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15 Attorneys for Defendant  
 Benefits Administration Corporation

16 **UNITED STATES DISTRICT COURT**  
 17 **DISTRICT OF NEVADA**

18 RETIRED INDEPENDENT GUARDS  
 19 ASSOCIATION OF NEVADA, ET AL

Case No.: 2:08-CV-00849-RLH-LRL

20 Plaintiffs,

21 v.

**BENEFIT ADMINISTRATION  
 CORPORATION'S MOTION FOR WAIVER  
 OF ATTENDANCE OF INSURANCE  
 REPRESENTATIVES AT SETTLEMENT  
 CONFERENCE**

22 BOARD OF TRUSTEES,  
 23 INDEPENDENT GUARDS  
 ASSOCIATION OF NEVADA-  
 24 WACKENHUT SERVICES  
 INCORPORATED PENSION TRUST  
 FUND; and

25 INDEPENDENT GUARDS  
 26 ASSOCIATION OF NEVADA, and  
 27 WACKENHUT SERVICES  
 INCORPORATED,

28 Defendants.

1 Defendant, Benefit Administration Corporation (“BAC”), by and through its counsel,  
2 Jackson Lewis, LLP, moves, pursuant to this Court’s July 8, 2011 Order [docket no. 154]  
3 scheduling a Settlement Conference, for an order excusing the physical attendance at the  
4 Settlement Conference of Magali Melendez, insurance representative for Travelers Bonds and  
5 Financial Products, and Sheila Glackin, Senior Claim Examiner of Chubb & Son for Federal  
6 Insurance Company, who provide policies of insurance, including costs of defense and potential  
7 indemnity to BAC. Ms. Melendez lives and works in New Jersey and Ms. Glackin lives and  
8 works in Connecticut.  
9

10 They are active and participating in this litigation on behalf of the insurers. They also are  
11 extremely active in handling other claims files and their physical attendance would disrupt their  
12 ability to effectively manage those cases and would require two full days of cross country travel  
13 with associated expenses, unnecessarily increasing the already significant costs of defense of  
14 this litigation. BAC submits that their physical attendance is unnecessary because BAC will  
15 have formulated a settlement position prior to the Settlement Conference and they will be  
16 available by telephone during the Settlement Conference to modify that position if necessary.  
17 Finally, BAC will be personally represented at the Settlement Conference by its President and  
18 multiple legal representatives.  
19

20 Additionally, Plaintiffs have failed to tender a demand for settlement at any time during  
21 this litigation. Moreover, as briefed in its pending Motion for Summary Judgment and further  
22 will be discussed in its Confidential Settlement Position Paper due on September 12, 2011,  
23 Plaintiffs’ claims against BAC are defective as a matter of law because BAC never served as the  
24 plan administrator with legal responsibility for Plaintiffs’ claims, all statutorily required  
25 mailings were timely made in accordance with legal requirements, no money damages are  
26 recoverable for Plaintiffs’ claims, and Plaintiffs have not and cannot demonstrate bad faith,  
27  
28

1 intentional misconduct, prejudice, or any other factor warranting an assessment of discretionary  
2 statutory penalties against BAC. These circumstances undercut any argument that BAC or its  
3 insurers will be required to provide monetary payment to Plaintiffs to settle this lawsuit.  
4 Nonetheless, again, the insurance representatives will be available during the settlement  
5 conference via telephone to consider Plaintiffs' position during the settlement conference.  
6

7 This same request has been made by co-defendant, Board of Trustees, Independent  
8 Guards Association of Nevada and the Court has granted a waiver for the attendance of the  
9 representative for Traveler's Insurance Company in regard to the insurance policy providing  
10 costs of defense and potential indemnity to the Board.

11 Respectfully submitted this 12<sup>th</sup> day of September, 2011.

12 JACKSON LEWIS LLP

13  
14 /s/ Jason M. Stein  
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Attorneys for Defendant,  
Benefits Administration Corporation

29 **IT IS SO ORDERED.**



30 **UNITED STATES MAGISTRATE JUDGE**

31 **DATED:** 9-13-11

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**CERTIFICATE OF SERVICE**

I, Jason M. Stein, certify that a true and correct copy of the foregoing has been delivered via the Court's electronic filing and notice system to the following on the 12th day of September, 2011:

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s/ Jason M. Stein  
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4814-8097-6138, v. 1