

1 Plaintiff's standing under the UCL was not raised and presented for disposition in the summary
2 judgment motions, and (2) the Court's denial of summary judgment in ANICO's favor on
3 Plaintiff's claim that ANICO violated California Insurance Code § 10509.4.

4 On December 3, 2010, the Court issued an Order denying ANICO's motion for leave to
5 file a motion for reconsideration. (Docket No. 160). As to the question of Plaintiff's failure to
6 demonstrate standing under the UCL, the Court directed the parties to address standing and
7 causation in connection with the class certification or other appropriate motions.

8 With respect to Plaintiff's § 10509.4 claim, the Court directed Plaintiff "to file evidence
9 in support of the remainder of the § 10509.4 claim no later than **January 14, 2011.**" (*Id.* at 3)
10 (emphasis in original). If, as ANICO contended, Plaintiff was unable to adduce any such
11 evidence, the Court directed Plaintiff to file a statement to that effect and the Court would grant
12 summary judgment in favor of ANICO. (*Id.*)

13 On January 14, 2011, Plaintiff failed to provide the Court with any evidence in support
14 of the remainder of the § 10509.4 claim. Nor did Plaintiff file a statement admitting that she
15 was unable to adduce any such evidence. Instead, Plaintiff improperly filed a "Supplemental
16 Citation" and attached a recent state court opinion that is not relevant to the § 10509.4 claim.
17 (Docket No. 165).

18 Accordingly, the Court GRANTS ANICO's request for entry of summary judgment in
19 its favor and against Plaintiff on the entirety of Plaintiff's § 10509.4 claim. The Court finds that
20 (1) ANICO did not violate California Insurance Code § 10509.4 in the sale of Plaintiff's
21 annuities; and (2) Plaintiff may not predicate her first claim for relief, brought under
22 California's Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, on ANICO's
23 alleged violation of California Insurance Code § 10509.4.

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**[PROPOSED] ORDER GRANTING DEFENDANTS' REQUEST FOR ENTRY OF SUMMARY
JUDGMENT AND STRIKING PLAINTIFF'S SUPPLEMENTAL CITATION**

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In addition, because Plaintiff's Supplemental Citation is not evidence in support of the remainder of the § 10509.4 claim, nor a statement that Plaintiff was unable to adduce any such evidence, the Court GRANTS ANICO's request to strike Plaintiff's Supplemental Citation from the record.

IT IS SO ORDERED

Dated: 2/2/11



SUSAN ILLSTON
United States District Judge