

ENDORSED
FILED
ALAMEDA COUNTY

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CLERK OF THE SUPERIOR COURT
BY: *[Signature]*

1 Stember Cohn & Davidson-Welling, LLC
2 John Stember, Esquire (Pro Hoc Vice)
3 1616 Allegheny Building
4 429 Forbes Avenue
5 Pittsburgh, PA 15219
6 Tel.: (412) 338-1445
7 Fax: (412) 338-1446
8 jstember@stembercohn.com

9 Sinclair Law Office
10 Andrew Thomas Sinclair (SB No. 72681)
11 300 Frank H. Ogawa Plaza
12 Rotunda Building, Suite 160
13 Oakland, CA 94612
14 Tel: (510) 465-5300
15 Fax: (510) 465-5356
16 ats@sinclairlawoffice.com

17 Carter Carter Fries & Grunschlag
18 Dov M. Grunschlag (SB No. 42040)
19 44 Montgomery St., Suite 2405
20 San Francisco, CA 94104
21 Tel: (415) 989-7694
22 Fax: (415) 989-4864
23 dgrunschlag@carterfries.com

24 Calvo Fisher & Jacob LLP
25 William N. Hebert (SB No. 136099)
26 One Lombard St., Second Floor
27 San Francisco, CA 94101
28 Tel: (415) 374-8370
whebert@calvoclarck.com

Attorneys for Petitioners

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

JOE REQUA, *et al.*, on behalf of Themselves and Others
Similarly Situated,

Petitioners,

v.

REGENTS OF UNIVERSITY OF CALIFORNIA, and DOES, 1
through 99, inclusive,

Respondents.

No. RG 10530492

CLASS ACTION

**Third Amended Petition for
Writ of Mandate**

BY FAX

1 **INTRODUCTION**

2 1. This case is brought by former employees of the Regents of the University of California
3 (“Regents” or “University”) who worked at the Lawrence Livermore National Laboratory
4 (“Livermore Lab” or “LLNL”) on behalf of themselves and others similarly situated. For many
5 years, the University managed the Livermore Lab, which is widely considered one of the nation’s
6 premier defense research laboratories. While Petitioners and Class Members worked there, they
7 were University employees, and the Regents treated them as University employees for all purposes.

8 2. In the 1960s, the Regents authorized University-provided medical benefits for University
9 employees and retirees, and they have provided these benefits since. In 2008, however, the Regents
10 singled out retirees from the Livermore Lab and shifted responsibility for providing their retiree
11 medical benefits to a newly created private consortium (that includes the Regents), known as
12 Lawrence Livermore National Security (“LLNS”). In so doing, the Regents violated of the Contract
13 Clause of the California Constitution by impairing the contract right of Petitioners and Class
14 Members to receive the same University-provided retiree medical benefits as other University
15 retirees.

16 3. Since the Regents stopped providing retirees who worked at the Livermore Lab with the
17 same medical benefits as other University retirees and shifted responsibility for providing these
18 benefits to LLNS, Petitioners and Class Members have been significantly disadvantaged. The
19 benefits provided by LLNS have been inferior to those Petitioners and Class Members received from
20 the University. Petitioners and Class Members ask the Court to restore their vested, contractual right
21 to receive University-provided health benefits and to make them whole for losses suffered.

22 **PARTIES**

23 **JOE REQUA**

24 4. Pursuant to the Order approving the parties’ Stipulation, filed 11/26/13 and 12/23/13,
25 respectively, this paragraph is stricken. This notation is included so that the numbered paragraphs in
26 the Third Amended Petition will conform to those in the Second Amended Petition.

27 5. See paragraph 4, above.

28 6. See paragraph 4, above.

1 7. See paragraph 4, above.

2 8. See paragraph 4, above.

3 WENDELL G. MOEN

4 9. Wendell G. Moen began working at the Livermore Lab in 1963. He retired in June 2000
5 with no breaks in University service. Throughout his career at the Livermore Lab, Moen was a
6 University employee, was always treated like a University employee, and was told by his superiors
7 that he was a University employee. Among other things, the University issued his paycheck, and he
8 was covered by the University's Staff Personnel Policies and Procedures.

9 10. When Moen began working at the Livermore Lab, he became a member of the University
10 of California Retirement System (UCRS), later known as UCRP.

11 11. After he retired, Moen's retirement checks came from UCRP, and the Regents treated
12 him like any other University retiree. In fact, Moen was not treated differently than other University
13 retirees until on or about January 1, 2008, when the Regents shifted responsibility for providing his
14 medical benefits to LLNS, a private consortium. Moen is informed and believes that, although LLNS
15 assumed responsibility for managing the Lab on or about October 1, 2007, the Regents did not shift
16 the responsibility for providing Moen's retiree medical benefits to LLNS until on or about January 1,
17 2008. When the Regents shifted responsibility for Moen's medical benefits to LLNS, they breached
18 his vested right to receive the same University-provided health benefits as other University retirees.

19 12. After LLNS assumed responsibility for managing the Livermore Lab, University retirees
20 from the Lab (including Moen himself) were asked to select a health care provider. Moen selected
21 Anthem Blue Cross, and LLNS still uses Anthem Blue Cross to provide Moen's retiree medical
22 benefits.

23 JAY DAVIS

24 13. Jay Davis began working at the Livermore Lab in June 1971 and retired on June 29,
25 2002, with no breaks in University service. Throughout his career at the Livermore Lab, he was a
26 University employee. He was told by his superiors that he was a University employee and was
27 always treated like one. Among other things, the University issued his paycheck, and he was covered
28 by the University Staff Personnel Policies and Procedures.

1 27. Throughout his career at the Livermore Lab, Petitioner was a University employee and
2 was always treated like one by the Regents. Among other things, his paycheck came from the
3 University, and he was covered by the University's Staff Personnel Policies and Procedures.

4 28. During the time he was employed, the Regents provided medical benefits through
5 Anthem Blue Cross, as well as other plans. When he retired, the Regents continued to provide
6 medical benefits to Petitioner in the same manner and under the same terms and conditions as
7 medical benefits were provided to others who had retired from the University of California after
8 working at facilities other than the Livermore Laboratory.

9 29. The Regents continued to treat Petitioner in the same way other University retirees were
10 treated until, on or about January 1, 2008, when the Regents terminated his coverage for retiree
11 medical benefits and transferred responsibility for providing retiree medical benefits to Lawrence
12 Livermore National Security (LLNS). In so doing, the Regents terminated the vested, contractual
13 rights of Petitioner to receive the same University-provided health coverage as other University
14 retirees.

15 30. Petitioner is informed and believes that, although LLNS assumed responsibility for
16 managing the Livermore Lab on or about October 1, 2007, the Regents continued to provide the same
17 retiree medical benefits until on or about January 1, 2008. Petitioner is further informed and believes
18 that, throughout 2008, the coverage LLNS provided was the same or similar to the coverage that the
19 Regents provided to other University retirees. However, on or about January 1, 2009, the LLNS-
20 sponsored plan began to increase premiums and co-payments to a greater extent than the Regents
21 increased premiums and co-payments for the University-sponsored plan.

22 31. As a result of the changes made to retiree medical benefits by LLNS, Petitioner has been
23 damaged by having to pay increased premiums for less coverage than he would be paying if he were
24 a member of the University-sponsored plan for retirees.

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GREGORY M. BIANCHINI

1
2 32. Petitioner Gregory M. Bianchini began working for the Livermore Lab in 1969. He
3 worked there continuously until he retired on or about July 1, 2006.

4 33. Petitioner Bianchini was a member of the University of California Retirement Plan
5 (UCRP). Petitioner does not receive Social Security benefits or Medicare benefits.

6 34. Throughout his career at the Livermore Lab, Petitioner was a University employee and
7 was always treated like one by the Regents. Among other things, his paycheck came from the
8 University, and he was covered by the University's Staff Personnel Policies and Procedures.

9 35. During the time he was employed, the Regents provided medical benefits through Kaiser.
10 When he retired, the Regents continue to provide medical benefits to Petitioner in the same manner
11 and under the same terms and conditions as medical benefits were provided to others who had retired
12 from the University of California after working at facilities other than the Livermore Laboratory.

