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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of the Rate Application of
Interinsurance Exchange of the
Automobile Club,
Applicant.

File No.: PA-2022-00005

**CONSUMER WATCHDOG'S REQUEST
FOR COMPENSATION**

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1 **I. INTRODUCTION**

2 Consumer Watchdog (“CWD”), Intervenor in the above-entitled proceeding, submits this
3 Request for Compensation (“Request”) pursuant to Insurance Code section 1861.10, subdivision
4 (b), and the intervenor regulations, California Code of Regulations, title 10 (“10 CCR”), § 2661.1
5 et seq.

6 Proposition 103 and the intervenor regulations expressly provide for consumer
7 participation in the rate review process. This is because “the scrutiny of consumer representatives
8 is an important tool to ensure that applicants comply with the statutory and regulatory prohibition
9 on ‘excessive, inadequate, and unfairly discriminatory’ rates, or rates that otherwise violate the
10 law.” (*Ass’n of California Ins. Cos. v. Poizner* (2009) 180 Cal.App.4th 1029, 1041.)

11 Invoking the right the voters accorded themselves under Insurance Code section
12 1861.10(a) to enforce the provisions of Proposition 103, Consumer Watchdog initiated the
13 proceeding when it filed a Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek
14 Compensation (“Petition”) on July 28, 2022, challenging the rate application (File No.: 22-1466)
15 [“the Application”] of Interinsurance Exchange of the Automobile Club (“Applicant” or “Auto
16 Club”) seeking an overall 6.9% rate increase to its private passenger auto line of insurance.
17 (Consumer Watchdog, the Department of Insurance, and Applicant will be collectively referred to
18 as the “Parties.”)

19 Consumer Watchdog represented the interests of consumers and policyholders by
20 presenting issues, evidence, and arguments in its Petition and subsequent requests for information,
21 analysis, correspondence, and communications with the Parties that were separate and distinct
22 from those raised by the Department of Insurance (the “Department”). Consequently, the
23 Insurance Commissioner (“Commissioner”) had all this information available to him when
24 making his decision that would not have been available had Consumer Watchdog not participated.
25 As a result, Consumer Watchdog substantially contributed to the Commissioner’s decision to
26 approve the Application.

1 This Request seeks compensation in the total amount of \$56,554.50¹ for Consumer
2 Watchdog’s substantial contribution to the Commissioner’s Decision Denying Petition for
3 Hearing (“Order”) regarding the Application. This Request includes time spent working on this
4 matter, including preparing this Request, through March 17, 2023. This Request is based on the
5 facts and circumstances of this matter as summarized in Section III below and in supporting
6 exhibits, the record in this matter, and the accompanying Declarations of Benjamin Powell
7 (“Powell Decl.”) and Allan I. Schwartz (“Schwartz Decl.”). In light of the substantial contribution
8 Consumer Watchdog made to the Commissioner’s decision in this proceeding, as discussed
9 further below, the compensation sought for its attorneys, paralegal, and actuarial expert fees is
10 abundantly reasonable.

11 **II. CONSUMER WATCHDOG IS ELIGIBLE TO SEEK COMPENSATION IN THIS**
12 **PROCEEDING AND ITS REQUEST IS TIMELY**

13 The intervenor regulations provide, in part:

14 A petitioner, intervenor or participant whose Petition to Intervene or Participate
15 has been granted and who has been found eligible to seek compensation may
16 submit to the Public Advisor, within 30 days after the service of the order,
17 decision, regulation or other action of the Commissioner in the proceeding for
18 which intervention was sought, or at the requesting petitioner’s, intervenor’s or
19 participant’s option, within 30 days after the conclusion of the entire proceeding,
20 a request for an award of compensation.

21 (10 CCR § 2662.3(a).) Consumer Watchdog is a longtime participant and intervenor in
22 Department proceedings and a nationally recognized consumer advocacy organization. The
23 Commissioner issued Consumer Watchdog’s latest Finding of Eligibility on July 26, 2022,
24 effective for two years as of July 12, 2022, in which he found Consumer Watchdog eligible for
25 compensation “for its representation of consumers’ interests[.]”²

26 ¹ Consumer Watchdog seeks advocacy fees and expenses in the amount of \$21,889.00 for the
27 work of Consumer Watchdog’s counsel and seeks \$34,665.50 in fees billed by its consulting
28 actuary and expert witness, Allan I. Schwartz. (See Exh. A (attached) for a summary of the fees
and expenses requested.)

