

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
HALL OF JUSTICE  
TENTATIVE RULINGS - December 12,2007**

EVENT DATE: 12/14/2007      EVENT TIME: 10:30:00 AM      DEPT.: C-60

JUDICIAL OFFICER: Yuri Hofmann

CASE NO.: GIC877707

CASE TITLE: SHORT VS CC-LA JOLLA INC

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Fraud

EVENT TYPE: Motion Hearing to Certify/Decertify Class Action

CAUSAL DOCUMENT Motion to Certify Class, 11/16/2007

/DATE FILED:

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The Motion of Plaintiffs Short, et. al. for Class Certification is GRANTED. (CCP section 382) The Court sustains Defendants evidentiary objections to Plaintiffs' Exhibit Nos. 1 and 38. The remaining objections by Defendants are overruled. The Court overrules Defendants' objections to Plaintiffs' reply since the Court did not consider the disputed appendices in ruling on the motion.

In order to establish a "community of interest" three requirements must be shown. First, predominant questions of common law or fact must exist. Second, the class representatives' claims or defenses must be typical of the class. And third, the named plaintiffs must adequately represent the entire class. (*Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470)

Defendants contend there are no predominant common questions of fact because there are too many facts unique to named individual plaintiffs and putative class members. Defendants contend issues of reliance and causation are different for nearly every putative member of the class. Therefore, Defendants conclude the action is inappropriate for class action treatment.

The concept of "predominant common questions of law or fact" has been described such that "each member must not be required to individually litigate numerous and substantial questions to determine his or her right to recover following the class judgment. In addition, "the issues which may be jointly tried, when compared with those requiring separate adjudication, must be sufficiently numerous and substantial to make the class action advantageous to the judicial process and to the litigants." (*Washington Mut. Bank, FA v. Sup.Ct.* (2001) 24 Cal.4th 906, 913-914; *Basurco v. 21st Century Ins. Co.* (2003) 108 Cal.App.4th 110, 117)

Plaintiffs have the burden to establish a right to class certification. (*Basurco, supra*) Here, plaintiffs submit evidence which tends to establish that 349 elderly residents of LJVt may have been misled into contracting with defendants based on numerous publications, marketing brochures, oral representations, letters, memos, and contracts. Plaintiffs assert most facts are common to each putative class member, implicitly conceding, some facts are different. However, all the facts are not required to be the same. The issue is whether the facts are sufficiently common to justify hearing all claims of named plaintiffs and unnamed putative class members in one action. The Court finds plaintiffs have sustained their burden to establish the facts are sufficiently common to benefit the parties and the Court by hearing the matter in one action as opposed to several individual actions.

As such, Plaintiffs' motion is granted and the Court adopts in its entirety the Proposed order submitted by Plaintiffs.