13 36. The Regents continued to treat Petitioner Bianchini in the same way other University
14 retirees were treated until, on or about January 1, 2008, when the Regents terminated his coverage for
15 retiree medical benefits and transferred responsibility for providing retiree medical benefits to
16 Lawrence Livermore National Security (LLNS). In so doing, the Regents terminated the vested,
17 contractual rights of Petitioner to receive the same University-provided health coverage as other
18 University retirees.

19 37. Petitioner is informed and believes that, although LLNS assumed responsibility for
20 managing the Livermore Lab on or about October 1, 2007, the Regents continued to provide the same
21 retiree medical benefits until on or about January 1, 2008. Petitioner is further informed and believes
22 that, throughout 2008, the coverage LLNS provided was the same or similar to the coverage that the
23 Regents provided to other University retirees. However, on or about January 1, 2009, the LLNS-
24 sponsored plan began to increase premiums and co-payments to a greater extent than the Regents
25 increased premiums and co-payments for the University-sponsored plan.

26 38. When Petitioner reached age 65 in October 2012, his monthly premium increased from
27 approximately \$45 per month to approximately \$275 per month. Petitioner is informed and believes
28

1 that, if he were covered by the University-sponsored plan, his monthly premiums would not have
2 increased when he reached age 65 but would have remained at approximately the same level.

3
4 GEORES BUTTNER

5 39. Petitioner Geores Buttner began working for the University of California in 1958. In
6 1972, he transferred to the Lawrence Livermore National Laboratory, where he worked until retiring
7 on or about December 15, 1987.

8 40. Petitioner Buttner was a member of the University of California Retirement Plan
9 (UCRP). Petitioner does not receive Social Security benefits.

10 41. Throughout his career at both the Lawrence Berkeley Laboratory and the Lawrence
11 Livermore National Laboratory, Petitioner was a University employee and was always treated like
12 one by the Regents. Among other things, his paycheck came from the University, and he was
13 covered by the University's Staff Personnel Policies and Procedures.

14 42. During the time he was employed, the Regents provided medical benefits through Kaiser.
15 When he retired, the Regents continue to provide medical benefits to Petitioner in the same manner
16 and under the same terms and conditions as medical benefits were provided to others who had retired
17 from the University of California after working at facilities other than the Livermore Laboratory.

18 43. The Regents continued to treat Petitioner in the same way other University retirees were
19 treated until, on or about January 1, 2008, when the Regents terminated his coverage for retiree
20 medical benefits and transferred responsibility for providing retiree medical benefits to Lawrence
21 Livermore National Security (LLNS). In so doing, the Regents terminated the vested, contractual
22 rights of Petitioner to receive the same University-provided health coverage as other University
23 retirees.

24 44. Petitioner is informed and believes that, although LLNS assumed responsibility for
25 managing the Livermore Lab on or about October 1, 2007, the Regents continued to provide the same
26 retiree medical benefits until on or about January 1, 2008. Petitioner is further informed and believes
27 that, throughout 2008, the coverage LLNS provided was the same or similar to the coverage that the
28 Regents provided to other University retirees. However, on or about January 1, 2009, the LLNS-

1 sponsored plan began to increase premiums and co-payments to a greater extent than the Regents
2 increased premiums and co-payments for the University-sponsored plan.

3 45. Petitioner purchases Medicare benefits. However as a result of the transfer of
4 responsibility to LLNS, Petitioner is not reimbursed for Medicare Plan B.

5 ALAN HINDMARSH

6 46. Petitioner Alan Hindmarsh began working for the Livermore Lab in 1968. He worked
7 there continuously until he retired on or about October 1, 2002.

8 47. Petitioner Hindmarsh was a member of the University of California Retirement Plan
9 (UCRP). Petitioner does not receive Social Security benefits or Medicare benefits.

10 48. Throughout his career at the Livermore Lab, Petitioner was a University employee and
11 was always treated like one by the Regents. Among other things, his paycheck came from the
12 University, and he was covered by the University's Staff Personnel Policies and Procedures.

13 49. During the time he was employed, the Regents provided medical benefits to Petitioner
14 through various providers, and Petitioner's plan coverage changed from time to time. At the time he
15 retired, he was receiving coverage through Blue Cross Plus, and the Regents continued to provide
16 these medical benefits to Petitioner in the same manner and under the same terms and conditions as
17 they were provided to others who had retired from the University of California after working at
18 facilities other than the Livermore Laboratory. In 2009, Blue Cross became Anthem Blue Cross, but
19 offered essentially the same plans. However, as a result of changes made to retiree medical benefits
20 by LLNS, Petitioner's premiums became prohibitively expensive, and he changed medical plans to
21 ABC-PPO, also offered by Anthem Blue Cross at lower cost but with less coverage.

22 50. The Regents continued to treat Petitioner in the same way other University retirees were
23 treated until, on or about January 1, 2008, when the Regents terminated his coverage for retiree
24 medical benefits and transferred responsibility for providing retiree medical benefits to Lawrence
25 Livermore National Security (LLNS). In so doing, the Regents terminated the vested, contractual
26 rights of Petitioner to receive the same University-provided health coverage as other University
27 retirees.

28

1 51. Petitioner is informed and believes that, although LLNS assumed responsibility for
2 managing the Livermore Lab on or about October 1, 2007, the Regents continued to provide the same
3 retiree medical benefits until on or about January 1, 2008. Petitioner is further informed and believes
4 that, throughout 2008, the coverage LLNS provided was the same or similar to the coverage that the
5 Regents provided to other University retirees. However, on or about January 1, 2009, the LLNS-
6 sponsored plan began to increase premiums to a greater extent than the Regents increased premiums
7 for the University-sponsored plan.

8 52. As a result of the changes made to retiree medical benefits by LLNS, Petitioner has been
9 damaged by having to pay increased premiums for less coverage than he would be paying if he were
10 a member of the University-sponsored plan for retirees.

11 STEVE HORNSTEIN

12 53. Petitioner Steve Hornstein began working for the Livermore Lab in 1974. He worked
13 there continuously until he retired on or about March 14, 2004.

14 54. Petitioner Hornstein was a member of the University of California Retirement Plan
15 (UCRP). Petitioner does not receive Social Security benefits or Medicare benefits.

16 55. Throughout his career at the Livermore Lab, Petitioner was a University employee and
17 was always treated like one by the Regents. Among other things, his paycheck came from the
18 University, and he was covered by the University's Staff Personnel Policies and Procedures.

19 56. During the time Petitioner was employed, the Regents provided medical benefits. While
20 employed at the Livermore Laboratory, he elected to be in different medical plans at different times.
21 At one time or another, he was covered by Kaiser, HealthNet and BlueCross. At the time he retired
22 in 2004, Petitioner was covered by HealthNet. He returned to Kaiser in 2011, although he would
23 have preferred to remain in a non-Kaiser plan.

24 57. When he retired, the Regents continued to provide medical benefits to Petitioner in the
25 same manner and under the same terms and conditions as medical benefits were provided to others
26 who had retired from the University of California after working at facilities other than the Livermore
27 Laboratory.

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1 58. The Regents continued to treat Petitioner in the same way other University retirees were
2 treated until, on or about January 1, 2008, when the Regents terminated his coverage for retiree
3 medical benefits and transferred responsibility for providing retiree medical benefits to Lawrence
4 Livermore National Security (LLNS). In so doing, the Regents terminated the vested, contractual
5 rights of Petitioner to receive the same University-provided health coverage as other University
6 retirees.

7 59. Petitioner is informed and believes that, although LLNS assumed responsibility for
8 managing the Livermore Lab on or about October 1, 2007, the Regents continued to provide the same
9 retiree medical benefits until on or about January 1, 2008. Petitioner is further informed and believes
10 that, throughout 2008, the coverage LLNS provided was the same or similar to the coverage that the
11 Regents provided to other University retirees. However, on or about January 1, 2009, the LLNS-
12 sponsored plan began to increase premiums and co-payments to a greater extent than the Regents
13 increased premiums and co-payments for the University-sponsored plan.

