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The Honorable Tani Cantil-Sakauye,
Chief Justice of California and Associate Justices,
The Supreme Court of California
350 McAllister Street
San Francisco, CA 94102-4797

Via Overnight Mail

April 26, 2011

**Re: California State Automobile Association, et al. V. Douglas
Kirkwood, Supreme Court No. 192157; First Appellate
District, No. A128131**

Dear Chief Justice and Associate Justices:

Pursuant to Rule 8.500(g) of the California Rules of Court, the Personal Insurance Federation of California (PIFC) submits this letter as amicus curiae in support of the Petition for Review filed by the petitioner and respondent, California State Automobile Association, in the file herein. PIFC has read the Court of Appeals Opinion and the Petition for Review. PIFC believes the Petition for Review puts forward sound legal arguments explaining why review should be granted and concurs.

PIFC is a California-based trade association that represents insurers selling the majority of the personal lines insurance sold in California. PIFC represents the interests of its members on issues affecting homeowners, earthquake, and automobile insurance before government bodies, including the California Legislature, California Department of Insurance, and California Courts. PIFC's membership includes mutual and stock insurance companies.

The interpretation of Insurance Code Section 2071 is of critical importance to the handling of property damage claims for all California insurers, including

those represented by PIFC. Insurance Code Section 2071 provides that when an insured and insurer fail to agree as to the actual cash value or the amount of loss under a homeowner's policy, upon request of either, the dispute must proceed to appraisal. A mandatory appraisal clause must be contained in every homeowner's and fire insurance policy written in California. This section also provides that no suit or action shall be sustainable unless all the requirements of the policy have been complied with.

The Court of Appeal's Opinion conflicts with a long line of cases supporting the view that the mandatory appraisal clause contained in Insurance Code 2071 may not be avoided by challenging the legality or fairness of the insurer's valuation methodology. This opinion allows an insured an end-run around the mandatory appraisal process simply by framing the case as one challenging the methodology for calculation. Previous courts have affirmed the clear remedy provided by the legislature in the form of mandated appraisals for the resolution of contested claims. Review should be granted to resolve the conflict between the Court of Appeal's decision and other California and Federal Court decisions.

Review by this court is necessary to address the change in law created by the Opinion and the far-reaching impact it will have on California insurers and their policyholders, including massive disruption of the appraisal process and increased costs to resolve claims.

For the reasons stated above PIFC respectfully requests this court grant the Petition for Review in the above named case.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Kimberley Dellinger Dunn', written in a cursive style.

Kimberley Dellinger Dunn
PIFC's General Counsel