

**Case No. S269212**

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**IN THE SUPREME COURT OF THE STATE OF  
CALIFORNIA**

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CALIFORNIA MEDICAL ASSOCIATION,

Petitioner,

v.

AETNA HEALTHCARE OF CALIFORNIA, INC. D/B/A AETNA  
U.S. HEALTHCARE INC.; and AETNA HEALTH OF  
CALIFORNIA, INC.,

Respondents.

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After a Decision by the Court of Appeal  
Second Appellate District  
Case No. B304217  
(Los Angeles County Superior Court No. BC487412)

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**PETITIONER'S MOTION FOR JUDICIAL NOTICE;  
SUPPORTING MEMORANDUM OF POINTS AND  
AUTHORITIES; DECLARATION OF MICHAEL RUBIN;  
AND PROPOSED ORDER**

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Service on the Attorney General and District Attorney required  
by Bus. & Prof. Code § 17209 and Cal. Rules of Court, Rule 8.29

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*Attorneys for Petitioner CALIFORNIA MEDICAL ASSOCIATION*

## MOTION FOR JUDICIAL NOTICE

Petitioner California Medical Association respectfully requests that this Court take judicial notice, pursuant to Evidence Code Sections 452 and 459, and California Rules of Court, rules 8.520(g) and 8.252(a), of the following exhibits, the authenticity of which are established through the accompanying declaration of Michael Rubin:

Exhibit A is the official title and summary, analysis and ballot arguments of Proposition 64 included in the Official Voter Guide for the November 2, 2004 general election. The Official Voter Guide is relevant to this action because it shows the information that was provided to voters regarding a ballot initiative at issue in this appeal.

Exhibit B consists of excerpts of the Health Insurance Covered Lives Report prepared by the California Department of Insurance pursuant to Insurance Code section 10127.19. The relevant excerpts of the Report show the number of people in California covered under Aetna's Preferred Provider Organization ("PPO") and Point of Service ("POS") health insurance plans as of December 31, 2020. The Report also includes the numbers of people covered by administrative service only (ASO) policies for which the member's employer bears the cost, which constitute the majority of Aetna's PPO plans. (Joint Appendix transferred to this Court on June 9, 2021 ("JA") at p. 835 [declaration of Elizabeth Koval].) This information is relevant to Petitioner's argument concerning the scope of its request for public injunctive relief.

Neither exhibit was presented to the trial court in this case.

Exhibits A and B are subject to judicial notice under Evidence Code subsections 452(c) and (h), providing for notice of, respectively, “[o]fficial acts of the legislative, executive, and judicial departments” of any state of the United States and “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” As many courts have determined, ballot pamphlets, summaries, and arguments are official government documents and may be properly subject to judicial notice under Evidence Code subsection 452(c). (*See, e.g., See Vargas v. City of Salinas* (2009) 46 Cal.4th 1, 22 fn. 10). Exhibit B is a report produced by the California Department of Insurance and thus an “official act” of the executive department of the state. Moreover, the data in the report “are not reasonably subject to dispute,” (Evid. Code, § 452(h)), as they are provided to the Department by “every health insurer,” including Aetna, pursuant to Insurance Code section 10127.19.

Neither Exhibit relates to proceedings occurring after the judgment that is the subject of this appeal.

Dated: October 27, 2021

Respectfully submitted,

ALAN M. MANSFIELD  
WHATLEY KALLAS, LLP

MICHAEL RUBIN  
STACEY M. LEYTON  
ALTSHULER BERZON LLP

By: /s/ Alan M. Mansfield  
Alan M. Mansfield

By: /s/ Michael Rubin  
Michael Rubin  
*Attorneys for Petitioner*  
*California Medication Association*

## MEMORANDUM OF POINTS AND AUTHORITIES

As this Court has recognized in many cases, interpretation of a ballot initiative may require the Court to “test [its] construction against those extrinsic aids that bear on the enactors’ intent’ [citation], in particular the ballot materials accompanying [the initiative] that place the initiative in historical context.” *Hi-Voltage Wire Works, Inc. v. City of San Jose* (2000) 24 Cal. 4th 537, 560. These materials, including ballot pamphlets and voter guides, are relevant to actions involving the interpretation of initiatives. This appeal involves the construction of Proposition 64 (2004), and the ballot materials for the initiative are both relevant to the action and proper subjects of judicial notice. (See *Mangini v. R.J Reynolds Tobacco Co* (1994) 7 Cal. 4th 1058, 1063, overruled on other grounds in *In re Tobacco Cases II* (2007) 41 Cal.4th 1257, 1276 [“Although a court may judicially notice a variety of matters [citation], only relevant material may be noticed,” emphasis omitted].)

Judicial notice may be taken of “[o]fficial acts of the legislative, executive, and judicial departments of . . . any state of the United States.” (Evid. Code, § 452(c).) This Court also may judicially notice “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” (*Id.* § 452(h).) Pursuant to these provisions, this Court and other courts routinely grant requests for judicial notice of legislative history materials, including ballot pamphlets, voter guides, ballot arguments, and advocacy materials of proponents

and opponents. (See *Vargas v. City of Salinas* (2009) 46 Cal.4th 22 fn. 10 [official ballot pamphlet is a “proper subject of judicial notice” as an “official government document” under Evid. Code section 452(c)]; *Robert L. v. Superior Court* (2003) 30 Cal.4th 894, 905; see also *Jahr v. Casebeer* (1999) 70 Cal.App.4th 1250, 1253 fn.2; *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26, 31 [ballot pamphlets, summaries, arguments, and voter guides are judicially cognizable].)

Reports and publications by executive agencies are also “[o]fficial acts” and common subjects of judicial notice under Evidence Code subsection 452(c). (See, e.g., *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 853, fn. 3 [taking judicial notice of Attorney General’s report on gasoline pricing as an official act of executive department]; *Casella v. SouthWest Dealer Servs., Inc.* (2007) 157 Cal.App.4th 1127, 1137 [taking judicial notice of an article issued by the California Department of Motor Vehicles].)

Insurance Code Section 10127.19 provides that “every health insurer . . . shall provide to the department . . . the number of covered lives, by product type, as of December 31 of the prior year, that receive health care coverage under a health insurance policy that covers individuals, small groups, large groups, or administrative services only business lines.” (See also Health & Safety Code, § 1348.95.) The specified product types include, but are not limited to “HMO, point-of-service, PPO, grandfathered, and Medi-Cal managed care.” (Ins. Code, §

10127.19.) The statute requires that data be provided publicly, including posting of the data on the department's website.

The 2020 Health Insurance Covered Lives Report on the Department of Insurance website includes data, provided by Aetna, listing the number people covered by its plans through individual, small group, large group, and administrative service only (employer funded) policies. PPO and POS plan data is posted by the Department of Insurance (the agency with primary responsibility for overseeing PPO plans), while HMO plan data is posted by the Department of Managed Care (the agency with primary responsibility for overseeing HMO plans).

The contents of the Report are also facts “not reasonably subject to dispute” and “capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy,” supporting judicial notice. (Evid. Code § 452(h).) The data in the report comes from information provided by Aetna and shows that Aetna PPO and POS plans cover nearly a million members, the majority through administrative only service policies in which the employer bears the cost. (See also JA 835 [declaration of Elizabeth Koval, stating that “the majority of Aetna PPO plans in Northern California are self-insured,” paid for by the member's employer].)