14 60. As a result of the changes made to retiree medical benefits by LLNS, Petitioner has been
15 deprived of the choice of a non-Kaiser medical plan at the same cost as other University retirees paid
16 who had not retired while working at Lawrence Livermore National Laboratory. On the contrary, the
17 cost of a non-Kaiser plan was significantly higher after LLNS began providing retiree medical
18 benefits for University retirees who had worked at LLNL. In addition, University retirees who had
19 not retired while working at Lawrence Livermore National Laboratory had the choice of non-Kaiser
20 HMOs, which was not available through LLNS. Petitioner would have chosen a non-Kaiser option if
21 it had been available on the same terms and conditions as it was available to University retirees
22 whose retiree medical benefits were not transferred to LLNS.

23 61. Since Petitioner will not be eligible for Medicare when he reaches age 65, his medical
24 costs are likely to be greater than University retirees not coordinated with Social Security whose
25 medical benefits were not transferred to LLNS.

26 CALVIN D. WOOD

27 62. Petitioner Calvin D. Wood began working for the Livermore Lab in late 1961 or early
28 1962. He left Lab employment to teach at the University of Utah from Sept September 1962, until

1 July 1964, when he returned to LLNL. He worked at LLNL continuously until he retired on
2 November 1, 1993.

3 63. Petitioner Wood was a member of the Public Employees Retirement System (PERS) until
4 1962, when he went to Utah. Upon returning to the Lab in July 1964, he joined the University of
5 California Retirement System (UCRS) without the Social Security option.

6 64. Petitioner was not a member of Social Security as a result of working at the Livermore
7 Laboratory but did qualify for Social Security as the result of other employment. He now receives
8 Medicare benefits.

9 65. Throughout his career at the Livermore Lab, Petitioner was a University employee and
10 was always treated like one by the Regents. Among other things, his paycheck came from the
11 University, and he was covered by the University's Staff Personnel Policies and Procedures.

12 66. During the time he was employed, the Regents provided medical benefits. When he
13 retired, the Regents continue to provide medical benefits to Petitioner in the same manner and under
14 the same terms and conditions as medical benefits were provided to others who had retired from the
15 University of California after working at facilities other than the Livermore Laboratory.

16 67. The Regents continued to treat Petitioner in the same way other University retirees were
17 treated until, on or about January 1, 2008, when the Regents terminated his coverage for retiree
18 medical benefits and transferred responsibility for providing retiree medical benefits to Lawrence
19 Livermore National Security (LLNS). In so doing, the Regents terminated the vested, contractual
20 rights of Petitioner to receive the same University-provided health coverage as other University
21 retirees.

22 68. Petitioner is informed and believes that, although LLNS assumed responsibility for
23 managing the Livermore Lab on or about October 1, 2007, the Regents continued to provide the same
24 retiree medical benefits until on or about January 1, 2008. Petitioner is further informed and believes
25 that, throughout 2008, the coverage LLNS provided was the same or similar to the coverage that the
26 Regents provided to other University retirees. However, on or about January 1, 2009, the LLNS-
27 sponsored plan began to increase premiums and co-payments to a greater extent than the Regents
28 increased premiums and co-payments for the University-sponsored plan.

SHARON WOOD

1
2 69. Petitioner Sharon Wood is the surviving spouse of David D. Wood, who was employed at
3 the Livermore Laboratory from 1960 until 1987, when he passed away as a result of cancer.

4 70. David D. Wood was a member of the Public Employees Retirement System (PERS). He
5 was retired by PERS at the time of his death, and Petitioner Sharon Wood receives retirement
6 benefits as his surviving spouse from PERS.

7 71. As a result of her own employment, Petitioner Sharon Wood was eligible for and receives
8 Social Security benefits. She is also eligible for and receives Medicare benefits.

9 72. Throughout his career at the Livermore Lab, David Wood was a University employee and
10 was always treated like one by the Regents. Among other things, his paycheck came from the
11 University, and he was covered by the University's Staff Personnel Policies and Procedures.

12 73. During the time he was employed, the Regents provided medical benefits through Kaiser.
13 When David Wood died in 1987, the Regents provided retiree medical benefits in the same manner
14 and under the same terms and conditions as medical benefits were provided to others who had retired
15 from the University of California after working at facilities other than the Livermore Laboratory.

16 74. The Regents continued to treat Petitioner Wood in the same way other University retirees
17 were treated until, on or about January 1, 2008, when the Regents terminated his coverage for retiree
18 medical benefits and transferred responsibility for providing retiree medical benefits to Lawrence
19 Livermore National Security (LLNS). In so doing, the Regents terminated the vested, contractual
20 rights of Petitioner to receive the same University-provided health coverage as other University
21 retirees.

22 75. Petitioner is informed and believes that, although LLNS assumed responsibility for
23 managing the Livermore Lab on or about October 1, 2007, the Regents continued to provide the same
24 retiree medical benefits until on or about January 1, 2008. Petitioner is further informed and believes
25 that, throughout 2008, the coverage LLNS provided was the same or similar to the coverage that the
26 Regents provided to other University retirees. However, on or about January 1, 2009, the LLNS-
27 sponsored plan began to increase premiums and co-payments to a greater extent than the Regents
28 increased premiums and co-payments for the University-sponsored plan.

1 THE REGENTS

2 76. The Regents of the University of California is a public corporation organized and
3 operating under the laws of the State of California, pursuant to Article IX, section 9, of the California
4 Constitution.

5 77. The Regents are an arm of the state with “full powers of organization and government.”
6 The Regents are self-governing, with general rule-making and policy-making powers, including
7 quasi-legislative powers, whose policies of internal regulation may enjoy a status equivalent to state
8 statutes. The Regents are authorized to enter into contracts with employees and third parties.

9 DOE RESPONDENTS

10 78. Petitioners do not know the names and capacities of Doe Respondents 1-99, but will
11 amend the petition and add this information when they do. Petitioners are informed and believe that
12 each Doe Respondent was responsible in some manner for the acts complained of.

13 FACTS

14 79. The Livermore Lab opened in 1952 as a branch of the University of California Radiation
15 Laboratory. From 1952 until 2007, the Regents operated the Livermore Lab under a contract with
16 the U.S. Department of Energy (“DOE”) or predecessor agencies of the federal government.

17 80. During this time, Petitioners and Class Members were regular employees of the
18 University, who worked under the same terms and conditions, and who were entitled to the same
19 benefits, as other University employees.

20 81. While the Regents managed the Livermore Lab, they treated University employees who
21 worked there in the same manner as they treated other University employees. Like other University
22 employees, the Livermore Lab employees received their paychecks from the University; were subject
23 to the same terms and conditions of work and covered by the same personnel policies as other
24 University employees; and they participated in the same retirement system as other University
25 employees.

26 82. Until late 2007 or early 2008, the Regents also treated retirees who had worked at the
27 Livermore Lab in the same manner as other University retirees.

28

1 83. During the 1960s, the Regents first authorized medical benefits for University employees,
2 including those working at the Livermore Lab. At the same time or shortly thereafter, the Regents
3 also authorized medical benefits for University retirees, including the retirees who had worked at the
4 Livermore Lab. The Regents' actions in authorizing and providing the retiree medical benefit were
5 taken in accordance with policies and procedures used by the Regents in the ordinary course of their
6 business and in the proper exercise of their powers.

7 84. Between the 1960s and 2007, the Regents provided the same medical benefits to active
8 and retired employees who had worked at the Livermore Lab as they provided to other active and
9 retired University employees.

10 85. When the Regents authorized retiree medical benefits in the 1960s, no policy or provision
11 of state law, and no provision of the Regents' own policies, prohibited or limited their authority to do
12 so. To the contrary, statutes and laws enacted by the state legislature and local governments and
13 agencies confirm that it was government policy to provide medical benefits to public employees and
14 retirees.

15 86. The policy adopted by the Regents made no distinction between employees and retirees
16 at the Livermore Lab and those at other University facilities.

