

Dina Padilla
California Insurance Commissioner Candidate
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August 16, 2010

Steve Poizner
Insurance Commissioner
California Department of Insurance
300 Capitol Mall, Suite 1700
Sacramento, CA 95814

Honorable Commissioner Poizner,

As a candidate for the office of Insurance Commissioner for the state of California, I am writing you today to bring a serious matter of rampant insurance fraud to your attention. Under the premise of workers compensation reform, the 2004 CA Senate Bill 899 has given \$50 billion dollars to businesses and insurers according to Governor Schwarzenegger. Much of this savings is through the ability of employers and insurers to deny liability for causation of worker illnesses and injuries.

However, when workers are wrongfully denied medical treatments or disability payments by their employers and their workers' comp insurers, the injured worker must then turn to state and federally funded disability and health care programs for survival. The cost burden for these legitimately injured employees, who have been wrongfully denied benefits, then shifts to the taxpayers of California and the US as a whole. While private sector businesses and insurers are tooting SB 899 as a success for the money it has given and saved them, California is now \$20 billion in debt with our state disability programs being a large part of the deficit.

The misapplication of scientific and medical information by the American College of Occupational and Environmental Medicine (ACOEM), who write the workers' comp treatment guidelines for the state under SB899, has caused much of the wrongful denial of workers compensation insurer and employer responsibility. When scientific and medical misinformation is systematically used in our courts and state policies to give insurers and employers unfair advantage to avoid their financial responsibility to injured workers, the term for this is "insurance fraud". I urge you to implement an investigation of systemic insurance fraud in the state guidelines set forth by ACOEM, under SB899; and other health policies allowed to be established by ACOEM in California.

The promotion that ACOEM's purportedly scientific understanding of illnesses from mold be adhered to under the directive of Governor Schwarzenegger, and the California

Department of Health and Human Services needs to be investigated for the systemic insurance fraud it is enabling.¹

Businesses and their workers' comp insurers are gaming the system by their ability to rely on this purported science. One such case is Toyota of Poway located in Poway, California. I urge you implement an investigation of insurance fraud by the owners and management of Toyota of Poway for their role in using the state sanctioned, purported science of the ACOEM guidelines of mold induced illnesses to wrongfully deny their responsibility for their workers' injuries from mold at the dealership.

Much of the information and legal documents regarding the fraud in workers comp denial and delays at Toyota of Poway may be found on the website, <http://moldtruth.wordpress.com/>. They have also attempted to intimidate no less than one employee into silence of the health hazards at the dealership. On August 5, 2010, their legal counsel sent a threat of libel should the injured employee continue to speak out of well documented health hazard at the Poway location. San Diego District Attorney, Bonnie Dumanis, is also being asked to investigate the matter.

The environmental science of ACOEM is identical to that of the US Chamber of Commerce with purported proof of lack of causation of illness from mold. Both organizations' white papers on subject of health hazards from mold are penned by the same authors. Both profess to have scientifically proven mold does not harm in the work place. Both, carry the University of California name in validation of their purported science. And both are penned by prolific insurer defense witnesses in mold litigations.

Toyota of Poway, like many businesses in the state of California, have been able to carry out denial of workers comp claims under the rules established in workers' compensation "reform" as set forth by ACOEM. In reality, so called insurance reform is in many situations like Toyota of Poway, insurance fraud used to shift the cost burden onto the taxpayers of California and away from private sector insurers and industry.

Please let me know your intent of addressing these gravely serious charges of systemic insurance fraud adverse to the health, safety and welfare of the citizens and taxpayers of California. And you intent to work with District Attorney Dumanis regarding Toyota of Poway. If I may be of assistance in your investigation, please do not hesitate to ask. The matter is well documented.

