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July 23, 2007

**via FIRST CLASS MAIL**

Eric R. Dinallo, Superintendent  
State of New York Insurance Department  
25 Beaver Street  
New York, New York 10004

Re: Discretionary Clauses in Group Insurance Contracts/  
Circular Letter No.: 14 (2006)

Dear Superintendent Dinallo:

The undersigned represent the interests of thousands of insured New Yorkers who have group insurance contracts that confer discretionary authority on insurance carriers to make all claim determinations and interpret policy provisions. We write to urge the New York State Insurance Department to end the uncertainty and unfairness engendered by such discretionary clauses and complete the drafting of the regulations that would prohibit the use of discretionary clauses in all new and existing accident, health, life and disability insurance policies issued in this State.

In its 2006 Circular Letter No.: 14, the Department made clear that it was strongly opposed to incorporation of discretionary language clauses into insurance contracts, because such clauses encourage misrepresentation and are unjust, unfair, inequitable, misleading, deceptive and contrary to the law and public policy of New York. Accordingly, the Department urged commercial insurers and HMOs to remove discretionary clauses from policies submitted for the Department's review and approval while the Department drafted regulations that would prohibit the use of discretionary clauses in insurance policies and contracts issued in this State.

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Since that time, New Jersey's Department of Banking and Insurance formally adopted rules prohibiting the use of Discretionary Clauses in insurance contracts (attached) and ordered that all non-complying contracts be withdrawn by the end of this year.

Because we represent thousands of New York State Insureds, we have witnessed, first hand, the corrosive effect such discretionary clauses have had on insureds' faith in this State's ability to protect such a personal, vital and important economic interest. The United States Court of Appeals for the Second Circuit commented that these clauses diminish the value of insurance policies to the extent that discretionary clauses should be conspicuously placed to afford individuals the opportunity to obtain more meaningful insurance. See Gibbs v. CIGNA Corp., 440 F.3d 571, 577 (2d. Cir. 2006).

Indeed, the millions of hard working New Yorkers who rely upon their employee benefits as their sole source of financial protection when catastrophe strikes -- death, disability, a major health crisis -- need the State to ensure those benefits are not illusory or subject to insurance company profiteering during a crisis.

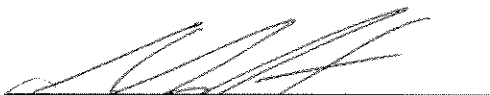
Given all of the foregoing, we urge the New York State Insurance Department to hasten the rule-making process for banning discretionary clauses as quickly as possible.

We are available to offer any assistance that the Insurance Department may require to accomplish this important and laudable goal to bring greater protection to millions of New York insureds.

This letter may be signed in counterpart. The signatory(ies) on each counterpart annexed hereto agree that their signatures shall be incorporated herein as if signed on this original letter.

Sincerely,

By:





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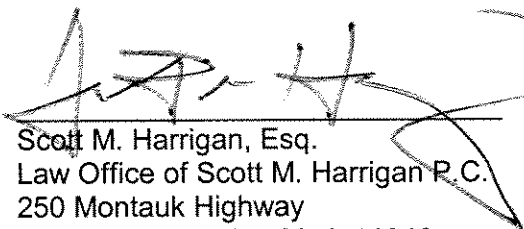


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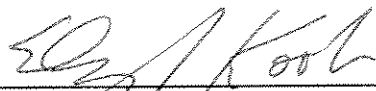
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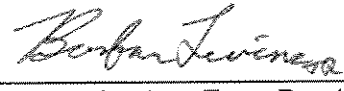
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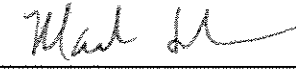
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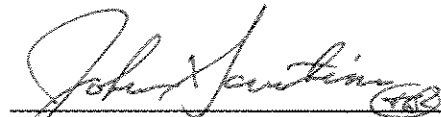
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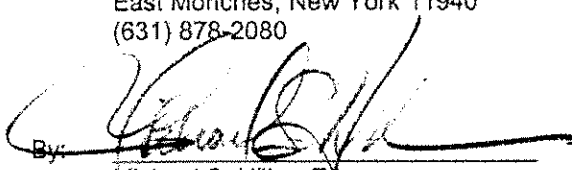
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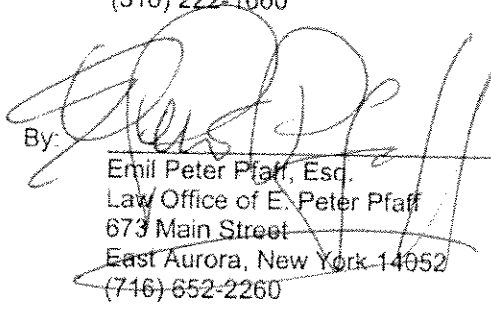
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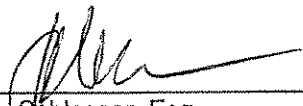
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