liberalization of the insurance business. When the public concludes that insurance is fair and honest, this will result in an increasing number of Insured people, and will also indirectly benefit the government, as it will not have any responsibility upon the occurrence of an accident. Furthermore, insurance is deemed to be a means of saving funds, and therefore, the insurance industry is a source of funds, which may be used to enhance the development of the country.