17 87. Petitioners are informed and believe and so allege that, in authorizing retiree medical
18 benefits in the 1960s, the Regents did not include any provision that reserved the right to later
19 terminate or eliminate this benefit. Nor did the Regents include a provision authorizing modification
20 of retiree medical benefits in a manner that was not consistent with the legal authority of public
21 agencies to modify vested retirement benefits under California law, or reserve a right to transfer
22 responsibility for providing a vested benefit to another entity (like LLNS). The Regents did not
23 include any provision reserving the right to exclude Petitioners or Class Members (or other
24 employees working at the Livermore Lab or any other University facility) from coverage under
25 University-sponsored group health plan coverage or treat them differently than other University
26 employees or retirees.

27 88. Petitioners are informed and believe and so allege that it was not until the 1990s that
28 Regents began to insert language asserting a right to modify or eliminate retiree medical benefits, and

1 not until 2007 that the Regents claimed a right to terminate University-sponsored group health plan
2 coverage for University employees who had retired after working at the Livermore Lab.

3 89. From the 1960s through 2007, the Regents, by and through their publications and
4 statements made by authorized agents and representatives, represented to University employees and
5 retirees, including Petitioners and Class Members, that so long as they met eligibility requirements,
6 they would receive University-provided medical benefits during employment and throughout
7 retirement.

8 90. In May 1979, the Regents published a booklet entitled *UCRS – University of California*
9 *Retirement System – The Retirement Plan – For Members Who Do Not Have Social Security*. A
10 section entitled “Health Insurance During Retirement” provides:

11 You may continue your University-sponsored group health plan coverage for
12 you and your family after you retire. In most cases the premiums will be the
13 same as *when you were employed, and you will continue to receive The*
Regents’ health plan contribution. The balance of the premium will be
deducted from your monthly Retirement Income. (Emphasis added.)

14 A true and correct copy of the cover and page 6 of this booklet is attached as Exhibit 9 and
15 incorporated by reference. All exhibits referenced below and attached are true and correct copies of
16 the relevant pages of the document referenced and are incorporated by reference.

17 91. The Regents made the same representation in another booklet published at the same time
18 (May 1979), entitled *University of California Retirement System – UCRS and Social Security*.
19 Exhibit 2.

20 92. Petitioners are informed and believe and so allege that, since authorizing retiree medical
21 benefits in the 1960s, the Regents have paid most of the cost (and often the entire cost) of premiums
22 for University retirees, including Petitioners and Class Members.

23 93. Although the booklet (Exhibit 1) states that the “complete provisions of UCRS are set
24 forth in the Standing Order of The Regents relating to the University of California Retirement
25 System,” and that if there are any differences, “the Standing Order shall govern,” Petitioners are
26 informed and believe and so allege that there is nothing in the Standing Orders (or state law or other
27 University policy) limiting the Regents’ commitment to provide “University-sponsored group health
28 plan coverage for you and your family after you retire.”

1 94. In June 1980, the Lawrence Livermore Laboratory (as it was then named) published and
2 distributed to employees a comprehensive *Benefits Information Packet* that summarized their “Health
3 Insurance Benefits” and described what they would receive while employed or on leave, and during
4 retirement. Under the heading “What Happens to Benefits During Retirement,” it provides that:
5 “Coverage can be continued as long as monthly income received from retirement system is large
6 enough to cover employee contribution. Employer contribution continues during retirement.”

7 Exhibit 3.

8 95. In February 1984, the Regents published a booklet entitled *UCRS – University of*
9 *California Retirement System – Your retirement plan coordinated with Social Security 1984*. Exhibit

10 4. The section entitled “Continuing Health & Dental Plans, and Medicare,” provides:

11 UC Health & Dental Plans

12 If the conditions shown in the box [eligibility requirements] are met,
13 UC-sponsored health and dental plan coverage can be continued for yourself
14 and enrolled family members when UCRS monthly benefits are paid. The
15 University’s monthly contribution for your plan premiums also continues, in
the same amount as for active employees, if the conditions [i.e., eligibility
requirements] are met. Premium costs that you or your spouse might have to
pay are deducted from the UCRS benefit check.

16 96. The same statement appears in a booklet entitled *UCRS – University of California*
17 *Retirement System – Your retirement plan (Members not covered by Social Security)* also published
18 in 1979, under “Continuing Health & Dental Plans.” Exhibit 5.

19 97. In March 1988, the Regents published and distributed a booklet entitled *Lawrence*
20 *Livermore National Laboratory – Benefits*. On the first page, under “Your Benefits – The Other Part
21 of Your Compensation,” it provides:

22 Up-to-date, quality benefit plans make up a large part of your
23 compensation at the Laboratory... [¶] Benefits are like your other paycheck –
because the Laboratory pays all or most of the costs for many. And that
24 amount is over and above your salary.

25 Exhibit 6, p. 1.

26 98. The Regents go on to explain the purpose of the benefit program:

27 The Laboratory’s benefits program is designed to help protect you and
28 your family against events that can interrupt income or drain finances today.
And they help you to prepare for tomorrow’s financial security.

1 Exhibit 6, p. 1.

2 99. A section entitled "Helping you retire securely" provides:

3 When you retire you can keep your health, dental and legal plan
4 coverages; the Laboratory's contributions to the health and dental plans
5 continue, provided you retire within four months of separating from the
6 Laboratory...

7 Exhibit 6, p. 4.

8 100. It is also noted in the booklet that benefits are "governed entirely by the terms of
9 retirement plan provisions, University of California Group Insurance Regulations and group
10 health/insurance plan contracts, and applicable state and federal laws," and that "Those terms apply if
11 information in this booklet is not the same." Exhibit 6, p. 1. Petitioners are informed and believe
12 and so allege that there is no contrary provision(s) in any of the referenced materials (or other
13 University policy) and that the above statements from the booklet accurately stated the Regents'
14 policy.

15 101. In May 1990, the Regents published *The Retiree Handbook*, which contains assurances
16 similar to those in earlier publications. For example, a section entitled "Insurance," poses the
17 question: "How does retirement affect my insurance plans?" The *Handbook* provides the following
18 response:

19 Medical and Dental: Whether a member of PERS or UCRP, your
20 University group medical and dental plans may be continued when you retire,
21 provided that you are enrolled at the time of retirement. A deduction for the
22 premium you pay (if any) should appear on your retirement check stub. The
23 names of your plans should also be listed on the itemized deduction section
24 even if the monthly premiums are paid in full by the University. If you and/or
25 your spouse obtain Medicare coverage, conversion of your medical insurance
26 may be made to a Medicare supplemental plan, which reduces your cost.

27 Exhibit 7, p. 18; emp. in orig.

28 102. In addition, a retiree's right to "continue your University-sponsored group health plan
coverage" was subject to certain conditions:

- 29 ○ The employee had to be vested in the University's retirement system, which
30 required five years of service. See Exhibit 6, *Lawrence Livermore National*
31 *Laboratory – Benefits*, p. 4. ("You are vested in UCRS after you obtain the
32 equivalent of five full years of contributing service.")
- 33 ○ The employee had to elect to receive monthly retirement payments rather than
34 taking a lump-sum distribution. See Exhibit 8, *University of California*

1 *Retirement Handbook*, p. 14. (“You waive all rights to continue annuitant
2 medical, dental, and legal benefits if you elect a lump sum cashout...”)

- 3 ○ The employee had to be enrolled in the medical benefit plan at retirement. See
4 Exhibit 7, *The Retiree Handbook*, p. 18. (“Whether a member of PERS or
5 UCRP, your University group medical and dental plans may be continued
6 when you retire. *provided that you are enrolled at the time of retirement.*”)
- 7 ○ The retiree had to retire within four months of separation from the University.
8 See Exhibit 6, *Lawrence Livermore National Laboratory – Benefits*, p. 4.
9 (“When you retire you can keep your health, dental and legal plan coverages;
10 the Laboratory’s contributions to the health and dental plans continue,
11 *provided you retire within four months of separating from the Laboratory.*”)

12 103. Petitioners are informed and believe and so allege that, at all relevant times, the
13 Regents’ policy of providing retiree medical benefits was consistent with their benefit books,
14 publications and representations, as described above.

15 104. At all relevant times, Petitioners and Class Members met the eligibility requirements for
16 University-sponsored group health plan coverage.

