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6 *Attorneys for Defendants*

7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10

11 **MIKESHA MARTINEZ, by and through**  
**her husband and next friend Carlos**  
12 **Martinez, LYDIA DOMINGUEZ, ALEX**  
**BROWN, by and through his mother and**  
13 **next friend Lisa Brown, DONNA BROWN,**  
14 **CHLOE LIPTON, by and through her**  
**conservator and next friend Julie**  
**Weissman-Steinbaugh, HERBERT M.**  
15 **MEYER, LESLIE GORDON, CHARLENE**  
16 **AYERS, WILLIE BEATRICE SHEPPARD,**  
**and ANDY MARTINEZ, on behalf of**  
17 **themselves and a class of those similarly**  
**situated; SERVICE EMPLOYEES**  
18 **INTERNATIONAL UNION UNITED**  
**HEALTHCARE WORKERS WEST; et al,**

19 Plaintiffs,

20 v.

21 **ARNOLD SCHWARZENEGGER,**  
22 **Governor of the State of California; JOHN**  
23 **A. WAGNER, Director of the California**  
24 **Department of Social Services; DAVID**  
**MAXWELL-JOLLY, Director of the**  
25 **California Department of Health Care**  
**Services; JOHN CHIANG, California State**  
**Controller; et al,**

26 Defendants.  
27  
28

CV09-2306 (CW)

**STATE DEFENDANTS' OBJECTIONS TO  
EVIDENCE FILED BY PLAINTIFFS IN  
SUPPORT OF MOTION FOR  
PRELIMINARY INJUNCTION**

Date: June 25, 2009  
Time: 2:00 p.m.  
Dept: 2  
Judge: The Honorable Claudia Wilken  
Trial Date: N/A  
Action Filed: 5/26/2009

**INTRODUCTION**

1  
2 State defendants Arnold Schwarzenegger, Governor of the State of California, John A.  
3 Wagner, Director of the California Department of Social Services, David Maxwell-Jolly, Director  
4 of the California Department of Health Care Services, and John Chiang, California State  
5 Controller, object to the declarations and certain exhibits filed by plaintiffs in support of their  
6 motion for preliminary injunction. State defendants hereby reserve their right to make other  
7 objections in the future in addition to those set forth below. Without waiving any further  
8 objections they might assert in the future, State defendants make the following objections to the  
9 declarations and exhibits based on, among other grounds, Federal Rules of Evidence 402  
10 (irrelevance), 602 (lack of personal knowledge), 701 (improper lay opinion), 702 (improper  
11 expert testimony), 802 (hearsay), and 901 (lack of authentication).

**GENERAL OBJECTIONS TO PLAINTIFFS' DECLARATIONS AND EXHIBITS****I. DECLARATIONS BY IN-HOME SUPPORTIVE SERVICES (IHSS) CONSUMERS**

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13  
14 State defendants generally object to the declarations submitted by IHSS consumers in  
15 various counties on numerous grounds. Specific objections to the declarations submitted by  
16 individual IHSS consumers are set forth in the chart below.

17 Portions of the IHSS consumer declarations lack personal knowledge (Fed. R. Evid. 602),  
18 and are highly speculative, particularly with respect to statements regarding what might happen to  
19 them if proposed cuts in provider wages are implemented. The declarations also lack foundation  
20 and assume facts not in evidence. State defendants also object that portions of the consumer  
21 declarations are irrelevant (Fed. R. Evid. 402), and are based on hearsay. Fed. R. Evid. 802. Also,  
22 portions of the declarations contain improper lay opinion, because they set forth opinions or  
23 inferences which are not rationally based on the witnesses' perception. Fed. R. Evid. 701. In  
24 addition, the declarants who have volunteered to serve as class representatives if the case is  
25 treated as a class action improperly make the legal conclusion that the State's proposed wage cut  
26 will violate the rights of IHSS consumers.

1 **II. DECLARATIONS BY IHSS PROVIDERS**

2 State defendants generally object to the declarations submitted by IHSS providers in  
3 various counties on numerous grounds. Specific objections to the declarations submitted by  
4 individual IHSS providers are set forth in the chart below.

5 In general, the IHSS provider declarations are objectionable because they lack personal  
6 knowledge (Fed. R. Evid. 602), are irrelevant (Fed. R. Evid. 402), are based on hearsay (Fed. R.  
7 Evid. 802), lack foundation, and consist of improper lay opinions. Fed. R. Evid. 701. The  
8 declarations also are highly speculative, particularly with respect to providers' statements  
9 regarding what they might do if wages are decreased or what might happen to their clients.