Sincerely,

Dina Padilla
Commissioner of Insurance Candidate

Enclosure (2): Letters, Dumanis & Brown

¹ "Physicians can refer to the American College of Occupational and Environmental Medicine (ACOEM) statement, *Adverse Human Health Effects Associated with Molds in the Indoor Environment*. www.acoem.org/guidelines/article.asp?ID=52." Arnold Schwarzenegger, Governor State of California; Kimberly Belshé, Secretary Health and Human Services Agency; Sandra Shewry, Director Department of Health Services; John Rea, Acting Director Department of Industrial Relations November 2005 <http://www.cdph.ca.gov/programs/IAQ/Documents/moldInMyWorkPlace.pdf>

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August 16, 2010

Edmund G. Brown, Jr.
Attorney General
California Department of Justice
1300 I Street
Sacramento, CA 95814

Honorable Attorney General Brown,

Congratulations on being a frontrunner in the upcoming election for Governor of California and future President of the Regents of the University of California. As a candidate for Insurance Commissioner, I can attest to the fact that we have our work cut out for us to bring the golden state and her universities back to their former glory. The past few years have not been kind to the people of California. A key problem area has been industry's undue influence in California's medical universities adversely impacting the true understanding of current accepted science, which plays a key part in determining insurance costs and payouts.

According to Governor Schwarzenegger in May of this year, \$50 billion dollars have been given or saved by industry under the 2004, "Workers Comp Insurance Reform" Senate Bill 899. This bill has been held out as a success of fixing our workers' compensation insurance system while basing claims' acceptance or denials on purportedly evidence based medicine, much of which is established by physicians affiliated with the UC.

While the Chamber affiliates may view SB899 as a success; the citizens of California should not. Fifty billion to private sector industries and workers comp insurers, translates into a \$20 billion state deficit for the citizens of California, with our state disability programs stretched to the limits and in shambles.

The misapplication of scientific and medical information by the American College of Occupational and Environmental Medicine (ACOEM) and some of their UC physicians affiliates, who write much of the workers' comp treatment guidelines for the state under SB899; has caused much wrongful denial of workers compensation insurer and employer responsibility when employees are injured on the job. This then shifts the burden for the sick and injured onto state and federal disability programs.

When scientific and medical misinformation is systematically used in our courts and in state policies to give insurers and employers unfair advantage to avoid their financial responsibility for sick and injured workers, the term for this is “insurance fraud”.

As such, I urge you along with Commissioner Poizner, to implement an investigation of systemic insurance fraud in the state guidelines set forth by ACOEM, under SB899; along with other health policies permitted to be established by ACOEM in California with the Governor’s endorsement.

Foremost, is the needed investigation and halting in policy that ACOEM’s purportedly scientific understanding of illnesses from mold be adhered to under the directive of Governor & President of the UC Regents, Schwarzenegger; and the California Department of Health and Human Services.¹

This purported environmental science of ACOEM is identical to that of the US Chamber of Commerce with their purported proof of lack of causation of illness from mold. This is because the two organizations’ white papers on subject of health hazards from mold are both penned by the same authors, who are professional insurer defense witnesses in mold litigation. Both white papers profess to have scientifically proven the toxic components of mold do not harm in the work place. Both, carry the University of California name in validation of their purported science. And both are aiding workers’ comp insurers to game the system to the detriment of California taxpayers, workers and citizens.

As such, I urge you, along with Commissioner Poizner; to implement an investigation of systematic insurance fraud caused by the ACOEM and US Chamber mold white papers. The matter is well documented. It was even the subject of a front page Wall Street Journal article in 2007.² Yet the systematic insurance fraud that mold does not harm and therefore insurers are not responsible for injury, continues in our courts to the detriment of injured workers and California citizens, to this very day.

As an example, five such workers compensation cases for injury from mold are occurring at Toyota of Poway located in Poway, California.. While the city of Poway will be assisting the owners to build a new building as I understand it; the injured workers are being left to fend for themselves and their families. Much of the information and legal documents regarding the fraud in workers comp denial and delays at Toyota of Poway may be found on the website, <http://moldtruth.wordpress.com/> Through their legal counsel, they have also attempted to intimidate no less than one employee into silence of the health hazards at the dealership. A threat of libel was sent to one of the injured on

¹ “Physicians can refer to the American College of Occupational and Environmental Medicine (ACOEM) statement, *Adverse Human Health Effects Associated with Molds in the Indoor Environment*. www.acoem.org/guidelines/article.asp?ID=52.” Arnold Schwarzenegger, Governor State of California; Kimberly Belshé, Secretary Health and Human Services Agency; Sandra Shewry, Director Department of Health Services; John Rea, Acting Director Department of Industrial Relations November 2005 <http://www.cdph.ca.gov/programs/IAQ/Documents/moldInMyWorkPlace.pdf>

² “Court of Opinion Amid Suits Over Mold, Experts Wear Two Hats Authors of Science Paper Often Cited by Defense Also Help in Litigation” January 2007 http://www.drcraner.com/images/suits_over_mold_WSJ.pdf

August 5, 2010; should he continue to speak out to other employees of the health hazard at the dealership. San Diego District Attorney, Bonnie Dumanis, has also been sent a request to investigate the matter. I urge you, along with Commissioner Poizner and San Diego DA Dumanis; to implement an investigation of insurance fraud by the owners and management of Toyota of Poway. This is for their role in using the state sanctioned concept and purported science of the ACOEM guidelines of mold induced illnesses to wrongfully deny their responsibility for their workers' injuries from the moldy dealership and attempted coercion to silence an injured worker.