This action involves a claim for public injunctive relief under the Unfair Competition Law. (Bus. & Prof. Code, §§ 17200 et seq.; see *Broughton v. Cigna Healthplans* (1999) 21 Cal.4th 1066; *Cruz v. PacifiCare Health Systems, Inc.* (2003) 30 Cal.4th 303; *McGill v. Citibank, N.A.* (2017) 2 Cal.5th 945.) The

requested relief in this action would prohibit and enjoin continued implementation of Aetna's Non-Par Intervention Policy, which Petitioner asserts effectively precludes physicians enrolled in Aetna's physician network from referring patients to out-of-network providers, even after the physicians had determined that the referrals were consistent with their sound medical judgment. Among other persons impacted by this Policy, the number of Californians covered by Aetna PPO plans with out-of-network benefits (which changes over time as individuals change employers) may be relevant to determining whether the requested injunctive relief can be construed as "public" insofar as it "is injurious to the general public." (*Broughton, supra*, 21 Cal. 4th at 1077).

Both Exhibits are properly subject to judicial notice and bear on the issue certified for review. As such, this Court should grant judicial notice of the attached materials.

Dated: October 27, 2021

Respectfully submitted,

ALAN M. MANSFIELD  
WHATLEY KALLAS, LLP

MICHAEL RUBIN  
STACEY M. LEYTON  
ALTSHULER BERZON LLP

By: /s/ Alan M. Mansfield  
Alan M. Mansfield

By: /s/ Michael Rubin  
Michael Rubin  
*Attorneys for Petitioner*  
*California Medication Association*



## DECLARATION OF MICHAEL RUBIN

I, Michael Rubin, declare as follows:

1. I am an attorney with Altshuler Berzon LLP and one of the attorneys for the Petitioner California Medical Association (CMA). I am a member of the State Bar of California, and I make this declaration in support of CMA's Motion for Judicial Notice filed concurrently. I have personal knowledge of the matters set forth in this declaration, and if called to testify about the facts set out below, I could and would so testify.

2. Attached hereto as Exhibit A is a true and correct copy of the official title and summary, official ballot arguments, impartial analysis, and text of Proposition 64 included in the Official Voter Guide for the November 2, 2004, general election, downloaded from the California Secretary of State official website [<https://vig.cdn.sos.ca.gov/2004/general/english.pdf>] on October 27, 2021.

3. Attached hereto as Exhibit B is a true and correct copy of the sections of the 2020 Health Insurance Covered Lives Report titled:

- Large Group Health Plan Totals by Company
- Small Group Health Plan Totals by Company
- Individual Health Plan Totals by Company
- Public & Federal Health Plan Totals by Company
- Mini-Med Plan and Student Health Plan Totals by Company
- Administrative Services Only (ASO) Health Plan Totals by Company

These sections of the Report were downloaded from the Department of Insurance official website [https://www.insurance.ca.gov/01-consumers/110-health/coveredlivesrpt.cfm] on October 27, 2021.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Berkeley, California on this 27th day of October 2021.

/s/ Michael Rubin  
Michael Rubin  
*Attorney for Petitioner*  
*California Medication Association*

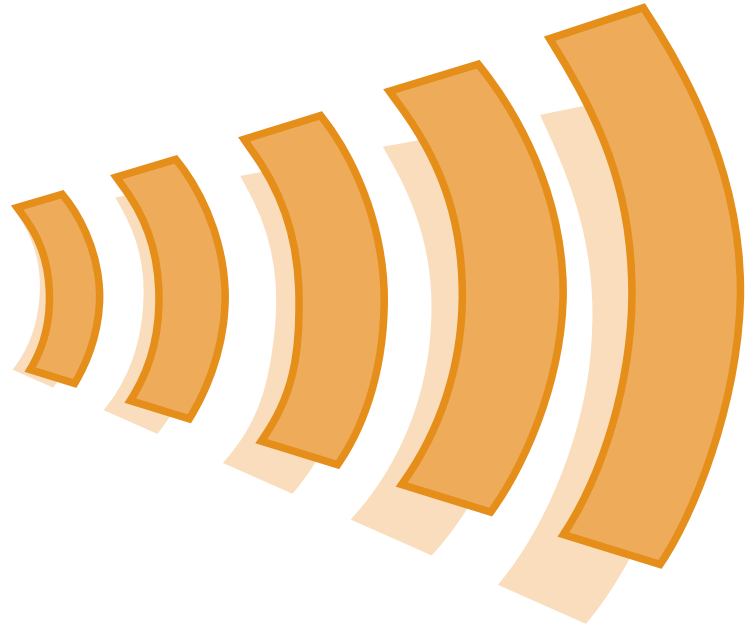
# EXHIBIT A

# OFFICIAL VOTER INFORMATION GUIDE

CALIFORNIA GENERAL ELECTION

NOVEMBER 2, 2004

MAKE YOUR  
**VOICE**  
HEARD



**REGISTER**  
**LEARN**  
**VOTE**

► **MAKE YOUR VOTE COUNT**

Register as a **Permanent Absentee Voter**

To receive your ballot in the mail each election, sign up at [www.MyVoteCounts.org](http://www.MyVoteCounts.org).

► **MAKE AN INFORMED CHOICE**

Read inside about the statewide issues on the ballot.

► **MAKE YOUR VOICE HEARD**

Vote on **Tuesday, November 2, 2004**

The polls are open from 7 a.m. to 8 p.m. on Election Day.

## CERTIFICATE OF CORRECTNESS

I, Kevin Shelley, Secretary of State of the State of California, do hereby certify that the measures included herein will be submitted to the electors of the State of California at the General Election to be held throughout the State on November 2, 2004, and that this guide has been correctly prepared in accordance with the law.

Witness my hand and the Great Seal of the State in Sacramento, California, this 9th day of August, 2004.

Kevin Shelley

  
Secretary of State



# BALLOT MEASURE SUMMARY

PROP

63

**Mental Health Services Expansion, Funding. Tax on Personal Incomes Above \$1 Million. Initiative Statute.**

## Summary

Establishes 1% tax on taxable personal income above \$1 million to fund expanded health services for mentally ill children, adults, seniors. Fiscal Impact: Additional state revenues of about \$800 million annually by 2006–07, with comparable annual increases in total state and county expenditures for expansion of mental health programs. Unknown partially offsetting savings to state and local agencies.

## What Your Vote Means

### Yes

A **YES** vote on this measure means: A surcharge on state personal income taxes would be enacted for taxpayers with annual taxable incomes of more than \$1 million to finance an expansion of county mental health programs.

### No

A **NO** vote on this measure means: Funding for county mental health programs would largely be dependent upon actions by the Legislature and Governor.

## Arguments

### Pro

Proposition 63 expands mental health care for children and adults, using programs proven to be effective. Paid for by 1% tax on taxable personal income *over \$1 million*. Requires strict financial accountability. Supported by nurses, mental health professionals, law enforcement, educators. Let's stop neglecting mental illness. Vote YES on Proposition 63.

### Con

Prop. 63 is a false promise. It doesn't treat the mentally ill, but is a *shortsighted substitute* for long-term solutions. Built on a shaky funding scheme, 63 drives away *the very taxpayers it needs*, destroying its own funding source. Don't jeopardize the health of thousands with a feel-good plan.

