

1 CHESTER & SHEIN, P.C.  
2 8777 N. Gainey Center Drive  
3 Suite 191  
4 Scottsdale, Arizona 85258  
5 Telephone: (480) 922-3933  
6 Telecopier: (480) 922-3969

7 Mark D. Chester (011423)  
8 Ben J. Himmelstein (023267)  
9 Attorneys for Plaintiff

10 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
11 IN AND FOR THE COUNTY OF MARICOPA

12 SHURWEST PRODUCT CONNECTION, )  
13 LLC an Arizona limited liability company, )  
14 dba The Annexus Group )

15 Plaintiff, )

16 v. )

17 PREMIUM PRODUCERS GROUP, LLC, a )  
18 California limited liability company; )  
19 MITCHELL M. MAYNARD and DORICE )  
20 MAYNARD, a married couple; JOHN DOES )  
21 I-X; JANE DOES I-X; BLACK and WHITE )  
22 PARTNERSHIPS I-X; and ABC )  
23 CORPORATIONS I-X, )

24 Defendants. )

Case No. CV2007-003021

SUMMONS

IF YOU WANT THE ADVICE OF A  
LAWYER, YOU MAY WISH TO CONTACT  
THE LAWYER REFERRAL SERVICE AT  
602-257-4434 OR ON-LINE AT  
[WWW.LAWYERFINDERS.ORG](http://WWW.LAWYERFINDERS.ORG). LRS IS  
SPONSORED BY THE MARICOPA  
COUNTY BAR ASSOCIATION

25 THE STATE OF ARIZONA TO DEFENDANTS:

26 PREMIUM PRODUCERS GROUP, L.L.C.  
c/o Mitchell M. Maynard, Registered Agent  
1516 Beechwood Avenue  
Fullerton, California 92835

YOU ARE HEREBY SUMMONED and required to appear and defend, within the time applicable, in this action in this Court. If served within Arizona, you shall appear and defend within 20 days after the service of the Summons and Complaint upon you, exclusive of the day of service. If served out of the state of Arizona -- whether by direct service, by registered or certified mail, or by publication -- you shall appear and defend within 30 days after the service of the Summons and Complaint upon you is complete, exclusive of the day of service. Where service of process is upon the Arizona Director of Insurance as an insurer's agent to receive service of legal process against it in this state; then the insurer shall not be required to appear, answer or plead until expiration of 40 days after

1 date of such service upon the Director. Service by registered or certified mail without the State of  
2 Arizona is complete 30 days after the filing of the receipt and affidavit of service with the Court.  
3 Service by publication is complete 30 days after the date of first publication. Direct service is complete  
4 when made. Service upon the Arizona Motor Vehicle Superintendent is complete 30 days after filing  
5 the Affidavit of Compliance and return receipt or Officer's Return. ARS §22-213, RCP 4; ARS §§20-  
6 222, 28-502, 28-503.

7 YOU ARE HEREBY NOTIFIED that in case of your failure to appear and defend within the  
8 time applicable, judgment by default may be rendered against you for the relief demanded in the  
9 Complaint.

10 YOU ARE CAUTIONED that in order to appear and defend, you must either appear in person  
11 or file an Answer or proper response in writing with the Clerk of this Court, accompanied by the  
12 necessary filing fee within the time required, and you are required to serve a copy of any Answer or  
13 response upon the Plaintiff's attorneys. RCP 10(d); ARS §12-311; RCP 5; ARS §§22-215, 22-216.

14 THE NAME AND ADDRESS of Plaintiff's attorney is:

15 Mark D. Chester, Esq.  
16 CHESTER & SHEIN, P.C.  
17 8777 N. Gainey Center Drive  
18 Suite 191  
19 Scottsdale, Arizona 85258

20 Requests for reasonable accommodation for persons with disabilities must be made to the  
21 division assigned to the case by parties at least 3 judicial days in advance of a scheduled court  
22 proceeding.

