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NO FEE  
(Gov. Code, § 6103)

8 Attorneys for Respondents and Defendants, Steve  
Poizner, Insurance Commissioner of the State of  
9 California; and California Department of Insurance

10  
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 FOR THE COUNTY OF LOS ANGELES

13  
14 **THE ASSOCIATION OF CALIFORNIA  
15 INSURANCE COMPANIES, THE PERSONAL  
16 INSURANCE FEDERATION OF CALIFORNIA,  
17 THE AMERICAN INSURANCE ASSOCIATION,  
and THE PACIFIC ASSOCIATION OF  
DOMESTIC INSURANCE COMPANIES,**

18 Petitioners and Plaintiffs,

19 v.

20 **STEVE POIZNER, Insurance Commissioner of the  
State of California; and CALIFORNIA  
21 DEPARTMENT OF INSURANCE,**

22 Respondents and Defendants.  
23

Case No. BS109154

**ANSWER TO PETITION FOR  
PEREMPTORY WRIT OF  
MANDATE AND  
COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

Dept: 85  
Judge: The Honorable  
Dzintra I. Janavs  
Trial Date: None  
Action Filed: May 25, 2007

24 COMES NOW Respondents and Defendants Steve Poizner, Insurance Commissioner  
25 of the State of California and California Department of Insurance (collectively as "Defendants")  
26 and, in answer to the petition of Petitioners and Plaintiffs, The Association of California  
27 Insurance Companies, The Personal Insurance Federation of California, The American Insurance  
28 Association and The Pacific Association of Domestic Insurance Companies (collectively as

1 "Plaintiffs") for peremptory writ of mandate and for declaratory and injunctive relief on file in  
2 the above numbered action, denies, admits, and alleges as follows:

3 1. In answering paragraph 1, Defendants deny that Sections 2651.1, 2661.1, 2661.3,  
4 2662.1, 2662.3, and 2662.5 of Title 10 of the California Code of Regulations ("Amended  
5 Regulations") are inconsistent and in conflict with Sections 1861.10 and 1861.05 of the  
6 California Insurance Code and deny that the Amended Regulations are not necessary to  
7 effectuate the purpose of the underlying statutes.

8 2. In answering paragraph 2, Defendants deny allegations in lines 2:20 -  
9 3:1 summarizing the contents of Sections 1861.10 and 1861.05 of the California Insurance Code  
10 on the ground that the statutes speak for themselves.

11 3. In answering paragraph 3, Defendants deny allegations in lines 3:3 - 3:9  
12 summarizing the contents of the 1995 Regulations on the ground that the contents of the 1995  
13 Regulations found in Exhibit A are as set therein, and that they speak for themselves.

14 4. In answering paragraph 4, Defendants admit the allegations therein.

15 5. In answering paragraph 5, Defendants admit that the 1995 Regulations were  
16 consistent with Section 1861.10 of the California Insurance Code but deny the remaining  
17 allegations therein.

18 6. In answering paragraph 6, Defendants admit that the Los Angeles Superior  
19 Court issued a decision in *American Healthcare Indemnity Co. and SCPIE Indemnity Co. v.*  
20 *Garamendi* (Case No. BS094515) but deny the remaining allegations therein.

21 7. In answering paragraph 7, Defendants admit that Plaintiffs are seeking a writ of  
22 mandate and/or injunction and declaration from this Court but deny the remaining allegations  
23 therein.

24 8. In answering paragraph 8, Defendants lack information or belief upon the subject  
25 of paragraph 8 sufficient to enable them to answer the allegations contained in said paragraph;  
26 and placing their denial on that ground, Defendants deny each and every allegation contained in  
27 paragraph 8.

28 9. In answering paragraph 9, Defendants lack information or belief upon the subject

1 of paragraph 9 sufficient to enable them to answer the allegations contained in said paragraph;  
2 and placing their denial on that ground, Defendants deny each and every allegation contained in  
3 paragraph 9.