## For Additional Information

### For

Rusty Selix  
Campaign for Mental Health  
1127 11th Street, #925  
Sacramento, CA 95814  
916-557-1166  
info@YESon63.org  
www.YESon63.org

### Against

Citizens for a Healthy California  
400 Capitol Mall, Suite 1560  
Sacramento, CA 95814  
916-491-1726  
www.HealthyCalifornia.org

PROP

64

**Limits on Private Enforcement of Unfair Business Competition Laws. Initiative Statute.**

## Summary

Allows individual or class action "unfair business" lawsuits only if actual loss suffered; only government officials may enforce these laws on public's behalf. Fiscal Impact: Unknown state fiscal impact depending on whether the measure increases or decreases court workload and the extent to which diverted funds are replaced. Unknown potential costs to local governments, depending on the extent to which diverted funds are replaced.

## What Your Vote Means

### Yes

A **YES** vote on this measure means: Except for the Attorney General and local public prosecutors, no person could bring a lawsuit for unfair competition unless the person has suffered injury and lost money or property. Also, except for the Attorney General and local public prosecutors, a person pursuing such claims on behalf of others would have to meet the additional requirements of class action lawsuits.

### No

A **NO** vote on this measure means: A person could bring a lawsuit under the unfair competition law without having suffered injury or lost money or property. Also, a person could bring such a lawsuit without meeting the additional requirements of class action lawsuits.

## Arguments

### Pro

Proposition 64 closes a loophole allowing lawyers to file frivolous shakedown lawsuits against small businesses. Proposition 64 stops lawyers from pocketing most of the settlements from these bogus lawsuits. Don't be misled by the trial lawyers' smokescreen: 64 doesn't change any of California's consumer or environmental laws! Yes on 64.

### Con

Newspaper headlines warn: "Consumers lose if initiative succeeds." The LA Times reports Proposition 64 "would weaken a state law that allows private groups and government prosecutors to sue businesses for polluting the environment and for engaging in misleading advertising and other unfair business practices . . . the current law would be drastically curtailed."

## For Additional Information

### For

Yes on 64—Californians to Stop Shakedown Lawsuits  
3001 Douglas Blvd., Suite 225  
Roseville, CA 95661  
916-766-5595  
info@yeson64.org  
www.yeson64.org

### Against

Consumer Watchdog  
1750 Ocean Park Blvd.,  
Suite 200  
Santa Monica, CA 90405  
310-392-0708  
NoOnProp64@consumer  
watchdog.org  
www.NoOnProp64.org

## LIMITS ON PRIVATE ENFORCEMENT OF UNFAIR BUSINESS COMPETITION LAWS. INITIATIVE STATUTE.

### OFFICIAL TITLE AND SUMMARY

Prepared by the Attorney General

#### Limits on Private Enforcement of Unfair Business Competition Laws. Initiative Statute.

- Limits individual's right to sue by allowing private enforcement of unfair business competition laws only if that individual was actually injured by, and suffered financial/property loss because of, an unfair business practice.
- Requires private representative claims to comply with procedural requirements applicable to class action lawsuits.
- Authorizes only the California Attorney General or local government prosecutors to sue on behalf of general public to enforce unfair business competition laws.
- Limits use of monetary penalties recovered by Attorney General or local government prosecutors to enforcement of consumer protection laws.

#### Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Unknown state costs or savings depending on whether the measure significantly increases or decreases court workload related to unfair competition lawsuits and the extent to which funds diverted by this measure are replaced.
- Unknown potential costs to local governments depending on the extent to which funds diverted by this measure are replaced.

## ANALYSIS BY THE LEGISLATIVE ANALYST

### BACKGROUND

California's unfair competition law prohibits any person from engaging in any unlawful or fraudulent business act. This law may be enforced in court by the Attorney General, local public prosecutors, or a person acting in the interest of itself, its members, or the public. Examples of this type of lawsuit include cases involving deceptive or misleading advertising or violations of state law intended to protect the public well-being, such as health and safety requirements.

Currently, a person initiating a lawsuit under the unfair competition law is not required to show that he/she suffered injury or lost money or property. Also, the Attorney General and local public prosecutors can bring an unfair competition lawsuit without demonstrating an injury or the loss of money or property of a claimant.

Currently, persons initiating unfair competition lawsuits do not have to meet the requirements for class action lawsuits. Requirements for a class action lawsuit include (1) certification by the court

of a group of individuals as a class of persons with a common interest, (2) demonstration that there is a benefit to the parties of the lawsuit and the court from having a single case, and (3) notification of all potential members of the class.

In cases brought by the Attorney General or local public prosecutors, violators of the unfair competition law may be required to pay civil penalties up to \$2,500 per violation. Currently, state and local governments may use the revenue from such civil penalties for general purposes.

### PROPOSAL

This measure makes the following changes to the current unfair competition law:

- ***Restricts Who Can Bring Unfair Competition Lawsuits.*** This measure prohibits any person, other than the Attorney General and local public prosecutors, from bringing a lawsuit for unfair competition unless the person has suffered injury and lost money or property.

## ANALYSIS BY THE LEGISLATIVE ANALYST (CONT.)

- **Requires Lawsuits Brought on Behalf of Others to Be Class Actions.** This measure requires that unfair competition lawsuits initiated by any person, other than the Attorney General and local public prosecutors, on behalf of others, meet the additional requirements of class action lawsuits.
- **Restricts the Use of Civil Penalty Revenues.** This measure requires that civil penalty revenues received by state and local governments from the violation of unfair competition law be used only by the Attorney General and local public prosecutors for the enforcement of consumer protection laws.

### FISCAL EFFECTS

#### State Government

**Trial Courts.** This measure would have an unknown fiscal impact on state support for local trial courts. This effect would depend primarily on whether the measure increases or decreases the overall level of court workload dedicated to unfair competition cases. If the level of court workload significantly decreases because of the proposed restrictions on unfair competition lawsuits, there could be state savings. Alternatively, this measure could increase court workload, and therefore state costs, to the extent there is an increase in class action lawsuits and their related requirements. The number of cases that would be affected by this measure and the corresponding state costs or savings for support of local trial courts is unknown.

**Revenues.** This measure requires that certain state civil penalty revenue be diverted from general state purposes to the Attorney General for enforcement of consumer protection laws. To the extent that this diverted revenue is replaced by the General Fund, there would be a state cost. However, there is no provision in the measure requiring such replacement.

#### Local Government

The measure requires that local government civil penalty revenue be diverted from general local purposes to local public prosecutors for enforcement of consumer protection laws. To the extent that this diverted revenue is replaced by local general fund monies, there would be a cost to local government. However, there is no provision in the measure requiring the replacement of diverted revenues.

#### Other Effects on State and Local Government Costs

The measure could result in other less direct, unknown fiscal effects on the state and localities. For example, this measure could result in increased workload and costs to the Attorney General and local public prosecutors to the extent that they pursue certain unfair competition cases that other persons are precluded from bringing under this measure. These costs would be offset to some unknown extent by civil penalty revenue earmarked by the measure for the enforcement of consumer protection laws.

Also, to the extent the measure reduces business costs associated with unfair competition lawsuits, it may improve firms' profitability and eventually encourage additional economic activity, thereby increasing state and local revenues. Alternatively, there could be increased state and local government costs. This could occur to the extent that future lawsuits that would have been brought under current law by a person on behalf of others involving, for example, violations of health and safety requirements, are not brought by the Attorney General or a public prosecutor. In this instance, to the extent that violations of health and safety requirements are not corrected, government could potentially incur increased costs in health-related programs.