23 SIGNED AND SEALED this date: \_\_\_\_\_, 2007.

CLERK OF THE COURT

**COPY**

FEB 21 2007

By \_\_\_\_\_  
Deputy Clerk



MICHAEL K. JENSEN, CLERK  
M. BLIMPSON  
REBECCA M. CLARK

CHESTER & SHEIN, P.C.  
8777 N. Gainey Center Drive  
Suite 191  
Scottsdale, Arizona 85258  
Telephone: (480) 922-3933  
Telecopier: (480) 922-3969

Mark D. Chester (011423)  
Ben J. Himmelstein (023267)  
Attorneys for Plaintiff

**COPY**  
FEB 21 2007  
MICHAEL S. STANER, CLERK  
M. SIMMONSON  
PROPERTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA

SHURWEST PRODUCT CONNECTION, LLC  
an Arizona limited liability company, dba The  
Annexus Group,

Plaintiff,

v.

PREMIUM PRODUCERS GROUP, LLC, a  
California limited liability company; MITCHELL  
M. MAYNARD and DORICE MAYNARD, a  
married couple; JOHN DOES I-X; JANE DOES  
I-X; BLACK and WHITE PARTNERSHIPS I-X;  
and ABC CORPORATIONS I-X,

Defendants.

NO. CV2007-005021

**COMPLAINT**

Plaintiff Shurwest Product Connection, LLC, for its Complaint against Defendants Premium Producers Group, LLC, Mitchell M. Maynard and Dorice Maynard, alleges as follows:

**INTRODUCTION**

1. Plaintiff Shurwest Product Connection, LLC is an Arizona limited liability company with its principal place of business in Scottsdale, Arizona, and conducts business as The Annexus Group ("TAG"). It is engaged in the marketing and distributing of insurance products. One of its products is the BalancePlus Annuity ("BPA"), which is an equity indexed annuity product.

2. Upon information and belief, Defendants Mitchell M. Maynard and Dorice Maynard are

1 community.

2 3. Upon information and belief, Defendant Premium Producers Group, LLC (“PPG”) is a  
3 California limited liability company with its principal place of business in Fullerton, California. Upon  
4 information and belief, PPG, through its proprietary software and analysis, claims to evaluate equity  
5 indexed annuities (“EIAs”) and EIA crediting methods. Defendants Mitchell Maynard and Dorice  
6 Maynard, upon information and belief, publish statements and disseminate information to the public in  
7 connection with the foregoing analyses and evaluations.

8 4. Upon information and belief, Defendants profess that they provide consumers, financial  
9 advisors and insurance agents with unbiased comprehensive research and opinions about EIAs.  
10 Defendants purportedly evaluate and analyze EIAs and promote their business as a public service,  
11 drawing their conclusions with “No bias, no subjectivity!” Defendants also market and sell proprietary  
12 software and advisory services.

13 5. This Court has jurisdiction over Defendants because they conduct continuous and  
14 systematic business in this State and because they have caused the injuries complained of herein in this  
15 county. Through print and the Internet, Defendants publish, distribute and sell proprietary software  
16 products, including their MCP Premium Software to insurance agents and financial advisors in Arizona  
17 and throughout the United States.

18 6. The conduct, true names, capacities and relationships to the Defendants of the  
19 individuals and entities described as John Does I-X, Jane Does I-X, Black and White Partnerships I-X,  
20 and ABC Corporations I-X are unknown at this time, but this complaint may be amended when that  
21 information is discovered.

22 **GENERAL ALLEGATIONS**

23 7. On or about February 25, 2006, on their MCP Premium Software website, Defendants  
24 published a review entitled “EIA Review: Annexus BPA” containing the BPA insurance product  
25 evaluation. Even though the review provided that Defendants had not yet programmed the BPA into  
26

1 its software, it nevertheless contained a disparaging initial evaluation of the BPA which included the  
2 statement: "I think the BPA once again demonstrates that good marketing can be masking poor  
3 crediting method design."

4 8. In another MCP Premium website article entitled "Is the 'BPA' actually 'B.A.D.'?",  
5 Defendants contested claims that were in the BPA promotional literature which promoted BPA as the  
6 next generation of fixed annuities. First, Defendants made a comparison of the crediting rate methods  
7 between the BPA and the ANICO Value Lock product and concluded that "the BPA credit method  
8 design is not really new." Next, Defendants falsely made a comparison of the balanced allocation  
9 within the BPA crediting rate method and the Midland National Life Veridian series. Once again, the  
10 Defendants concluded the BPA credit method was not new.

