Case No. S145775

IN THE
SUPREME COURT OF THE STATE OF CALIFORNIA

PFIZER INC.,
Petitioner,

vs.

SUPERIOR COURT OF THE STATE OF CALIFORNIA,
LOS ANGELES COUNTY,
Respondent,

STEVE GALFANO,
Real Party in Interest.

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After a Decision by the Court of Appeal
Second Appellate District, Division Three
Case No. B188106
Los Angeles County Superior Court Case No. BC327114

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# REPLY TO ANSWER TO PETITION FOR REVIEW

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Service on District Attorney of Los Angeles County
and Attorney General, Consumer Law Section,
required by Business and Professions Code Section 17209

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## I. THE PFIZER COURT IGNORED THE DISTINCTION BETWEEN STANDING AND CLASS CERTIFICATION.

Plaintiff Steve Galfano ("Plaintiff") does not argue, as asserted by Defendant Pfizer, Inc. ("Defendant"), that the standing requirements of Article III of the U.S. Constitution apply differently in class actions. [Answer to Petition, p. 18.] Rather, as supported by precedent from the U.S. Supreme Court, Plaintiff explains that the Second District erred in Pfizer, Inc. v. Superior Court (2006) 141 Cal.App.4th 290, 45 Cal.Rptr.3d 840, because:

> "[Unnamed plaintiffs] need ***not*** make any individual showing of standing [in order to obtain relief], because the standing issue focuses on whether the plaintiff is properly before the court. Whether or not the named plaintiff who meets individual standing requirements may assert the rights of absent class members is neither a standing issue nor an Article III case or controversy issue but depends rather on meeting the prerequisites of [the rules] governing class actions."

Lewis v. Casey (1996) 518 U.S. 343, 395, 116 S.Ct. 2174, 135 L.Ed.2d 606 (Souter, J., concurring) [quoting 1 H. Newberg & A. Conte, Newberg on Class Actions § 2.07, pp. 2-40 to 2-41 (3d ed. 1992); emphasis added].[1] In other words, standing and typicality are two distinct concepts that the Pfizer court erroneously intertwined.[2]

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[1] *See also* Stevens v. Harper (E.D.Cal. 2002) 213 F.R.D. 358, 369; Simpson v. Fireman's Fund Ins. Co. (N.D.Cal. 2005) 231 F.R.D. 391, 396.

[2] The Pfizer court erroneously held:

> As explained, Proposition 64 requires private representative actions to satisfy the procedural requirements applicable to class action lawsuits. [Citation omitted.] In order to meet the "community of interest"

Justice Souter's view in Lewis, in which Justices Ginsburg and Breyer joined, is also supported by this Court's recognition that the "community of interest" requirement of Section 382 of the Code of Civil Procedure does not depend upon the standing of absent class members, but instead whether common questions of law and fact predominate, whether the named plaintiff has claims and defenses typical of the class, and whether the named plaintiff will adequately represent the class. Sav-On Drug Stores, Inc. v. Superior Court (2004) 34 Cal.4th 319, 326; 96 P.3d 194; 17 Cal.Rptr.3d 906; *see also* Simpson v. Fireman's Fund Ins. Co. (N.D.Cal. 2005) 231 F.R.D. 391, 396 ["In determining wether typicality is met, the focus should be 'on the defendant's conduct and plaintiff's legal theory,' not the injury caused to the plaintiff."].

Thus, the Pfizer court's requirement that the named plaintiff make an individual showing of standing for each putative class member creates a conflict between Proposition 64 and the class certification requirements imposed by Section 382 of the Code of Civil Procedure. If the Pfizer decision stands, consumers will effectively be precluded from bringing a class action under the UCL based upon alleged false

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> requirement of Code of Civil Procedure section 382, which requires, inter alia, the class representative to have claims *typical* of the class, it is insufficient if the class representative alone suffered injury in fact and lost money or property as a result of the violation [i.e., meets the new standing requirements of Proposition 64]. (§§ 17204, 17535.) The class members being represented by the named plaintiff likewise must have suffered injury in fact and lost money or property as a result of the unfair competition or false advertising. (*Ibid.*)

Pfizer, 141 Cal.App.4th at 302-303.

advertising and/or fraudulent business practices due to the insurmountable burden placed on a class representative.

