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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF LOS ANGELES

11
12 TODD AND KIMBERLEY FERRIER, et al.,

13 Plaintiffs,

14 v.

15 STATE FARM FIRE AND CASUALTY
16 COMPANY, et al.,

17 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

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20 **NOTICE OF STATEMENT OF INTEREST OF THE UNITED STATES**

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

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

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

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

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

23 This Statement focuses on the inapplicability of the *Noerr-Pennington* doctrine to the alleged
24 group boycott. The United States takes no position on the ultimate merits of this case or on the accuracy
25 of Plaintiffs’ allegations.
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1 **STATEMENT OF FACTS**

2 Plaintiffs comprise 60 households in the Pacific Palisades, Malibu, and Altadena who lost their
3 homes in the devastating January 2025 wildfires.¹ FAC ¶¶ 16–428; *see also* Pls.’ Resp. in Opp’n to
4 Demurrer at 8. Defendants comprise 49 entities that are part of 16 insurance groups. FAC ¶¶ 429–454;
5 *see also* Resp. in Opp’n to Demurrer at 8. Plaintiffs filed their Complaint on April 22, 2025, and filed
6 their First Amended Complaint on August 19, 2025.
7

8 Plaintiffs allege that Defendants entered into a group boycott starting around 2022, refusing to
9 issue or renew fire insurance policies to certain homeowners in segments of Southern California. FAC
10 ¶¶ 7–8, 499–500. This group boycott was designed to force these homeowners into the FAIR Plan. FAC
11 ¶¶ 498–500. The FAIR Plan covers only a narrow set of perils such as fire and imposes a maximum \$3
12 million coverage limit per policy. FAC ¶ 6. Policies issued under the FAIR Plan are typically sold at
13 higher premiums on a per unit cost of coverage than more comprehensive policies issued on the open
14 market. FAC ¶ 6. The FAIR Plan comprises all insurers licensed to conduct property and/or casualty
15 business in California and is organized and administered by the FAIR Plan Association. FAC ¶ 461–
16 469. Defendants sought to benefit by substantially reducing liability while retaining profits from other
17 bundled insurance products purchased by the same customers and illicitly reaping a higher price per unit
18 of coverage of the affected homeowners’ policies. FAC ¶¶ 9, 529–41. Defendants coordinated their
19 group boycott through regular meetings, industry events, and public announcements, while also
20 dropping fire policies and abstaining from poaching dropped policies. FAC ¶¶ 515–21.
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23 Defendants filed their notice for a demurrer on November 11, 2025, which includes an argument
24 that Plaintiffs’ claims are foreclosed by the *Noerr-Pennington* doctrine because Defendants’ alleged
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27 ¹ This Statement of Interest, as consistent with the current procedural posture, “accept[s] all factual
28 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).

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

3 DISCUSSION

4 Defendants are incorrect in claiming that the group boycott alleged in the Complaint is protected
5 under the *Noerr-Pennington* doctrine. *See* Def’s Joint Notice of Demurrer at 28–30. The doctrine,
6 derived from two 1960s U.S. Supreme Court cases, protects from antitrust liability legitimate direct
7 petitioning of governmental officials for state action, as well as some conduct “incidental” to the
8 petitioning. *See E. R.R. Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127 (1961);
9 *United Mine Workers v. Pennington*, 381 U.S. 657 (1965); *Allied Tube & Conduit Corp. v. Indian Head,*
10 *Inc.*, 486 U.S. 492, 503 (1988). However, because “antitrust law is a central safeguard for the Nation’s
11 free market structures” that ensures “the preservation of economic freedom and our free-enterprise
12 system,” *N. Carolina State Bd. of Dental Examiners v. FTC*, 574 U.S. 494, 502 (2015), “exemptions
13 from the antitrust laws must be construed narrowly,” *Union Labor Life Ins. Co. v. Pireno*, 458 U.S. 119,
14 126 (1982).

