



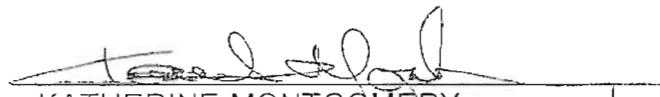
**DEBRA BOWEN** | SECRETARY OF STATE  
STATE OF CALIFORNIA | ELECTIONS

1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

October 3, 2007

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS/PROPONENT  
(07162)

FROM:

  
KATHERINE MONTGOMERY  
Elections Analyst

SUBJECT: INITIATIVE #1276

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**CLASS ACTION LAWSUITS.  
STATUTE.**

The proponents of the above-named measure are:

James C. Harrison  
Margaret R. Prinzing  
Remcho, Johansen & Purcell, LLP  
201 Dolores Avenue  
San Leandro, CA 94577

(510) 346-6200

CLASS ACTION LAWSUITS.  
STATUTE.

CIRCULATING AND FILING SCHEDULE

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1. Minimum number of signatures required: ..... 433,971  
California Constitution, Article II, Section 8(b)
2. Official Summary Date: ..... Wednesday, 10/03/07
3. Petitions Sections:
  - a. First day Proponent can circulate Sections for  
signatures (Elec. Code § 336) ..... Wednesday, 10/03/07
  - b. Last day Proponent can circulate and file with the county.  
All sections are to be filed at the same time within each  
county. (Elec. Codes §§ 336, 9030(a)) ..... Monday, 03/03/08\*
  - c. Last day for county to determine total number of  
signatures affixed to petitions and to transmit total  
to the Secretary of State (Elec. Code § 9030(b)).....Thursday, 03/13/08  
  
(If the Proponent files the petition with the county on a date prior to  
03/03/08, the county has eight working days from the filing of the petition  
to determine the total number of signatures affixed to the petition and to  
transmit the total to the Secretary of State) (Elec. Code § 9030(b)).
  - d. Secretary of State determines whether the total number  
of signatures filed with all county clerks/registrar's of  
voters meets the minimum number of required signatures  
and notifies the counties .....Saturday, 03/22/08\*\*
  - e. Last day for county to determine total number of qualified  
voters who signed the petition, and to transmit certificate  
with a blank copy of the petition to the Secretary of State  
(Elec. Code § 9030(d)(e)) .....Monday, 05/05/08

\* Date adjusted for official deadline, which falls on a weekend (Elec. Code § 15).

\*\*Date varies based on the date of county receipt.

INITIATIVE #1276  
Circulating and Filing Schedule continued:

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(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 03/22/08, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elec. Code § 9030(d)(e)).

- f. If the signature count is more than 477,369 or less than 412,273 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 412,273 and 477,369 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of **all** signatures (Elec. Code §§ 9030(f)(g), 9031(a)) ..... Thursday, 05/15/08\*
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elec. Code § 9031(b)(c)). ..... Friday, 06/27/08

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 05/15/08, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elec. Code § 9031(b)(c).)

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elec. Code §§ 9031(d), 9033) ..... Tuesday, 07/01/08\*

\*Date varies based on the date of county receipt.

## IMPORTANT POINTS

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- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).
- Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

EDMUND G. BROWN JR.  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



1300 J STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

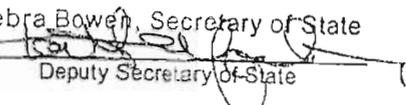
Public: (916) 445-9555  
Telephone: (916) 445-1968  
Facsimile: (916) 324-8835  
E-Mail: Toni.Melton@doj.ca.gov

October 3, 2007

FILED  
In the office of the Secretary of State  
of the State of California

OCT 03 2007

Debra Bowen  
Secretary of State  
1500 - 11<sup>th</sup> Street, 5<sup>th</sup> Floor  
Sacramento, CA 95814

Debra Bowen, Secretary of State  
By   
Deputy Secretary of State

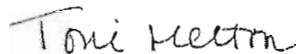
RE: Title and Summary for Initiative No. 07-0043  
TITLE: CLASS ACTION LAWSUITS. STATUTE.

Dear Ms. Bowen:

Pursuant to the provisions in sections 336 and 9004 of the Elections Code, enclosed please find a copy of the Title and Summary issued for Initiative Number 07-0043 and text of the proposed measure.

Should you have any questions regarding the above, please do not hesitate to contact me.