## II. APPLYING THE UCL'S STANDING REQUIREMENT TO ALL CLASS MEMBERS IS NOT SUPPORTED BY THE PLAIN LANGUAGE OF PROPOSITION 64.

Defendant incorrectly contends that the Pfizer court's ruling that the UCL's standing requirement applies to all class members is also supported by the statute's plain language. Contrary to this contention, however, the UCL sections relied upon by Defendant instead reveal the weakness of its argument and the errors made by the lower court.

First, Section 17204 states, in relevant part, "Actions for any relief pursuant to this chapter shall be ***prosecuted*** exclusively in a court of competent jurisdiction... by any person who has suffered injury in fact and has lost money or property as a result of such unfair competition." Bus. & Prof. Code § 17204; *see also* Bus. & Prof. Code § 17535 ["Actions for injunction under this section may be ***prosecuted***... by any person who has suffered injury in fact and has lost money or property as a result of a violation of this chapter.] In other words, the standing requirement of the UCL is limited to persons ***prosecuting*** a class action.

The term, "prosecute," means to institute and carry forward legal action against for redress." Merriam-Webster's Dictionary of Law (1996) by Merriam-Webster, Inc.; *see also* Ramos v. Superior Court (1982) 32 Cal.3d 26, 36; 648 P.2d 589; 184 Cal.Rptr. 622 ["The term 'prosecution' is sufficiently comprehensive so as to include every step in an action from its commencement to its final determination."] Thus, by definition, class representatives (not putative class members)

prosecute class actions.

Defendant's subsequent citations [*see* Answer to Petition, pp. 14-16] similarly highlight the fact that Proposition 64's standing requirements apply only to the class representative:

- "Any person may ***pursue representative claims or relief on behalf of others*** only if the ***claimant*** meets the standing requirements of Section 17204..." Bus. & Prof. Code § 17203 [emphasis added].
- "After Proposition 64, only those private persons "who suffered injury in fact and lost money or property" (§§17204, 17535) may ***sue*** to enforce the unfair competition and false advertising laws." Branick v. Downey Savings & Loan Ass'n (2006) 39 Cal.4th 235, 240 [emphasis added].
- "The people of the State of California find and declare that... (b) These unfair competition laws are being misused by some private attorneys who... (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 defendant." Prop. 64 § 1(b)(2)-(3) [emphasis added].
- "[A] citizen may ***bring a lawsuit*** only if he or she 'has suffered injury in fact and has lost money or property as a result of such unfair competition.'" Consumer Advocacy Group, Inc. v. Kinetsu Enterprises of America (2005) 129 Cal.App.4th 540, 569-70 [emphasis added].

Clearly, there is no indication that the voters intended Proposition 64's

standing requirement to apply to putative class members.

This does not mean, as asserted by Defendant, that "in enacting Proposition 64, California *barred* individual and representative parties from suing where they had not seen the defendant's advertising (and thus, by definition, could not have been deceived or injured by it), but *permitted* recovery for the *very same persons* if they were class members." [Answer to Petition, p. 15 (emphasis in original)]. It also does not mean, as held by the Pfizer court, that the "likely to be deceived" standard cannot be reconciled with Proposition 64's standing requirement. Pfizer, 141 Cal.App.4th at 303-305.

As this Court noted in Californians for Disability Rights v. Mervyn's, LLC (2006) Cal.4th 223, Proposition 64 did not "eliminate any right to recover. Now, as before, no one may recover damages under the UCL... and now, as before, a private person may recover restitution only of those profits that the defendant has unfairly obtained from such person or in which such person has an ownership interest." Id. at 232; *see also* Section I, *supra*; Anunziato v. eMachines, Inc. (C.D. Cal. 2005) 402 F.Supp.2d 1133, 1138 [The "remedial purposes of Proposition 64 are fully met without imposing requirements which go beyond actual injury."]. Thus, contrary to Defendant's contention, class members may still only recover restitution if they have an ownership interest in the money unfairly obtained by Defendant.

## III. THE PFIZER COURT'S HOLDINGS FUNDAMENTALLY CHANGE THE LIABILITY STANDARD FOR FALSE AND MISLEADING STATEMENTS UNDER THE UCL.

