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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

TODD AND KIMBERLEY FERRIER, et al., Plaintiffs, v. STATE FARM FIRE AND CASUALTY COMPANY, et al., Defendants.	Case No. 25STCV12117 [Related Case No. 25STCV11838] **UNITED STATES' STATEMENT OF INTEREST** Judge: Hon. Samantha P. Jessner Department: 7 Complaint Filed: April 23, 2025

NOTICE OF STATEMENT OF INTEREST OF THE UNITED STATES

STATEMENT OF INTEREST OF THE UNITED STATES

The United States gives notice of and submits this Statement of Interest under the authority of 28 U.S.C. § 517, which permits the Attorney General to direct any officer of the Department of Justice to attend to the interests of the United States in any case pending in a federal or state court. The United States has an interest in safeguarding free-market competition, especially in markets that directly affect the pocketbooks of American families, such as homeownership.

Although the First Amended Complaint alleges only state competition-law claims, the United States has a strong interest because the alleged conduct presents a serious concern under the federal antitrust laws. Here, Plaintiffs' First Amended Complaint alleges that horizontal competitors agreed to refuse to issue or renew fire insurance policies to force homeowners into the FAIR plan, where prices are higher and coverage is more limited, in violation of the Cartwright Act and California Unfair Competition Law. This group boycott allegedly caused hundreds of millions of dollars of anticompetitive harm to homeowners in Southern California. Absent an exemption, a group boycott of the type alleged in this case could violate both state and federal antitrust laws. *See FTC v. Superior Ct. Trial Laws. Ass'n*, 493 U.S. 411, 436 & n.19 (1990) (holding that a group boycott with the intent to fix prices is *per se* illegal); *Sandy River Nursing Care v. Aetna Cas.*, 985 F.2d 1138, 1143 (1st Cir. 1993) (insurer group boycott of policyholders "plainly constituted a *per se* violation of the Sherman Act").

In particular, although federal antitrust law contains a limited antitrust exemption created by the McCarran-Ferguson Act ("MFA") for certain agreements in the insurance industry, as alleged in Plaintiffs' First Amended Complaint, Defendants' group boycott for homeowners insurance appears to be of the type that would not qualify for MFA protection. The MFA establishes an antitrust exemption for the "business of insurance," doing so only "to the extent" a practice is "regulated by State law." 15 U.S.C. § 1012(b). Thus, the MFA preserves state authority to regulate in the field of insurance, while ensuring that either state regulation or federal antitrust law safeguards the interests of policyholders. The

MFA's antitrust exemption applies only when the challenged conduct (1) is part of the "business of insurance"; (2) is "regulated by State law"; and (3) does not involve a "boycott, coercion, or intimidation," 15 U.S.C. §§ 1012(b), 1013, and the exemption must be "construed narrowly," *Union Lab. Life Ins. Co. v. Pireno*, 458 U.S. 119, 126 (1982).

The MFA excludes boycotts from its exception to antitrust scrutiny. *St. Paul Fire & Marine Ins. Co. v. Barry*, 438 U.S. 531, 546–47 (1978). "The generic concept of boycott refers to a method of pressuring a party with whom one has a dispute by withholding, or enlisting others to withhold, patronage or services from the target." *Id*. at 541. A boycott occurs where, in order to coerce a target into certain terms on one transaction, parties "refuse[] to engage in other, unrelated transactions" with the target. *Hartford Fire Ins. Co. v. California*, 509 U.S. 764, 802–03 (1993). The boycott exception to the MFA is an "important safeguard against the danger that insurance companies might take advantage of purely permissive state legislation to establish monopolies and enter into restrictive agreements falling outside the realm of state-supervised cooperative action." *St. Paul Fire*, 438 U.S. at 547.

The alleged boycott here should fall within the boycott exception—and thus outside the MFA. Defendants allegedly informed several plaintiffs that they could not obtain non-fire perils insurance—and that they would pay higher premiums for all other insurance products (*e.g.*, life and auto insurance)—unless they purchased a policy through the FAIR Plan. First Amended Complaint ("FAC") ¶ 526. Thus, Defendants engaged in a boycott by using "unrelated transactions"—*i.e.*, the purchase of insurance other than fire insurance—"as leverage to achieve the terms desired" for fire insurance. *Hartford Fire*, 509 U.S. at 803. Further, Defendants agreed not to issue policies to homeowners who had been dropped by another insurer. FAC ¶ 500. The Supreme Court has deemed this type of conduct—an insurer "induc[ing] its competitors to refuse to deal on any terms with its customers"—a boycott. *St. Paul Fire*, 438 U.S. at 544.