17 105. In the mid to late 1990s, the Regents, for the first time, began inserting language in
18 benefits books and publications that claimed that retiree medical benefits were not vested and could
19 be modified or eliminated at any time. For example, the *University of California Retirement*
20 *Handbook*, published in August 1998 provides: “Health and welfare benefits are not accrued or
21 vested benefit entitlements. UC’s contribution toward the monthly cost of the coverage is
22 determined by UC and may change or stop altogether, subject to the state of California’s annual
23 budget appropriation.” Exhibit 8, p. 14.

24 106. However, elsewhere in the same *Retirement Handbook*, the Regents continued to assure
25 employees that they would receive retiree medical benefits after they retired. For example, the
26 section “Eligibility to Continue Medical and Dental Coverage,” provides:

27 If you elect UCRP monthly retirement income, you may be eligible to
28 continue your UC medical and/or dental coverage if:

- You were enrolled when you left UC employment;
- You elect to continue coverage at the time of retirement;
- Your coverage is continuous until the date your benefit begins;
- Your monthly retirement income begins within 120 days of
your separation from employment;

- 1 ○ You meet the UC service credit requirements shown below,
2 based on the date you became a retirement plan member; and
- 3 ○ Your monthly benefit must be large enough to cover any net
4 deduction.

5 Exhibit 8, p. 14.

6 107. On the last page of the *Retirement Handbook*, in small, virtually unreadable print
7 (approximately eight-point), appears the following:

8 By authority of The Regents, University of California Employee
9 Benefits Plan Administration ... administers all benefit plans in accordance
10 with applicable plan documents and regulations, custodial agreements,
11 University of California Group Insurance Regulations, group insurance
12 contracts, and state and federal laws. No person is authorized to provide
13 benefits information not contained in these source documents, and information
14 not contained in these source documents cannot be relied upon as having been
15 authorized by The Regents... What is written here does not constitute a
16 guarantee of plan coverage or benefits-particular rules and eligibility
17 requirements must be met before benefits can be received. The University of
18 California intends to continue the benefits described here indefinitely;
19 however, the benefits of all employees, annuitants, and plan beneficiaries are
20 subject to change or termination at the time of contract renewal or at any other
21 time by the University or other governing authorities. The University also
22 reserves the right to determine new premiums and employer contributions at
23 any time. Health and welfare benefits are subject to legislative appropriation
24 and are not accrued or vested benefit entitlements...”

25 Exhibit 8, last page (unnumbered) (font is as it appeared in the *Handbook*).

26 108. In or about December 2000, the Regents published a *University of California*
27 *Retirement Plan Election Handbook*, which contains assurances similar to those that appeared in
28 earlier benefit books and publications. Under the heading, “UC-sponsored Health and Welfare
Coverage,” it provides: “Your retirement profile lists your continuation options if you elect monthly
retirement income or if you elect a lump sum cashout. Generally, if you are eligible to continue
coverage and you elect monthly retirement income, you may continue the same coverage...” Exhibit
9, p. 11. The last page, however, contains the same language that appears in the *Retirement*
Handbook – also in the same small print.

109. Petitioners are informed and believe and so allege that until 1998 the Regents never
claimed a right to alter or terminate benefits or inserted language in any benefits book, publication or
handbook that could reasonably be construed as a reservation of the right to alter or terminate their

1 promise of continued “University-sponsored group health plan coverage for you and your family
2 after you retire.”

3 110. When the Regents first contended in benefit books that retiree medical coverage was not
4 an “accrued or vested benefit entitlement” and was “subject to change or termination ... at the time of
5 contract renewal or at any other time by the University or other governing authorities,” Petitioners
6 and Class Members had already spent all or virtually all of their working lives at Livermore Lab and
7 their right to retiree health benefits had already vested.

8 111. In a July 2010 review of the University’s benefits programs, the President’s Task Force
9 on Post-Employment Benefits recognized how it had been using its benefits programs as a valuable
10 tool in recruiting and retaining employees:

11 The University of California has long provided valuable Post-
12 Employment Benefits, principally a Defined Benefit (DB) pension plan
13 (University of California Retirement Plan or UCRP) *and Retiree Health*
14 *program. These benefits have been critically important for recruiting and*
15 *retaining outstanding faculty and staff – a key component in the University’s*
16 *excellence. In particular, UCRP provides incentives for long careers at the*
17 *University and promotes recruitment of talented young people to develop a*
18 *career with the University. The PEB Task Force participants are unanimous in*
19 *advocating the preservation of UCRP as a Defined Benefit plan but realize the*
20 *necessity of providing a DB plan that is sustainable and can be maintained*
21 *within the confines of the University’s operating budget.*

22 See Exhibit 10, *Final Report of the President’s Task Force on Post-*
23 *Employment Benefits*, (July 2010), p. 9; emp. added.

24 112. As the Task Force acknowledged (and as Petitioners allege), the Regents authorized
25 retiree medical benefits as a means of recruiting and retaining high quality employees. Since
26 University pay was less than private sector levels, the promise of retiree health benefits offered a
27 significant incentive to remain at the University:

28 The University’s Post-Employment Benefits (PEB) are a cornerstone of
the University community and serve as a common bond across all levels of its
workforce. *For many years, PEB programs have provided a key competitive*
advantage as the University sought to recruit and retain the highest quality
faculty and staff – often times compensating for the lack of competitive
salaries.

Exhibit 10, *Report, Executive Summary*, July 2010, p. 6; emp. added.

* * *

The University’s Retiree Health benefits have been more than
competitive because they were provided at very low cost to University retirees.

1 *Most of our competitors provide similar benefits and health plan choices for*
2 *their retirees but, of these, many provide “access-only” coverage, meaning*
3 *that the retiree must pay 100% of the premium for medical coverage. Other*
4 *competitors pay part of the premium cost, but substantially less than what the*
5 *University contributes for premiums and almost none of them follow the*
6 *University practice of contributing towards all or part of the Medicare Part B*
7 *premiums.*

8 Exhibit 10, p. 12; emp. added.

9 113. As the Regents explained in *LLNL Benefits*, published in 1988, “The Laboratory’s
10 benefit program is designed to help protect you and your family ... [and] help prepare for tomorrow’s
11 financial security.” Exhibit 6, *LLNL Benefits*, p. 1. And, more specifically, “When you retire you
12 can keep your health, dental and legal plan coverages...” *Id.* p. 4.

13 114. Petitioners and Class Members remained at the Livermore Lab based, in significant part,
14 because they would receive University-sponsored group health plan coverage when they retired.

15 115. Petitioners are informed and believe and so allege that, since the 1960s, when the
16 Regents authorized retiree medical benefits, they have provided these benefits, without interruption
17 or significant modification, and they have paid all or a substantial part of the premiums, for *all*
18 eligible University retirees – until 2007, when they terminated University-provided health care for
19 retirees who had worked at the Livermore Lab.

20 116. Petitioners have sought (and are seeking) the Regents’ resolutions and other documents
21 by which they authorized retiree medical benefits, beginning in the 1960s and continuing through the
22 present. To date, the Regents have not provided these documents.

23 117. In 2007, DOE did not renew its contract with the Regents to manage the Livermore Lab.
24 Instead, DOE contracted with Lawrence Livermore National Security (“LLNS”), a newly-created
25 private consortium formed by the University, Bechtel National, Babcock and Wilcox and other
26 entities.

27 118. As noted, on or about January 1, 2008, the Regents stopped providing medical benefits
28 through the University to the retirees who had worked at the Livermore Lab and shifted this
29 responsibility to LLNS. At or about this time, the Regents assured retirees who had worked at the
30 Livermore Lab that they would continue to receive “substantially equivalent” medical benefits from
31 LLNS.

1 119. Contrary to the Regent’s assurances, Petitioners and Class Members who worked at the
2 Livermore Lab have not received “substantially equivalent” medical benefits.

3 120. On or about August 11, 2008, after learning of the planned changes to his medical
4 benefits, Joe Requa, a retiree from the Laboratory, acting on behalf of himself and an organization of
5 retirees, advised University Acting General Counsel Jeffrey Blair that he believed the Regents had
6 acted unlawfully by terminating University-provided medical benefits and shifting this responsibility
7 to LLNS. In a series of phone calls Blair promised to provide Requa with a response, but he never
8 did.