Defendant baselessly accuses Plaintiff of "confusing the standard for liability with the standing requirements in a private action"

[Answer to Petition, pp. 24-30], suggesting that the Pfizer decision did not, in fact, abolish the well-settled and long-standing "likely to deceive" liability standard under the UCL. Defendant's erroneous suggestion, however, is contradicted by the following holdings made by the Pfizer court:

1. "[T]he mere likelihood of harm to members of the public is no longer sufficient for standing to sue. Persons who have not suffered any 'injury in fact' and who have not lost money or property as a result of an alleged fraudulent business practice or false advertising (§§ 17204, 17535) cannot state a cause of action based merely on the 'likelihood' that members of the public will be deceived." [Pfizer, 141 Cal.App.4th at pp. 296, 304]; and
2. "The class members being represented by the named plaintiff likewise must have suffered injury in fact and lost money or property as a result of the unfair competition or false advertising" [Pfizer, 141 Cal.App.4th at pp. 296, 303].

Coupling the Pfizer court's rejection of the "likely to deceive" standard as a basis for standing [#1, above] with its holding that all putative class members must meet the UCL's standing requirements [#2, above], does away with thirty (30) years of precedent which allowed UCL liability to be based on statements that are found to "likely to deceive" consumers. *See, e.g.,* Chern v. Bank of America (1976) 15 Cal.3d 866, 875-76, 127 Cal.Rptr. 110, 544 P.2d 1310; Bank of the West v. Superior Court (1992) 2 Cal.4th 1254, 1267, 10 Cal.Rptr.2d 538, 833 P.2d 545; Committee on Children's Television v. General Foods Corp. (1983) 35 Cal.3d 197, 211, 197 Cal.Rptr 783, 673 P.2d 660.

## IV. AN INFERENCE OF RELIANCE ARISES BECAUSE DEFENDANT'S REPRESENTATIONS WERE IN WRITTEN MATERIAL RECEIVED BY ALL CLASS MEMBERS.

Defendant argues that the Pfizer court's decision to require a class representative to prove each putative class member's reliance on a defendant's misrepresentation is also supported by Caro v. Procter & Gamble Co. (1993) 18 Cal.App.4th 644, where the Court of Appeal affirmed an order denying class certification in a case involving alleged false misrepresentations which were made to putative class members. [Answer to Petition, p. 15-16.] However, as explained by the California Court of Appeal in Massachusetts Mut. Life Ins. Co. v. Superior Court (2002) 97 Cal.App.4th 1282, "[N]othing we said in Caro undermines the general rule permitting common reliance where material misstatements have been made to a class of plaintiffs. Rather, our holding in Caro merely stands for the self-evident proposition that such an inference will not arise where the record will not permit it." Id. at 1294.

This Court, too, has long recognized that a class action may be brought for fraud in cases with circumstances similar to those of this case. For example, in Vasquez v. Superior Ct. (1971) 4 Cal.3d 800, this Court granted a writ, compelling a trial court to vacate its order sustaining demurrers and to allow the trial of the cause of action for fraud as a class action, holding that if the trial court finds that alleged misrepresentations made to the class members were material, at least an inference or rebuttable presumption of reliance would arise as to the entire class without direct testimony from each class member:

> The rule in this state and elsewhere is that it is not necessary to show reliance upon false representations by direct evidence. "The fact of reliance upon alleged false representations may be inferred from the circumstances attending the transaction which oftentimes afford much

> stronger and more satisfactory evidence of the inducement which prompted the party defrauded to enter into the contract than his direct testimony to the same effect."

Id. at 814 [quoting Hunter v. McKenzie (1925) 197 Cal. 176, 185].

Similarly, in Occidental Land, Inc. v. Superior Ct. (1976) 18 Cal.3d 355, this Court affirmed a trial court's order refusing to decertify a class action for fraudulent representations, holding that an inference of reliance may be established in a class action setting if a material false representation is made to persons whose subsequent acts were consistent with reliance upon the representation. Id. at 363; *see also* Committee on Children's Television, Inc. v. General Foods Corp. (1983) 35 Cal.3d 197, 197 Cal.Rptr. 783 , 673 P.2d 660 [wherein this Court expressly affirmed that a consumer fraud plaintiff may bring a class action (not merely a representative action, as asserted by Defendant) without individualized proof of reliance].