The United States has a further interest in ensuring the proper application of federal antitrust

laws and in ensuring that exemptions from those laws are interpreted narrowly. While this case is brought under California law, the California Supreme Court looks to the federal antitrust laws and the cases construing them when interpreting the Cartwright Act. *Blank v. Kirwan*, 39 Cal. 3d 311, 320 (1985). Of particular relevance here, California courts apply what is commonly known as the *Noerr-Pennington* doctrine to the Cartwright Act in a manner functionally identical to the doctrine's application under federal antitrust laws. *Id.* This doctrine provides a narrow exemption from the antitrust laws for government petitions. *Id.* at 321. The United States has filed briefs addressing the appropriately limited scope of the *Noerr-Pennington* doctrine. *See, e.g.*, *Realtek Semiconductor Corp., v. Mediatek, Inc.*, No. 23-cv-02774 (N.D. Cal. Oct. 4, 2024), ECF No. 176; *Lincoln Mem'l Univ. v. Am. Veterinary Med. Ass'n*, No. 25-cv-282 (E.D. Tenn. Dec. 15, 2025), ECF No. 45; *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, No. 18-1367 (Fed. Cir. May 11, 2018), ECF No. 41; *United States v. LSL Biotechnologies, Inc.*, No. 02-16472 (9th Cir. Nov. 21, 2002) (Reply Brief of the United States).

More generally, the Antitrust Division has long advocated that "antitrust immunities should be limited and construed narrowly, both as a matter of U.S. legal doctrine and as a matter of antitrust policy." Remarks of Deputy Assistant Attorney General Dina Kallay at the 2025 Chatham House Competition Policy Conference on Competition in the Airline Industry (Nov. 20, 2025), *available at* https://www.justice.gov/opa/speech/deputy-assistant-attorney-general-dina-kallay-delivers-virtual-remarks-2025-chatham. "Because U.S. antitrust laws embody the fundamental national policy in favor of competition, the strong presumption is that the antitrust laws apply across the board." *Id.*

This Statement focuses on the inapplicability of the *Noerr-Pennington* doctrine to the alleged group boycott. The United States takes no position on the ultimate merits of this case or on the accuracy of Plaintiffs' allegations.

STATEMENT OF FACTS

Plaintiffs comprise 60 households in the Pacific Palisades, Malibu, and Altadena who lost their homes in the devastating January 2025 wildfires.[1] FAC ¶¶ 16–428; *see also* Pls.' Resp. in Opp'n to Demurrer at 8. Defendants comprise 49 entities that are part of 16 insurance groups. FAC ¶¶ 429–454; *see also* Resp. in Opp'n to Demurrer at 8. Plaintiffs filed their Complaint on April 22, 2025, and filed their First Amended Complaint on August 19, 2025.

Plaintiffs allege that Defendants entered into a group boycott starting around 2022, refusing to issue or renew fire insurance policies to certain homeowners in segments of Southern California. FAC ¶¶ 7–8, 499–500. This group boycott was designed to force these homeowners into the FAIR Plan. FAC ¶¶ 498–500. The FAIR Plan covers only a narrow set of perils such as fire and imposes a maximum $3 million coverage limit per policy. FAC ¶ 6. Policies issued under the FAIR Plan are typically sold at higher premiums on a per unit cost of coverage than more comprehensive policies issued on the open market. FAC ¶ 6. The FAIR Plan comprises all insurers licensed to conduct property and/or casualty business in California and is organized and administered by the FAIR Plan Association. FAC ¶ 461–469. Defendants sought to benefit by substantially reducing liability while retaining profits from other bundled insurance products purchased by the same customers and illicitly reaping a higher price per unit of coverage of the affected homeowners' policies. FAC ¶¶ 9, 529–41. Defendants coordinated their group boycott through regular meetings, industry events, and public announcements, while also dropping fire policies and abstaining from poaching dropped policies. FAC ¶¶ 515–21.

Defendants filed their notice for a demurrer on November 11, 2025, which includes an argument that Plaintiffs' claims are foreclosed by the *Noerr-Pennington* doctrine because Defendants' alleged

[1] This Statement of Interest, as consistent with the current procedural posture, "accept[s] all factual allegations in the complaint as true and construe[s] the pleadings in the light most favorable to the nonmoving party." *Rowe v. Educ. Credit Mgmt. Corp.*, 559 F.3d 1028, 1029–30 (9th Cir. 2009) (internal quotation marks and citation omitted).

actions were taken with the goal of convincing state regulators to allow rate increases. Defs.' Joint Notice of Demurrer, at 28–30. The demurrer was argued before the Court on April 9, 2026.