## LIMITS ON PRIVATE ENFORCEMENT OF UNFAIR BUSINESS COMPETITION LAWS. INITIATIVE STATUTE.

### ARGUMENT in Favor of Proposition 64

#### PROTECT SMALL BUSINESSES FROM FRIVOLOUS LAWSUITS—CLOSE THE SHAKEDOWN LOOPHOLE

There's a LOOPHOLE IN CALIFORNIA LAW that allows private lawyers to file frivolous lawsuits against small businesses even though they have no client or evidence that anyone was damaged or misled. Shakedown lawyers "appoint" themselves to act like the Attorney General and file lawsuits on behalf of the people of the State of California, demanding thousands of dollars from small businesses that can't afford to fight in court.

Here's the little secret these lawyers don't want you to know:

**MOST OF THE TIME, THE LAWYERS OR THEIR FRONT GROUPS KEEP ALL THE MONEY!**

No other state allows this. It's time California voters stopped it. For years, Sacramento politicians, flush with special interest trial lawyer money, have protected the lawyers at the expense of California consumers, taxpayers, and small businesses.

Yes on Proposition 64 will stop thousands of frivolous shakedown lawsuits like these:

- Hundreds of travel agents have been shaken down for not including their license number on their website.
- Local homebuilders have been sued for using 'APR' in advertisements instead of spelling out 'Annual Percentage Rate.'

#### HERE'S WHAT ACTUALLY HAPPENED TO ONE SMALL BUSINESS VICTIM:

"My family came to this country to pursue the American Dream. We work hard to make sure our customers like the job we do. One day I got a letter from a law firm demanding \$2,500. The letter didn't claim we broke the law, just that we might have and if we wanted to stop the lawsuit, we needed to send them \$2,500. I called a lawyer who said it would cost even more to fight, so we sent money even though we'd done nothing wrong. It's just not right."

Humberto Galvez, Santa Ana

Here's why "YES" on Proposition 64 makes sense:

- Stops these shakedown lawsuits.
- Protects your right to file a lawsuit if you've been damaged.
- Allows only the Attorney General, district attorneys, and other public officials to file lawsuits on behalf of the People of the State of California to enforce California's unfair competition law.
- Settlement money goes to the public, not the pockets of unscrupulous trial lawyers.

"Public Prosecutors have a long, distinguished history of protecting consumers and honest businesses. Proposition 64 will give those officials the resources they need to increase enforcement of consumer protection laws by designating penalties from their lawsuits to supplement additional enforcement efforts, above their normal budgets."

Michael D. Bradbury, Former President  
California District Attorneys Association

Vote Yes on Proposition 64: Help California's Economy Recover

"Frivolous shakedown lawsuits cost consumers and businesses millions of dollars each year. They make businesses want to move to other states where lawyers don't have a legal extortion loophole. When businesses leave, taxpayers who remain pick up the burden. Proposition 64 closes this loophole and helps improve California's business climate and overall economic health."

Larry McCarthy, President  
California Taxpayers Association

Vote Yes on Proposition 64. Close the frivolous shakedown lawsuit loophole.

RAY DURAZO, Chairman  
Latin Business Association

MARTYN HOPPER, State Director  
National Federation of Independent Business

MARYANN MALONEY  
Citizens Against Lawsuit Abuse

### REBUTTAL to Argument in Favor of Proposition 64

Small business???

The Associated Press reported:

"Here are some of the companies that have made donations to the campaign to pass Proposition 64 and some of the lawsuits that have been filed against them under California's unfair competition law:

—Blue Cross of California. Donation: \$250,000. Unfair competition suits have accused the health care company of . . . discriminating against non-company emergency room doctors and underpaying hospitals.

—Bank of America. Donation: \$100,000. A jury found the bank misrepresented to customers that it had the right to take Social Security and disability funds from their accounts to pay overdraft charges and other fees.

—Microsoft. Donation: \$100,000. Suit . . . accuses the computer giant of failing to alert customers to security flaws that allow hackers to break into its computer systems by gaining some personal information.

—Kaiser Foundation Health Plan. Donation: \$100,000. One suit accused the health care provider of false

advertising for claiming that only doctors, not administrators, made decisions about care . . .

—State Farm. Donation: \$100,000. A group of victims of the 1994 Northridge earthquake accused the company of reducing their quake coverage without adequate notice. State Farm reportedly was forced to pay \$100 million to policyholders."

Quoting the Attorney General's senior consumer attorney in the Department of Justice, the *Los Angeles Times* reports: "The initiative 'goes unbelievably far,' . . . 'Throwing the baby out with the bathwater is not the best thing' . . . the (current) law has been used successfully to protect the public from polluters, unscrupulous financing schemes and religious discrimination."

ELIZABETH M. IMHOLZ, Director  
Consumers Union, West Coast Office

SUSAN SMARTT, Executive Director  
California League of Conservation Voters

DEBORAH BURGER, RN, President  
California Nurses Association



# LIMITS ON PRIVATE ENFORCEMENT OF UNFAIR BUSINESS COMPETITION LAWS. INITIATIVE STATUTE.

PROP

64

## ARGUMENT Against Proposition 64

Proposition 64 LIMITS THE RIGHTS OF CALIFORNIANS TO ENFORCE ENVIRONMENTAL, PUBLIC HEALTH, PRIVACY, AND CONSUMER PROTECTION LAWS.

The Attorney General's Official Title for the Proposition 64 petition read: "LIMITATIONS on Enforcement of Unfair Business Competition Laws."

Across California headlines warn the public about this special interest initiative. San Francisco Chronicle: "*Measure would limit public interest suits*"; Ventura County Star: "*Consumers lose if initiative succeeds*"; Orange County Register: "*Consumer lawsuits targeted*"; San Francisco Examiner: "*Bank of America's shakedown: Unfair-competition law under fire from businesses.*"

Look who is supporting Proposition 64. Consider why they want to limit California's 71-year-old Unfair Business Competition law.

*Chemical companies* support Proposition 64. They want to stop environmental organizations from enforcing laws against polluting streams, rivers, lakes, and our coast.

*Oil companies* support Proposition 64. They want to stop community organizations from suing them for polluting drinking water supplies with cancer-causing MTBE.

*Credit card companies* support Proposition 64. They want to stop consumer groups from enforcing privacy laws protecting our financial information.

**IF A CORPORATION PROFITS FROM INTENTIONALLY POLLUTING OUR AIR AND WATER, OR INVADING OUR PRIVACY, WE SHOULD BE ABLE TO STOP IT.**

The Los Angeles Times reports: "*The measure would weaken a state law that allows private groups and government prosecutors to sue businesses for polluting the environment and for engaging in misleading advertising and other unfair business practices . . . If voters approve the measure, the current law would be drastically curtailed.*"

*Tobacco companies* support Proposition 64. They want to block health organizations from enforcing the laws against selling tobacco to children.

*Banks* support Proposition 64. They want to stop elderly and disabled people who sued them for confiscating Social Security funds.

*Insurance companies and HMOs* support Proposition 64. They don't want to be held accountable for fraudulent marketing or denying medically necessary treatment to patients.

*Energy companies* support Proposition 64. They ripped off California during the "energy crisis" and want to block ratepayers from attacking energy company fraud.

Since 1933, the Unfair Business Competition Laws have protected Californians from pollution, invasions of privacy, and consumer fraud. Here are examples of cases successfully brought under this law:

- Supermarkets had to stop changing the expiration date on old meat and reselling it.
- HMOs had to stop misrepresenting their services to patients.
- Bottled water companies had to stop selling water that hadn't been tested for dangerous levels of bacteria, arsenic, and other chemicals.