9 121. Requa, however, did receive a response from *counsel for LLNS*, by e-mail dated
10 September 16, 2008. In it, LLNS contended that “medical costs for Laboratory retirees have always
11 been paid for by operating costs of the Laboratory” and that “coverage could change or be terminated
12 at any time.” LLNS then said that it had been “determined by the [DOE] that Laboratory employees
13 who retired from UC would no longer be included in the UC retiree pool for coverage purposes,” and
14 that in the future benefits “may not be equivalent to those offered by the University.”

15 122. The benefits that LLNS has provided to University employees who worked at the
16 Livermore Lab have not been “substantially equivalent” to those provided to other University
17 retirees. Rather, the benefits have been inferior.

18 123. Since contracting with DOE to manage the Livermore Lab, LLNS has asked DOE to
19 relieve it from having to provide retirees from Livermore Lab with health benefits “substantially
20 equivalent” to what they previously received from the University, and to require only that LLNS has
21 to provide benefits that meet “industry standard.” DOE agreed.

22 124. The Regents were without authority to single out Petitioners and Class Members who
23 happened to work at the Livermore Lab and terminate University-sponsored group health plan
24 coverage for them and them only.

25 125. As University retirees who have suffered and will continue to suffer harm as a result of
26 the actions described above, Petitioners and Class Members are beneficially interested in this
27 proceeding.

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CLASS ACTION ALLEGATIONS

126. Petitioners bring this action on behalf of themselves and all others similarly situated pursuant to California Code of Civil Procedure § 382. The Class that Petitioners seek to represent is defined as follows:¹

All persons:

- (1) who are retirees of the University of California who worked at the Lawrence Livermore National Laboratory or its predecessors (collectively, "LLNL"), who were eligible for University-of-California ("University")-sponsored group health plan coverage at retirement, and who received University-sponsored group health plan coverage until the Regents terminated coverage in late 2007 or early 2008 in connection with transfer of LLNL's management to Lawrence Livermore National Security (LENS); or
- (2) who are spouses, surviving spouses or dependents, who were eligible for University-sponsored group health plan coverage as a consequence of a University employee's retirement after working at LLNL or death while working at LLNL, and who received University-sponsored group health plan coverage until the Regents terminated coverage in late 2007 or early 2008 in connection with transfer of LLNL's management to Lawrence Livermore National Security (LENS).

127. This action is brought and may be maintained as a class action under California Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation and the proposed class is easily ascertainable.

128. Upon information and belief, the Class is comprised of thousands of individuals who live throughout California and the United States, making individual joinder of all Class Members impracticable.

129. There are questions of fact and law common to Petitioners and the Class that predominate over any questions affecting individual Class members. These include, but are not limited to:

- (a) Whether Petitioners and the Class have an express or implied contractual right to "continued University-sponsored group health plan coverage" throughout retirement;

¹ Petitioners retain and also reserve the right to move to certify subclasses if discovery discloses that subclasses are warranted or if a single class encompassing all Livermore Lab retirees is not certified.

1 (b) Whether the Regents impaired the contractual rights of Petitioners
2 and the Class in 2007 by terminating their University-sponsored group retiree
3 health care;

4 (c) Whether Petitioners and the Class were damaged by the Regents'
5 actions;

6 (d) Whether the Regents promised and represented to Petitioners and the
7 Class they would provide University-sponsored group health care throughout
8 retirement;

9 (e) Whether the Regents intended that Petitioners and the Class would
10 rely on their promises and representations of University-sponsored group retiree
11 health care coverage throughout retirement;

12 (f) Whether Petitioners and Class Members reasonably relied on the
13 Regents' promises and representations about continuing University-sponsored
14 group retiree health care to their detriment;

15 (g) Whether the Regents are estopped from denying the enforceability
16 of their promises and representations under the doctrine of promissory estoppel;

17 (h) Whether the Regents are estopped from denying the enforceability of
18 their promises and representations under the doctrine of equitable estoppel; and

19 (i) Whether Petitioners and the Class are entitled to a peremptory writ
20 of mandate directing the Regents to restore University-sponsored group retiree
21 health care, and to award of consequential damages resulting from the Regents'
22 actions.

23 130. Petitioners' claims are typical of the claims of the Class. The Regents' course of
24 conduct as alleged herein caused Petitioners and the Class to sustain the same or similar
25 injuries and damages. Petitioners' claims are representative of and co-extensive with the
26 claims of the Class.

27 131. Each Petitioner is a member of the Class and no Petitioner has a conflict of
28 interest with the members of the Class they seek to represent. Petitioners will prosecute this

1 action vigorously on behalf of the Class and have retained competent counsel experienced in
2 complex employee benefit class action litigation. Petitioners and their counsel will fairly and
3 adequately represent and protect the interests of the Class.

4 132. A class action is superior to other available means for the fair and efficient
5 adjudication of this controversy. Each Class member has been injured and is entitled to relief
6 and recovery by reason of the same conduct and unlawful acts of the Regents. A class action
7 allows similarly situated persons to litigate their claims efficiently and economically and
8 conserve judicial resources. The damages suffered by each Class member may not justify the
9 burden and expense of individual prosecutions, making it difficult, if not impossible, for Class
10 members to redress these wrongs individually. Even if Class members could afford
11 individual actions, a multiplicity of actions is not preferable to class-wide litigation, since
12 individual actions might result in inconsistent or contradictory rulings. Class actions present
13 fewer logistical difficulties and provide the benefits of a single adjudication, economies of
14 scale, and comprehensive management by a single judge. A Class action will yield a binding
15 resolution and that no new lawsuits will be filed thereafter.

16 **FIRST CAUSE OF ACTION**

17 (Impairment of Implied Contract)

18 133. Petitioners incorporate the above allegations as if set forth in full.

19 134. By their conduct, representations, and authorization of retiree medical benefits,
20 the Regents *offered* Petitioners and Class Members “continued University-sponsored group
21 health plan coverage” when they retired, so long as they met the eligibility requirements.

22 135. Petitioners and Class Members *accepted* the Regents’ offer by working at the
23 Livermore Lab and providing UC with years of service until retirement.

24 136. When Petitioners and Class Members accepted this offer it created a binding
25 contractual obligation on the Regents’ part to provide the promised retiree health benefits.

26 137. Petitioners and Class Members accepted work and remained at Livermore Lab
27 based, in significant part, on the understanding that the Regents would provide them with the
28 promised medical benefits throughout retirement.

1 138. The Regents accepted the services of Petitioners and Class Members, well aware
2 that Petitioners and Class Members reasonably expected to receive these retiree benefits.

3 139. While Petitioners and Class Members were employed at the Livermore Lab, the
4 Regents stressed in benefit books and elsewhere that, “benefit plans make up a large part of
5 your compensation at the Laboratory” and are “like any other paycheck.” Exhibit 6, *LLNL*
6 *Benefits*, p. 1.

7 140. As the Regents explained in benefit books distributed to employees, the “benefit
8 plans” allow Petitioners and Class Members to keep “your health, dental and legal plan
9 coverages [when you retire],” with the “*Laboratory’s* contributions to the health and dental
10 plans continu[ing]...” *Id.* p. 4.

11 141. The right of Petitioners and Class Members to University-sponsored group health
12 plan coverage vested when the Regents authorized it (if they were then employed) or when
13 they accepted employment (if they were hired later).

14 142. Once vested, the Regents were not free to terminate the coverage of Petitioners
15 and Class Members under the University-sponsored group health plan without impairing their
16 contractual rights under the contract clause of the California Constitution.

17 143. From the 1960s until 2007, the Regents honored their contractual obligations by
18 providing Petitioners and Class Members with continued University-sponsored group health
19 plan coverage.

20 144. Although the Regents began to insert language in benefit booklets in the mid to
21 late 1990s asserting, for the first time, that “Health and welfare benefits are not accrued or
22 vested benefit entitlements,” and are “subject to change or termination at the time of contract
23 renewal or any other time,” Exhibit 9, this assertion could not divest Petitioners and Class
24 Members of their vested right to retiree medical benefits.

