

Bach Talk - Regulators should review policies and get more resources

A recent California legal case shines light on a fact that will surprise many, but not me: California's Insurance Commissioner, considered by many to be the most diligent consumer advocate among the 50 state's regulators – does not as a matter of course, review, approve or disapprove the wording in disability (or home, or business) insurance policies before they are sold to the public.

The California Court of Appeal recently ruled: "Well he should" The case, Ellena v. Standard Insurance Company, California Department of Insurance et al, [California Northern District Court](#), Case No. 3:12-cv-05401-SC was brought by UP sponsor [Bennett Cohen](#) on behalf of a woman whose insurer failed to pay benefits after she became severely disabled and unable to work due to lupus. The California Department of Insurance, (CDI) defended itself in the suit, and are now saying the agency doesn't have enough people on staff to handle this responsibility. That is probably true, but the solution is not to let the fox guard the henhouse. The solution is to get a bigger budget and hire qualified guards. See it [here](#).

But I already knew CDI isn't reviewing policy language on a regular basis. Several years ago I initiated a meeting with several high-level CDI personnel to seek the agency's disapproval of the growing list of unfair exclusions in home policies for water damage and mold. I was shocked to learn that the CDI has to take insurers' word about changes in home insurance policy language, and that it rarely if ever analyzes new language to determine how it will impact coverage and claims. CDI staff cited staff reductions during the Poizner administration and limited resources as the reason. (Not to mention the fact that CDI is regularly fighting off lawsuits from insurers every time they try and do their job...) I hadn't given up on this initiative, it's just one of many competing priorities.

But let's hope the [Ellena decision](#), a very important victory for consumers, will help the Commissioner get the resources from the Legislature to comply with the Court decision and step up to the task of better protecting consumers by routinely reviewing, (approving and disapproving where needed), the wording in

insurance policies sold to California residents. Not just disability. Home and business policies as well. We need and are entitled to that protection...