The Los Angeles Times editorialized: "*(Proposition 64) would make it very difficult for citizens, businesses, and consumer groups to file justified lawsuits.*"

Proposition 64 is strongly opposed by:

- AARP
  - California Nurses Association
  - California League of Conservation Voters
  - Consumers Union
  - Sierra Club California
  - Congress of California Seniors
  - Center for Environmental Health
  - California Advocates for Nursing Home Reform
  - Foundation for Taxpayer and Consumer Rights
- Please join us in voting NO on Proposition 64. Don't let them limit your right to enforce the laws that protect us all.

ELIZABETH M. IMHOLZ, *Director*  
*Consumers Union, West Coast Office*

SUSAN SMARTT, *Executive Director*  
*California League of Conservation Voters*

DEBORAH BURGER, RN, *President*  
*California Nurses Association*

## REBUTTAL to Argument Against Proposition 64

*The argument against Proposition 64 is a trial lawyer smokescreen. Read the official title and the law yourself.*

- *Nowhere is Environment, Public Health, or Privacy mentioned!*
- *California has dozens of strong laws to protect the environment, public health, and privacy, including Proposition 65, passed by voters in 1986, the California Environmental Quality Act and the California Financial Information Privacy Act.*
- *Proposition 64 doesn't change any of these laws.*
- *Proposition 64 would permit ALL the suits cited by its opponents.*

*" . . . the trial attorneys who benefit from the current system are going bonkers, and misrepresenting what (Prop. 64) will do. They claim that (Prop. 64) . . . will somehow undermine the state's environmental laws. That's patently untrue."*

*Orange County Register*

*Here's what 64 really does:*

- *Stops Abusive Shakedown Lawsuits*
- *Stops fee-seeking trial lawyers from exploiting a loophole in California law—A LOOPHOLE NO OTHER STATE HAS—that lets them "appoint" themselves Attorney General and file lawsuits on behalf of the People of the State of California.*

- *Stops trial lawyers from pocketing FEE AND SETTLEMENT MONEY that belongs to the public.*
- *Protects your right to file suit if you've been harmed.*
- *Permits only real public officials like the Attorney General or District Attorneys to file lawsuits on behalf of the People of the State of California.*

Join 700+ groups, small businesses, and shakedown victims, including:

California Taxpayers Association  
California Black Chamber of Commerce  
California Mexican American Chamber of Commerce  
*Vote YES on 64—[www.yeson64.org](http://www.yeson64.org)*

JOHN KEHOE, *Founding Director*  
*Senior Action Network*

ALLAN ZAREMBERG, *President*  
*California Chamber of Commerce*

CHRISTOPHER M. GEORGE, *Chairman of the Board of Governors*  
*Small Business Action Committee*

Proposition 64

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends sections of the Business and Professions Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Findings and Declarations of Purpose

The people of the State of California find and declare that:

(a) This state's unfair competition laws set forth in Sections 17200 and 17500 of the Business and Professions Code are intended to protect California businesses and consumers from unlawful, unfair, and fraudulent business practices.

(b) These unfair competition laws are being misused by some private attorneys who:

(1) File frivolous lawsuits as a means of generating attorney's fees without creating a corresponding public benefit.

(2) File lawsuits where no client has been injured in fact.

(3) File lawsuits for clients who have not used the defendant's product or service, viewed the defendant's advertising, or had any other business dealing with the defendant.

(4) File lawsuits on behalf of the general public without any accountability to the public and without adequate court supervision.

(c) Frivolous unfair competition lawsuits clog our courts and cost taxpayers. Such lawsuits cost California jobs and economic prosperity, threatening the survival of small businesses and forcing businesses to raise their prices or to lay off employees to pay lawsuit settlement costs or to relocate to states that do not permit such lawsuits.

(d) It is the intent of California voters in enacting this act to eliminate frivolous unfair competition lawsuits while protecting the right of individuals to retain an attorney and file an action for relief pursuant to Chapter 5 (commencing with Section 17200) of Division 7 of the Business and Professions Code.

(e) It is the intent of the California voters in enacting this act to prohibit private attorneys from filing lawsuits for unfair competition where they have no client who has been injured in fact under the standing requirements of the United States Constitution.

(f) It is the intent of California voters in enacting this act that only the California Attorney General and local public officials be authorized to file and prosecute actions on behalf of the general public.

(g) It is the intent of California voters in enacting this act that the Attorney General, district attorneys, county counsels, and city attorneys maintain their public protection authority and capability under the unfair competition laws.

(h) It is the intent of California voters in enacting this act to require that civil penalty payments be used by the Attorney General, district attorneys, county counsels, and city attorneys to strengthen the enforcement of California's unfair competition and consumer protection laws.

SEC. 2. Section 17203 of the Business and Professions Code is amended to read:

17203. *Injunctive Relief—Court Orders*

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition. *Any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of Section 17204 and complies with Section 382 of the Code of Civil Procedure, but these limitations do not apply to claims brought under this chapter by the Attorney General, or any district attorney, county counsel, city attorney, or city prosecutor in this state.*

SEC. 3. Section 17204 of the Business and Professions Code is amended to read:

17204. *Actions for Injunctions by Attorney General, District Attorney, County Counsel, and City Attorneys*

Actions for any relief pursuant to this chapter shall be prosecuted exclu-

sively in a court of competent jurisdiction by the Attorney General or any district attorney or by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, or city and county, having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person ~~acting for the interests of itself, its members or the general public who has suffered injury in fact and has lost money or property as a result of such unfair competition.~~

SEC. 4. Section 17206 of the Business and Professions Code is amended to read:

17206. *Civil Penalty for Violation of Chapter*

(a) Any person who engages, has engaged, or proposes to engage in unfair competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by any district attorney, by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, by any city attorney of a city, or city and county, having a population in excess of 750,000, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor, or, with the consent of the district attorney, by a city attorney in any city and county, in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in subdivision (d), if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered. *The aforementioned funds shall be for the exclusive use by the Attorney General, the district attorney, the county counsel, and the city attorney for the enforcement of consumer protection laws.*

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of any reasonable expenses incurred by the board shall be paid to the state Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the state Treasurer. The amount of any reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county that funds the local agency.

(e) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered *for the exclusive use by the city attorney for the enforcement of consumer protection laws.* However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, either the penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered or, upon the request of the city attorney, the court may order that up to one-half of the penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the premises that were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

SEC. 5. Section 17535 of the Business and Professions Code is amended to read:

17535. *Obtaining Injunctive Relief*

## Proposition 64 (cont.)

Any person, corporation, firm, partnership, joint stock company, or any other association or organization which violates or proposes to violate this chapter may be enjoined by any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person, corporation, firm, partnership, joint stock company, or any other association or organization of any practices which violate this chapter, or which may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any practice in this chapter declared to be unlawful.

Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney, county counsel, city attorney, or city prosecutor in this state in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person ~~acting for the interests of itself, its members or the general public~~ *who has suffered injury in fact and has lost money or property as a result of a violation of this chapter. Any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of this section and complies with Section 382 of the Code of Civil Procedure, but these limitations do not apply to claims brought under this chapter by the Attorney General, or any district attorney, county counsel, city attorney, or city prosecutor in this state.*

SEC. 6. Section 17536 of the Business and Professions Code is amended to read:

17536. *Penalty for Violations of Chapter; Proceedings; Disposition of Proceeds*

(a) Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer.

If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city. *The aforementioned funds shall be for the exclusive use by the Attorney General, district attorney, county counsel, and city attorney for the enforcement of consumer protection laws.*

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality which funds the local agency.

(e) As applied to the penalties for acts in violation of Section 17530, the remedies provided by this section and Section 17534 are mutually exclusive.