4 10. In answering paragraph 10, Defendants lack information or belief upon the subject  
5 of paragraph 10 sufficient to enable them to answer the allegations contained in said paragraph;  
6 and placing their denial on that ground, Defendants deny each and every allegation contained in  
7 paragraph 10.

8 11. In answering paragraph 11, Defendants lack information or belief upon the  
9 subject of paragraph 11 sufficient to enable them to answer the allegations contained in said  
10 paragraph; and placing their denial on that ground, Defendants deny each and every allegation  
11 contained in paragraph 11.

12 12. In answering paragraph 12, Defendants lack information or belief upon the  
13 subject of paragraph 12 sufficient to enable them to answer the allegations contained in said  
14 paragraph; and placing their denial on that ground, Defendants deny each and every allegation  
15 contained in paragraph 12.

16 13. In answering paragraph 13, Defendants admit the allegations therein.

17 14. In answering paragraph 14, Defendants admit the allegations therein.

18 15. In answering paragraph 15, Defendants admit the allegations therein.

19 16. In answering paragraph 16, Defendants admit the allegations therein.

20 17. In answering paragraph 17, Defendants admit that Plaintiffs seek the issuance of a  
21 writ of mandate but deny the remaining allegations therein.

22 18. In answering paragraph 18, Defendants admit that Plaintiffs seek a declaratory  
23 relief judgment but deny the remaining allegations therein.

24 19. In answering paragraph 19, Defendants admit that Plaintiffs seek injunctive  
25 relief but deny the remaining allegations therein.

26 20. In answering paragraph 20, Defendants admit that the quoted portions of Section  
27 11342.2 of the California Government Code are correct but deny the remaining allegations  
28 therein.

1           21. In answering paragraph 21, Defendants deny Plaintiffs' characterization that the  
2 1995 Regulations expanded the rate proceeding concept but otherwise admit the allegations  
3 therein.

4           22. In answering paragraph 22, Defendants admit the allegations therein.

5           23. In answering paragraph 23, Defendants admit that Section 2661.3(a) was  
6 amended but deny the remaining allegations therein.

7           24. In answering paragraph 24, Defendants admit that Section 2661.3(e) was  
8 amended but deny the remaining allegations therein.

9           25. In answering paragraph 25, Defendants admit that the quoted portions of Section  
10 1861.10(a) and 1861.10(b) of the California Insurance Code are correct but deny the remaining  
11 allegations therein.

12           26. In answering paragraph 26, Defendants admit that the quoted portion of Section  
13 1861.05(c) of the California Insurance Code is correct but deny the remaining allegations therein.

14           27. In answering paragraph 27, Defendants deny each and every allegation therein.

15           28. In answering paragraph 28, Defendants deny each and every allegation therein.

16           29. In answering paragraph 29, Defendants deny each and every allegation therein.

17           30. In answering paragraph 30, Defendants deny each and every allegation therein.

18           31. In answering paragraph 31, Defendants deny each and every allegation therein.

19           32. In answering paragraph 32, Defendants admit the allegations therein.

20           33. In answering paragraph 33, Defendants deny each and every allegation therein.

21           34. In answering paragraph 34, Defendants admit the allegations therein.

22           35. In answering paragraph 35, Defendants deny each and every allegation therein.

23           36. In answering paragraph 36, Defendants deny the allegations therein and  
24 incorporate their answers to paragraphs 1 through 35, inclusive.

25           37. In answering paragraph 37, Defendants deny each and every allegation therein.

26           38. In answering paragraph 38, Defendants deny each and every allegation therein.

27           39. In answering paragraph 39, Defendants lack information or belief upon the  
28 subject of paragraph 39 sufficient to enable them to answer the allegations contained in said

1 paragraph; and placing their denial on that ground, Defendants deny each and every allegation  
2 contained in paragraph 39.

3 40. In answering paragraph 40, Defendants lack information or belief upon the  
4 subject of paragraph 40 sufficient to enable them to answer the allegations contained in said  
5 paragraph; and placing their denial on that ground, Defendants deny each and every allegation  
6 contained in paragraph 40.