Sincerely,



TONI MELTON  
Initiative Secretary

For EDMUND G. BROWN JR.  
Attorney General

Enclosures

Proponents' public information:

James C. Harrison  
Margaret R. Prinzing  
Remcho, Johansen & Purcell, LLP  
201 Dolores Avenue  
San Leandro, CA 94577  
Telephone: 510 346 6200  
Facsimile: 510 346 6201

Date: October 3, 2007  
Initiative No. 07-0043

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

CLASS ACTION LAWSUITS. STATUTE. Requires court to determine whether settlement of a class action lawsuit provides "meaningful relief" to class members. Limits settlements from releasing claims not covered by the lawsuit. Requires special justification for using discount coupons for future purchases as the primary relief to the class members. Requires twenty-five percent of punitive damages awarded in class action lawsuits be paid to the state instead of the class members to enforce laws promoting consumer, shareholder, pension, fire and police, insurance, and discrimination protections. Provides for methods of notice to class members.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Unknown fiscal impact on state revenues from court filing fees and the cost of court operations. Unknown net increase in state revenues, potentially up to the low tens of millions of dollars in some years, from providing a 25 percent share of punitive damage awards from class action cases to the state. (Initiative 07-0043.)

RECEIVED

AUG 13 2007

August 6, 2007

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICEVIA MESSENGEROffice of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814

Attention: Patricia Galvan

Re: The Class Action Reform and Corporate Accountability Act (Version 1)

Dear Ms. Galvan:

Pursuant to Elections Code section 9002, we request that the Attorney General prepare a title and summary of a measure entitled as noted above. The text of the measure, a check for \$200.00, the address at which we are registered to vote and the signed statement certifying that we will not willfully allow initiative signatures to be used for purposes other than qualification of the measure are enclosed.

Please direct all correspondence and inquiries regarding this measure to:

James C. Harrison  
Margaret R. Prinzing  
Remcho, Johansen & Purcell, LLP  
201 Dolores Avenue  
San Leandro, CA 94577  
Phone: (510) 346-6200  
Fax: (510) 346-6201

Sincerely,

  
James C. Harrison  
Margaret R. PrinzingJCH:NL  
Enclosures  
(00158824)

## THE CLASS ACTION REFORM AND CORPORATE ACCOUNTABILITY ACT

### SECTION ONE. FINDINGS AND DECLARATIONS.

The People of the State of California find and declare the following:

- (a) Powerful corporate executives at companies like Enron and WorldCom have fraudulently lined their pockets at the expense of retirees, workers, consumers and shareholders while attempting to avoid being held accountable for their conduct.
- (b) Uncaring companies like Wal-Mart have refused to pay their workers the wages they owe.
- (c) Dishonest insurance companies cheated their policyholders and wrongly denied claims when Californians lost their homes in the Northridge earthquake and the San Diego and Oakland fires.
- (d) Health insurance companies and HMOs are refusing to pay for medical treatments even when doctors say the treatments are necessary.
- (e) Irresponsible corporations and insurance companies increasingly are cheating consumers, stealing from pensions and discriminating against workers, women and minorities.
- (f) As courts and lawmakers have recognized, class action lawsuits protect consumers, investors and workers from such conduct by allowing people to band together in order to hold powerful corporate wrongdoers accountable for their misconduct and protect society from future harm.
- (g) Class actions promote competition and help small businesses by preventing dishonest companies from getting an unfair advantage over those companies that compete fairly.
- (h) Class actions save taxpayers money by allowing courts to combine many similar claims into one action. Class actions are an essential tool that help courts resolve disputes fairly and efficiently.
- (i) Class actions assist government agencies in enforcing laws. Class actions are particularly important now, when dwindling public resources reduce the ability of state and local governments to enforce the laws that protect the health and safety of Californians. Class actions give private citizens an enforcement tool to safeguard their own rights and hold wrongdoers accountable.
- (j) The People of California support reforming class action law in order to better protect Californians, establish strict standards to guide judges and lawyers, and reaffirm the policy underlying class actions in California.

(k) Class members should be notified in the most cost effective and efficient manner, including the use of the Internet. Innovative and inexpensive ways to communicate will better inform class members and save taxpayer money.

(l) Punitive damage awards in class actions should benefit all Californians, not just class members, by directing that 25% of those awards go to support police and fire protection, retirement fund and shareholder protection, protection from discrimination and protection from insurance company misconduct.

(m) Class action settlements should comply with strict standards in order to provide meaningful relief to the class, and not token gestures.