10 **III. DECLARATIONS SUBMITTED BY SERVICE EMPLOYEES INTERNATIONAL UNION**  
11 **(SEIU) EMPLOYEES, EXECUTIVES, AND OFFICIALS**

12 State defendants also generally object to the declarations submitted by SEIU employees,  
13 executives and officials. Specific objections to these declarations are set forth in the chart below.

14 Generally, the declarations lack personal knowledge (Fed. R. Evid. 602), lack foundation,  
15 consist of hearsay (Fed. R. Evid. 802) and improper lay opinion (Fed. R. Evid. 701), and are  
16 conclusory. Some of the declarations also are irrelevant. For example, the bulk of the declaration  
17 of Dionne Jimenez focuses on the alleged additional costs to the State if more IHSS consumers  
18 are placed in nursing homes, and, therefore, is irrelevant. Fed. R. Evid. 402. In addition, portions  
19 of the declarations of Carol Golubock and Dionne Jimenez lack authentication. Fed. R. Evid. 901.

20 **IV. DECLARATIONS BY PLAINTIFFS' "EXPERTS"**

21 State defendants generally object to the declarations by plaintiffs' experts. Specifically,  
22 State defendants have retained an expert, Timothy T. Brown, Ph.D, to review and comment upon  
23 the declaration of plaintiffs' expert Candace Howes, and Dr. Brown has submitted a declaration  
24 in support of State defendants' opposition to plaintiffs' motion for preliminary injunction, setting  
25 forth his conclusions. With respect to the other "expert" declarations plaintiffs submitted, based  
26 on the limited information that State defendants have at this point regarding these other "experts"  
27 and the extremely limited time they have had to review the declarations, State defendants reserve  
28

1 their right to further object based on Federal Rule of Evidence 702 and *Daubert v. Merrell Dow*  
2 *Pharmaceuticals, Inc.*, 509 U.S. 579, in subsequent stages of the litigation.

3 **A. Declaration of Candace Howes**

4 State defendants generally object to the Declaration of Candace Howes on the ground that  
5 the statements and opinions in Dr. Howes' declaration and exhibits do not meet the standards of  
6 Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579,  
7 589-593 (1993). The plaintiffs retained Candace Howes, Ph D., as an expert witness. Dr. Howes  
8 purportedly analyzed the effect of proposed cuts to the State of California's maximum IHSS  
9 compensation match on average wages paid to IHSS providers, the turnover of IHSS providers,  
10 and the implication for IHSS consumers. Howes Declaration, ¶ 3.

11 Federal Rule of Evidence 702 sets forth the requirements for expert testimony to be  
12 admissible, including that the testimony be both relevant and reliable. Rule 702 was amended in  
13 2000 in response to *Daubert*, 509 U.S. at 589-593, in which the Supreme Court ruled that trial  
14 judges must act as gatekeepers to exclude unreliable and irrelevant expert scientific testimony,  
15 and cases interpreting *Daubert*, such as *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 147-149  
16 (1999), which held that the *Daubert* rule applies to all expert testimony, not merely testimony  
17 based in science. *United States v. Dukagjini*, 326 F.3d 45, 52, n.2 (2nd Cir. 2003). State  
18 defendants' expert, Timothy T. Brown, Ph.D., reviewed Dr. Howes' declaration, as to the  
19 probable effects a proposed funding change would have on the average wages paid to IHSS  
20 providers, the turnover of IHSS providers in an environment where unemployment rates are  
21 relatively high, the implications of IHSS consumers, and the cost to the state of higher nursing  
22 home admissions. Declaration of Timothy T. Brown, Ph.D., ¶ 4. Dr. Brown has submitted a  
23 declaration, filed concurrently herewith, explaining that Dr. Howes' declaration is filled with  
24 methodological errors, and therefore the conclusions drawn from her analysis are invalid and  
25 unreliable. Declaration of Timothy T. Brown, Ph.D., ¶¶ 5, 7. Accordingly, Dr. Howes'  
26 declaration is not admissible. Fed. R. Evid. 702; *Daubert*, 509 U.S. at 589-593.

27 State defendants also object on the grounds of relevance to the portions of Dr. Howe's  
28 declaration that argue that costs to the state will increase because more consumers will be

1 admitted into skilled nursing facilities. Fed. R. Evid. 402. Portions of the declaration are also  
2 speculative, lack foundation, and assume facts not in evidence.

