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Attorneys for Respondents and Defendants
DEPARTMENT OF MANAGED HEALTH CARE AND LUCINDA A. EHNES

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

CALIFORNIA MEDICAL ASSOCIATION,
CALIFORNIA HOSPITAL ASS'N,
CALIFORNIA CHAPTER OF THE
AMERICAN COLLEGE OF EMERGENCY
PHYSICIANS, CALIFORNIA ORTHOPAEDIC
[S/C] ASS'N, CALIFORNIA RADIOLOGICAL
SOCIETY OF ANESTHESIOLOGISTS,

Petitioners & Plaintiffs,

v.

DEPARTMENT OF MANAGED HEALTH
CARE, STATE OF CALIFORNIA; LUCINDA
A. EHNES, in her official capacity as Director of
the Department of Managed Health Care; and
DOES 1 through 100, inclusive,

Respondents & Defendants.

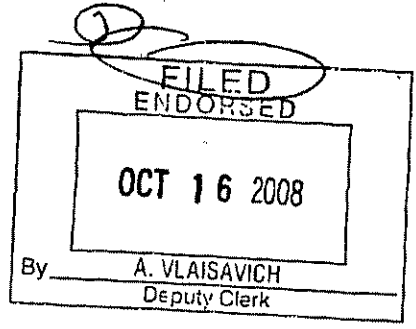
Case No. 2008-80000059

**DEFENDANTS DEPARTMENT OF
MANAGED HEALTH CARE AND
LUCINDA A. EHNES'S ANSWER TO
PLAINTIFFS' COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

Exempt from Fees (Gov. Code § 6103)

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1 DEFENDANTS, DEPARTMENT OF MANAGED HEALTH CARE and LUCINDA A.
2 EHNES, in her official capacity as Director of the Department of Managed Health Care, ANSWER
3 COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AS FOLLOWS:

- 4 1. Answering paragraph 1, Defendants deny each and every allegation therein.
- 5 2. Answering paragraph 2, Defendants deny each and every allegation therein.
- 6 3. Answering paragraph 3, Defendants deny each and every allegation therein.
- 7 4. Answering paragraph 4, Defendants deny each and every allegation therein.
- 8 5. Answering paragraph 5, Defendants deny each and every allegation therein.
- 9 6. Answering paragraph 6, Defendants deny each and every allegation therein.
- 10 7. Answering paragraph 7, Defendants deny each and every allegation therein.
- 11 8. Answering paragraph 8, Defendants deny each and every allegation therein.
- 12 9. Answering paragraph 9, Defendants deny each and every allegation therein.
- 13 10. Answering paragraph 10, Defendants lack information or belief sufficient to admit or
14 deny the allegations of paragraph 10 and on that basis deny them.
- 15 11. Answering paragraph 11, Defendants lack information or belief sufficient to admit or
16 deny the allegations of paragraph 11 and on that basis deny them.
- 17 12. Answering paragraph 12, Defendants lack information or belief sufficient to admit or
18 deny the allegations of paragraph 12 and on that basis deny them.
- 19 13. Answering paragraph 13, Defendants lack information or belief sufficient to admit or
20 deny the allegations of paragraph 13 and on that basis deny them.
- 21 14. Answering paragraph 14, Defendants lack information or belief sufficient to admit or
22 deny the allegations of paragraph 14 and on that basis deny them.
- 23 15. Answering paragraph 15, Defendants lack information or belief sufficient to admit or
24 deny the allegations of paragraph 15 and on that basis deny them.
- 25 16. Answering paragraph 16, Defendants lack information or belief sufficient to admit or
26 deny the allegations of paragraph 16 and on that basis deny them.
- 27 17. Answering paragraph 17, Defendants admit to the allegations contained in paragraph 17.
- 28 18. Answering paragraph 18, Defendants admit to the allegations contained in paragraph 18.

