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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAY 28 2009

ALAN CARLSON, Clerk of the Court
C. Henderson
BY C. HENDERSON

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ORANGE

CINDY HAILEY AND STEVE HAILEY, Plaintiffs, vs. CALIFORNIA PHYSICIANS' SERVICE DBA BLUE SHIELD OF CALIFORNIA, and DOES 1 THROUGH 100, inclusive, Defendants. AND RELATED CROSS-COMPLAINT	CASE NO.: 03 CC 01789 Assigned to Hon. Peter J. Polos, Dept. C27 **JOINT STIPULATION OF FACTUAL AND LEGAL ISSUES; [~~PROPOSED~~] ORDER GRANTING DIRECTED VERDICT IN FAVOR OF BLUE SHIELD OF CALIFORNIA** Trial; May 18, 2009

Defendant California Physicians' Service dba Blue Shield of California ("Blue Shield") and plaintiffs Cindy Hailey and Steve Hailey (the "Haileys") hereby stipulate to the following factual and legal issues:

1. Blue Shield completed medical underwriting in this case by making reasonable efforts to ensure that the Haileys' application for coverage with Blue Shield was accurate and complete;

2. Blue Shield's underwriting procedures included reasonable checks on the accuracy and completeness of applications;

3. Blue Shield acted in good faith;

4. Blue Shield's rescission investigation in this case was reasonable and was performed in a timely fashion;

5. Blue Shield's rescission investigation procedures were reasonable;

6. The Haileys willfully misrepresented and willfully omitted material information on their Blue Shield application for health coverage;

7. The Haileys did so in order to obtain health coverage that they knew they would not obtain had they been truthful;

8. The Haileys understood the Blue Shield application;

9. The Blue Shield application is clear and unambiguous;

10. Blue Shield did not breach its contract with the Haileys;

11. Blue Shield did not commit post-claims underwriting.

IT IS SO STIPULATED.

BARGER & WOLEN LLP
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Dated: May 28, 2009

BARGER & WOLEN LLP

By: _____
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Dated: May 28, 2009

LAW OFFICES OF MICHAEL G. NUTTER

By: _____
MICHAEL G. NUTTER
Attorneys for Plaintiffs and Cross-Defendants Cindy Hailey and Steve Hailey

WE HAVE READ AND UNDERSTAND THE ABOVE JOINT STIPULATION OF FACTUAL AND LEGAL AND VOLUNTARILY AGREE THEM:

Dated: May 28, 2009

_____
CYNTHIA K. HAILEY

Dated: May 28, 2009

_____
STEVEN W. HAILEY

BARGER & WOLEN LLP
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ORDER

Based on the foregoing stipulation of factual and legal issues, the other evidence presented in this case, and the motion of California Physicians' Service dba Blue Shield of California ("Blue Shield") for a directed verdict, the Court hereby rules as follows:

(1) The Court grants Blue Shield's motion and directs a verdict in favor of Blue Shield and against plaintiffs Cindy and Steve Hailey (the "Haileys") on each and every cause of action alleged in the Haileys' Second Amended Complaint; and

(2) The Court directs a verdict in favor of Blue Shield as to the first cause of action in Blue Shield's cross-complaint for declaratory relief as to the validity of the rescission.

IT IS SO ORDERED.

Dated: MAY 28 2009

PETER J. POLOS

Hon. Peter J. Polos
Orange County Superior Court Judge

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