

**THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

MINUTES

TUESDAY, JANUARY 18, 2005

INSURANCE BROKER COMMISSION
LITIGATION

(TURNER v. HARTFORD and related
consolidated actions)

Courtroom: 304

Case Number: CGC-01-323192

**DEFENDANTS' MOTION FOR JUDGMENT
ON THE PLEADINGS BASED ON
PROPOSITION 64**

CASE MANAGEMENT CONFERENCE

Present:

Judge: RICHARD A. KRAMER

Reporter: IRENE BURNS

Clerk: JOSE RIOS MERIDA

Bailiff: NOT PRESENT

Appearing:

<p><u>Spencer Y. Kook (COURT CALL)</u> BARGER AND WOLEN LLP Forty Seventh Floor 633 West Fifth Street Los Angeles, California 90071-2043 (213) 680-2800 Atty(s) for Chubb, et al</p>	<p><u>H. Joseph Escher III</u> HOWARD, RICE, NEMEROVSKI, CANADY, ETC. Three Embarcadero Center, Seventh Floor San Francisco, CA 94111 (415) 434-1600 Atty(s) for Hartford defendants</p>
<p><u>Gayle M. Athanacio</u> SONNENSCHN, NATH & ROSENTHAL 685 Market Street, 6th Floor San Francisco, CA 94105 (415) 882-5001 Atty(s) for Allianz Defendants</p>	<p><u>Finley T. Harkham</u> ANDERSON, KILL AND OLICK, P.C. 1251 Avenue of the Americas New York, NY 10020 (212) 278-1543 Atty(s) for plaintiff Scott Turner</p>
<p><u>Robert A. Lewis</u> BINGHAM MCCUTCHEN, LLP Three Embarcadero Center San Francisco, CA 94111 (415) 292-2328 Atty(s) for AIG defendants</p>	

Case No: 323192

Case Title: Insurance Broker Commission Litigation

Date: January 18, 2005

Form: C001000

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COUNTY OF SAN FRANCISCO**

MINUTES

The above-entitled matter comes on calendar for a hearing on a motion by defendants Omni, Hartford, First Interstate, Twin City, Nutmeg Insurance and Pacific Insurance for judgment on the pleadings based on California Proposition 64, requests for judicial notice and for case management conference. Court and counsel are present as listed above. The Court issues a tentative ruling. The matters are argued and submitted. The tentative ruling stands. The requests for judicial notice are granted. The Court takes judicial notice of the text of proposed laws associated with Proposition 64, part of the Official Voter Information Guide, the election results reported by the California Secretary of State, and section of the Ballot Measure Summary from the November 2004 election. The motion for judgment on the pleadings is denied. The court states its reasons and findings in open court. The Court believes that *Evangelatos v. Superior Court*, (1988) 44 Cal.3d 1188, 1193-94 governs. Proposition 64 does not apply retroactively and otherwise affected persons would be denied future redress under Section 17200 et seq., California Business and Professions Code. The Court understands that this is a matter of great dispute and that reasonable minds can have differed on this point. It is expected that the Court of Appeals will soon issue opinions/rulings on this issue.

A case management conference is held and continued. Counsel shall file a further joint case management statement giving this Court a joint view of Court of Appeals rulings regarding Proposition 64. If no appellate opinion is yet issued or if appellate authority is that the statute is not retroactive, counsel shall come up with briefing schedule for pending motion(s) for summary judgment. The summary judgment motion hearing date of February 15, 2005 is vacated pending further order of the Court. The case is continued to March 4, 2005 at 9:30 a.m., in Department 304 for case management conference.

Case No: 323192
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Date: January 18, 2005
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FILED
San Francisco County Superior Court
JAN 21 2005
GORDON PARK-LI, Clerk
BY: Andrea Caney
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

IN RE INSURANCE BROKER
COMMISSION LITIGATION

No. 323192

Action Filed: July 25, 2001

~~RECEIVED~~ ORDER DENYING
DEFENDANTS' MOTION FOR
JUDGMENT ON THE PLEADINGS

Date: January 18, 2005
Time: 10:30 a.m.
Dep't: 304
Judge: Hon. Richard Kramer
This Filing Relates To:

ALL CASES:

PARTICULAR CASE(S):

Turner v. Hartford Fire Ins. Co. et al.
Case No.: 323192
Date Action Filed: 07/25/01

Turner v. Allianz Ins. Co., et al.
Case No.: 324927
Date Action Filed: 09/27/01

Turner v. AIG Ins. Co., et al.
Case No.: 325028
Date Action Filed: 10/01/01

Turner v. Chubb Indem. Corp., et al.
Case No.: 400087
Date Action Filed: 10/10/01

1 The Motion For Judgment On The Pleadings brought by the Defendants to this action
2 came on regularly for hearing before this Court on January 18, 2005. After full
3 consideration of the moving and opposition papers, argument of counsel, and such other
4 papers, submissions and arguments as were presented at or before the hearing on this matter,
5 and with good cause appearing therefor:

6 IT IS HEREBY ORDERED that:

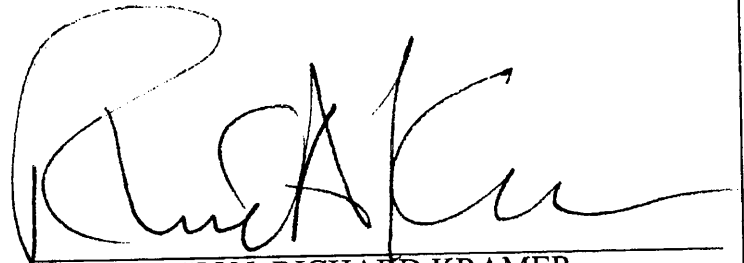
7 1. The Motion For Judgment On The Pleadings is DENIED for the reasons stated in
8 the transcript of the hearing.

9 CERTIFICATION UNDER CODE OF CIVIL PROCEDURE §166.1

10 The Court believes that the question presented herein is a controlling question of law as
11 to which there are substantial grounds for difference of opinion, appellate resolution of
12 which may materially advance the conclusion of the litigation.

13
14 IT IS SO ORDERED.

15 DATED: January 20, 2005.



16
17 HON. RICHARD KRAMER
18 JUDGE OF THE SUPERIOR COURT *cc*

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APPROVED AS TO FORM:

Respectfully,

H. JOSEPH ESCHER III
JASON M. SKAGGS
HOWARD, RICE, NEMEROVSKI, CANADY,
FALK & RABKIN
A Professional Corporation

By:  _____
JASON M. SKAGGS

Attorneys for the Hartford Defendants, on behalf
of all Defendants

FINLEY T. HARCKHAM
EDWARD J. STEIN
JOHN B. BERRINGER
ANDERSON, BELL & GLICK, PC

By:  _____
FINLEY T. HARCKHAM

Attorneys for Plaintiff Scott C. Turner