

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, bar number, and address):
Jose R. Guerrero (Bar # 97276)
Office of the Attorney General
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 TELEPHONE NO.: (510) 622-2219 FAX NO. (Outside): (510) 622-2121
 E-MAIL ADDRESS (Optional):
 ATTORNEY FOR (Name): **California Acupuncture Board, Defendant**
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO
 STREET ADDRESS: **400 McAllister Street, 1st Floor**
 MAILING ADDRESS:
 CITY AND ZIP CODE: **San Francisco 94102**
 BRANCH NAME:

FOR COURT USE ONLY
 FILED
 SAN FRANCISCO COUNTY
 SUPERIOR COURT
2003 DEC -8 PM 1:02
GORDON PARK - LI. CLERK
 BY: _____
 DEPUTY CLERK

PLAINTIFF/PETITIONER: **Laurence Tain, et al., et al.**
 DEFENDANT/RESPONDENT: **State Board of Chiropractic Examiners, et al., et al.**

CASE MANAGEMENT STATEMENT
 (Check one): **UNLIMITED CASE** (Amount demanded exceeds \$25,000) **LIMITED CASE** (Amount demanded is \$25,000 or less)

CASE NUMBER:
CGC-419378

A CASE MANAGEMENT CONFERENCE is scheduled as follows:
 Date: **December 17, 2003** Time: **9:00 a.m.** Dept.: **502** Div.: **Civil** Room:
 Address of court (if different from the address above):

INSTRUCTIONS: All applicable forms must be checked, and the updated information must be provided.

1. **Party or parties (answer one):**
 - a. This statement is submitted by (name):
 - b. This statement is submitted jointly by parties (names): **Defendants State Board of Chiropractic Examiners and California Acupuncture Board**
2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
 - a. The complaint was filed on (date):
 - b. The cross-complaint, if any, was filed on (date):
3. **Service (to be answered by plaintiffs and cross-complainants only)**
 - a. All parties named in the complaint and cross-complaint have been served, or have appeared, or have been dismissed.
 - b. The following parties named in the complaint or cross-complaint
 - (1) have not been served (specify names and explain why not):
 - (2) have been served but have not appeared and have not been dismissed (specify names):
 - (3) have had a default entered against them (specify names):
 - c. The following additional parties may be added (specify names, nature of involvement in case, and the date by which they may be served):
4. **Description of case**
 - a. Type of case in complaint cross-complaint (describe, including causes of action):
 Declaratory relief action challenging the scope of practice of chiropractors and equal protection challenge to the Acupuncture Board's statute that excludes chiropractors from using needles. Writ of Mandate action against Board of Chiropractic Examiners requiring Board to write regulations defining additional educational courses in order to expand the scope of practice of chiropractors to include use of hypodermic and acupuncture needles and syringes and to write additional regulations in order to construct new chiropractic curriculums and chiropractic specialties as desired by plaintiffs and petitioners.

PLAINTIFF/PETITIONER: Laurence Tain, et al., et al.
DEFENDANT/RESPONDENT: State Board of Chiropractic Examiners, et al., et al.

CASE NUMBER:
CGC-419378

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

To declare Chiropractic Rule 302 unenforceable and void; to declare that chiropractors may expand their scope of practice to include the use of hypodermic and acupuncture needles and syringes by means of additional elective educational courses; to declare that the Chiropractic Board may not use the national educational standards promulgated by the Council on Chiropractic Education and that the Chiropractic Board has a duty to prescribe such educational standards itself; to declare the Acupuncture Board statute 4935 that prohibits chiropractors from using needles unconstitutional.

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial
The party or parties request a jury trial a nonjury trial (if more than one party, provide the name of each party requesting a jury trial):

6. Trial date
a. The trial has been set for (date):
b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain): September 1-19, 2004, Vacation planned and reservations confirmed.

c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. Estimated length of trial
The party or parties estimate that the trial will take (check one):
a. days (specify number):
b. hours (short causes) (specify): The case should be decided by demurrer and only if necessary Summary Judgment motions.

8. Trial representation (to be answered for each party)
The party or parties will be represented at trial by the attorney or party listed in the caption by the following:
a. Attorney: Jose R. Guerrero, Deputy Attorney General
b. Firm: Office of the Attorney General
c. Address: 1515 Clay St., 20th Fl., P.O. Box 70550, Oakland, CA 94612-0550
d. Telephone number: (510) 622-2219
e. Fax number: (510) 622-2121
f. E-mail address:
g. Party represented: Defendant California Acupuncture Board
 Additional representation is described in Attachment 8.