25 145. In addition, the Regents provided no consideration for their unilateral termination
26 of the vested rights of Petitioners and Class Members to retiree medical benefits.

27 146. Nor did the Regents provide adequate notice of this claim of authority, as the
28 language upon which they apparently rely is buried in small, virtually unreadable print in the

1 back of the benefit booklets. Elsewhere in these booklets, the Regents assured University
2 employees—in a normal, readable font—that they would continue to receive University-
3 sponsored group health plan coverage when they retired.

4 147. Though vested, benefits of Petitioners and Class Members may be modified in
5 accord with changing conditions – but only if the modification is reasonable, that is, if it is
6 materially related to the theory of a pension plan and its successful operation. In addition, any
7 changes in a vested pension plan or retiree benefit which disadvantage participants should be
8 accompanied by comparable new advantages.

9 148. The Regents termination of vested right of Petitioners and Class Members to
10 receive the same University-provided medical benefits as other University retirees was not a
11 reasonable modification. The Regents did not *modify* the rights of Petitioners and Class
12 Members, they *eliminated* them.

13 149. The Regents' termination of the vested rights of Petitioners and Class Members
14 to University-sponsored group retiree health plan coverage, impaired Petitioners' the
15 contractual rights of Petitioners and Class Members in violation of Article I, § 9 of the
16 California Constitution.

17 150. In terminating coverage to Petitioners and Class Members under the University-
18 provided retiree medical benefit plan, the Regents singled them out and treated them less
19 favorably than all other University retirees.

20 151. The Regents have moved Petitioners and Class Members to a plan which has
21 significant disadvantages and no comparable new advantages, when compared with the
22 University-provided retiree medical benefit plan.

23 152. Among other disadvantages, Petitioners and Class Members have been removed
24 from the risk pool comprised of other UC employees and retirees, and put in a smaller pool
25 that is aging and becoming more infirm. Since Petitioners and Class Members can no longer
26 spread risk over the University's much larger pool, the cost of their coverage will increase
27 more rapidly compared to other University retirees, and their bargaining power with health
28 care providers will diminish.

1 over the course of nearly 50 years, that Petitioners and Class Members would continue to
2 receive University-sponsored group health plan coverage throughout retirement.

3 161. Retiree health benefits are uniquely important to the well-being of Petitioners and
4 Class Members in retirement.

5 162. For many years, the Regents encouraged Petitioners and Class Members to rely
6 on their promise of University-provided retiree health benefits, as shown by the following;

- 7 ○ **May 1979:** The Regents assure Petitioners and Class Members that,
8 “You may continue your University-sponsored group health plan
9 coverage for you and your family after you retire.” (Exhibits 1 & 2)
- 10 ○ **June 1980:** The Regents assure Petitioners and Class Members that
11 health care coverage “can be continued [after retirement] as long as
12 monthly income received from retirement system is large enough to
13 cover employee contribution” and that the Regents’ contribution
14 “continues during retirement.” (Exhibit 3)
- 15 ○ **February 1984:** The Regents tell Petitioners and Class Members that
16 “UC-sponsored health and dental plan coverage can be continued for
17 yourself and enrolled family members when UCRS monthly benefits are
18 paid” and the “University’s monthly contribution for your plan premiums
19 also continues, in the same amount as for active employees...” (Exhibits
20 4 & 5)
- 21 ○ **March 1988:** The Regents tell Livermore Lab employees that “Up-to-
22 date, quality benefit plans make up a large part of your compensation at
23 the Laboratory,” noting that, “Benefits are like your other paycheck –
24 because the Laboratory pays all or most of the costs for many,” and “that
25 amount is over and above your salary.” Also, the Regents assured
26 Petitioners and Class Members: “When you retire you can keep your
27 health, dental and legal plan coverages; the Laboratory’s contributions to
28 the health and dental plans continue, provided you retire within four
months of separating from the Laboratory...” (Exhibit 6, p. 4)
- **May 1990:** The Regents’ *Retiree Handbook* tells employees, including
Petitioners and Class Members, that “Whether a member of PERS or
UCRP, your University group medical and dental plans may be
continued when you retire, *provided that you are enrolled at the time of
retirement...*” (Exhibit 7; emp. in orig)

163. For almost 50 years, the Regents have treated University employees and retirees
who worked at the Livermore Lab in the same way as all other University employees and
retirees. During this time, the Regents knew that University employees working at the
Livermore Lab would and did rely on the fact that the Regents had authorized and were
providing retirees from the Lab with the same medical benefits as other University retirees.

1 The Regents knew (or should have known) that Petitioners and Class Members reasonably
2 believed that they would continue to receive the same University-sponsored group health plan
3 coverage as other University retirees.

4 164. Petitioners and Class Members had already spent all or most of their working
5 lives at the Livermore Lab before the Regents began inserting language in benefit books
6 claiming that health benefits “are not accrued or vested benefit entitlements,” and “subject to
7 change or termination at the time of contract renewal or at any other time.” Exhibit 8.

8 165. The Regents knew that retiree medical benefits were not always available from
9 private sector employers, and they used the promise of retiree medical benefits to recruit and
10 retain employees at Livermore Lab.

11 166. The Regents knew or should have known that Petitioners and Class Members
12 would rely on their representations regarding the availability of retiree health coverage in
13 accepting and remaining at work at UC.

14 167. The Regents failed to adequately inform Petitioners and Class Members of the
15 purported change in policy, and, at a minimum, they had a duty to clearly and unequivocally
16 notify Petitioners and Class Members of a change of this magnitude.

17 168. The Regents’ assertion of a right to change these benefits was buried in small,
18 virtually unreadable print on the last page of the benefit booklets, where it was not likely that
19 Petitioners and Class Members would read or even see it.

20 169. Petitioners and Class Members are informed and believe that the Regents did this
21 because they feared that Petitioners and Class Members would leave the Livermore Lab
22 and/or insist on assurances that the Regents would continue to honor their commitment.

23 170. For these reasons, the Regents are estopped from denying their obligation to
24 continue University-sponsored group health plan coverage for Petitioners and Class Members.

25 171. The doctrine of estoppel may not be invoked against a governmental body where
26 it would defeat the effective operation of a policy adopted to protect the public.

27 172. Application of promissory estoppel here would not defeat the effective operation
28 of any policy meant to protect the public. To the contrary, it is the policy in the State of

1 California to liberally construe pension provisions relating to public employees to promote
2 their beneficent purpose, and to protect the reasonable expectations of those whose reliance
3 has been induced.

4 173. As a result of the foregoing, Petitioners and Class Members are entitled to a
5 peremptory writ of mandate.

6 THIRD CAUSE OF ACTION

7 (Equitable Estoppel)

8 174. Petitioners incorporate the above allegations as if set forth in full.

9 175. Even if the Regents believed that they were under no obligation to continue
10 University-sponsored group health plan coverage here, they never communicated that belief
11 to Petitioners and Class Members.

12 176. To the contrary, the Regents clearly communicated to Petitioners (and other
13 University employees) and Class Members that they could continue University-sponsored
14 group health plan coverage during retirement.

15 177. The Regents were well aware that Petitioners and Class Members would and did
16 take them at their word and accepted their representations that they could continue their
17 University-sponsored group health plan coverage after retirement.

18 178. Petitioners and Class Members are informed and believe and so allege that it was
19 not until the mid to late 1990s that the Regents began inserting language in benefit books
20 claiming that retiree health and other welfare benefits “are not accrued or vested benefit
21 entitlements,” Exhibit 8, or that “the benefits of all employees, annuitants, and plan
22 beneficiaries are subject to change or termination at the time of contract renewal or at any
23 other time...” Exhibit 9.

24 179. Notwithstanding any belief that the Regents might have privately held, they
25 intended Petitioners and Class Members to rely on their statements and publications that
26 promised retiree health coverage through the University in order to encourage them to remain
27 University employees at the Livermore Lab.

28

1 180. Petitioners and Class Members reasonably relied on the Regents' representations
2 to their detriment, and the Regents could or should have foreseen their reliance, as alleged
3 above.