² Consumer Watchdog’s current Finding of Eligibility succeeded prior determinations issued on
August 25, 2020, effective as of July 12, 2020; July 12, 2018; July 14, 2016, July 24, 2014;
July 24, 2012; July 2, 2010; August 25, 2008; July 14, 2006; July 2, 2004; June 20, 2002;
October 1, 1997; September 26, 1995; September 27, 1994; and September 13, 1993.

1 The Commissioner granted Consumer Watchdog’s Petition to Intervene in the proceeding
2 on the Application on or about August 11, 2022. (Ruling Granting Consumer Watchdog’s Petition
3 to Intervene, Aug. 11, 2022, p. 4; Powell Decl., Exh. 3.) Thus, Consumer Watchdog is eligible to
4 seek compensation in this matter.

5 Pursuant to 10 CCR § 2662.3(a), a request for compensation is due 30 days after service
6 of the Commissioner’s decision in the proceeding in which intervention was sought or 30 days
7 after conclusion of the entire proceeding. On February 17, 2023, the Commissioner issued an
8 order denying Consumer Watchdog’s Petition for Hearing. Accordingly, Consumer Watchdog’s
9 Request is timely pursuant to 10 CCR § 2662.3(a).³

10 **III. SUMMARY OF THE PROCEEDING**

11 To demonstrate Consumer Watchdog’s substantial contribution to the Commissioner’s
12 decision in this proceeding and to demonstrate the reasonableness of the advocacy and witness
13 fees requested, set forth below is a summary of Consumer Watchdog’s participation in this
14 matter.

15 **A. Consumer Watchdog Petitioned for Hearing, Identifying Several Issues with the** 16 **Application**

17 On or about May 31, 2022, Applicant filed a Rate Application with the Department,
18 seeking approval of an overall rate increase of 6.9% to its private passenger automobile line of
19 insurance. (Powell Decl., ¶ 27.) The Department notified the public of the Application on or about
20 June 17, 2022. (*Ibid.*)

21 Consumer Watchdog and its actuarial expert, Allan I. Schwartz, reviewed the Application
22 in detail and determined that the proposed rate changes were excessive and/or unfairly
23 discriminatory in violation of Insurance Code section 1861.05, subdivision (a), and the prior
24 approval rate regulations, 10 CCR § 2644.1, et seq. (Powell Decl., ¶ 28.) Mr. Schwartz’s analysis
25 of the Application identified several specific issues that contributed to Applicant’s proposed rates
26 being excessive. (*Ibid.*)

27
28 ³ Since the 30th day falls on Sunday, March 19, the filing due date would be the next business day,
March 20. (10 CCR §2651.1(d).)

1 On July 28, 2022, pursuant to Insurance Code section 1861.10(a), Consumer Watchdog
2 filed its Petition including the issues on which it would provide evidence to show why
3 Applicant's proposed rates were excessive and/or unfairly discriminatory. (Petition, pp. 4-6;
4 Powell Decl., ¶ 29, Exh. 3.)

5 Specifically, Consumer Watchdog's Petition alleged that Auto Club failed to prove that its
6 proposed overall 6.9% rate increase and rates currently in effect did not result in rates that were
7 excessive, unfairly discriminatory, or otherwise in violation of the chapter under Insurance Code
8 section 1861.05(a). Through a series of Bulletins, the Commissioner put insurers on notice
9 starting in April 2020 that their projected losses had become overstated due to curtailed activities
10 of policyholders after the state COVID-19 stay-at-home orders went into effect and ordered
11 companies provide refunds or premium credits for the overcharges. As alleged by Consumer
12 Watchdog, the private passenger auto COVID-19 refunds and/or credits provided by Auto Club to
13 date pursuant to the orders of the Commissioner were inadequate and insufficient in relation to the
14 reduction in claims during the COVID-19 pandemic from March 2020 through at least June 2021
15 and, therefore, Auto Club owed additional refunds. (Petition, ¶ 8a; Powell Decl., ¶ 30.)

16 The Petition also alleged that in the company's no variance indication, the selected annual
17 net trends for all coverages were among the highest of the possible twenty values based upon the
18 applicable regulation. The excessive net trends overstated the projected loss ratios resulting in an
19 inflated rate indication. Also, Applicant did not demonstrate that the selected trend factors and
20 trend data period used were the most actuarially sound. (Petition, ¶ 8b; Powell Decl., ¶ 31.)