11 9. This review intentionally ignored substantial differences between the products  
12 compared, provided false, misleading and defamatory conclusions, and inferred that a complete review  
13 was conducted and that the BPA did not utilize a new credit method.

14 10. In an article written on or about June 17, 2006 entitled "BPA-Bias from Annexus Group  
15 Members?", Defendants falsely stated that TAG placed heavy production requirements on its 12  
16 members and large commission incentives to promote the BPA, resulting in "extra pressure" created by  
17 the "sales bias". Defendants also falsely stated that "This heavily promoted EIA is a structure that  
18 offers little potential returns and negligible benefits to the consumer, as we found when we compared it  
19 to other EIA products on the market."

20 11. On or about June 19, 2006, Defendants sent an email to insurance agents and financial  
21 advisors entitled "MCP Premium – Professional Referral Program IMO Screening". In the email the  
22 Defendants "blacklist" a number of marketing organizations based on their affiliation with TAG. Upon  
23 information and belief, Defendants have excluded any agent who is affiliated with TAG from  
24 Defendants' "Professional Referral Program until they eliminate their ties with these [TAG]  
25 companies."  
26

1           12.     On or about June 20, 2006 Defendants stated, “[D]o you realize that ECA (a member of  
2 The Annexus Group) has committed to sell \$50 million of this product (BPA) to consumers and what if  
3 one of these customers was your closest family member? How would you feel? ...The advisors in the  
4 Professional Referral Program must be able to say that I am not only committed to serving consumers  
5 with unbiased, objectivity, but that they don’t associate (or provide their commission overrides) to  
6 companies that promote inferior products and their companies. Please think about it, all of the  
7 companies that are a part of the Annexus Group state that they are proud to sell the BPA.”

8           13.     Prior to publishing and disseminating the foregoing articles, reviews and emails,  
9 Defendant Mitchell Maynard attempted to negotiate a referral arrangement with the Financial  
10 Independence Group (“FIG”) of North Carolina. During those negotiations it was represented to FIG  
11 representatives that Defendant Maynard could manipulate software to favorably review products sold  
12 by FIG in exchange for referral fees and a reciprocal promotional arrangement. FIG declined and  
13 refused to conduct business with Maynard. FIG subsequently became a member of TAG. Upon  
14 information and belief, Defendants embarked upon a deliberate and manipulative effort to disparage  
15 TAG and the BPA by knowingly employing a testing protocol and selecting limited data that was  
16 inapplicable and certain to fail to accurately depict the BPA.

17           14.     This is not the first time Defendants Mitchell Maynard and Dorice Maynard  
18 disseminated false and misleading information in connection with providing advisory services. Indeed,  
19 these Defendants were the subject of a securities fraud case prosecuted by the Vermont Securities  
20 Division. These Defendants were adjudicated as having committed securities fraud while acting as  
21 investment advisors and operating an investment advisory firm which quoted fictitious stock prices,  
22 disseminated numerous documents that contained false and misleading statements, and similar to PPG,  
23 promoted Defendant Mitchell Maynard as a genius with trading systems and touted designations from  
24 highly respected academic institutions. Defendant Maynard also was found to have falsely promoted  
25 himself with respect to a software program he developed which he claimed could predict the market  
26

1 and reduce the risk of losses. *See, In Re: Mitchell M. Maynard and Dorice M. Maynard, Docket No.*  
2 *02-009-S (State of Vermont Department of Banking, Insurance, Securities and Healthcare*  
3 *Administration).*

4 **COUNT ONE**

5 **(Product Disparagement)**

6 15. Plaintiff incorporates by reference and realleges paragraphs 1- 14 of this Complaint as if  
7 fully set forth herein.

8 16. By failing to conduct a complete review of the BPA and utilize the proper analysis,  
9 Defendants knew their statements were false and misleading, or they acted with a reckless disregard for  
10 whether their statements in their reports were true or false. In doing so, Defendants falsely reported or  
11 recklessly reported their results and passed them on to third parties with no regard as to their reliability,  
12 accuracy or effectiveness.

