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MESSAGE: Diana-

Here is the final revised document  
following my conversation with Michael Howrey,  
attorney at the California State Compensation  
Insurance Fund.

Please note minor revisions.

Bernadette

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DRAFT

LEGAL DEVELOPMENTS: SETTING THE RECORD STRAIGHT

Recent newspaper headlines have reported that a waiter in Sausalito, California received an \$85,000 settlement after suffering a heart attack which he claimed was caused by exposure to tobacco smoke on the job. These reports are inaccurate.

In fact, the waiter's workers' compensation case has not been settled. It is currently pending before the Workers' Compensation Appeals Board and there has been no determination that the heart attack was industrially caused.

The California State Compensation Insurance Fund provides workers' compensation insurance to the Sausalito bar and restaurant where the waiter worked. Contrary to newspaper reports, the insurance carrier has not agreed to pay \$85,000 in medical expenses incurred by the waiter. Nor has the insurance carrier conceded that the heart attack was caused by exposure to environmental tobacco smoke. This issue is vigorously disputed by the parties.

No employee in California is known to have recovered workers' compensation benefits based upon exposure to environmental tobacco smoke. Indeed, it is unlikely that benefits are recoverable on such basis. In the state of Washington, for example, the Workers' Compensation Appeals Board has specifically held that an employee with a pulmonary