- 1 19. Answering paragraph 19, Defendants admit to the allegations contained in paragraph 19.
- 2 20. Answering paragraph 20, Defendants deny each and every allegation therein.
- 3 21. Answering paragraph 21, Defendants deny each and every allegation therein.
- 4 22. Answering paragraph 22, Defendants deny each and every allegation therein.
- 5 23. Answering paragraph 23, Defendants deny each and every allegation therein.
- 6 24. Answering paragraph 24, Defendants deny each and every allegation therein.
- 7 25. Answering paragraph 25, Defendants deny each and every allegation therein.
- 8 26. Answering paragraph 26, Defendants admit to the allegations contained in paragraph 26.
- 9 27. Answering paragraph 27, Defendants deny each and every allegation therein.
- 10 28. Answering paragraph 28, Defendants deny each and every allegation therein.
- 11 29. Answering paragraph 29, Defendants deny each and every allegation therein.
- 12 30. Answering paragraph 30, Defendants deny each and every allegation therein.
- 13 31. Answering paragraph 31, Defendants deny each and every allegation therein.
- 14 32. Answering paragraph 32, Defendants deny each and every allegation therein.
- 15 33. Answering paragraph 33, Defendants deny each and every allegation therein.
- 16 34. Answering paragraph 34, Defendants deny each and every allegation therein.
- 17 35. Answering paragraph 35, Defendants deny each and every allegation therein.
- 18 36. Answering paragraph 36, Defendants deny each and every allegation therein.
- 19 37. Answering paragraph 37, Defendants deny each and every allegation therein.
- 20 38. Answering paragraph 38, Defendants deny each and every allegation therein.
- 21 39. Answering paragraph 39, Defendants deny each and every allegation therein.
- 22 40. Answering paragraph 40, Defendants deny each and every allegation therein.
- 23 41. Answering paragraph 41, Defendants deny each and every allegation therein.
- 24 42. Answering paragraph 42, Defendants deny each and every allegation therein.
- 25 43. Answering paragraph 43, Defendants deny each and every allegation therein.
- 26 44. Answering paragraph 44, Defendants deny each and every allegation therein.
- 27 45. Answering paragraph 45, Defendants deny each and every allegation therein.
- 28 46. Answering paragraph 46, Defendants deny each and every allegation therein.

- 1 47. Answering paragraph 47, Defendants deny each and every allegation therein.
- 2 48. Answering paragraph 48, Defendants deny each and every allegation therein.
- 3 49. Answering paragraph 49, Defendants deny each and every allegation therein.
- 4 50. Answering paragraph 50, Defendants deny each and every allegation therein.
- 5 51. Answering paragraph 51, Defendants deny each and every allegation therein.
- 6 52. Answering paragraph 52, Defendants deny each and every allegation therein.
- 7 53. Answering paragraph 53, Defendants deny each and every allegation therein.
- 8 54. Answering paragraph 54, Defendants deny each and every allegation therein.
- 9 55. Answering paragraph 55, Defendants deny each and every allegation therein.
- 10 56. Answering paragraph 56, Defendants deny each and every allegation therein.
- 11 57. Answering paragraph 57, Defendants deny each and every allegation therein.
- 12 58. Answering paragraph 58, Defendants deny each and every allegation therein.
- 13 59. Answering paragraph 59, Defendants deny each and every allegation therein.
- 14 60. Answering paragraph 60, Defendants deny each and every allegation therein.
- 15 61. Answering paragraph 61, Defendants deny each and every allegation therein.
- 16 62. Answering paragraph 62, Defendants deny each and every allegation therein.
- 17 63. Answering paragraph 63, Defendants deny each and every allegation therein.
- 18 64. Answering paragraph 64, Defendants deny each and every allegation therein.
- 19 65. Answering paragraph 65, Defendants deny each and every allegation therein.
- 20 66. Answering paragraph 66, Defendants deny each and every allegation therein.
- 21 67. Answering paragraph 67, Defendants deny each and every allegation therein.
- 22 68. Answering paragraph 68, Defendants deny each and every allegation therein.
- 23 69. Answering paragraph 69, Defendants deny each and every allegation therein.
- 24 70. Answering paragraph 70, Defendants deny each and every allegation therein.
- 25 71. Answering paragraph 71, Defendants deny each and every allegation therein.
- 26 72. Answering paragraph 72, Defendants deny each and every allegation therein.
- 27 73. Answering paragraph 73, Defendants deny each and every allegation therein.
- 28 74. Answering paragraph 74, Defendants deny each and every allegation therein.