DISCUSSION

Defendants are incorrect in claiming that the group boycott alleged in the Complaint is protected under the *Noerr-Pennington* doctrine. *See* Def's Joint Notice of Demurrer at 28–30. The doctrine, derived from two 1960s U.S. Supreme Court cases, protects from antitrust liability legitimate direct petitioning of governmental officials for state action, as well as some conduct "incidental" to the petitioning. *See E. R.R. Presidents Conference v. Noerr Motor Freight, Inc*., 365 U.S. 127 (1961); *United Mine Workers v. Pennington*, 381 U.S. 657 (1965); *Allied Tube & Conduit Corp. v. Indian Head, Inc.*, 486 U.S. 492, 503 (1988). However, because "antitrust law is a central safeguard for the Nation's free market structures" that ensures "the preservation of economic freedom and our free-enterprise system," *N. Carolina State Bd. of Dental Examiners v. FTC*, 574 U.S. 494, 502 (2015), "exemptions from the antitrust laws must be construed narrowly," *Union Labor Life Ins. Co. v. Pireno*, 458 U.S. 119, 126 (1982).

In their notice of demurrer, Defendants make arguments that would improperly expand the *Noerr-Pennington* exemption beyond the limited bounds of the doctrine recognized by courts. They claim the exemption applies because the alleged conspiracy "was driven by one overarching goal: to pressure the [California Insurance] Commissioner to allow rate increases." Def's Joint Notice of Demurrer at 29. But *Noerr-Pennington* protection does not extend to "every concerted effort that is genuinely intended to influence governmental action." *FTC v. Superior Ct. Trial Laws. Ass'n,* 493 U.S. 411, 425 (1990) (quoting *Allied Tube & Conduit Corp*., 486 U.S. at 503). "If all such conduct were immunized . . . competitors would be free to enter into horizontal price agreements as long as they wished to propose that price as an appropriate level for governmental ratemaking or price supports." *Allied Tube & Conduit Corp.*, 486 U.S. at 503. Further, "[h]orizontal conspiracies or boycotts designed

to exact higher prices or other economic advantages from the government would be immunized on the ground that they are genuinely intended to influence the government to agree to the conspirators' terms. Firms could claim immunity for boycotts or horizontal output restrictions on the ground that they are intended to dramatize the plight of their industry and spur legislative action." *Id.* (internal citation omitted).

This last type of boycott is exactly what is alleged here. Plaintiffs claim that Defendants engaged in a boycott that was intended to spur action from California regulatory authorities to allow higher rates. *See* FAC ¶ 535. But Plaintiffs' alleged harms flow directly from *this alleged boycott itself*, not any past or future government action allegedly sought by Defendants. *See* FAC ¶¶ 560–67. Thus, under relevant U.S. Supreme Court precedent, the alleged boycott therefore is not protected by the *Noerr-Pennington* doctrine.

FTC v. Superior Court Trial Lawyers Association, 493 U.S. 411 (1990), is directly on point. In that case, a group of lawyers who served as court-appointed counsel for indigent defendants agreed to stop providing such representation until their compensation was increased by the government of the District of Columbia. *Id.* at 414–18. The U.S. Supreme Court unanimously rejected arguments that the *Noerr-Pennington* doctrine might exempt the conduct. While the Court acknowledged that antitrust liability cannot "be predicated upon mere attempts to influence the passage or enforcement of laws," it held that the boycott constituted a "plain violation of the antitrust laws," as it was a "horizontal arrangement" among competitors that "was unquestionably a naked restraint on price and output," *id.* at 423–24, 428 (internal quotation marks omitted), even though one aim of the boycott was to secure government action. The Court distinguished the situation from the *Noerr* case, in which the alleged restraint of trade (railroads campaigning for governmental action that would handicap competitors in the trucking industry) "was the intended *consequence* of public action." *Id.* at 424–25 (emphasis in original). In contrast, the lawyers' "boycott was the *means* by which the [boycotting lawyers] sought to

obtain favorable legislation." *Id*. at 425 (emphasis in original). As the Court crucially pointed out, "[t]he restraint of trade that was implemented while the boycott lasted would have had precisely the same anticompetitive consequences during that period even if no legislation had been enacted." *Id.* Accordingly, the lawyers' boycott was not shielded from antitrust liability by the *Noerr-Pennington* doctrine. *Id.* So too here, where the alleged Defendants' boycott was the *means* of obtaining public action rather than the *consequence* of public action. Further, the Defendants' boycott would have had—and allegedly did have—anticompetitive consequences in the absence of legislative or regulatory changes. The boycott was also not, standing alone, a "mere attempt" to influence government action, such as a lobbying or public relations campaign.