15 In their notice of demurrer, Defendants make arguments that would improperly expand the
16 *Noerr-Pennington* exemption beyond the limited bounds of the doctrine recognized by courts. They
17 claim the exemption applies because the alleged conspiracy “was driven by one overarching goal: to
18 pressure the [California Insurance] Commissioner to allow rate increases.” Def’s Joint Notice of
19 Demurrer at 29. But *Noerr-Pennington* protection does not extend to “every concerted effort that is
20 genuinely intended to influence governmental action.” *FTC v. Superior Ct. Trial Laws. Ass’n*, 493 U.S.
21 411, 425 (1990) (quoting *Allied Tube & Conduit Corp.*, 486 U.S. at 503). “If all such conduct were
22 immunized . . . competitors would be free to enter into horizontal price agreements as long as they
23 wished to propose that price as an appropriate level for governmental ratemaking or price supports.”
24 *Allied Tube & Conduit Corp.*, 486 U.S. at 503. Further, “[h]orizontal conspiracies or boycotts designed
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1 to exact higher prices or other economic advantages from the government would be immunized on the
2 ground that they are genuinely intended to influence the government to agree to the conspirators' terms.
3 Firms could claim immunity for boycotts or horizontal output restrictions on the ground that they are
4 intended to dramatize the plight of their industry and spur legislative action." *Id.* (internal citation
5 omitted).

6
7 This last type of boycott is exactly what is alleged here. Plaintiffs claim that Defendants engaged
8 in a boycott that was intended to spur action from California regulatory authorities to allow higher rates.
9 *See* FAC ¶ 535. But Plaintiffs' alleged harms flow directly from *this alleged boycott itself*, not any past
10 or future government action allegedly sought by Defendants. *See* FAC ¶¶ 560–67. Thus, under relevant
11 U.S. Supreme Court precedent, the alleged boycott therefore is not protected by the *Noerr-Pennington*
12 doctrine.

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14 *FTC v. Superior Court Trial Lawyers Association*, 493 U.S. 411 (1990), is directly on point. In
15 that case, a group of lawyers who served as court-appointed counsel for indigent defendants agreed to
16 stop providing such representation until their compensation was increased by the government of the
17 District of Columbia. *Id.* at 414–18. The U.S. Supreme Court unanimously rejected arguments that the
18 *Noerr-Pennington* doctrine might exempt the conduct. While the Court acknowledged that antitrust
19 liability cannot "be predicated upon mere attempts to influence the passage or enforcement of laws," it
20 held that the boycott constituted a "plain violation of the antitrust laws," as it was a "horizontal
21 arrangement" among competitors that "was unquestionably a naked restraint on price and output," *id.* at
22 423–24, 428 (internal quotation marks omitted), even though one aim of the boycott was to secure
23 government action. The Court distinguished the situation from the *Noerr* case, in which the alleged
24 restraint of trade (railroads campaigning for governmental action that would handicap competitors in the
25 trucking industry) "was the intended *consequence* of public action." *Id.* at 424–25 (emphasis in
26 original). In contrast, the lawyers' "boycott was the *means* by which the [boycotting lawyers] sought to
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1 obtain favorable legislation.” *Id.* at 425 (emphasis in original). As the Court crucially pointed out, “[t]he
2 restraint of trade that was implemented while the boycott lasted would have had precisely the same
3 anticompetitive consequences during that period even if no legislation had been enacted.” *Id.*
4 Accordingly, the lawyers’ boycott was not shielded from antitrust liability by the *Noerr-Pennington*
5 doctrine. *Id.* So too here, where the alleged Defendants’ boycott was the *means* of obtaining public
6 action rather than the *consequence* of public action. Further, the Defendants’ boycott would have had—
7 and allegedly did have—anticompetitive consequences in the absence of legislative or regulatory
8 changes. The boycott was also not, standing alone, a “mere attempt” to influence government action,
9 such as a lobbying or public relations campaign.
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11 *Sandy River Nursing Care v. Aetna Casualty*, 985 F.2d 1138 (1st Cir. 1993), is also instructive.
12 In that case, as in this case, plaintiffs alleged that insurance companies engaged in a group boycott of
13 policyholders in order to pressure the state legislature and insurance regulators to allow rate increases.
14 *Id.* at 1139–41. Unlike in this case, the plaintiffs sought damages not for direct effects of the boycott
15 itself, but for the higher rates that state regulators allowed after the boycott. *Id.* at 1141. The First Circuit
16 found that plaintiffs were barred from recovering those damages under a separate antitrust exemption
17 not at issue in this case. *Id.* at 1148. But it was careful to distinguish the subsequent government actions
18 from the boycott itself, which the court found, after applying the *Superior Court Trial Lawyers*
19 framework, “constituted a classic restraint of trade within the meaning of Section 1 of the Sherman Act.”
20 *Id.* at 1143 (internal quotation marks omitted). Had the plaintiffs, the court continued, “sought injunctive
21 relief during the boycott period, or had they sought damages based on the boycott’s direct market effects
22 (such as reduced availability of insurance or higher prices resulting from reduced competition during the
23 boycott period), they would have had a viable antitrust claim.” *Id.* So too in this case, where Plaintiffs
24 are seeking such damages.
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27 Defendants rely on the California Supreme Court’s decision in *Blank v. Kirwan*, 39 Cal.3d 311
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1 (1985). Def’s Joint Notice of Demurrer at 28. But *Blank* is not to the contrary. Unlike in this case (and
2 *Superior Court Trial Lawyers and Sandy River Nursing Care*), the alleged conduct in *Blank* consisted
3 solely of lobbying for and obtaining government actions that benefited one business to the disadvantage
4 of another business. *Id.* at 318–19. As the California Supreme Court noted, the complaint in *Blank*
5 asserted “nothing more than that [defendants] sought to obtain a monopoly from [the government]. This
6 is precisely the type of conduct that *Noerr-Pennington* protects.” *Id.* at 322 (internal quotation marks
7 omitted). Further, the Court noted that “government action, again according to the very allegations of the
8 pleading, [was] the legal cause of whatever injury plaintiff may have suffered.” *Id.*

