

DEPARTMENT OF INSURANCE

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By Hand Delivery

January 10, 2011

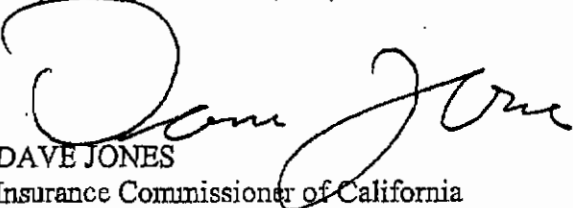
The Honorable Chief Justice Tani Cantil-Sakauye
and Associate Justices
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102-4797

Re: Request for Depublication of *MacKay v. Superior Court* (2010) 188 Cal.App.4th 1427

Dear Chief Justice Cantil-Sakauye and Associate Justices:

I write as the newly elected Insurance Commissioner of California. On November 19, 2010, under the administration of my predecessor, Steve Poizner, the Department wrote a letter to the Court requesting depublication of the *MacKay* decision. I write to affirm that request. The Court of Appeal's decision in *MacKay* fails to give effect to the right conferred by Proposition 103 on consumers to go directly to court to seek redress when insurers violate the law.

Respectfully submitted,


DAVE JONES
Insurance Commissioner of California

cc: See attached proof of service.

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PROOF OF SERVICE

In Re MacKay v. Superior Court, Case Nos. B220469 & B223772,
California Court of Appeal, Second Appellate District, Division 3, Decision Filed
October 6, 2010

I am over the age of eighteen years and am not a party to this action. I am an employee of the Department of Insurance, State of California, employed at 45 Fremont Street, 19th Floor, San Francisco, California 94105. On January 10, 2011, I served the following document(s):

California Department of Insurance Letter dated January 10, 2010, to Superior Court of California Request for Depublication of MacKay v. Superior Court (2010) 188 Cal.App.4th 1427

on all persons named on the attached Service List, by the method of service indicated, as follows:

If **U.S. MAIL** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for mailing by U.S. Mail. Under that practice, outgoing items are deposited, in the ordinary course of business, with the U.S. Postal Service on that same day, with postage fully prepaid, in the city and county of San Francisco, California.

If **OVERNIGHT SERVICE** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items for overnight delivery, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for overnight delivery. Under that practice, outgoing items are deposited, in the ordinary course of business, with an authorized courier or a facility regularly maintained by one of the following overnight services in the city and county of San Francisco, California: Express Mail, UPS, Federal Express, or Golden State overnight service, with an active account number shown for payment.

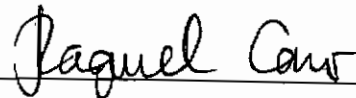
If **FAX SERVICE** is indicated, by facsimile transmission this date to the fax number stated for the person(s) so marked.

If **PERSONAL SERVICE** is indicated, by hand delivery this date.

If **EMAIL** is indicated, by electronic mail transmission this date to the email address(es) listed.

If **INTRA-AGENCY MAIL** is indicated, by placing this date in a place designated for collection for delivery by Department of Insurance intra-agency mail.

Executed this date at San Francisco, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



Raquel Cano

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SERVICE LIST

**In Re MacKay v. Superior Court, Case Nos. B220469 & B223772,
California Court of Appeal, Second Appellate District, Division 3, Decision Filed
October 6, 2010**

<u>Party</u>	<u>Attorney</u>	<u>Method of Service</u>
Mackay, Amber : Petitioner	Merak Eskigian, Esq. Mark Goshgarian, Esq. Goshgarian & Marshall 23901 Calabasas Road, #2073 Calabasas, CA 91302	U.S. MAIL U.S. MAIL
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Leacy, Jacqueline : Petitioner	Drew E. Pomerance, Esq. Roxborough, Pomerance & Nye 5820 Canoga Avenue, Suite 250 Woodland Hills, CA 91367	U.S. MAIL
21 st Century Insurance Company : Real Party in Interest	Marina M. Karvelas, Esq. Pirapat Sadikali Sindhuphak, Esq. Steven H. Weinstein, Esq. Kent R. Keller, Esq. Barger & Wolen 633 West Fifth Street, 47 th Floor Los Angeles, CA 90071	U.S. MAIL
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ACLU Foundation of Northern California, Inc. : Pub/Depublication Requestor	Richard A. Marcantonio Public Advocates, Inc. 131 Steuart Street, Suite 300 San Francisco, CA 94105	U.S. MAIL
ACLU Foundation of San Diego & Imperial Counties, Inc. : Pub/Depublication Requestor	Richard A. Marcantonio Public Advocates, Inc. 131 Steuart Street, Suite 300 San Francisco, CA 94105	U.S. MAIL