9. Preference
 This case is entitled to preference (specify code section):

10. Alternative Dispute Resolution (ADR)
a. Counsel has has not provided the ADR information package identified in rule 201.9 to the client and has reviewed ADR options with the client.
b. All parties have agreed to a form of ADR. ADR will be completed by (date):
c. The case has gone to an ADR process (indicate status):

PLAINTIFF/PETITIONER: Laurence Fain, et al., et al.

CASE NUMBER:

CGC-419378

DEFENDANT/RESPONDENT: State Board of Chiropractic Examiners, et al., et al.

10. d. The party or parties are willing to participate in (check all that apply):

- (1) Mediation
- (2) Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 1612)
- (3) Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 1612)
- (4) Binding judicial arbitration
- (5) Binding private arbitration
- (6) Neutral case evaluation
- (7) Other (specify):

e. This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit.

f. Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

g. This case is exempt from judicial arbitration under rule 1600.5 of the California Rules of Court (specify exemption):
California Rules of Court rule 1600.5(a)

11. Settlement conference

The party or parties are willing to participate in an early settlement conference (specify when):

12. Insurance

a. Insurance carrier, if any, for party filing this statement (name):

b. Reservation of rights: Yes No

c. Coverage issues will significantly affect resolution of this case (explain):

13. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.

Bankruptcy Other (specify):

Status: Defendants have filed Motions for Summary Judgment and Summary Adjudication scheduled to be heard on January 28, 2004.

14. Related cases, consolidation, and coordination

a. There are companion, underlying, or related cases.

- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:

Additional cases are described in Attachment 14a.

b. A motion to consolidate coordinate will be filed by (name party):

15. Bifurcation

The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

16. Other motions

The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):

Defendant's State Board of Chiropractic Examiners and California Acupuncture Board have filed Motions for Summary Judgment and Motions for Summary Adjudication to the Second Amended Complaint, based on a failure to state any viable cause of action.

PLAINTIFF/PETITIONER: Laurence Tain, et al., et al.
DEFENDANT/RESPONDENT: State Board of Chiropractic Examiners, et al., et al.

CASE NUMBER:
CGC-419378

17. Discovery

- a. The party or parties have completed all discovery.
- b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
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Discovery is not needed. All issues to be resolved by the Court are purely legal.

- c. The following discovery issues are anticipated (*specify*):

18. Economic Litigation

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90 through 98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

19. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

20. Meet and confer

- a. The party or parties have met and conferred with all parties on all subjects required by rule 212 of the California Rules of Court (*if not, explain*):
- b. After meeting and conferring as required by rule 212 of the California Rules of Court, the parties agree on the following (*specify*):

21. Case management orders

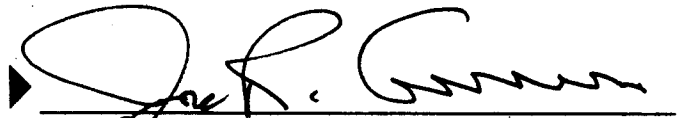
Previous case management orders in this case are (*check one*): none attached as Attachment 21.

22. Total number of pages attached (*if any*): 1

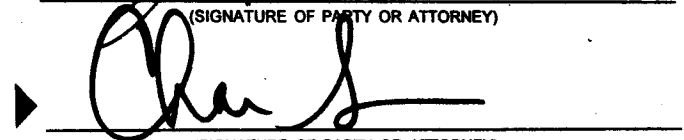
I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: December 3, 2003

Jose R. Guerrero, Deputy Attorney General
(TYPE OR PRINT NAME)


(SIGNATURE OF PARTY OR ATTORNEY)

Char Sachson, Deputy Attorney General
(TYPE OR PRINT NAME)


(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached

DECLARATION OF SERVICE

Case Name: *Laurence Tain, et al. v. State Board of Chiropractic Examiners, et al.*
San Francisco County Superior Court Case No.: CGC-419378

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the Bar of this Court at which member's direction this service is made. I am 18 years of age or older and not a party to the within entitled cause; I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On December 8, 2003, I placed the attached

CASE MANAGEMENT STATEMENT

in the internal mail collection system at the Office of the Attorney General, 455 Golden Gate Avenue, Suite 11000, San Francisco, California, 94102, for deposit in the United States Postal Service that same day in the ordinary course of business, in a sealed envelope, postage thereon fully prepaid, addressed as follows:

SEE ATTACHED LIST

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 8, 2003, at San Francisco, California.

Anh Ho


Signature

ATTACHMENT

- 1) Edwin Grauke, Esq.
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Attorneys for Defendant Council on Chiropractic Education