21 The Petition alleged that Applicant used incurred loss development in the rate templates.
22 For the BI, PD, UM, and COLL coverages, incurred development was materially higher than paid
23 development. The developed incurred losses were 18% higher than the developed paid losses for
24 the most recent year for BI, about 6% higher for both PD and COLL, and about 5% higher for
25 UM. Applicant failed to explain why there was such a large difference between the paid and
26 incurred development. Nor did Applicant prove that the much higher incurred development
27 method was the most actuarially sound. (Petition, ¶ 8c; Powell Decl., ¶ 32.)
28

1 The Petition further alleged that Applicant had not shown that the institutional advertising
2 expenses listed on page 4.1 of the rate application were appropriate. There may also have been
3 excluded expenses for other categories as specified under the regulations, such as excessive
4 payments to affiliates, that should be reflected in the rate calculation but were not adequately
5 reflected in the filing. (Petition, ¶ 8d; Powell Decl., ¶ 33.)

6 The Petition also alleged that Applicant’s selected trend values in the variance request
7 were excessive and unsupported. The excessive net trend overstated the projected loss ratios,
8 resulting in an inflated rate indication. (Petition, ¶ 8e; Powell Decl., ¶ 34.)

9 The Petition also alleged that Applicant’s use of education and occupation as rating factors
10 violated sections 1861.05(a) and 1861.02(a), and 10 CCR § 2632.5(d). The authorized optional
11 rating factors that have been adopted by the Commissioner are set forth in 10 CCR § 2632.5(d),
12 and do not include education or occupation. Applicant charged higher premiums to its “Non-
13 Qualifying Policyholders” group than its other two rating categories based on education and
14 occupational status. Specifically, Applicant applied a 0.921 rate multiplier (8% discount) to those
15 in the “Scientist, Educators, Engineers[,] Medical Professionals, CPAs, and Alumni Associations”
16 rating category, and a 0.985 rate multiplier (1.5% discount) to those in the “Lawyers” rating
17 category, as Rating Table 36 of Applicant’s Proposed Rating Manual in the Application shows.
18 (See Petition, Exhibit B.) Use of these rating factors to charge rates and premiums based on
19 education and occupational status results in excessive and/or unfairly discriminatory rates in
20 violation of sections 1861.02(a)(4) and 1861.05(a), and the application of unauthorized rating
21 factors is in violation of section 1861.02(a)(1)–(3) and the auto rating factor regulations at 10
22 CCR §§ 2632.4 and 2632.5. (Petition, ¶ 8f; Powell Decl., ¶ 35.)

23 Finally, the Petition alleged that the earned premiums contained in the Supplemental
24 COVID-19 Premium Exposure and Premium Template were gross of COVID-19 refunds when
25 they should have been net of COVID-19 refunds. (Petition, ¶ 8g; Powell Decl., ¶ 36.)

26 The Commissioner granted Consumer Watchdog’s Petition to Intervene in the proceeding
27 on the Application on August 11, 2022, finding that Consumer Watchdog “has raised and seeks to
28

1 address issues that are relevant to the ratemaking process.” (Ruling Granting Consumer
2 Watchdog’s Petition to Intervene, Aug. 11, 2022, at p. 4; Powell Decl., ¶ 37, Exh. 4.)

3 On August 25, 2022, Applicant submitted a letter response to Consumer Watchdog’s
4 Petition, in which it responded to each of the points raised in the Petition. (Letter Response to
5 Petition, Aug. 25, 2022; Powell Decl., ¶ 38, Exh. 5.)

6 On August 30, 2022, the Commissioner issued a Supplemental Ruling Granting Consumer
7 Watchdog’s Petition. (Supplemental Ruling Granting Consumer Watchdog’s Petition, Aug. 30,
8 2022; Powell Decl., ¶ 39, Exh. 6.)

9 **B. Consumer Watchdog Requested Additional Information from Auto Club and**
10 **Participated in a Three-Way Discussion with the Parties Regarding the Issues**
11 **Identified in the Petition and Additional Submissions.**

12 On October 18, 2022, Auto Club submitted a letter to the Department requesting that the
13 Department move forward with its review of the Application. (Exh. B hereto; Powell Decl.,
14 ¶ 40.)