13 17. On or about February 25, 2006, PPG published, communicated, or caused to be  
14 published, an article entitled "EIA Review: Annexus BPA" stating:

- 15 • "BPA amounts to a 40% Participation-Rate Point-to-Point EIA, but it resets every 4  
16 years rather than annually! This only further dilutes potential returns."
- 17 • "The BPA strategy never produces a value greater than the Annual Reset Point to  
18 Point."
- 19 • "A rider (referencing the 5% minimum guarantee "Family Endowment Rider") like this  
20 would not be necessary if it wasn't for the weaknesses in the BPA credit method  
21 strategy."
- 22 • "From this standpoint, I think the BPA once again demonstrates that good marketing  
23 can be masking poor crediting method design. Agents shouldn't sell anything without  
24 independent analysis to back it up. However, if as the agent you feel the other values to  
25 the client outweigh the (lack of) performance, that is your call to make."  
26

1 18. In an additional article entitled "Is the 'BPA' actually 'B.A.D.'?", PPG stated:

- 2 • "BPA is a convoluted annuity contract of perceived attributes with no complimentary  
3 enhancements compared to an Annual Point to Point product."  
4

5 19. As a direct and proximate result of Defendants' statements, Plaintiff has suffered and is  
6 suffering special damages in the form of monetary damages and lost customer recruiting opportunities  
7 and harm to the reputation and goodwill associated with the BPA.

8 20. Defendants' statements as alleged herein were willful, and Plaintiff is entitled to  
9 damages as a result of such statements.

10 **COUNT TWO**

11 **(Tortious Interference with a Prospective Economic Advantage)**

12 21. Plaintiff incorporates by reference and realleges paragraphs 1-20 as if fully set forth  
13 herein.

14 22. At all times relevant hereto, TAG has had an expectation of economic advantage with  
15 current and prospective financial advisors and insurance agent customers. A customer's decision to  
16 sell a particular product is an evolutionary process that is born of repeated exposure to a product in  
17 seminars and materials produced by TAG, as well as other pertinent information available to such  
18 customers.

19 23. Defendants, at all times relevant hereto, knew of TAG's relationships with its current  
20 and prospective customers, and of TAG's reasonable expectation that it would profit therefrom.

21 24. Defendants' publications and statements concerning the BPA and TAG's members are  
22 disparaging and are likely to mislead or to deceive agents as to the efficacy of TAG's products.

23 25. Moreover, Defendants knew that its actions were likely to interfere with TAG's  
24 economic relationships with existing and prospective customers, and deliberately published  
25 disparaging statements in order to affect such interference.

26 26. As a proximate result of Defendants' acts, TAG's relationship with its actual and

1 prospective customers has been disrupted, and TAG has suffered actual damages.

2 **COUNT THREE**

3 **(Negligence)**

4 27. Plaintiff incorporates by reference and realleges paragraphs 1-26 as if fully set forth  
5 herein.

6 28. Defendants are engaged in the business of evaluating EIA crediting methods.

7 29. By issuing statements about the BPA without the consent or approval of TAG,  
8 Defendants have assumed a duty of reasonable care to provide true, accurate and reliable information  
9 regarding the BPA.

10 30. Moreover, by issuing statements about the BPA without the consent or approval of  
11 TAG, Defendants have assumed a duty of reasonable care in testing the BPA in such a manner that is  
12 accurate, scientific, and reliable.

13 31. Through the exercise of reasonable care, Defendants knew or should have known its  
14 publications and statements concerning comparisons of the BPA were false and misleading.

15 32. Through the exercise of reasonable care, Defendants knew or should have known its  
16 tests, and test results of the BPA were inaccurate and unreliable.

17 33. Defendants breached their duty of care by failing to act reasonably in publishing,  
18 communicating or causing to be published or communicated, its false and misleading statements, and  
19 test results concerning the BPA.

20 **COUNT FOUR**

21 **(Injurious Falsehood)**

22 34. Plaintiff incorporates by reference and realleges paragraphs 1-33 as if fully set forth  
23 herein.

24 35. Defendants intentionally published the disparaging statements about Plaintiff and the  
25 BPA to third party insurance agents and financial advisors. Defendants knew that those statements  
26

1 were false at the time and were made in order to persuade those agents and advisors from dealing with  
2 Plaintiff and Plaintiff's products. The foregoing misconduct has caused actual damages to Plaintiff.

3 **COUNT FIVE**

4 **(Defamation)**

5 36. Plaintiff incorporates by reference and realleges paragraphs 1-35 as if fully set forth  
6 herein.

