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May 16, 2007

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The Justices of the Supreme Court
State of Arizona
1501 W. Washington
Phoenix, Arizona 85007

**Re: Public Comment Concerning Proposed Amendments to the Rules for
Arbitration – Comment to Proposed Amendment to Rule 75(a)**

Dear Justices:

I am an attorney licensed to practice law in the State of Arizona. I am also the former Deputy Director of Insurance for the State of Arizona and former Chair of the State Bar of Arizona Insurance Committee. I presently serve as a Judge Pro Temp of the Maricopa County Superior Court and as a Hearing Officer of the Supreme Court.

I have reviewed the comprehensive comments of Amy Langerman that were submitted to you in connection with the proposed amendment to Rule 75(a). I agree with her comments. The proposed rule is contrary to the underlying principles of mandatory disclosure, assumes that the Plaintiff is not going to comply with the mandatory disclosure rules and unfairly forces Plaintiffs to give up their privileges concerning communications with their physicians and attorneys.

Let me add my own perspective, I squarely believe that there is no need for the proposed rule change. I have been very much involved in insurance industry practices ever since I attained by Bachelor of Science degree in Insurance from Arizona State University in 1969. I also attained the professional designation of Charter Property and Casualty Underwriter (CPCU) in 1981 and the designation Chartered Life Underwriter (CLU) in 1983. During the period of time that I served as Deputy Director of Insurance of the State of Arizona (1977 –78) I observed that the insurance industry was generally run by dedicated insurance professionals who were very much interested in maintaining the high regard that consumers had for insurance policies. Indeed, the words “insurer” or “assure” have developed over the years as words of comfort and guarantee.

Over the past twenty years or so, however, the insurance industry has been taken over by people that are more oriented toward bottom line financial interest rather than fairly serving the public interest while keeping in mind the principles of insurance. These finance people have come to understand that if they can discourage consumers from submitting compensable insurance claims, the bottom line of the insurance company will drastically improve. These people also use sophisticated public relations techniques to create the illusion that one must

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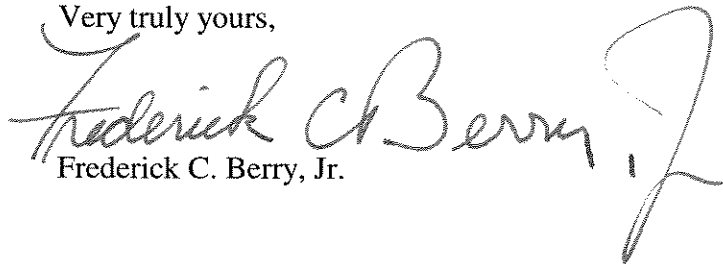
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scrutinize all insurance claims because they are probably exaggerated or down right fictitious. When these new insurance people are pressed for details, they usually cite to vague studies or surveys conducted by others that supposedly support the notion that claimants are probably crooks.

The reality, of course, is quite different than the illusions being submitted by the insurance industry. Reliable statistics from the National Counsel on Compensation Insurance, Inc. published in its Annual Report (that is available on line [ncci.com]) show that insurance fraud from all sources in the workers compensation field (including medical provider fraud and fraud committed by employers in misstating job classifications) amounts to about 5% of annual premium. By giving you this statistic, I am not defending insurance fraud. Any insurance fraud is too much insurance fraud. On the other hand, insurance fraud is not a runaway crisis that is clogging the court system.

The focus of my submission is to suggest that the problem presented to you as needing a rule change is not a real problem. It is made up by the insurance industry as part of its overall plan to continuously discourage people from submitting compensable claims and to create a false impression in the mind of the American people (including prospective jurors) that people who submit compensable claims are simply trying to take unfair advantage of the tort recovery system.

Very truly yours,

A handwritten signature in cursive script that reads "Frederick C. Berry, Jr." The signature is written in black ink and is positioned to the right of the typed name below it.

Frederick C. Berry, Jr.

FCB:abc