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19 and MURIEL SPOONER, on behalf of themselves
20 and all others similarly situated

21 **UNITED STATES DISTRICT COURT**
22 **CENTRAL DISTRICT OF CALIFORNIA**

23 JOYCE WALKER, KIM BRUCE
24 HOWLETT, and MURIEL
25 SPOONER, on behalf of themselves
26 and all others similarly situated,

27 Plaintiffs,

28 v.

LIFE INSURANCE COMPANY OF
THE SOUTHWEST, a Texas
corporation,

Defendant.

CLASS ACTION

CASE NO.: CV 10-9198 JVS (RNBx)

Formerly Case No.: 3:10-cv -04852
JSW
from Northern District of California

**PLAINTIFFS' OBJECTION TO
LSW'S NOTICE OF
SUPPLEMENTAL AUTHORITY
OR, IN THE ALTERNATIVE,
REQUEST FOR LEAVE TO FILE
ATTACHED RESPONSE TO LSW'S
NOTICE OF SUPPLEMENTAL
AUTHORITY**

Judge James V. Selna
Courtroom: 10C

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1 On September 6, 2012, Defendant Life Insurance Company of the Southwest
2 (“LSW”) filed a “Notice of Supplemental Authority,” which discussed the case of
3 *Tucker v. Pacific Bell Mobile Services*, 208 Cal. App. 4th 201 (2012) and argued
4 that *Tucker* provides “additional support” for denial of class certification and for
5 “LSW’s contention that the measure of damages used by Plaintiffs’ expert is not
6 appropriate under the UCL.” *See* Dkt. 325.

7 LSW’s filing should be disregarded because LSW did not seek leave of
8 Court to file its supplemental papers. *See In Re: Toyota Motor Corp. Unintended*
9 *Acceleration Marketing, Sales Practices, and Products Liability Litigation*, 838 F.
10 Supp. 2d 967, 970 n. 1 (C.D. Cal. 2012) (Selna J.) (party that filed notice of recent
11 authority engaged in an “unauthorized supplemental filing[]”). Indeed, when
12 Plaintiffs requested leave to file a notice of supplemental authority in connection
13 with a previous motion in this action, this Court denied the request for leave. *See*
14 Dkt. 47, 48.

15 In the event that the Court does not disregard LSW’s improper filing,
16 Plaintiffs request leave to submit a brief response. The proposed response is
17 attached hereto as Exhibit A.

18
19 Dated: September 10, 2012

KASOWITZ, BENSON, TORRES &
FRIEDMAN LLP

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22 By: /s/ Brian P. Brosnahan
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