Please let me know your intent of addressing the gravely serious evidence of systematic and systemic insurance fraud adverse to the health, safety and welfare of the citizens and taxpayers of California; and involving the University of California. The UC has been made aware of the role they are playing in the deception, both in California and interstate. Please let me know of your intent to work with Commissioner Poizner and District Attorney Dumanis regarding the mistreatment of injured workers at Toyota of Poway.

If I may be of assistance in your investigations, please do not hesitate to ask. The matter of systematic insurance fraud and intimidation tactics through legal proceedings to wrongfully deny insurer responsibility is well documented when mold illnesses are involved in the State of California. It has happened numerous times in numerous cases. This needs to stop.

Congratulations again as being a forerunning for Governor of our great state.

Sincerely,

Dina Padilla
Insurance Commissioner Candidate

Enclosures: (3)

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August 16, 2010

District Attorney Bonnie Dumanis
San Diego County District Attorney
Hall of Justice
330 W. Broadway
San Diego, CA 92101

Dear Ms. Dumanis,

As a candidate for California Commissioner of Insurance, I have had the opportunity to meet several citizens of California with concerns of our insurance system, including our workers' compensation system. I am writing to you today because I am gravely concerned of what I am being informed is occurring at the car dealership of Toyota of Poway, located in Poway, California. I believe there is insurance fraud occurring with the dealership's owners, management, their workers' comp insurer and their legal counsel when attempting to deny financial responsibility for the dealership's employees' injuries from the well documented moldy place of employment.

I know there has been attempted intimidation into silence by the legal counsel of the dealership of the employees, who have spoken out of the health hazard. I have seen the letter sent by attorney Amy Lessa of Fisher & Phillips, LLP to Toyota of Poway injured worker, Tim Hack. The letter was sent by Ms. Lessa on August 5, 2010, with an order for Mr. Hack to "cease and desist" from sending emails to other employees "either damaging or competitive with the Company, detrimental to its interests or to promote [Mr. Hack's] personal interests...it could have legal consequences."

Within these emails deemed detrimental to the interest of Toyota of Poway, Mr. Hack included documentation of medical publishings of the known adverse health effects caused by mold and other contaminants found in water damaged buildings. He writes of how the same thing occurred to the injured Toyota of Poway employees. Mr. Hack states,

"I hope that these reports give you a better understanding of the conditions of the new and used car buildings and the **potential health risks** you face by being inside of them. I urge you to become as informed as possible and make the best decisions for your long term health. A great amount of information on the effects of mold can be found at the sites listed below.
WWW.CDC.GOV WWW.NIOSH.COM"

Clearly, this “Cease and Desist” letter is a threat to a California worker’s right to warn and educate his fellow employees of the potential health dangers of their working environment. Since when did it become legally acceptable in the state of California to tell one human being he cannot warn another of a potential threat to their health? In addition to not protecting the health and safety of their workers, intimidation threats to silence Californians who try to protect other human beings from harm is outrageous behavior not to be tolerated by employers or legal professionals in a civilized society.

There are approximately five employees of Toyota of Poway who have pending workers’ compensation claims, as I understand it. Mr. Hack has been the most publicly outspoken and the most diligent in his documentation of the situation. The OSHA complaint, air quality testing results indicating a problem and many other documents concerning the injury to the workers at Toyota of Poway may be found on Mr. Hack’s website, <http://moldtruth.wordpress.com/>

Unfortunately, this is not an isolated incident in the state of California. Under the premise of workers’ comp “reform”, several employers and their insurers have been given undue influence and have been able to game the system in recent years like Toyota of Poway is obviously attempting to do. What this is causing when employers and their workers’ comp insurers can successfully shirk their duty to employees, is a shifting of the cost burden from the employers and workers’ comp insurers to the taxpaying citizens of California. Injured workers who claims of injury are wrongfully deny typically end up on state and federally funded disability programs. The perverse situation harms us all.