SEC. 7. In the event that between July 1, 2003, and the effective date of this measure, legislation is enacted that is inconsistent with this measure, said legislation is void and repealed irrespective of the code in which it appears.

SEC. 8. In the event that this measure and another measure or measures relating to unfair competition law shall appear on the same statewide election ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure relating to unfair competition law shall be null and void.

SEC. 9. If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

## Proposition 65

Pursuant to statute, Proposition 65 will appear in a Supplemental Voter Information Guide.

## Proposition 66

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends sections of the Penal Code and amends a section of the Welfare and Institutions Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

#### THE THREE STRIKES AND CHILD PROTECTION ACT OF 2004

##### SECTION 1. Title

This initiative shall be known and may be cited as the Three Strikes and Child Protection Act of 2004.

##### SEC. 2. Findings and Declarations

The people of the State of California do hereby find and declare that:

(a) Proposition 184 (the "Three Strikes" law) was overwhelmingly approved in 1994 with the intent of protecting law-abiding citizens by enhancing the sentences of repeat offenders who commit serious and/or violent felonies;

(b) Proposition 184 did not set reasonable limits to determine what criminal acts to prosecute as a second and/or third strike; and

(c) Since its enactment, Proposition 184 has been used to enhance the sentences of more than 35,000 persons who did not commit a serious and/or violent crime against another person, at a cost to taxpayers of more than eight hundred million dollars (\$800,000,000) per year.

##### SEC. 3. Purposes

The people do hereby enact this measure to:

(a) Continue to protect the people from criminals who commit serious and/or violent crimes;

(b) Ensure greater punishment and longer prison sentences for those who have been previously convicted of serious and/or violent felonies, and who commit another serious and/or violent felony;

(c) Require that no more than one strike be prosecuted for each criminal act and to conform the burglary and arson statutes; and

(d) Protect children from dangerous sex offenders and reduce the cost to taxpayers for warehousing offenders who commit crimes that do not qualify for increased punishment according to this act.

# **EXHIBIT B**

California Department of Insurance  
Health Insurance and ASO Health Covered Lives Report

Large Group Health Plan Data  
Sorted By Company  
(as of December 31, 2020)

LARGE GROUP HEALTH PLANS

COMPANY NAME	PPO			POS			EPO			FFS			HDHP			OTHER		
	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL
<b>SUMMARY TOTALS FOR ALL COMPANIES</b>	<b>263,899</b>	<b>8,537</b>	<b>272,436</b>	<b>215,163</b>	<b>273</b>	<b>215,436</b>	<b>15,283</b>	<b>3</b>	<b>15,286</b>	<b>39,469</b>	<b>548</b>	<b>40,017</b>	<b>106,396</b>	<b>3,944</b>	<b>110,340</b>	<b>0</b>	<b>0</b>	<b>0</b>
4 EVER LIFE INSURANCE COMPANY	3,081	-	3,081	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
AETNA LIFE INSURANCE COMPANY	16,105	585	16,690	104,226	116	104,342	3,640	1	3,641	1,231	99	1,330	47,874	-	47,874	-	-	-
ANTHEM BLUE CROSS LIFE AND HEALTH INSURANCE COMPANY	23,948	289	24,237	-	-	-	-	-	-	494	447	941	523	-	523	-	-	-
BLUE SHIELD OF CALIFORNIA LIFE & HEALTH INSURANCE COMPANY	5,015	-	5,015	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
CIGNA HEALTH AND LIFE INSURANCE COMPANY	153,446	2,235	155,681	200	26	226	-	-	-	305	1	306	-	-	-	-	-	-
CONNECTICUT GENERAL LIFE INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	36,992	1	36,993	-	-	-	-	-	-
DELAWARE AMERICAN LIFE INSURANCE COMPANY	46	-	46	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
GROUP INSURANCE TRUST OF THE CALIFORNIA SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS (THE)	681	115	796	-	-	-	-	-	-	-	-	-	700	-	700	-	-	-
HEALTH NET LIFE INSURANCE COMPANY	15,417	426	15,843	-	-	-	68	2	70	444	-	444	2,458	-	2,458	-	-	-
KAISER PERMANENTE INSURANCE COMPANY	1,246	138	1,384	855	131	986	2,336	-	2,336	3	-	3	57	-	57	-	-	-
NATIONAL FOUNDATION LIFE INSURANCE COMPANY	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NATIONAL HEALTH INSURANCE COMPANY	1,023	-	1,023	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NIPPON LIFE INSURANCE COMPANY OF AMERICA	3,434	-	3,434	-	-	-	-	-	-	-	-	-	764	-	764	-	-	-
SIERRA HEALTH AND LIFE INSURANCE COMPANY, INC.	343	-	343	-	-	-	25	-	25	-	-	-	23	-	23	-	-	-
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY	-	4,003	4,003	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
UNITED AGRICULTURAL EMPLOYEE WELFARE BENEFIT PLAN AND TRUST	20,623	343	20,966	-	-	-	-	-	-	-	-	-	381	218	599	-	-	-
UNITED STATES LIFE INSURANCE COMPANY IN THE CITY OF NEW YORK (THE)	-	-	-	-	-	-	-	-	-	-	-	-	-	3,726	3,726	-	-	-
UNITEDHEALTHCARE INSURANCE COMPANY	2,087	-	2,087	109,882	-	109,882	9,214	-	9,214	-	-	-	52,982	-	52,982	-	-	-
WESTERN GROWERS ASSURANCE TRUST	17,404	402	17,806	-	-	-	-	-	-	-	-	-	634	-	634	-	-	-

California Department of Insurance  
Health Insurance and ASO Health Covered Lives Report

Small Group Health Plan Data  
Sorted By Company  
(as of December 31, 2020)

SMALL GROUP HEALTH PLANS COMPANY NAME	PPO			POS			EPO			FFS			HDHP			OTHER		
	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL
<b>SUMMARY TOTALS FOR ALL COMPANIES</b>	<b>66,667</b>	<b>1,041</b>	<b>67,708</b>	<b>31,409</b>	<b>0</b>	<b>31,409</b>	<b>876</b>	<b>0</b>	<b>876</b>	<b>0</b>	<b>4</b>	<b>4</b>	<b>8,657</b>	<b>0</b>	<b>8,657</b>	<b>0</b>	<b>7</b>	<b>7</b>
4 EVER LIFE INSURANCE COMPANY	144	-	144	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
AETNA LIFE INSURANCE COMPANY	198	-	198	21,220	-	21,220	232	-	232	-	-	-	70	-	70	-	-	-
AMERICAN NATIONAL INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	4	4	-	-	-	-	-	-
GROUP INSURANCE TRUST OF THE CALIFORNIA SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS (THE)	2,847	-	2,847	-	-	-	-	-	-	-	-	-	2,559	-	2,559	-	-	-
HEALTH NET LIFE INSURANCE COMPANY	21,453	530	21,983	-	-	-	-	-	-	-	-	-	1,151	-	1,151	-	-	-
KAISER PERMANENTE INSURANCE COMPANY	1,072	-	1,072	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MONY LIFE INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	7	7
NATIONAL HEALTH INSURANCE COMPANY	440	-	440	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NIPPON LIFE INSURANCE COMPANY OF AMERICA	9,523	-	9,523	-	-	-	-	-	-	-	-	-	410	-	410	-	-	-
SIERRA HEALTH AND LIFE INSURANCE COMPANY, INC.	287	-	287	-	-	-	4	-	4	-	-	-	18	-	18	-	-	-
UNITED AGRICULTURAL EMPLOYEE WELFARE BENEFIT PLAN AND TRUST	17,384	204	17,588	-	-	-	-	-	-	-	-	-	2,024	-	2,024	-	-	-
UNITEDHEALTHCARE INSURANCE COMPANY	11	-	11	10,189	-	10,189	640	-	640	-	-	-	1,941	-	1,941	-	-	-
WESTERN GROWERS ASSURANCE TRUST	13,308	307	13,615	-	-	-	-	-	-	-	-	-	484	-	484	-	-	-