## SECTION TWO. PURPOSE AND INTENT.

In enacting this Act, it is the purpose and intent of the People of the State of California to:

(a) Preserve and protect the right to resolve common questions of fact and law and to redress common injuries through class actions;

(b) Promote judicial efficiency by making the rules for class actions clear and fair;

(c) Strengthen the policies favoring class actions by expressly adopting them in law and affirming existing case law that has developed to implement those policies;

(d) Ensure that all Californians share in punitive damages awarded in class actions by requiring that twenty-five percent of any such awards be paid directly to the State of California to support police and fire protection, retirement fund and shareholder protection, protection from discrimination and protection from insurance company misconduct;

(e) Ensure that class action settlements provide meaningful relief by establishing a presumption against settlements involving coupons unless the court determines that the settlement provides valuable relief to the class; and

(f) Preserve existing California Class Action case law and rules that do not directly conflict with this Act.

SECTION THREE. Section 382.5 is hereby added to Part 2, Title 3, Chapter 5 of the Code of Civil Procedure to read:

Section 382.5. It is the policy of the State of California to favor class actions as an efficient and effective means of resolving disputes. This section is not intended to affect existing case law relating to class actions and courts shall continue to rely upon such case law in applying this section, except where it is inconsistent with the terms of this section.

(a) One or more members of a class may sue or be sued as representative parties on behalf of all members of the class if all of the following conditions exist:

(1) It is impracticable to bring all members of the class before the court.

(2) The questions of law or fact common to the class are substantially similar and predominate over the questions affecting the individual members.

(3) The claims or defenses of the representative plaintiffs are typical of the claims or defenses of the class.

(4) The representative plaintiffs will fairly and adequately protect the interests of the class.

(b) If notice of the time and place of the hearing is served upon the other parties at least 21 days prior thereto, the court shall hold a hearing, upon motion of any party to the action which is supported by affidavit of any person or persons having knowledge of the facts, to determine if any of the following apply to the action:

(1) A class action pursuant to subdivision (a) is proper.

(2) Published notice pursuant to subdivision (c) is necessary to adjudicate the claims of the class.

(c) If the action is permitted as a class action, the court may direct either party to notify each member of the class of the action. The party required to serve notice may, with the consent of the court, if personal notification is unreasonably expensive or it appears that all members of the class cannot be notified personally, give notice as prescribed by the court. In making its determination, the court shall consider the most effective and least costly form of notice, including internet notice, e-mail notice, posting, or other forms of notice.

(d) The notice required by subdivision (c) shall include the following:

(1) The court will exclude the member notified from the class if he or she so requests by a specified date.

(2) The judgment, whether favorable or not, will include all members who do not request exclusion.

(3) Any member who does not request exclusion, may, if he or she desires, enter an appearance through counsel.

(e)(1) A class action shall not be dismissed, settled, or compromised without the approval of the court, and notice of the proposed dismissal, settlement, or compromise shall be

given in such manner as the court directs to each member who was given notice pursuant to subdivision (c) and did not request exclusion.

(2) The court shall not approve any settlement that fails to provide meaningful relief to the class, or where the release of claims is broader than those claims certified for class treatment or any reasonable certification or modification of those claims or the class action. There shall be a presumption against approval of a coupon settlement, which presumption is rebuttable upon a showing that such relief is reasonable under the circumstances, and provides valuable relief to the class.

(A) A “coupon settlement” is a settlement of a class action where the primary relief provided to the class members is coupons.

(B) The term “coupon” means a coupon, certificate, or other form of scrip redeemable for a discount off of (1) a product sold, distributed or manufactured, or (2) a service provided or sold by a defendant or an affiliate of a defendant, that requires the user to make an out-of-pocket payment to use the coupon.

(f) The judgment in a class action shall describe those to whom the notice was directed and who have not requested exclusion and those the court finds to be members of the class. The best possible notice of the judgment shall be given in such manner as the court directs to each member who was personally served with notice pursuant to subdivision (c) and did not request exclusion.

(g) Twenty-five percent of damages awarded pursuant to subdivision (a) of section 3294 of the Civil Code in an action brought pursuant to this section shall be paid directly to the State of California. Any funds received pursuant to this subdivision shall be used to enforce laws promoting consumer protection, shareholder and pension protection, fire and police protection and protection from insurance companies and discrimination.

#### SECTION FOUR. SEVERABILITY.

If any provision of this act, or part of this act, is for any reason held to be invalid, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

#### SECTION FIVE. EFFECTIVE DATE.

The provisions of this act shall apply only to cases filed on or after the effective date of this act.

#### SECTION SIX. CONFLICTING INITIATIVES.

In the event that this measure and another initiative measure or measures concerning the procedures or standards for class action lawsuits shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be

deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.