### 3 **B. Declarations of Other “Experts”**

4 State defendants generally object to the declarations submitted by David Altman, Mitchell  
5 LaPlante and John F. Schnelle on the grounds that they set forth improper expert testimony (Fed.  
6 R. Evid. 702), are speculative, lack foundation, lack personal knowledge, and are conclusory.

### 7 **V. DECLARATIONS OF ALTSHULER BERZON LLP LEGAL ASSISTANTS**

8 Finally, State defendants object to the declarations submitted by legal assistants Hyun Nam  
9 and Juszina Traum on the ground that they are based on hearsay statements made by individuals  
10 at various counties and home care agencies, respectively. (Fed. R. Evid. 802). In addition,  
11 portions of the Traum declaration lack foundation, are irrelevant (Fed. R. Evid. 402), and are  
12 vague.

### 13 **SPECIFIC OBJECTIONS TO DECLARATIONS AND EXHIBITS**

14 State defendants incorporate by reference the above general objections and further  
15 objections as follows:

17 <b>DECLARATION SUBMITTED BY PLAINTIFFS</b>	18 <b>PARAGRAPH &amp; LINE NUMBER</b>	19 <b> GROUNDS FOR OBJECTION</b>
20 IHSS CONSUMER DECLARATIONS		
21 Charlene Ayers	¶¶ 8-9	Speculative
22 Donna Brown	¶ 6	Hearsay (Fed. R. Evid. 802)
	¶ 7	Speculative
	¶ 8 (p. 1), lines 24-26, (p. 2), lines 1-2	Speculative; lacks foundation; assumes facts not in evidence
	¶ 9, lines 10-11	Lacks foundation; lacks personal knowledge (Fed. R. Evid. 602); speculative, improper lay opinion (Fed. R. Evid. 701); irrelevant (Fed. R. Evid. 402)
25 Lisa Brown	¶¶ 11-12	Speculative
	¶ 13	Lacks foundation; assumes facts not in evidence; lacks personal knowledge (Fed. R. Evid. 602) ; speculative
	¶ 1, lines 26-27	Improper legal conclusion;

1			improper lay opinion (Fed. R. Evid. 701)
2	Lydia Dominquez	¶ 6	Speculative.
3		¶ 7	Speculative; lacks personal knowledge (Fed. R. Evid. 602); lacks foundation; assumes facts not in evidence
4			
5	Leslie Gordon	¶ 5; ¶ 6, line 17-18; ¶ 7, lines 21-22	Speculative
6		¶ 6, lines 18-20	Lacks personal knowledge (Fed. R. Evid. 602); lacks foundation; assumes facts not in evidence
7			
8		¶ 8 (p. 2), lines 1-2	Improper legal conclusion; improper lay opinion (Fed. R. Evid. 701)
9	Jeffrey Lee	¶ 6, line 15	Lacks personal knowledge (Fed. R. Evid. 602); assumes facts not in evidence
10		¶ 6, lines 15-16	Speculative
11	Andy Martinez	¶ 5, lines 10-11	Speculative; improper lay opinion (Fed. R. Evid. 701)
12		¶ 6, lines 14-15	Speculative
13		¶ 7, lines 19-20	Lacks personal knowledge (Fed. R. Evid. 602); assumes facts not in evidence; lacks foundation; speculative
14			
15	Carlos Martinez (on behalf of wife Mikesha Martinez)	¶ 6	Hearsay (Fed. R. Evid. 802)
16		¶¶ 7-8	Speculative
17		¶ 9, lines 26-27	Improper legal conclusion; improper lay opinion (Fed. R. Evid. 701)
18	Herbert Meyer	¶ 8, lines 13-15	Speculative
19		¶ 8, lines 15-17	Improper legal conclusion; improper lay opinion (Fed. R. Evid. 701); lacks foundation; lacks personal knowledge (Fed. R. Evid. 602)
20			
21		¶ 9, lines 18-19, 22-24	Speculative; lacks foundation; lacks personal knowledge (Fed. R. Evid. 602); assumes facts not in evidence.
22			
23		¶ 10 (page 2), line 28, (p. 3), line 4, lines 6-10	Irrelevant (Fed. R. Evid. 402); lacks foundation; lacks personal knowledge (Fed. R. Evid. 602); assumes facts not in evidence; improper lay opinion (Fed. R. Evid. 701); speculative.
24			
25			
26		¶ 11, lines 15-16	Improper legal conclusion; improper lay opinion (Fed. R. Evid. 701)
27			
28	Willie Beatrice Sheppard	¶ 5, lines 13-14; ¶6, lines 15-	Speculative

