



April 24, 2012

TO: Members, Senate Judiciary Committee

SUBJECT: SB 1528 (STEINBERG) DAMAGES: MEDICAL SERVICES
OPPOSE – JOB KILLER

The below-listed organizations must respectfully **OPPOSE SB 1528 (Steinberg)**, which will dramatically increase litigation and insurance costs for employers and consumers.

Senate Bill 1528 upends traditional notions compensatory damages. Compensatory damages in personal injury cases serve to make a plaintiff whole, or to compensate him or her for losses actually incurred (Civil Code section 3333). When the loss at issue is the cost of medical care received by the plaintiff, it is well settled under California law that a plaintiff may recover, "no more than the amounts paid by the plaintiff or his or her insurer for the medical services received or still owing at the time of the trial" (*Howell v. Hamilton Meats & Provisions, Inc.*, 52 Cal.4th 541 (2011), *Hanif v. Housing Authority* (1988) 200 Cal. App. 3d 635, *Olszewski v. Scripps Health*, 30 Cal. 4th 798 (2003), and *Nishihama v. City and County of San Francisco* (2001) 93 Cal. App. 4th 298).

This bill would allow plaintiffs and their attorneys to use the higher billable amount – which in some cases can be many times higher than the amount actually paid. These higher damages will artificially not only inflate the amount of damages in the case, but also the “settlement value” of the case as well. Many time cases are “worth” three times the amount of compensatory damages. By upping the amount artificially of compensatory damages, the whole case costs more.

Thus, by allowing injured plaintiffs to recover more than medical costs they’ve actually paid, **SB 1528** will result in an unfair windfall to plaintiffs, artificially inflate litigation costs, encourage the filing of more lawsuits, and dramatically increase rates for automobile, worker’s compensation and general liability insurance, harming individuals and employers alike. **SB 1528** will also impose significantly higher costs for employers and consumers already struggling in a weak economy. Reducing the ability for people and businesses to obtain insurance is neither sound public policy nor the meting out of justice.

For these and other reasons, we must **OPPOSE SB 1528 (Steinberg)**.

CalChamber 
American Insurance Association
Association of CA Insurance Companies
CA Ambulance Association
CA Association of Bed and Breakfast Inns
CA Association of Health Facilities
CA Association of Health Plans
CA Association of Health Underwriters
CA Association of Joint Powers Authorities
CA Hotel & Lodging Association
CA Independent Grocers Association
Civil Justice Association of CA
CSAC Excess Insurance Authority
Fresno Chamber of Commerce
Mercury Insurance Group
National Association of Mutual Insurance Companies
Pacific Association of Domestic Insurance Companies
Palm Desert Area Chamber of Commerce
Personal Insurance Federation of California
Santa Clara Chamber of Commerce and CVB
The Doctors Company

cc: The Honorable Darrell Steinberg
Office of Governor Brown
Tara Welch, Senate Judiciary Committee
Mike Petersen, Senate Republican Caucus
Department of Consumer Affairs
District Offices, Senate Judiciary Committee