The California Courts of Appeal have followed this Court's analysis in other cases. For example, in Danzig v. Superior Ct. (1978) 87 Cal.App.3d 604, the Court of Appeal held that if it appears on the face of the complaint that virtually all of the alleged fraudulent representations were contained in written material received by all members of the class, the questions of whether fraudulent representations were in fact made, and whether, if made, they were material, can be tried without having each absent class member give evidence on those questions. In other words, justifiable reliance may be established on a common basis without the taking of evidence from each class member. Id. at 613. *See also* National Solar Equip. Owners' Assn, Inc. v. Grumman Corp. (1991) 235 Cal.App.3d 1273; Metowski v. Traid Corp. (1972) 28 Cal.App.3d 332, 337-338; Whiteley

v. Philip Morris Inc. (2004) 117 Cal.App.4th 635, 381.

As is clear from the case law above, California courts have repeatedly held that a class action may be brought for fraud, ***without*** individualized proof of reliance, if it is based upon the representations made by Defendant in written material received by all persons who purchased Defendant's product.

Here, Plaintiff's UCL causes of action are based upon the material representations made in written material disseminated by Defendants and received by the public in California, including Plaintiff and all class members. Specifically, Defendant represented that Listerine is "As Effective As Floss" on the label of the Listerine bottles purchased by each class member. Complaint ¶¶ 1, 7, 9-11, 21, 35(a) [EXP 00046-48, 50-51, 55-56]. In support of Plaintiff's allegations, the evidence indeed shows that, during the class period, and as part of its "Flossing Claim" campaign, Defendant affixed shoulder labels on its Listerine bottles which contained the representation "As Effective As Floss". [EXP 00134-135].

Clearly, the Pfizer court's decision is unsupported by the long-standing precedent which permits an inference of reliance to arise from the fact that Defendant made its "As Effective As Floss" representations on the shoulder labels affixed to each Listerine bottle purchased by class members. [EXP 00046-48, 50-51, 134-135.]

## V. THE "AS A RESULT OF" LANGUAGE OF THE CLRA DOES NOT REQUIRE PLAINTIFF TO PROVE INDIVIDUAL RELIANCE OR CAUSATION.

Defendant asserts that because the Court of Appeal in Wilens v. TD Waterhouse Group, Inc. (2003) 120 Cal.App.4th 746, 15

Cal.Rptr.3d 271, interpreted the "as a result of" language of the Consumer Legal Remedies Act ("CLRA") to require causation, the Pfizer court was correct to construe the UCL in the same manner. In support of this assertion, Defendant references a quote from Wilens v. TD Waterhouse Group, Inc. (2003) 120 Cal.App.4th 746, 15 Cal.Rptr.3d 271, which states, "Relief under the CLRA is specifically limited to those who suffer damage, making causation a necessary element of proof." Id. at 754. Not only are the facts of Wilens distinguishable from the facts of our present case, the Wilens court also relied upon Massachusetts Mut. Life Ins. Co. v. Superior Court (2002) 97 Cal.App.4th 1282, 119 Cal.Rptr.2d 190, to support its holding. Accordingly, the rule cited by Defendant from Wilen must be examined in the context of the holding from the court in Massachusetts Mutual, which addressed the same argument put forth by Defendant and nonetheless affirmed the certification of a CLRA claim.

### *A. The CLRA Allows Causation and Reliance to Be Proven on a Class Basis.*

In Massachusetts Mutual, *supra*, policyholders brought a class action lawsuit against a life insurer to recover for its violation of the CLRA. Similar to Defendant here, the defendant in Massachusetts Mutual argued that the "as a result of" limitation requires that plaintiffs in a CLRA action show not only that a defendant's conduct was deceptive but that the deception caused them harm. In finding that the claims under the CLRA were suitable for treatment as a class action, the Court of Appeal explained the following:

> "Causation as to each class member is commonly proved more likely than not by materiality. That showing will undoubtedly be conclusive as to most of the class. The

> fact a defendant may be able to defeat the showing of causation as to a few individual class members does not transform the common question into a multitude of individual ones; plaintiffs satisfy their burden of showing causation as to each by showing materiality as to all." [Citation omitted.] Thus, "[i]t is sufficient for our present purposes to hold that if the trial court finds material misrepresentations were made to the class members, at least an inference of reliance would arise as to the entire class." [Quoting Vasquez v. Superior Court (1971) 4 Cal.3d 800, 814.]