1		16; ¶ 8	
2		¶ 11, lines 6-7	Improper legal conclusion; improper lay opinion (Fed. R. Evid. 701)
3	Pamela Tiedt	¶ 5	Speculative; lack of personal knowledge (Fed. R. Evid. 602)
4		¶ 6, lines 17-18; ¶ 8	Speculative
5	Julie Weissman-Steinbaugh	¶ 6, lines 18-19; ¶ 7	Speculative
6		¶ 8	Speculative; lacks personal knowledge (Fed. R. Evid. 602); lacks foundation; improper lay opinion (Fed. R. Evid. 701)
7			
8		¶ 9, lines 7-8	Improper legal conclusion; improper lay opinion (Fed. R. Evid. 701)
9	IHSS PROVIDER DECLARATIONS		
10	Teresa Armas	¶ 6, lines 17-19, 20-21	Speculative; lacks personal knowledge (Fed. R. Evid. 602); lacks foundation
11		¶ 7	Speculative
12	Willie Billops	¶ 4; ¶ 5, lines 20-21; ¶ 6, line 26	Speculative
13		¶ 5, lines 21-22	Irrelevant (Fed. R. Evid. 402)
14		¶ 7, lines 27-28	Speculative; lacks personal knowledge (Fed. R. Evid. 602)
15		¶ 7, lines 1-3	Lacks personal knowledge (Fed. R. Evid. 602); hearsay (Fed. R. Evid. 802)
16	Brenda Blannon	¶ 5, lines 17-19	Speculative
17		¶ 5, lines 19-21	Irrelevant (Fed. R. Evid. 402); lacks personal knowledge (Fed. R. Evid. 602); lacks foundation; assumes facts not in evidence; improper lay opinion (Fed. R. Evid. 701); speculative
18			
19			
20	Brittany Calhoun	¶ 6 (p. 1), lines 24-25, (p. 2), lines 1-3; ¶ 7, lines 4-5	Speculative
21		¶ 8	Speculative; lacks personal knowledge (Fed. R. Evid. 602); hearsay (Fed. R. Evid. 802)
22			
23		¶ 9, lines 22-23	Speculative
24	Ebe Cerqua	¶ 5, lines 16-22	Speculative
24	Hui Cheun Chen	¶ 6, lines 14-15, 17-18	Speculative
25	Penny Durham	p. 2, ¶ 5, "IHSS makes this care possible by enabling him to remain at home – an incalculably superior alternative to residential care, both in terms of cost-effectiveness and patient's quality of life."	Lacks personal knowledge (Fed. R. Evid. 602); lacks foundation; improper lay opinion (Fed. R. Evid. 701); assumes facts not in evidence; speculative
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1		p. 3, ¶ 5, “Furthermore, IHSS care provides a preventative medical function as well as care for existing conditions, which is similarly cost-saving.”	Irrelevant (Fed. R. Evid. 402); Lacks personal knowledge (Fed. R. Evid. 602); lacks foundation; improper lay opinion (Fed. R. Evid. 701); assumes facts not in evidence
2		p. 3, ¶ 6, “I do not know how I would manage in the face of this proposed IHSS wage reduction which would leave me with a net wage of about \$150 per week.”	Speculative
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5			
6			
7	Maria Luisa Figueroa	¶ 4	Speculative
8		¶ 5	Speculative; improper lay opinion (Fed. R. Evid. 701); lacks personal knowledge (Fed. R. Evid. 602); assumes facts not in evidence
9			
10		¶ 6	Speculative; improper lay opinion (Fed. R. Evid. 701); lacks personal knowledge (Fed. R. Evid. 602); assumes facts not in evidence; hearsay (Fed. R. Evid. 802)
11			
12			
13	Sara Hamry	¶ 8	Speculative; lacks personal knowledge (Fed. R. Evid. 602); hearsay (Fed. R. Evid. 802)
14			
15	Ana Huamani	¶ 3, line 11; ¶ 5, line 18	Speculative; improper lay opinion (Fed. R. Evid. 701); lacks personal knowledge (Fed. R. Evid. 602); lacks foundation
16			
17			
18		¶ 6, lines 21-22	Speculative
19		¶ 7	Speculative; lacks personal knowledge (Fed. R. Evid. 602); lacks foundation; assumes facts not in evidence; hearsay (Fed. R. Evid. 802); improper lay opinion (Fed. R. Evid. 701)
20			
21			
22		¶ 8	Speculative; lacks personal knowledge (Fed. R. Evid. 602); hearsay (Fed. R. Evid. 802)
23			
24	Natalie Hunter	¶ 5	Speculative
25		¶ 7	Speculative; lacks personal knowledge (Fed. R. Evid. 602); lacks foundation; assumes facts not in evidence; hearsay (Fed. R. Evid. 802); improper lay opinion (Fed. R. Evid. 701)
26			
27			
28	Pui Lam	¶ 6 (p. 1), lines 21-26, (p. 2),	Speculative; assumes facts not