California Department of Insurance  
Health Insurance and ASO Health Covered Lives Report

Individual Health Plan Data  
Sorted By Company  
(as of December 31, 2020)

INDIVIDUAL HEALTH PLANS COMPANY NAME	PPO			POS			EPO			FFS			HDHP			OTHER		
	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL
<b>SUMMARY TOTALS FOR ALL COMPANIES</b>	<b>62,597</b>	<b>52,286</b>	<b>114,883</b>	-	-	-	<b>1,770</b>	-	<b>1,770</b>	<b>16</b>	<b>59</b>	<b>75</b>	<b>7,374</b>	<b>12,037</b>	<b>19,411</b>	-	<b>397</b>	<b>397</b>
4 EVER LIFE INSURANCE COMPANY	1,101	-	1,101	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
AMERICAN NATIONAL INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	4	4	-	-	-	-	-	-
AMERICAN NATIONAL LIFE INSURANCE COMPANY OF TEXAS	-	1	1	-	-	-	-	-	-	-	7	7	-	-	-	-	-	-
AMERICAN STATES INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	3
ANTHEM BLUE CROSS LIFE AND HEALTH INSURANCE COMPANY	-	41,057	41,057	-	-	-	-	-	-	-	-	-	-	4,132	4,132	-	-	-
BLUE SHIELD OF CALIFORNIA LIFE & HEALTH INSURANCE COMPANY	-	11,222	11,222	-	-	-	-	-	-	-	-	-	-	7,905	7,905	-	-	-
CINCINNATI LIFE INSURANCE COMPANY (THE)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	2
CONNECTICUT GENERAL LIFE INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	16	2	18	-	-	-	-	-	-
EQUITABLE FINANCIAL LIFE INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	142	142
GENWORTH LIFE INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-
GOLDEN RULE INSURANCE COMPANY	4	3	7	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
GUARDIAN LIFE INSURANCE COMPANY OF AMERICA (THE)	-	-	-	-	-	-	-	-	-	-	17	17	-	-	-	-	-	-
HEALTH NET LIFE INSURANCE COMPANY	61,492	-	61,492	-	-	-	1,768	-	1,768	-	-	-	7,373	-	7,373	-	-	-
JOHN HANCOCK LIFE INSURANCE COMPANY (U.S.A.)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	6	6
LIBERTY MUTUAL INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1
MASSACHUSETTS CASUALTY INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9	9
METROPOLITAN LIFE INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	13	13	-	-	-	-	-	-

Individual Health Plan  
Covered Lives Data

California Department of Insurance  
Health Insurance and ASO Health Covered Lives Report

Individual Health Plan Data  
Sorted By Company  
(as of December 31, 2020)

INDIVIDUAL HEALTH PLANS COMPANY NAME	PPO			POS			EPO			FFS			HDHP			OTHER		
	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL	NGF	GF	TOTAL
<b>SUMMARY TOTALS FOR ALL COMPANIES</b>	<b>62,597</b>	<b>52,286</b>	<b>114,883</b>	-	-	-	<b>1,770</b>	-	<b>1,770</b>	<b>16</b>	<b>59</b>	<b>75</b>	<b>7,374</b>	<b>12,037</b>	<b>19,411</b>	-	<b>397</b>	<b>397</b>
MONY LIFE INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	4
MUTUAL OF OMAHA INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	4	4	-	-	-	-	-	-
NATIONAL BENEFIT LIFE INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9	9
NATIONAL FOUNDATION LIFE INSURANCE COMPANY	-	2	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NEW YORK LIFE INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	5	5	-	-	-	-	-	-
PRUDENTIAL INSURANCE COMPANY OF AMERICA (THE)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	140	140
SIERRA HEALTH AND LIFE INSURANCE COMPANY, INC.	-	-	-	-	-	-	2	-	2	-	-	-	1	-	1	-	-	-
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	4	4	-	-	-	-	-	-
TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1
THRIVENT FINANCIAL FOR LUTHERANS	-	-	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-
TRANSAMERICA LIFE INSURANCE COMPANY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	80	80
TRUSTMARK INSURANCE COMPANY	-	1	1	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-



California Department of Insurance  
Health Insurance and ASO Health Covered Lives Report

Public/Federal Health Plan Data  
Sorted By Company  
(as of December 31, 2020)

PUBLIC/FEDERAL HEALTH PLANS Company Name	GROUP				INDIVIDUAL			
	MEDICARE	MEDICARE PART - D	FEDERAL EMPLOYEE HEALTH PLANS	TRICARE HEALTH PLANS	MEDICARE	MEDICAID/MEDICAL PLANS	MEDICARE PART - D	STATE CHILDREN'S HEALTH PLANS
<b>SUMMARY TOTALS FOR ALL COMPANIES</b>	<b>170,862</b>	<b>23,376</b>	<b>24,723</b>	<b>3,944</b>	<b>43,361</b>	<b>0</b>	<b>1,093,386</b>	<b>0</b>
AETNA LIFE INSURANCE COMPANY	-	-	7,593	-	36,232	-	-	-
ANTHEM BLUE CROSS LIFE AND HEALTH INSURANCE COMPANY	-	8,434	-	-	7,104	-	125,400	-
ANTHEM INSURANCE COMPANIES, INC.	54,425	-	-	-	-	-	-	-
CIGNA HEALTH AND LIFE INSURANCE COMPANY	-	1,225	-	-	-	-	20,941	-
ENVISION INSURANCE COMPANY	-	5,579	-	-	-	-	73,262	-
FIRST HEALTH LIFE & HEALTH INSURANCE COMPANY	-	-	-	-	5	-	-	-
HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY	-	-	-	2,328	-	-	-	-
HUMANA INSURANCE COMPANY	898	-	-	-	-	-	383,894	-
HUMANADENTAL INSURANCE COMPANY	-	-	17,061	-	-	-	-	-
MEDCO CONTAINMENT LIFE INSURANCE COMPANY	-	2,793	-	-	-	-	22,923	-
SIERRA HEALTH AND LIFE INSURANCE COMPANY, INC.	112,762	-	-	-	20	-	-	-
TALCOTT RESOLUTION LIFE INSURANCE COMPANY	-	-	-	1,364	-	-	-	-
TRANSAMERICA LIFE INSURANCE COMPANY	-	-	-	250	-	-	-	-
UNICARE LIFE & HEALTH INSURANCE COMPANY	-	43	-	-	-	-	-	-
UNITEDHEALTHCARE INSURANCE COMPANY	2,777	5,302	69	-	-	-	466,966	-
WASHINGTON NATIONAL INSURANCE COMPANY	-	-	-	2	-	-	-	-

Public/Federal Health Plan Covered Lives Data

California Department of Insurance  
Health Insurance and ASO Health Covered Lives Report

Mini-Medical Plans & Student Health Plan  
Covered Lives Data  
Sorted By Company  
(as of December 31, 2020)