- 1 75. Answering paragraph 75, Defendants deny each and every allegation therein.
- 2 76. Answering paragraph 76, Defendants deny each and every allegation therein.
- 3 77. Answering paragraph 77, Defendants deny each and every allegation therein.
- 4 78. Answering paragraph 78, Defendants deny each and every allegation therein.
- 5 79. Answering paragraph 79, Defendants deny each and every allegation therein.
- 6 80. Answering paragraph 80, Defendants deny each and every allegation therein.
- 7 81. Answering paragraph 81, Defendants deny each and every allegation therein.
- 8 82. Answering paragraph 82, Defendants deny each and every allegation therein.
- 9 83. Answering paragraph 83, Defendants deny each and every allegation therein.
- 10 84. Answering paragraph 84, Defendants deny each and every allegation therein.
- 11 85. Answering paragraph 85, Defendants deny each and every allegation therein.
- 12 86. Answering paragraph 86, Defendants deny each and every allegation therein.
- 13 87. Answering paragraph 87, Defendants deny each and every allegation therein.
- 14 88. Answering paragraph 88, Defendants deny each and every allegation therein.
- 15 89. Answering paragraph 89, Defendants deny each and every allegation therein.
- 16 90. Answering paragraph 90, Defendants deny each and every allegation therein.
- 17 91. Answering paragraph 91, Defendants deny each and every allegation therein.
- 18 92. Answering paragraph 92, Defendants deny each and every allegation therein.
- 19 93. Answering paragraph 93, Defendants deny each and every allegation therein.
- 20 94. Answering paragraph 94, Defendants deny each and every allegation therein.
- 21 95. Answering paragraph 95, Defendants deny each and every allegation therein.
- 22 96. Answering paragraph 96, Defendants deny each and every allegation therein.
- 23 97. Answering paragraph 97, Defendants deny each and every allegation therein.
- 24 98. Answering paragraph 98, Defendants deny each and every allegation therein.
- 25 99. Answering paragraph 99, Defendants deny each and every allegation therein.
- 26 100. Answering paragraph 100, Defendants deny each and every allegation therein.
- 27 101. Answering paragraph 101, Defendants deny each and every allegation therein.
- 28 102. Answering paragraph 102, Defendants deny each and every allegation therein.

1 103. Answering paragraph 103, Defendants deny each and every allegation therein.

2 ANSWER TO FIRST CAUSE OF ACTION FOR DECLARATORY RELIEF

3 104. Answering paragraph 104, Defendants deny each and every allegation therein.

4 105. Answering paragraph 105, Defendants deny each and every allegation therein.

5 106. Answering paragraph 106, Defendants deny each and every allegation therein.

6 107. Answering paragraph 107, Defendants deny each and every allegation therein.

7 ANSWER TO SECOND CAUSE OF ACTION FOR DECLARATORY RELIEF

8 108. Answering paragraph 108, Defendants deny each and every allegation therein.

9 109. Answering paragraph 109, Defendants deny each and every allegation therein.

10 110. Answering paragraph 110, Defendants deny each and every allegation therein.

11 111. Answering paragraph 111, Defendants deny each and every allegation therein.

12 112. Answering paragraph 112, Defendants deny each and every allegation therein.

13 113. Answering paragraph 113, Defendants deny each and every allegation therein.