10 In the present case, by contrast, Plaintiffs allege that the group boycott, rather than any
11 government action, was the factual and legal cause of their claimed injuries. Further, the alleged group
12 boycott was separate from—and caused separate harm than—any advocacy or petitioning directed at the
13 state government. That some of the conduct alleged in the First Amended Complaint might be
14 considered petitioning does not exempt other alleged conduct, including allegations that Defendants: 1)
15 ceased any renewals of existing policies and refused to issue new policies; 2) abstained from competing
16 for policyholders dropped by other insurers; and 3) coordinated their group boycott through regular
17 meetings, industry events, and public announcements. *See* FAC ¶¶ 494–521. These actions are non-
18 petitioning conduct on which Plaintiffs may sustain an allegation of an illegal group boycott. *See City of*
19 *Columbia v. Omni Outdoor Advert., Inc.*, 499 U.S. 365, 384 (1991) (under the *Noerr-Pennington*
20 doctrine, an antitrust claim may proceed if non-petitioning conduct is sufficient to establish
21 anticompetitive conduct); *see also Clipper Exxpress v. Rocky Mountain Motor Tariff Bureau, Inc.*, 690
22 F.2d 1240, 1263 (9th Cir. 1982) (“When ... the petitioning activity is but a part of a larger overall
23 scheme to restrain trade, there is no overall immunity.”); *eBay Inc. v. Bidder’s Edge Inc.*, No. C-99-
24 21200 RMW, 2000 WL 1863564, at *2 (N.D. Cal. July 25, 2000) (antitrust claims not all dismissed
25 under *Noerr-Pennington* because at least some of the anticompetitive conduct is unrelated to any
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1 protected activity).

2 **CONCLUSION**

3 The *Noerr-Pennington* doctrine does not exempt the alleged group boycott.
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6 Dated: May 1, 2026

Respectfully submitted,

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