15 On January 31, 2023, Consumer Watchdog attorneys participated in a three-way
16 teleconference with the CDI and Auto Club to discuss legal issues raised by Consumer
17 Watchdog’s Petition. (Powell Decl., ¶ 41.) During the January 31 teleconference, the Parties
18 discussed Consumer Watchdog’s allegations that (1) Auto Club’s COVID-19 refunds were
19 inadequate and insufficient in relation to the reduction in claims during the COVID-19
20 pandemic; (2) Auto Club’s use of education and occupation to provide discounts results in
21 excessive and/or unfairly discriminatory rates, and the application of unauthorized rating factors.
(*Ibid.*)

22 Following this teleconference, on February 2, 2023, Consumer Watchdog submitted
23 Requests for Information to Auto Club. (Exh. C hereto; Powell Decl., ¶ 42.) With respect to the
24 2022 financial information provided by Auto Club, Consumer Watchdog requested a breakdown
25 of the values shown by coverage. Additionally, for each period, Consumer Watchdog requested a
26 breakdown of both the losses incurred and LAE incurred into the following component parts:
27 (1) amount paid; (2) starting case reserves, ending case reserves, and change in case reserves; and
28 (3) starting IBNR reserves, ending IBNR reserves, and change in IBNR reserves. Consumer

1 Watchdog further requested a complete list and discussion of all payments to affiliates during
2 2019, 2020, and 2021, as well as documentation comparing those actual payments to the fair
3 market rate or value of the goods or services in the open market. Finally, Consumer Watchdog
4 requested the dollar amount of the payments to affiliates and the amount of profit the affiliates
5 made related to those payments. (*Ibid.*)

6 In response to a February 3 query by the Department, Consumer Watchdog explained that
7 the requests were relevant to issued raised by Consumer Watchdog’s Petition. Specifically, with
8 respect to the issue of excluded expenses, Consumer Watchdog’s Petition stated: *There may also*
9 *be excluded expenses for other categories that should be reflected in the rate calculation but were*
10 *not adequately reflected in the filing.* Consumer Watchdog pointed out that under section
11 2644.10(g), one of the excluded expense items is: “(g) All payments to affiliates, to the extent that
12 such payments exceed the fair market rate or value of the goods or services in the open market,”
13 and that according to the Annual Statement for Auto Club, the company uses management
14 agreements and service contracts between affiliates. (Exh. D hereto; Powell Decl., ¶ 43.)

15 On February 9, 2023, Auto Club responded to Consumer Watchdog’s Requests for
16 Information. With regard to the first request, Auto Club claimed that “the requested information is
17 not required by the petitioner and their actuary to complete their review of our rate indications.”
18 Auto Club further claimed that “[a]ll required data, including historical paid and incurred losses,
19 is contained in the exhibits provided by the Exchange in SERFF.” (Exh. E hereto; Powell Decl.,
20 ¶ 44.) With regard to the second request, Auto Club explained that it had “accounted for all
21 payments to affiliates in its annual statements filed with the Department,” and that “All such
22 affiliate payments are based on fair market value.” (*Ibid.*)

23 Later that day, Consumer Watchdog responded with follow-up questions. It noted that
24 with respect to the first request regarding loss experience, the Applicant sent a letter to CDI dated
25 October 18, 2022, which attached the 2022 financial exhibit referenced and attached to its
26 February 2 requests. That exhibit contained data not included with the filing and was based on
27 time periods subsequent to what was included in the filing. That October 18 letter alleged, “As
28 shown, the Exchange has experienced an underwriting loss in 2022 of over \$152 million.”

1 Consumer Watchdog noted that the information requested deals with the issue of how much of that
2 alleged loss is due to losses and expenses actually paid, as opposed to much is attributable to
3 changes in reserves (both case and IBNR) established by the Applicant. Consumer Watchdog
4 offered that if the Applicant and CDI would agree that the October 18, 2022 letter and 2022
5 financial data exhibit be given no consideration in evaluating the rate request, Consumer Watchdog
6 would be willing to withdraw that information request. (Exh. F hereto; Powell Decl., ¶ 45.)