Sandy River Nursing Care v. Aetna Casualty, 985 F.2d 1138 (1st Cir. 1993), is also instructive. In that case, as in this case, plaintiffs alleged that insurance companies engaged in a group boycott of policyholders in order to pressure the state legislature and insurance regulators to allow rate increases. *Id.* at 1139–41. Unlike in this case, the plaintiffs sought damages not for direct effects of the boycott itself, but for the higher rates that state regulators allowed after the boycott. *Id.* at 1141. The First Circuit found that plaintiffs were barred from recovering those damages under a separate antitrust exemption not at issue in this case. *Id.* at 1148. But it was careful to distinguish the subsequent government actions from the boycott itself, which the court found, after applying the *Superior Court Trial Lawyers* framework, "constituted a classic restraint of trade within the meaning of Section 1 of the Sherman Act." *Id.* at 1143 (internal quotation marks omitted). Had the plaintiffs, the court continued, "sought injunctive relief during the boycott period, or had they sought damages based on the boycott's direct market effects (such as reduced availability of insurance or higher prices resulting from reduced competition during the boycott period), they would have had a viable antitrust claim." *Id.* So too in this case, where Plaintiffs are seeking such damages.

Defendants rely on the California Supreme Court's decision in *Blank v. Kirwan*, 39 Cal.3d 311

(1985). Def's Joint Notice of Demurrer at 28. But *Blank* is not to the contrary. Unlike in this case (and *Superior Court Trial Lawyers* and *Sandy River Nursing Care*), the alleged conduct in *Blank* consisted solely of lobbying for and obtaining government actions that benefited one business to the disadvantage of another business. *Id*. at 318–19. As the California Supreme Court noted, the complaint in *Blank* asserted "nothing more than that [defendants] sought to obtain a monopoly from [the government]. This is precisely the type of conduct that *Noerr-Pennington* protects." *Id.* at 322 (internal quotation marks omitted). Further, the Court noted that "government action, again according to the very allegations of the pleading, [was] the legal cause of whatever injury plaintiff may have suffered." *Id.*

In the present case, by contrast, Plaintiffs allege that the group boycott, rather than any government action, was the factual and legal cause of their claimed injuries. Further, the alleged group boycott was separate from—and caused separate harm than—any advocacy or petitioning directed at the state government. That some of the conduct alleged in the First Amended Complaint might be considered petitioning does not exempt other alleged conduct, including allegations that Defendants: 1) ceased any renewals of existing policies and refused to issue new policies; 2) abstained from competing for policyholders dropped by other insurers; and 3) coordinated their group boycott through regular meetings, industry events, and public announcements. *See* FAC ¶¶ 494–521. These actions are non-petitioning conduct on which Plaintiffs may sustain an allegation of an illegal group boycott. *See City of Columbia v. Omni Outdoor Advert., Inc.*, 499 U.S. 365, 384 (1991) (under the *Noerr-Pennington* doctrine, an antitrust claim may proceed if non-petitioning conduct is sufficient to establish anticompetitive conduct); *see also Clipper Exxpress v. Rocky Mountain Motor Tariff Bureau, Inc.*, 690 F.2d 1240, 1263 (9th Cir. 1982) ("When … the petitioning activity is but a part of a larger overall scheme to restrain trade, there is no overall immunity."); *eBay Inc. v. Bidder's Edge Inc*., No. C-99-21200 RMW, 2000 WL 1863564, at *2 (N.D. Cal. July 25, 2000) (antitrust claims not all dismissed under *Noerr-Pennington* because at least some of the anticompetitive conduct is unrelated to any

protected activity).

CONCLUSION

The *Noerr-Pennington* doctrine does not exempt the alleged group boycott.

Dated: May 1, 2026

Respectfully submitted,

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NOTICE OF ELECTRONIC SERVICE

I am over the age of 18 and not a party to the within action. I am employed by the Antitrust Division of the United States Department of Justice. On May 1, 2026, counsel of record in this case were electronically served with this Notice of Statement of Interest at their email addresses provided to the Court.

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