7 37. Defendants' articles constitute: (a) false and defamatory statements of fact regarding the  
8 BPA product and the members of TAG; (b) were communicated to third parties; and (c) caused  
9 substantial professional and reputational harm to TAG within the national network of insurance agents  
10 and financial advisors.

11 38. Defendants published the articles knowing they were defamatory and contained false  
12 and untrue statements relating to the BPA product and TAG.

13 39. Defendants caused substantial and irreparable economic harm to Plaintiff.

14 **COUNT SIX**

15 **(Punitive Damages)**

16 40. Plaintiff realleges and incorporates by reference paragraphs 1-39 of this Complaint as if  
17 fully set forth herein.

18 41. Defendants have knowingly acted with an evil mind and purpose, and pursued a course  
19 of conduct in which they knowingly and consciously disregarded Plaintiff's economic welfare.

20 42. By virtue of the foregoing, Defendants are liable to Plaintiff for punitive or exemplary  
21 damages in an amount to be determined at trial. The award should create an example so that persons of  
22 like mind in the future will not engage in similar conduct.

23 WHEREFORE, Plaintiff Shurwest Product Connection, LLC prays for judgment against  
24 Defendants Premium Producers Group, LLC, Mitchell M. Maynard and Dorice Maynard, jointly and  
25  
26

1 Defendants Premium Producers Group, LLC, Mitchell M. Maynard and Dorice Maynard, jointly and  
2 severally as follows:

- 3 A. For compensatory and punitive damages in an amount to be proven at trial;  
4 B. For an order requiring Defendants to issue appropriate retractions and corrective  
5 statements with respect to its false statements about the BalancePlus Annuity;  
6 C. For an order permanently enjoining Defendants, their officers, agents, servants,  
7 employees, attorneys, successors, and assigns, and all others in active concert  
8 with them, from continued publication or republication of false and misleading  
9 statements concerning The Annexus Group's insurance products;  
10 D. For consequential and special damages in an amount to be determined at trial;  
11 E. For its reasonable attorneys' fees and costs incurred herein; and  
12 F. For such other relief as the Court deems appropriate.  
13  
14

15 DATED this <sup>th</sup> 20 day of February, 2007.

16 CHESTER & SHEIN, P.C.

17  
18  
19 By:   
20 Mark D. Chester, Esq.  
21 Ben J. Himmelstein, Esq.  
22 8777 N. Gainey Center Drive  
23 Suite 191  
24 Scottsdale, Arizona 85258  
25 Attorneys for Plaintiff  
26

COPY

FEB 21 2007



MICHAEL R. JEANES, CLERK  
M. SIMPSON  
DEPUTY CLERK

CHESTER & SHEIN, P.C.  
8777 N. Gainey Center Drive  
Suite 191  
Scottsdale, Arizona 85258  
Telephone: (480) 922-3933  
Telecopier: (480) 922-3969

Mark D. Chester (011423)  
Ben J. Himmelstein (023267)  
Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA

SHURWEST PRODUCT CONNECTION, LLC  
an Arizona limited liability company, dba The  
Annexus Group

Plaintiff,

v.

PREMIUM PRODUCERS GROUP, LLC, a  
California limited liability company; MITCHELL  
M. MAYNARD and DORICE MAYNARD, a  
married couple; JOHN DOES I-X; JANE DOES I-  
X; BLACK and WHITE PARTNERSHIPS I-X; and  
ABC CORPORATIONS I-X,

Defendants.

NO. CV2007-003521

**CERTIFICATE ON COMPULSORY  
ARBITRATION**

Pursuant to Rule 72, *Ariz. R. Civ. P.*, the undersigned certifies that he knows the dollar limits and any other limitations set forth by the Local Rules of Practice for Maricopa County Superior Court, and further certifies that this case is not subject to compulsory arbitration, as provided by Rules 72 through 76.

1 DATED this <sup>4<sup>th</sup></sup> 20 day of February, 2007.

2 CHESTER & SHEIN, P.C.

3  
4 By: 

5 \_\_\_\_\_  
6 Mark D. Chester, Esq.  
7 Ben J. Himmelstein, Esq.  
8 8777 N. Gainey Center Drive  
9 Suite 191  
10 Scottsdale, Arizona 85258  
11 Attorneys for Plaintiff  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26