7 With respect to the second request, Consumer Watchdog noted that it requested not only
8 the dollar amounts of payments to affiliates for 2019, 2020, and 2021, but also a discussion of all
9 payments to affiliates, including documentation comparing those actual payments to the fair
10 market rate or value of the goods or services in the open market and the amount of profit the
11 affiliates made related to those payments, as that information is not available in the annual
12 statements. For example, the 2021 Annual Statement shows a value of management agreements
13 and service contracts between the Applicant and ACSC Management Services of about \$743
14 million. As such, Consumer Watchdog requested that Auto Club provide documentation
15 comparing the actual payments to ACSC Management Services for those agreements/contracts
16 to the fair market rate or value of the goods or services in the open market and the amount of
17 profit ACSC Management Services made related to those payments for 2019, 2020, and 2021.
18 (Powell Decl., ¶ 46.)

19 On February 10, 2023, Consumer Watchdog requested additional supporting
20 documentation for Auto Club's statement that "all such affiliate payments are based on fair
21 market value." (Exh. G hereto; Powell Decl., ¶ 47.)

22 On February 13, 2023, Auto Club provided responses to Consumer Watchdog's
23 February 9 follow-up questions. Auto Club confirmed that the October 18, 2022 letter and 2022
24 financial data exhibit would not be expected to be given consideration in evaluating Auto Club's
25 pending rate filing. With regard to the Management Agreement issue noted above, Auto Club
26 explained that it entered into its Management Agreement with ACSC Management Services, an
27 affiliate of Auto Club, many decades ago, and that under the agreement, ASCS Management
28 Services agrees to act as attorney-in-fact and manage and operate the business of Auto Club,

1 performing a number of functions. Auto Club explained that in accordance with the Management
2 Agreement, Auto Club reimburses ACSC Management Services the actual cost of the operating
3 expense incurred in performing its functions along with a fee of less than 1% of annual premiums.
4 Auto Club claimed that since it “consistently has lower underwriting expenses and expense ratios
5 than most competitors . . . this payment clearly does not exceed the fair market value of the broad
6 and important services” performed by ACSC Management, and that therefore, Auto Club does not
7 have any payments to affiliates that meet the criteria outlined in CCR 2644.10(g). (Exh. H hereto;
8 Powell Decl., ¶ 48.)

9 Later that day, Consumer Watchdog requested additional clarifications from Auto Club.
10 Specifically, Consumer Watchdog sought (1) confirmation that the management fees paid from
11 Auto Club to ACSC are calculated as the actual costs of ACSC plus an amount less than 1% of
12 premiums, (2) written document, such as the Management Agreement, that this is the
13 compensation agreement of Auto Club with ACSC, and (3) a recent annual financial statement of
14 ACSC showing the income, costs, and profit. (Exh. I hereto; Powell Decl., ¶ 49.)

15 On February 14, 2023, Auto Club provided responses to Consumer Watchdog’s
16 February 13 requests for clarification. It confirmed the amount of management fees paid to
17 ACSC, noted that the Management Agreement is filed with the Department annually with its
18 Form B, and claimed that the additional information requested (documentation of income, costs,
19 and profit of ACSC) is irrelevant and would not be provided. (Exh. J hereto; Powell Decl., ¶ 50.)

20 On February 15, 2023, Consumer Watchdog requested a copy of the Management
21 Agreement. (Exh. K hereto; Powell Decl., ¶ 51.)

22 On February 16, 2023, Auto Club wrote back and said that it would not provide the
23 Management Agreement as it considered it proprietary information. (Exh. L hereto; Powell Decl.,
24 ¶ 52.)

25 On February 17, 2023, Consumer Watchdog responded to Auto Club noting that it was the
26 company’s burden to prove that its payments to affiliates did not exceed fair market value.
27 Consumer Watchdog asserted its right as Petitioner to seek information to confirm Auto Club’s
28 representations, and insisted that Auto Club either provide a redacted agreement containing the

1 verification information or other written documentation of the compensation agreement with
2 ACSC. (Exh. M hereto; Powell Decl., ¶ 53.)

3 Later that day, Auto Club responded to Consumer Watchdog, once again refusing to
4 provide a copy of the Management Agreement. (Exh. N hereto; Powell Decl., ¶ 54.)