14 ANSWER TO THIRD CAUSE OF ACTION FOR INJUNCTIVE RELIEF

15 114. Answering paragraph 114, Defendants deny each and every allegation therein.

16 115. Answering paragraph 115, Defendants deny each and every allegation therein.

17 116. Answering paragraph 116, Defendants deny each and every allegation therein.

18 117. Answering paragraph 117, Defendants deny each and every allegation therein.

19 FIRST AFFIRMATIVE DEFENSE

20 Petitioners lack standing.

21 SECOND AFFIRMATIVE DEFENSE

22 Petitioners are estopped by their own unclean hands.

23 THIRD AFFIRMATIVE DEFENSE

24 Petitioners' claims are not ripe.

25 FOURTH AFFIRMATIVE DEFENSE

26 Petitioners are not entitled to attorneys fees pursuant to Code of Civil Procedure §1021.5,
27 because their claims in no way vindicate the public's interest.

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1 FIFTH AFFIRMATIVE DEFENSE

2 Petitioners failed to allege the Department's actions were arbitrary or capricious.

3 SIXTH AFFIRMATIVE DEFENSE

4 The Department substantially complied with all requirements of the Administrative Procedures
5 Act.

6 SEVENTH AFFIRMATIVE DEFENSE

7 Substantial evidence supports the Department's Regulation.

8 EIGHTH AFFIRMATIVE DEFENSE

9 The Court's function is to inquire into the legality of the regulations, not their wisdom.

10 NINTH AFFIRMATIVE DEFENSE

11 The Court must defer to the Department's subject matter expertise.

12 TENTH AFFIRMATIVE DEFENSE

13 The Court must defer to the Department's construction of the Knox-Keene Act.

14 REQUEST FOR RELIEF

15 Wherefore, Defendants respectfully request the following relief from the Court:

- 16 1. A ruling that Petitioners take nothing on their complaint;
17 2. Denial of the writ requested by Petitioners;
18 3. An award for Defendants' attorneys' fees, to the extent permitted by law; and
19 4. All other such relief as this Court deems proper.

20
21 Dated: October 16, 2008

DEPARTMENT OF MANAGED
HEALTH CARE

22
23
24 By: 

DREW BRERETON
MICHAEL D. MCCLELLAND
Attorneys for Defendants

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PROOF OF SERVICE
(Code Civ. Proc. §§ 1012, 1013(a))

CASE NAME: CALIFORNIA MEDICAL ASSOCIATION, et al. v. DMHC, et al.
CASE NUMBER: 2008-80000059
ENFORCEMENT MATTER NO.: 08-352

I, Jill Spitz, declare, I am employed in the County of Sacramento, California. I am over the age of 18 years, and not a party to the within action. My business address is 980 Ninth Street, Suite 500, Sacramento, California 95814. I am readily familiar with my employer's business practice for collection and processing of correspondence for UPS, U.S. Mail, Fax Transmission and/or Personal Service. On October 16, 2008, I caused the following documents to be served:

**DEFENDANTS DEPARTMENT OF MANAGED HEALTH CARE AND
LUCINDA A. EHNE'S ANSWER TO PLAINTIFFS' COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

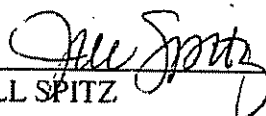
on the parties listed below as follows:

- _____ by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail.
- _____ via faxing a true copy followed by regular mail.
- _____ via overnight mail by _____.
- _____ via certified mail number _____.
- XX _____ via personal service on October 16, 2008.

FRANK P. FEDOR
KATHRYN DOI
CARRIE RAMAGE
MURPHY AUSTIN ADAMS SCHOENFELD LLP
304 "S" Street
Sacramento, California 95811-6906

FRANCISCO J. SILVA
LONG X. DO
CALIFORNIA MEDICAL ASSOCIATION
1201 J Street, Suite 200
Sacramento, CA 95814-2906

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on October 16, 2008, at Sacramento, California.



JILL SPITZ