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July 10, 2007

BY OVERNIGHT DELIVERY

Hon. Justice Candace Cooper
Hon. Justice Laurence D. Rubin
Hon. Justice Madeleine Flier
California Court of Appeal, Second District, Division Eight
Ronald Reagan State Building
300 So. Spring St. 2nd Floor
Los Angeles, CA 90013

Re: *Walker v Farmers Insurance Exchange*, No. B188427
Decided June 27, 2007

Dear Justices Cooper, Rubin, and Flier:

Pursuant to California Rule of Court 8.1120, the Chamber of Commerce of the United States of America ("the Chamber") respectfully requests that this Court publish its June 27, 2007, opinion in the above-referenced case. A copy of the opinion is attached.

The Chamber is the nation's largest federation of businesses and associations, with an underlying membership of more than 3,000,000 businesses and professional organizations of every size and in every sector of the country, including California. An important function of the Chamber is to review judicial opinions and file amicus briefs in cases involving issues of national concern to American businesses, such as the fair administration of punitive damages.

The Chamber submits that the Court's resolution of the punitive damages excessiveness issue in *Walker* satisfies the criteria for publication set forth in Rule 8.1105(c)(1) and (3) because it "applies an existing rule to a set of facts significantly different from those stated in published opinions" and "[i]nvolves a legal issue of continuing public interest."

Applying principles enunciated by the U.S. Supreme Court in *State Farm Mutual Automobile Insurance Co. v Campbell* (2003) 538 U.S. 408 and the California Supreme Court in *Simon v San Paolo U.S. Holding Co.* (2005) 35 Cal.4th 1159, this Court in *Walker* affirmed the trial court's reduction of a punitive damages award from \$8,338,255.73 to \$1.5 million, an amount that is slightly less than the amount of compensatory damages. The Court explained that a ratio of 1:1 is the constitutional maximum under *Campbell* and *Simon* given the substantial compensatory damages award (which was almost entirely for emotional distress), the significant award of attorneys' fees, and the fact that those awards contained "a punitive element." Slip op. 17. Moreover, the Court reasoned, "[t]he same result obtains if the case is approached from the perspective of the reprehensibility of Farmers' conduct[, because the] only reprehensibility factor * * * that is unquestionably present here is that respondents were financially vulnerable." *Id.*

Were the *Walker* opinion published, this Court's analysis and holding here could be of great significance to current and future litigation pending in the superior courts. As this Court is doubtlessly aware, California juries issue dozens of punitive damages awards each year. Like *Walker*, many of these cases involve substantial compensatory awards (including large awards for emotional distress), significant awards of attorneys' fees, and only one or two of the reprehensibility factors identified by the *Campbell* court (538 U.S. at 419).

It is the Chamber's belief—having reviewed scores of opinions applying the principles set forth in *Campbell* to punitive damages verdicts in California and elsewhere—that this Court's application of *Campbell* and *Simon* in *Walker* would provide much-needed guidance to the superior courts in future punitive damages litigation. That is especially true because there have been very few published Court of Appeal opinions on punitive damages since *Campbell*, and even fewer since the California Supreme Court's decisions in *Simon* and *Johnson v Ford Motor Co.* (2005) 35 Cal.4th 1191. And because there is particularly little published guidance on punitive damages for purely economic torts causing substantial compensatory damages, publication of *Walker* relatedly would "help[] to assure the uniform treatment of similarly situated persons that is the essence of law itself." *BMW of N. Am., Inc. v Gore* (1996) 517 U.S. 559, 587 (Breyer, J., concurring).

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Accordingly, pursuant to Rules 8.1110 and 8.1120, the Chamber asks this Court to publish the *Walker* opinion in full, or at least the portions of the opinion preceding the Discussion (the introductory material, the Facts, and the Procedural History) as well as Part 3 of the Discussion (addressing the amount of punitive damages). Alternatively, if the decision becomes final before a publication order can be issued, the Chamber requests that this Court recommend publication when forwarding this request to the Supreme Court under Rule 8.1120(b)(1).

Respectfully submitted,

A handwritten signature in black ink that reads "Robin S. Conrad". The signature is written in a cursive style with a large, prominent "R" and "C".

Robin S. Conrad

Enclosure.

cc: Counsel of Record for all parties