Massachusetts Mut., 97 Cal.App.4th at 1292-1293, 119 Cal.Rptr.2d at 197. Accordingly, even if this Court is persuaded by the arguments of Defendant (i.e., that the "as a result of" language in both the CLRA and the UCL should be interpreted in the same manner), such is not a bar the certification of Plaintiff's UCL claims.

Similar to Plaintiff here, the plaintiffs in Massachusetts Mutual contended that "Mass Mutual failed to disclose its own concerns about the premiums it was paying and those concerns would have been material to any reasonable person contemplating the purchase of [a particular] premium plan." Massachusetts Mut., 97 Cal.App.4th at 1293, 119 Cal.Rptr.2d at 198. The court concluded that, "If plaintiffs are successful in proving these facts, the purchases common to each class member would in turn be sufficient to give rise to the inference of common reliance on the representations". Id.

In addition, "the information provided to prospective purchasers appears to have been broadly disseminated." Id. at 1294. The court explained, "[g]iven that dissemination, the trial court reasonably concluded that the ultimate question of whether the undisclosed information was material was a common question of fact suitable for treatment in a class action." Id.

Like the circumstances discussed in Massachusetts Mutual, the record here permits an inference of common reliance. [*See* Section IV, *supra*]. If Plaintiff is successful in proving these facts, the purchases common to each class member would in turn be sufficient to give rise to the inference of common reliance on the representations. See Massachusetts Mut., 97 Cal.App.4th at 1293, 119 Cal.Rptr.2d at 198.

Also, as in Massachusetts Mutual, the information provided to prospective purchasers of Listerine was broadly disseminated [EXP 00121, 123-125.] and made on the label of each of the Listerine bottles purchased by class members [*see* Complaint ¶¶ 1, 7, 9-11, 21 (EXP 00046-48, 50-51); *see also* EXP 00134-135]. Given these facts, the trial court could have reasonably concluded that the ultimate question of whether the alleged misrepresentations were material was a common question of fact suitable for treatment in a class action. Therefore, the Pfizer decision is in error.

### *B. Wilens Is Distinguishable from the Present Case.*

In Wilens v. TD Waterhouse Group, Inc. (2004) 120 Cal.App.4th 746, 15 Cal.Rptr.3d 271, a stock trader filed a CLRA suit against a discount securities broker, challenging a clause in the broker's account contract giving the broker the right to terminate the account-holder's trading privileges without notice for any reason. Wilens, 120 Cal.App.4th at 750, 15 Cal.Rptr.3d at 272. In affirming the trial court's decision not to certify a class, the appellate court explained that there could be no presumption that any class member was damaged either by inclusion of the clause in the contract or by termination of trading privileges without notices. Wilens, 120 Cal.App.4th at 755, 15 Cal.Rptr.3d at 276. The Wilens court held that if individual issues "go

beyond mere calculation [of damage]" and instead "involve each class member's *entitlement* to damages", class treatment is inappropriate Wilens, 120 Cal.App.4th at 756, 15 Cal.Rptr.3d at 277.

Here, unlike Wilens, there are no individual issues which involve each class member's entitlement to damages because Defendant's alleged misrepresentations were made on the label of each of the Listerine bottles purchased by class members. *See* Complaint ¶¶ 1, 7, 9-11, 21 [EXP 00046-48, 50-51]; *see also* EXP 00134-135]. As explained in Massachusetts Mutual, *supra*, this gives rise to a presumption of common reliance on the representations. See Massachusetts Mut., 97 Cal.App.4th at 1293. Furthermore, pursuant to Colgan v. Leatherman Tool Group, Inc. (2006) 135 Cal.App.4th 663, the injury in fact suffered by the class members in this case is "the amount of restitution necessary to restore purchasers to the *status quo ante*", limited to "the advantage realized" by Defendant as a result of its misleading "As Effective As Floss" representation. Id. at 697-700. Thus, under Colgan, ***each class member in this case suffered the same injury*** and the calculation of restitution can also be resolved on a class basis.