4 181. The Regents failed to adequately inform Petitioners and Class Members of the
5 purported change in policy, as alleged above.

6 182. Based on the facts and circumstances alleged herein, the Regents are estopped
7 from denying their obligations to continue University-sponsored group health plan coverage
8 to Petitioners and Class Members during retirement.

9 183. Application of the doctrine of estoppel in this case would not defeat the operation
10 of any important public policy.

11 184. Based on the foregoing, Petitioners and Class Members are entitled to a
12 peremptory writ of mandate.

13 **FOURTH CAUSE OF ACTION**

14 (Declaratory Relief)

15 185. Petitioners incorporate the above allegations as if set forth in full.

16 186. As alleged, a dispute presently exists regarding whether the Regents have
17 impaired their contractual obligations to provide Petitioners and Class Members with the
18 University-provided retiree medical benefits, and whether the Regents are estopped to deny
19 these obligations based on promissory and/or equitable estoppel.

20 187. Petitioners and Class Members are entitled to a declaration of their rights and to
21 appropriate declaratory and injunctive relief.

22 **PRAYER FOR RELIEF**

23 Petitioners pray that, after an appropriate hearing, this Court issue the following relief:

24 1. Enter an order certifying that this action is properly brought and may be maintained
25 as a class action, that Petitioners be appointed Class Representatives, and Petitioners' counsel
26 be appointed Class Counsel for the Class;

27 2. A Peremptory Writ of Mandate, directing the Regents to restore the use and
28 enjoyment of their right to continue their University-sponsored group health plan coverage to

1 Petitioners and Class Members, and their families, with the same eligibility requirements, and
2 on the same terms and conditions as apply to other University retirees who elected to continue
3 their group health plan coverage when they retired;

4 3. Direct the Regents to provide restitution and/or damages to Petitioners and Class
5 Members, with interest at the legal rate, and to make Petitioners and Class Members whole
6 for any losses suffered as a result of the impairment of their contractual rights;


7 4. Declare that the Regents were without authority to terminate the vested right to
8 continue University-sponsored group health plan coverage for Petitioners and Class Members
9 on the same basis as other University retirees; and are without authority or transfer
10 responsibility for providing retiree medical benefits to LLNS;

11 5. Award reasonable attorney's fees, pursuant to Code of Civil Procedure § 1021.5
12 and any other provision of law providing for such award;

13 6. Direct Respondents to reimburse Petitioners and Class Members for the costs of this
14 action;

15 7. Issue such other and further relief as is deemed appropriate by the Court.

16 Dated: 3/18/14

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18 ANDREW THOMAS SINCLAIR
19 Attorney for Petitioners
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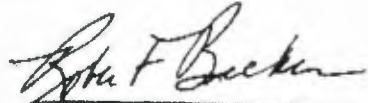
VERIFICATION OF ROBERT BECKER

I say and declare:

1. My name is Robert Becker. I am one of the Petitioners in this action. I am a resident of the County of Alameda, State of California.

2. I have read the above Amended Petition for Writ of Mandate. The facts alleged in the petition are true and correct to the best of my knowledge and belief, except the facts relating to the employment of the other Petitioners.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was signed by me on March 17, 2014, at Livermore, California.



ROBERT BECKER

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VERIFICATION OF GREGORY M. BIANCHINI

I say and declare:

1. My name is Gregory M. Bianchini. I am one of the Petitioners in this action. I am a resident of the County of Alameda, State of California.

2. I have read the above Amended Petition for Writ of Mandate. The facts alleged in the petition are true and correct to the best of my knowledge and belief, except the facts relating to the employment of the other Petitioners.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was signed by me on March 17, 2014, at Livermore, California.


GREGORY M. BIANCHINI

VERIFICATION OF GEORGES BUTTNER

I say and declare:

1. My name is Georges Buttner. I am one of the Petitioners in this action. I am a resident of the County of Alameda, State of California.

2. I have read the above Alleged Petition for Writ of Mandate. The facts alleged in the petition are true and correct to the best of my knowledge and belief, except the facts relating to the employment of the other Petitioners.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was signed by me on March 14, 2014,

in Berkeley, California.

Georges Buttner
GEORGES BUTTNER

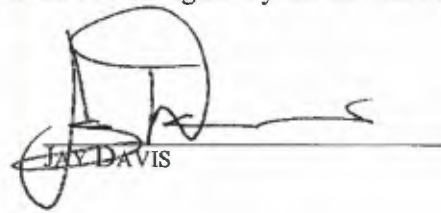
1 VERIFICATION OF JAY DAVIS

2 I say and declare:

3 1. My name is Jay Davis. I am one of the Petitioners in this action. I am a resident of
4 the County of Alameda, State of California.

5 2. I have read the above Amended Petition for Writ of Mandate. The facts alleged in
6 the petition are true and correct to the best of my knowledge and belief, except the facts
7 relating to the employment of the other Petitioners.

8 I declare under penalty of perjury under the laws of the State of California that the
9 foregoing is true and correct and that this verification was signed by me on March 12, 2014,
10 at Livermore, California.

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12 JAY DAVIS
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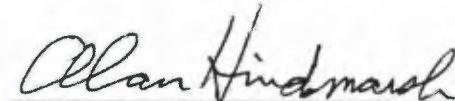
VERIFICATION OF ALAN HINDMARSH

I say and declare:

1. My name is Alan Hindmarsh. I am one of the Petitioners in this action. I am a resident of the County of Alameda, State of California.

2. I have read the above Amended Petition for Writ of Mandate. The facts alleged in the petition are true and correct to the best of my knowledge and belief, except the facts relating to the employment of the other Petitioners.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was signed by me on March 14, 2014, at Livermore, California.


ALAN HINDMARSH

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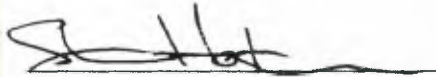
VERIFICATION OF STEVE HORNSTEIN

I say and declare:

1. My name is Steve Hornstein. I am one of the Petitioners in this action. I am a resident of the County of Alameda, State of California.

2. I have read the above Amended Petition for Writ of Mandate. The facts alleged in the petition are true and correct to the best of my knowledge and belief, except the facts relating to the employment of the other Petitioners.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was signed by me on March 13, 2014, at Oakland, California.


STEVE HORNSTEIN

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VERIFICATION OF WENDELL G. MOEN

I say and declare:

1. My name is Wendell G. Moen. I am one of the Petitioners in this action. I am a resident of the County of Alameda, State of California.

2. I have read the above Amended Petition for Writ of Mandate. The facts alleged in the petition are true and correct to the best of my knowledge and belief, except the facts relating to the employment of the other Petitioners.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was signed by me on March 13, 2014, at Pleasanton, California.



WENDELL G. MOEN

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VERIFICATION OF DONNA VENTURA

I say and declare:

1. My name is Donna Ventura. I am one of the Petitioners in this action. I am a resident of Alameda County, State of California.

2. I have read the above Amended Petition for Writ of Mandate. The facts alleged in the petition are true and correct to the best of my knowledge and belief, except the facts relating to the employment of the other Petitioners.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was signed by me on March 13, 2014, at San Leandro, California.


DONNA VENTURA

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VERIFICATION OF CALVIN D. WOOD

I say and declare:

1. My name is Calvin D. Wood. I am one of the Petitioners in this action. I am a resident of the County of Alameda, State of California.

2. I have read the above Amended Petition for Writ of Mandate. The facts alleged in the petition are true and correct to the best of my knowledge and belief, except the facts relating to the employment of the other Petitioners.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was signed by me on March 13, 2014, at Livermore, California.


CALVIN D. WOOD

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VERIFICATION OF SHARON WOOD

I say and declare:

1. My name is Sharon Wood. I am one of the Petitioners in this action. I am a resident of the County of Alameda, State of California.

2. I have read the above Amended Petition for Writ of Mandate. The facts alleged in the petition are true and correct to the best of my knowledge and belief, except the facts relating to the employment of the other Petitioners.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was signed by me on March 14, 2014 at Livermore, California.

Sharon L. Wood
SHARON WOOD

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EXHIBITS

The exhibits are the same as for the First Amended Petition and are not attached in the interest of the environment.