Commissioner Poizner and Attorney General Brown are also being made aware of the matter in Poway and how it illustrates a deeply seeded problem of systemic insurer fraud occurring in California when workers are injured by mold in water damaged work places. I strongly urge you to investigate the workers’ comp insurance fraud occurring at Toyota of Poway and the intimidation tactics used to silence the injured workers of the fraud.

As I understand it, Mr. Hack and the other injured workers of Toyota of Poway will be calling your office this week to set a meeting. They can detail and document the matter for you of how their rights as workers are being violated by insurance fraud that is occurring in San Diego County.

If I may be of further assistance, please do not hesitate to ask. I have seen this similar scenario playing out all too often in the state of California in recent years. This needs to stop. The situation is adverse to the health and safety of the workers and citizens of California. It is causing the taxpayers of California to get stuck with the bill when employers don’t protect workers, and then deceptively run from their responsibility for the injuries while trying to intimidate the injured into silence and into the poor house.

Sincerely,

Dina Padilla

Commissioner of Insurance Candidate

Enclosure (2): Fisher & Phillips Aug 5th Cease and Desist threat
Mr. Hack’s email to fellow employees/human beings

FISHER & PHILLIPS LLP
ATTORNEYS AT LAW

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alessa@laborlawyers.com

August 5, 2010

Mr. Timothy A. Hack
2219 Eucalyptus Drive
El Cajon, CA 92021

Re: *Cease & Desist Demand*

Dear Mr. Hack:


This firm is counsel for Toyota of Poway and I'm sending this letter to address your misuse of the Company's e-mail system and to remind you of your obligations under the terms of the Toyota of Poway policies and agreements you signed.

We've been advised by multiple employees that you continue to e-mail them through their dealership e-mail accounts in pursuit of your own personal interests. I've seen various e-mails you've sent over the past several months, including today, and the dealership has received numerous complaints from employees about the same. Such conduct is disruptive to the workplace and violates the Company's computer and e-mail use policies and will not be tolerated.

All Company computers, e-mail and Internet access accounts are the Company's property to be used to facilitate the business of the Company. The dealership prohibits anyone from accessing or using these systems in any manner that is unlawful, inappropriate, contrary to the Company's best interests or for any improper purpose. These electronic tools are provided to assist employees with the execution of their job duties and cannot be abused.

You are therefore prohibited from using the Company's computers, e-mail and Internet systems for any purpose that is either damaging to or competitive with the Company, detrimental to its interests or to promote your own personal interests. And to the extent your actions intentionally interfere with the Company's business or attribute false or misleading information to the dealership or its owners, it could have legal consequences. I therefore demand that you immediately cease and desist all contact with Toyota of Poway employees during working hours and through their Toyota of Poway email accounts.

Sincerely,



AMY L. LESSA
For FISHER & PHILLIPS LLP

Subj: **FW: Centers for Disease Control Niosh Report On Toyota Of Poway & Policy Holders of America & Workers Compensation Evaluation of Used Car Building**
Date: 8/15/2010 4:23:19 P.M. Pacific Daylight Time
From: closeurdeal@hotmail.com
To: snk1955@aol.com

Timothy A Hack
2219 Eucalyptus Dr
El Cajon, Ca 92021
619-572-3337
CLOSEURDEAL@HOTMAIL.COM

From: closeurdeal@hotmail.com
To: dan.pasenelli@toyotaofpoway.com; ruben.tiosejo@toyotaofpoway.com;
nene.velasco@toyotaofpoway.com; miah.alvarez@toyotaofpoway.com; bill.clark@toyotaofpoway.com;
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tduhon@premierautomotive.com; jkoruga1@san.rr.com; ljallen28@gmail.com
Subject: Centers for Disease Control Niosh Report On Toyota Of Poway & Policy Holders of America
& Workers Compensation Evaluation of Used Car Building
Date: Thu, 5 Aug 2010 08:05:24 -0700

I hope that these reports give you a better understanding of the conditions of the new and used car buildings and the **potential health risks** you face by being inside of them. I urge you to become as informed as possible and make the best decisions for your long term health. A great amount of information on the effects of mold can be found at the sites listed below.

WWW.CDC.GOV

WWW.NIOSH.COM

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