## VI. THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA HAS PROVIDED WELL-REASONED AND AMPLE REASONING REJECTING THE PREMISE THAT PROPOSITION 64 ADDS A RELIANCE ELEMENT TO THE UCL.

Although Pfizer is the only published state court decision thus far regarding Proposition 64's standing requirement, the United States District Court for the Central District of California was also faced with the identical argument presented by Defendant in this case – namely,

that "Proposition 64 imposes a reliance requirement on all private persons alleging a claim under the UCL [Unfair Competition Law, Bus. & Prof. Code § 17200,*et seq.*] and the FAL [False Advertising Law, Bus. & Prof. Code § 17500,*et seq.*]" See Anunziato v. eMachines, Inc. (2005) 402 F.Supp.2d 1133. Judge Selna of the Central District, however, "decline[d] to read a reliance requirement into the 'as a result of' language in either Section 17200 or Section 17500." Id. at 1139.

Unlike the Pfizer court, the Anunziato court took note of Section 1(e) of Proposition 64 and declined to judicially expand the text of Proposition 64 beyond its declared intent to eliminate the filing of frivolous lawsuits and other shakedown schemes carried out by attorneys on behalf of an "unaffected plaintiff". Id. at 1138-1139 [citing Prop.64 §1(b) and (e)]. As explained by the court, the element added by Proposition 64 was not to require reliance, but instead, to require an injury in fact under the standing requirements of the United States Constitution. Id.

The Pfizer court's only attempt to reconcile the Anunziato decision with its own was through its statement that, "it would appear that the court substituted its judgment for that of the voters and based its decision on the perceived ill effects a 'reliance' requirement would have in hypothetical fact situations." Pfizer, 141 Cal.App.4th at 306. At the same time, however, the Pfizer court recognized that, "the addition of a reliance requirement may preclude a consumer who did not read and rely on a label from stating a UCL or FAL claim in a 'short weight' or 'short count' case. Id. at 307 [citing Anunziato v. eMachines, Inc., *supra*, 402 F.Supp.2d at p. 1137.]

It thus appears that, it was the Pfizer court that substituted its judgment for that of the voters in interpreting Proposition 64. As the

Pfizer court recognized, the practical effect of its decision is that, "Given the new restrictions on private enforcement under the UCL and the FAL, enforcement of these statutes in legitimate cases is increasingly the responsibility of a vigilant state Attorney General and/or local public prosecutors." Id. But, as explained by the Attorney General:

> The Attorney General's office receives thousands of consumer complaints a year, but its consumer law section has fewer personnel than the average small law firm. Although the office may take legal action in cases of major significance, it cannot undertake to represent private citizens seeking vindication of personal rights. Legitimate class actions by private litigants are necessary to vindicate the rights of consumers.

Attorney General's Letter of Support of Plaintiff's Petition for Review, 8/31/06, p. 2. Clearly, the result imposed by Pfizer is not consistent with the aims of the policies underlying the UCL and class actions, generally. Accordingly, Plaintiff respectfully requests that this Court grant review of the Pfizer court's decision to settle these important questions of law. CRC, rule 28(b)(1).

Dated: September 7, 2006

Respectfully submitted,
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## CERTIFICATION

I, Christine C. Choi, an attorney at law duly admitted to practice before all the courts of the State of California and an associate of the law firm of Westrup Klick LLP, attorneys of record herein for plaintiff and real party in interest Steve Galfano, hereby certify that this document (including the memorandum of points and authorities headings, footnotes, and quotations, but excluding the tables of contents and authorities and this certification) complies with the limitations of Rule of Court 14(c) in that it is set in a proportionally-spaced 13-point typeface and contains 4,122 words as calculated using the word count function of WordPerfect.

By: _____

CHRISTINE C. CHOI

## PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is 444 West Ocean Boulevard, Suite 1614, Long Beach, California 90802.

On September 8, 2006, I served the following documents described as **REPLY TO ANSWER TO PETITION FOR REVIEW**. I served the documents on all interested parties, as follows:

**PLEASE SEE ATTACHED SERVICE LIST**

The documents were served by Personal Service. I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed on the attached service list, and caused such envelopes to be delivered by messenger to the office of the addressee.

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

Date: September 8, 2006

Liz Brown

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

Date: September 8, 2006

Liz Brown

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