1	ACLU Foundation of Southern California, Inc. :	Richard A. Marcantonio	U.S. MAIL
2	Pub/Depublication Requestor	Public Advocates, Inc.	
3		131 Steuart Street, Suite 300	
		San Francisco, CA 94105	
4	Consumer Action :	Kathryn Marie Trepinski	U.S. MAIL
5	Pub/Depublication Requestor	Attorney at Law	
6		509 S. Beverly Drive	
		Beverly Hills, CA 90212	
7	Consumer Federation of California : Pub/Depublication Requestor	Leslie Eileen Hurst	U.S. MAIL
8		Blood Hurst & O'Reardon, LLP	
9		600 "B" Street, Suite 1550	
		San Diego, CA 92101	
10	Consumer Watchdog :	Harvey J. Rosenfield, Esq.	U.S. MAIL
11	Pub/Depublication Requestor	Foundation for Taxpayer & Consumer Rights	
12	1750 Ocean Park Boulevard Suite 200	1750 Ocean Park Boulevard, Suite 200	
	Santa Monica, CA 90405	Santa Monica, CA 90405	
13	Consumers for Auto Reliability and Safety : Pub/Depublication Requestor	Kathryn Marie Trepinski	U.S. MAIL
14		Attorney at Law	
15		509 S. Beverly Drive	
		Beverly Hills, CA 90212	
16	Consumers Union of the United States : Pub/Depublication Requestor	Mark Savage	U.S. MAIL
17		Consumer Union of the United States, Inc.	
18		1535 Mission Street	
		San Francisco, CA 94103	
19	Disability Rights Education & Defense Fund :	Mark Savage	U.S. MAIL
20	Pub/Depublication Requestor	Consumer Union of the United States, Inc.	
21		1535 Mission Street	
		San Francisco, CA 94103	
22	Equal Justice Society :	Mark Savage	U.S. MAIL
23	Pub/Depublication Requestor	Consumer Union of the United States, Inc.	
24		1535 Mission Street	
		San Francisco, CA 94103	
25	Impact Fund :	Mark Savage	U.S. MAIL
26	Pub/Depublication Requestor	Consumer Union of the United States, Inc.	
27		1535 Mission Street	
28		San Francisco, CA 94103	

1	Mexican American Legal	Michael Lee Cohen	U.S. MAIL
2	Defense & Educational Fund :	Cohen McKeon, LLP	
3	Pub/Depublication Requestor	1910 W. Sunset Boulevard, Suite 440 Los Angeles, CA 90026	
4	Southern Christian Leadership	Michael Lee Cohen	U.S. MAIL
5	Conference of Greater L.A. :	Cohen McKeon, LLP	
6	Pub/Depublication Requestor	1910 W. Sunset Boulevard, Suite 440 Los Angeles, CA	
7	United Policyholders :	Amy Bach	
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10	Roxborough, Pomerance, Nye	Mark Goshgarian, Esq.	U.S. MAIL
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16	City and County of San	Owen J. Clements	U.S. MAIL
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18	Requestor	1390 Market Street, 7 th Floor San Francisco, CA 94102	
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20	Robbins Geller Rudman &	Kevin K. Green	U.S. MAIL
21	Dowd LLP : Pub/Depublication	Coughlin Stoia Geller Rudman & Robbins, LLP	
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27	The Consumer Attorneys of	Brian S. Kabateck, Esq.	U.S. MAIL
28	California : Pub/Depublication	Kabateck Brown & Kellner, LLP	
	Requestor	644 S. Figueroa Street Los Angeles, CA 90017	
	The People : Overview party	Office of the District Attorney	U.S. MAIL
		320 W. Temple Street, #540 Los Angeles, CA 90012	
		Contact Name: Appellate Division	

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Office of the Attorney General
Consumer Law Section
300 South Spring Street
Fifth Floor, North Tower
Los Angeles, CA 90013
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The Honorable Presiding Justice
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Associate Justices
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Patti S. Kitching
California Court of Appeal, Clerk's Office
Division 3
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Room 2217
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Phone No: 213-830-7000
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