1		lines 1, 5-6	in evidence; lacks foundation
2	Susan L'Amie	¶ 4, lines 11-12	Speculative
3		¶ 4, lines 16-17	Lacks personal knowledge (Fed. R. Evid. 602); improper lay opinion (Fed. R. Evid. 701); lacks foundation
4	Young Eun Lee	¶ 6	Speculative; lacks personal knowledge (Fed. R. Evid. 602); improper lay opinion (Fed. R. Evid. 701)
5		¶ 7	Speculative; lacks personal knowledge (Fed. R. Evid. 602); improper lay opinion (Fed. R. Evid. 701); lacks foundation
6	Emily Madanat	¶ 5	Speculative
7	Shawna Marzette	¶ 6	Lacks personal knowledge (Fed. R. Evid. 602); hearsay (Fed. R. Evid. 802); lacks foundation; assumes facts not in evidence; improper lay opinion (Fed. R. Evid. 701)
8		¶ 9	Speculative
9		¶ 11	Speculative; lacks personal knowledge (Fed. R. Evid. 602); improper lay opinion (Fed. R. Evid. 701); hearsay (Fed. R. Evid. 802); lacks foundation; assumes facts not in evidence
10	Jackie Peppers	¶ 6	Speculative; lacks personal knowledge (Fed. R. Evid. 602); improper lay opinion (Fed. R. Evid. 701); lacks foundation; assumes facts not in evidence
11		¶ 7	Speculative; lacks personal knowledge (Fed. R. Evid. 602); lacks foundation
12	Virginia Rae	¶ 5	Speculative; conclusory
13	Arminda Sanchez	¶ 5, lines 17-18	Speculative
14	Christine Schwartz	¶ 4, lines 10-13, 16-17	Speculative; lacks personal knowledge (Fed. R. Evid. 602); lacks foundation; assumes facts not in evidence; improper lay opinion (Fed. R. Evid. 701)
15		¶ 4, line 17	Irrelevant (Fed. R. Evid. 402); speculative; lacks personal knowledge (Fed. R. Evid. 602); improper lay opinion (Fed. R. Evid. 701)
16	Sadie Wilson	¶ 5, lines 22-23, 26-27	Speculative
17		¶ 6	Speculative; irrelevant (Fed.