7 41. In answering paragraph 41, Defendants deny the allegations therein.

8 42. In answering paragraph 42, Defendants deny each and every allegation therein  
9 and incorporate their answers to paragraphs 1 through 41, inclusive.

10 43. In answering paragraph 43, Defendants deny each and every allegation therein.

11 44. In answering paragraph 44, Defendants deny each and every allegation therein.

12 45. In answering paragraph 45, Defendants deny each and every allegation therein.

13 46. In answering paragraph 46, Defendants lack information or belief upon the  
14 subject of paragraph 46 sufficient to enable them to answer the allegations contained in said  
15 paragraph; and placing their denial on that ground, Defendants deny each and every allegation  
16 contained in paragraph 46.

17 47. In answering paragraph 47, Defendants deny each and every allegation therein.

18 48. In answering paragraph 48, Defendants deny each and every allegation therein  
19 and incorporate their answers to paragraphs 1 through 41, inclusive.

20 49. In answering paragraph 49, Defendants lack information or belief upon the  
21 subject of paragraph 49 sufficient to enable them to answer the allegations contained in said  
22 paragraph; and placing their denial on that ground, Defendants deny each and every allegation  
23 contained in paragraph 49.

24 50. In answering paragraph 50, Defendants lack information or belief upon the  
25 subject of paragraph 50 sufficient to enable them to answer the allegations contained in said  
26 paragraph; and placing their denial on that ground, Defendants deny each and every allegation  
27 contained in paragraph 50.

28 51. In answering paragraph 51, Defendants lack information or belief upon the

1 subject of paragraph 51 sufficient to enable them to answer the allegations contained in said  
2 paragraph; and placing their denial on that ground, Defendants deny each and every allegation  
3 contained in paragraph 51.

4 52. In answering paragraph 52, Defendants deny the allegations therein.

5 53. In answering paragraph 53, Defendants deny the allegations therein.

6 **AFFIRMATIVE DEFENSE**

7 1. Plaintiffs have failed to allege facts sufficient to state a cause of action.

8 **ANSWER TO PRAYERS**

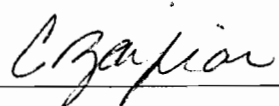
9 In answer to Plaintiffs' prayer, Defendants deny that Plaintiffs are entitled to the relief  
10 sought or to any relief whatsoever.

11 **WHEREFORE** Defendants pray for judgment as follows:

- 12 1. That Plaintiffs take nothing by way of their petition and complaint;
- 13 2. That the Court enter judgment for Defendants;
- 14 3. For costs and expenses incurred in defense of this action;
- 15 4. For such other and further relief as the Court may deem just and proper.

16 Dated: July 20, 2007

17 Respectfully submitted,  
18 EDMUND G. BROWN JR.  
19 Attorney General of the State of California  
20 W. DEAN FREEMAN  
21 FELIX E. LEATHERWOOD  
22 Supervising Deputy Attorneys General  
23 MARK P. RICHELSON  
24 Deputy Attorney General

  
25 \_\_\_\_\_  
26 CHRISTINE ZARIFIAN  
27 Deputy Attorney General

28 Attorneys for Respondents and Defendants,  
Steve Poizner, Insurance Commissioner of the  
State of California; and California Department  
of Insurance

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **The Association of California Insurance Companies et al. v. Steve Poizner et al.**

Case No.: **BS109154**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On July 20, 2007, I served the attached **ANSWER TO PETITION FOR PEREMPTORY WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

Michael A.S. Newman, Esq.  
Barger & Wolden LLP  
633 West Fifth Street, 47<sup>TH</sup> Floor  
Los Angeles, CA 90071

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 20, 2007, at Los Angeles, California.

\_\_\_\_\_  
Yuriko Cuan-Claro

Declarant

  
\_\_\_\_\_  
Signature