Company Name	MINI-MED		STUDENT HEALTH
	GROUP	INDIVIDUAL	
<b>SUMMARY TOTALS FOR ALL COMPANIES</b>	<b>408</b>	<b>894</b>	<b>139,392</b>
AETNA LIFE INSURANCE COMPANY	-	-	36,565
AMERICAN INCOME LIFE INSURANCE COMPANY	-	40	-
ANTHEM BLUE CROSS LIFE AND HEALTH INSURANCE COMPANY	-	-	11,724
ARCH INSURANCE COMPANY	-	-	1,863
ASSURITY LIFE INSURANCE COMPANY	-	1	-
ATLANTIC SPECIALTY INSURANCE COMPANY	-	-	70,279
GLOBE LIFE AND ACCIDENT INSURANCE COMPANY	-	4	-
HEALTH NET LIFE INSURANCE COMPANY	-	-	8,797
MADISON NATIONAL LIFE INSURANCE COMPANY, INC.	32	-	-
MUTUAL OF OMAHA INSURANCE COMPANY	-	-	3,750
PHILADELPHIA AMERICAN LIFE INSURANCE COMPANY	-	722	-
PHYSICIANS MUTUAL INSURANCE COMPANY	-	3	-
RELIANCE STANDARD LIFE INSURANCE COMPANY	372	-	-
RESERVE NATIONAL INSURANCE COMPANY	-	1	-
TRUSTMARK INSURANCE COMPANY	-	5	-
UNION SECURITY INSURANCE COMPANY	-	2	-
UNITED AMERICAN INSURANCE COMPANY	4	116	-
UNITEDHEALTHCARE INSURANCE COMPANY	-	-	6,414

Mini-Med and Student Health Plan  
Covered Lives Data

California Department of Insurance  
Health Insurance and ASO Health Covered Lives Report

Administrative Services Only (ASO) Health Plan Data  
Sorted By Company  
(as of December 31, 2020)

ADMINISTRATIVE SERVICES ONLY (ASO)

Company Name	ASO HEALTH PLAN LIVES
<b><i>SUMMARY TOTALS FOR ALL COMPANIES</i></b>	<b><i>4,779,318</i></b>
AETNA LIFE INSURANCE COMPANY	719,693
ANTHEM BLUE CROSS LIFE AND HEALTH INSURANCE COMPANY	2,592,983
CIGNA HEALTH AND LIFE INSURANCE COMPANY	636,470
FIRST HEALTH LIFE & HEALTH INSURANCE COMPANY	8,211
KAISER PERMANENTE INSURANCE COMPANY	146,132
PRINTING INDUSTRIES BENEFIT TRUST	1,309
TRUSTMARK LIFE INSURANCE COMPANY	1,642
UNICARE LIFE & HEALTH INSURANCE COMPANY	575
UNION LABOR LIFE INSURANCE COMPANY (THE)	3
UNITEDHEALTHCARE INSURANCE COMPANY	672,300

Case No. S269212

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IN THE SUPREME COURT OF THE STATE OF  
CALIFORNIA

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CALIFORNIA MEDICAL ASSOCIATION,

Petitioner,

v.

AETNA HEALTHCARE OF CALIFORNIA, INC. D/B/A AETNA  
U.S. HEALTHCARE INC.; and AETNA HEALTH OF  
CALIFORNIA, INC.,

Respondents.

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After a Decision by the Court of Appeal  
Second Appellate District  
Case No. B304217  
(Los Angeles County Superior Court No. BC487412)

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**[PROPOSED] ORDER GRANTING PETITIONER'S  
MOTION FOR JUDICIAL NOTICE**

---

The Court grants Petitioner's motion and takes judicial  
notice of the following documents:

Exhibit A \_\_\_\_\_

Exhibit B \_\_\_\_\_

IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2021

\_\_\_\_\_  
The Honorable Tani Cantil-Sakauye  
Chief Justice of the Supreme Court of  
California

**PROOF OF SERVICE**

*California Medical Association v. Aetna Healthcare of California, Inc., et al.,*  
Supreme Court Case No. S269212

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to the within action; my business address is 177 Post Street, Suite 300, San Francisco, California 94108. On October 27, 2021, I served the following document(s):

**PETITIONER’S MOTION FOR JUDICIAL NOTICE;  
SUPPORTING MEMORANDUM OF POINTS AND  
AUTHORITIES; DECLARATION OF MICHAEL RUBIN;  
AND PROPOSED ORDER**

**By Filing via TrueFiling:** I filed such document(s) via TrueFiling, thus sending an electronic copy of the filing and effecting service pursuant to CRC 8.212(b)(1), (c).

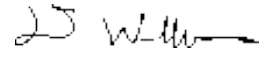
	<b>ADDRESSEE</b>	<b>PARTY</b>
	Matthew Umhofer Elizabeth Mitchell Spertus, Landes & Umhofer, LLP 1990 South Bundy Drive, Suite 705 Los Angeles, CA 90025 Email: matthew@spertuslaw.com	Attorneys for Defendants/Respondents
	Enu Mainigi Craig Singer Grant Geyerman Benjamin Hazelwood Williams & Connolly LLP 725 Twelfth Street, NW Washington, DC 20005 Email: emainigi@wc.com	Attorneys for Defendants/Respondents

And by placing a true copy thereof, via U.S. Mail enclosed in a sealed envelope, postage pre-paid, addressed as follows:

George Gascón  
Los Angeles County District Attorney  
211 West Temple Street  
Suite 1200  
Los Angeles, California 90012

Pursuant to the Office of Attorney General's instructions I served a copy of the Plaintiff/Appellant's Petition for Review electronically through the Office website at <https://oag.ca.gov/services-info/17209-brief/add>.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this October 27, 2021 at San Francisco, California.



---

Dolores Williams

**STATE OF CALIFORNIA**  
Supreme Court of California

**PROOF OF SERVICE**

**STATE OF CALIFORNIA**  
Supreme Court of California

Case Name: **CALIFORNIA MEDICAL ASSOCIATION v. AETNA HEALTH OF CALIFORNIA**

Case Number: **S269212**

Lower Court Case Number: **B304217**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **sleyton@altber.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

<b>Filing Type</b>	<b>Document Title</b>
MOTION	Petitioner's Motion for Judicial Notice

Service Recipients:

<b>Person Served</b>	<b>Email Address</b>	<b>Type</b>	<b>Date / Time</b>
Matthew Umhofer Spertus, Landes & Umhofer, LLP 206607	matthew@spertuslaw.com	e-Serve	10/27/2021 4:20:10 PM
Jon Powell Spertus, Landes & Umhofer LLP	jon@spertuslaw.com	e-Serve	10/27/2021 4:20:10 PM
Nolan Burkholder Spertus, Landes & Umhofer, LLP	nolan@spertuslaw.com	e-Serve	10/27/2021 4:20:10 PM
Craig Singer Williams & Connolly, LLP	csinger@wc.com	e-Serve	10/27/2021 4:20:10 PM
Elizabeth Mitchell Spertus, Landes & Umhofer, LLP 251139	emitchell@spertuslaw.com	e-Serve	10/27/2021 4:20:10 PM
Benjamin Hazelwood Williams & Connolly, LLP	bhazelwood@wc.com	e-Serve	10/27/2021 4:20:10 PM
Enu Mainigi	emainigi@wc.com	e-Serve	10/27/2021 4:20:10 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

10/27/2021

Date

/s/Stacey Leyton

Signature

Leyton, Stacey (203827)

---

Last Name, First Name (PNum)

Altshuler Berzon LLP

---

Law Firm