1			R. Evid. 402); hearsay (Fed. R. Evid. 802); lacks foundation
2		¶ 7	Speculative; improper lay opinion (Fed. R. Evid. 701)
3		¶ 8	Speculative; lacks personal knowledge (Fed. R. Evid. 602); improper lay opinion (Fed. R. Evid. 701)
4			
5		¶ 9, lines 18-19	Speculative; lacks personal knowledge (Fed. R. Evid. 602); improper lay opinion (Fed. R. Evid. 701)
6			
7	Diana Robinson	¶ 5	Speculative
8	Socorro Romero	¶ 4, lines 13-15	Speculative
9		¶ 4, lines 16-17	Speculative; irrelevant (Fed. R. Evid. 402)
10	SEIU DECLARATIONS		
11	Carol Golubock	¶ 2, Exh. A; ¶ 3, Exh. B	Lacks authentication (failed to attach copy of referenced April 23, 2009 electronic mail message from Toby Douglas at California Department of Health Care services (CDHCS)) (Fed. R. Evid. 901; fails to include copy of referenced electronic mail message (Fed R. Evid. 1002, 1003)
12			
13			
14			
15		¶ 4, Exh. C	Lacks authentication (failed to attach copy of referenced April 29, 2009 electronic mail message from Toby Douglas at CDHCS”) (Fed. R. Evid. 901; fails to include copy of referenced electronic mail message (Fed R. Evid. 1002, 1003); fails to identify who drafted “reply analysis” by CDHS (Exh. C); fails to include any document submitted by SEIU to which Exh. C apparently responds
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23		¶ 5, Exh. D	Lacks authentication (failed to attach copy of referenced May 5, 2009 electronic mail message from Rima Cohen , Counselor to secretary for Health Policy at the United States Department of Health and Human Services ( HHS)) (Fed. R. Evid. 901); quotes from, but fails to include copy of referenced electronic mail
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1			message (Fed R. Evid. 1002, 1003); hearsay (Fed. R. Evid. 802)
2	Dionne Jimenez	¶¶ 1-10	Irrelevant (Fed. R. Evid. 402)
3		¶ 5, Exhs. A1-A2; ¶ 6, Exh. B;	Lacks authentication (Fed. R.
4		¶ 7, Exh. C; ¶ 9, Exhs. D1-D2;	Evid. 901; lacks personal
5		¶ 10, Exhs. E1-E3	knowledge (Fed. R. Evid. 602); improper lay opinion (Fed. R. Evid. 701).
6		¶¶ 12-14	Lacks personal knowledge (Fed. R. Evid. 602); speculative; lacks foundation; assumes facts not in evidence
7		¶ 15	Lacks personal knowledge (Fed. R. Evid. 602); speculative; conclusory; lacks foundation; assumes facts not in evidence; improper lay opinion (Fed. R. Evid. 701)
8			
9			
10			
11	Susannah McDevitt	¶¶ 3, 4	Lacks personal knowledge (Fed. R. Evid. 602); hearsay (Fed. R. Evid. 802)
12		¶ 5	Lacks foundation; hearsay (Fed. R. Evid. 802)
13		¶ 6	Speculative; lacks personal knowledge (Fed. R. Evid. 602); lacks foundation; improper lay opinion (Fed. R. Evid. 701)
14			
15			
16	Tamara Raspberry	¶¶ 5- 6	Irrelevant (Fed. R. Evid. 402)
17	EXPERT DECLARATIONS		
18	Debra Roth	¶¶ 2, 3	Hearsay (Fed. R. Evid. 802)
19		¶¶ 4-6	Hearsay (Fed. R. Evid. 802); lacks personal knowledge (Fed. R. Evid. 602)
20	Candace Howes	¶¶ 3-79	Improper expert testimony (Fed. R. Evid. 702/ <i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i> , 509 U.S. 579 (1993)) ( <i>see</i> Declaration of Timothy T. Brown, Ph.D, in Support of Opposition to Motion for Preliminary Injunction); speculative; lacks foundation; assumes facts not in evidence
21			
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23			
24		¶¶ 7(c); 8(d); 10; 70-79	Irrelevant (Fed. R. Evid. 402); speculative
25	David Altman	¶¶ 3-8	Improper expert testimony (Fed. R. Evid. 702/ <i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i> , 509 U.S. 579 (1993)); speculative; lacks foundation; lacks personal knowledge (Fed. R. Evid. 602);
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27			
28			

1		conclusory, vague
2	Mitchell LaPlante	¶ 6, lines 21-27 ¶ 7 Irrelevant (Fed. R. Evid. 402) Speculative; lacks foundation; conclusory; improper expert testimony (Fed. R. Evid. 702/ <i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i> , 509 U.S. 579 (1993))
3		
4		
5		¶ 8 Improper expert testimony (Fed. R. Evid. 702/ <i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i> , 509 U.S. 579 (1993)); irrelevant (Fed. R. Evid. 402); conclusory; speculative; lacks foundation
6		
7		
8		
9	John F. Schnelle	¶¶ 5-6 Improper expert testimony (Fed. R. Evid. 702/ <i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i> , 509 U.S. 579 (1993)); irrelevant (Fed. R. Evid. 402); lacks personal knowledge (Fed. R. Evid. 602); conclusory; speculative; hearsay (Fed. R. Evid. 802)
10		
11		
12		
13	DECLARATIONS BY LEGAL ASSISTANTS	
14	Hyun Nam	¶¶ 2-11 Hearsay (Fed. R. Evid. 802)
15	Jusztina Traum	¶¶ 2-9 Hearsay (Fed. R. Evid. 802); lacks foundation; irrelevant (Fed. R. Evid. 402); vague
16		

### CONCLUSION

For the foregoing reasons, State defendants object to the admissibility of certain portions of the declarations and evidence submitted by plaintiffs, and respectfully request that the above-referenced excerpts of the declarations be stricken.

Dated: June 15, 2009

Respectfully Submitted,

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*Attorneys for Defendants*