

In the Supreme Court of the State of California

**ASSOCIATION OF CALIFORNIA
INSURANCE COMPANIES and
PERSONAL INSURANCE
FEDERATION OF CALIFORNIA,**

Plaintiffs and Respondents,

v.

**DAVE JONES in his capacity as
Commissioner of the California
Department of Insurance,**

Defendant and Appellant.

Case No. S226529

**SUPREME COURT
FILED**

JUN 17 2015

Frank A. McGuire Clerk

Deputy

Court of Appeal, Second Appellate Case No. B248622
Superior Court of California, County of Los Angeles
Case No. BC463124
Honorable Gregory W. Alarcon, Judge

REPLY TO ANSWER TO PETITION FOR REVIEW

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TABLE OF AUTHORITIES

Page

CASES

Ford Dealers Association v. Department of Motor Vehicles
(1982) 32 Cal.3d 347 2

People ex rel. Lungren v. Superior Court
(1996) 14 Cal.4th 294 2

STATUTES

Ins. Code, §§ 790-790.15 2

Ins. Code, § 790.06 2

Appellant Dave Jones, Insurance Commissioner of the State of California contends that review is warranted so that the Court may resolve the important question of whether the Commissioner acted within his statutory authority in promulgating regulations designed to prevent insurers from providing homeowners purchasing or renewing insurance policies with “replacement cost” estimates that the Commissioner reasonably concluded would be incomplete and potentially misleading.

In their Answer to the Commissioner’s Petition for Review, Respondents argue that review is not warranted because the petition does not present an important question of law, and the court below correctly applied well established rules of statutory construction. Respondents are incorrect on both counts.

First, the Court of Appeal’s narrow construction of a public protection statutory scheme invalidates important consumer protection regulations and unnecessarily threatens harm to the Commissioner’s ability to provide clear rules to the insurance industry and to protect consumers against misleading practices in the marketing of replacement cost insurance. The Court of Appeal’s decision thus raises an important issue that warrants this Court’s review.

Second, the Court of Appeal misapplied the principle of statutory construction requiring broad and liberal construction of statutes enacted for the protection of the public in favor of that protective purpose. (*People ex*

rel. Lungren v. Superior Court (1996) 14 Cal.4th 294, 313; *Ford Dealers Association v. Department of Motor Vehicles* (1982) 32 Cal.3d 347, 356.)

Instead, the court interpreted the provisions of the Unfair Insurance Practices Act, Insurance Code sections 790-790.15¹ -- in particular the Commissioner's enforcement powers under section 790.06 -- as suggesting his statutory authority to promulgate the replacement cost regulation is limited. But as discussed in the Commissioner's Petition for Review, the Commissioner's enforcement authority under section 790.06 is not a substitute for the Commissioner's rulemaking authority (Pet. at 10-12), and the decision's potential harm to the Commissioner's ability to protect the public and to homeowners from inadequate replacement cost insurance justifies this Court's review.

¹ All statutory references are to the Insurance Code.

Dated: June 16, 2015

Respectfully submitted,

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LA2011600848

CERTIFICATE OF COMPLIANCE

I certify that the attached REPLY TO ANSWER TO PETITION FOR REVIEW uses a 13 point Times New Roman font and contains 328 words.

Dated: June 16, 2015

KAMALA D. HARRIS
Attorney General of California

A handwritten signature in black ink, appearing to read 'LW Chao', written over a large, empty oval shape.

LISA W. CHAO
Deputy Attorney General
Attorneys for Appellant and Petitioner

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **ASSOCIATION OF CALIFORNIA INSURANCE COMPANIES and
PERSONAL INSURANCE FEDERATION OF CALIFORNIA v. DAVE
JONES in his capacity as Commissioner of the California Department of
Insurance**

No.: **B248622**

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 with postage thereon fully prepaid that same day in the ordinary course of business.

On June 16, 2015, I served the attached **REPLY TO ANSWER TO PETITION FOR REVIEW** by placing a true copy thereof enclosed in a sealed envelope 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:

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Second Appellate District, Division One
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Los Angeles, California 90013
(Hand-Delivered)

Clerk, Los Angeles County Superior Court
Honorable Gregory W. Alarcon
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Los Angeles, California 90012

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 June 16, 2015, at Los Angeles, California.

Linda Richardson
Declarant



Signature