5 On February 17, 2023, Consumer Watchdog circulated its actuary's comments and
6 analysis of the Application, including rate indications showing that a smaller .9% overall rate
7 increase would be justified. (Exh. O hereto; Powell Decl., ¶ 55.) That analysis discussed why the
8 company's selected trends overstated its projected losses by providing a discussion of several
9 sources showing decreasing inflation rates in recent months. It also pointed out issues with the
10 company's use of incurred loss development, proposed rates for some coverages falling outside
11 the allowable maximum to minimum rate indication range, and issues concerning the credibility
12 the company assigned to its experience for certain coverages. (*Ibid.*)

13 Later that day, after the Department received Consumer Watchdog's analysis, the
14 Commissioner issued an order denying Consumer Watchdog's Petition for Hearing. (Decision
15 Denying Petitioner's Petition for Hearing, Feb. 17, 2023; Powell Decl., ¶ 56; Exh. 7.) In
16 approving the Application, the Decision responded to each of the issues raised by Consumer
17 Watchdog and concluded that the Parties had "exchanged correspondence, participated in
18 teleconferences, and considered all evidence presented by the Parties. The Department is satisfied
19 that the allegations raised in the Petition have been satisfactorily resolved . . . and is prepared to
20 approve a rate increase of 6.9%." (Decision, p. 4; Powell Decl., ¶ 56.)

21 **IV. CONSUMER WATCHDOG IS ENTITLED TO AN AWARD OF ITS REASONABLE** 22 **ADVOCACY AND WITNESS FEES**

23 **A. Consumer Watchdog Made a Substantial Contribution to the Commissioner's** 24 **Final Decision.**

25 Proposition 103 requires awards of reasonable advocacy and witness fees and expenses
26 for persons who represent the interests of consumers and who make a "substantial contribution"
27 to decisions or orders by the Commissioner or a court. Insurance Code section 1861.10(b), states:

28 The commissioner or a court *shall award* reasonable advocacy and witness fees
and expenses to any person who demonstrates that (1) the person represents the

1 interests of consumers, and, (2) that he or she has made a substantial contribution
2 to the adoption of any order, regulation or decision by the commissioner or a court.

3 (Emphasis added.) As the emphasized language makes clear, when the statutory criteria are met,
4 an award of reasonable advocacy fees and expenses is mandatory. This provision affords
5 insurance consumers the ability to have their interests represented on an equal basis with the
6 interests of insurers and facilitates consumer participation in the enforcement of Proposition 103.
7 (See *Econ. Empowerment Found. v. Quackenbush* (“*EEF*”) (1997) 57 Cal.App.4th 677, 686 [the
8 purpose of intervenor fees is to encourage consumer participation]; see also *Ass’n of California*
9 *Ins. Cos. v. Poizner*, *supra*, 180 Cal.App.4th at 1052 [stating “the goal of fostering consumer
10 participation in the administrative rate-setting process” as “one of the purposes of Proposition
11 103”].) Per the voters’ instruction, the mandate of section 1861.10(b), like all of the provisions of
12 Proposition 103, must be “liberally construed and applied in order to fully promote its underlying
13 purposes.” (Prop. 103, § 8.) Thus, the courts have held that section 1861.10(b) should be applied
14 in a manner “which best facilitates compensation.” (*EEF*, *supra*, 57 Cal.App.4th at 686.)

15 When they established Proposition 103’s public participation system, the voters were
16 well aware that the Department (as distinct from the Commissioner) would become a party to a
17 proceeding such as this. However, the voters recognized that Department staff might be subject
18 to budgetary or other considerations in their role as regulators that might cause them to take
19 different positions or emphasize different issues than consumer participants in a particular
20 proceeding. The voters therefore created a system in which consumers would have their own
21 advocates, able to protect consumers’ interests before any tribunal as zealously as lawyers for the
22 insurance industry protect their clients’ interests—and be compensated accordingly. As the
23 Ballot Argument in Favor of Proposition 103 explained, the initiative sought to establish “a
24 permanent, *independent* consumer watchdog system [that] will champion the interests of
25 insurance consumers.” (Emphasis added.) The broad substantial contribution standard enacted by
26 section 1861.10(b), ensures that consumers will be able to participate in proceedings
27 *independently of the Department staff*.

28 As the Court of Appeal held in *State Farm General Insurance Company v. Lara* (“*SFG*”) (2021) 71 Cal.App.5th 197, a party’s entitlement to fees under section 1861.10(a) “requires a

1 significant, distinct contribution, but not more” (*id.* at 214), as Proposition 103’s fee statute “was
2 intended to encourage consumer participation more broadly” than other fee schemes. (*Id.* at 216.)

3 Regulations promulgated by the Commissioner provide guidance for the determination of
4 whether consumer representatives made a “substantial contribution” in departmental proceedings.

5 The regulations provide as follows:

6 “Substantial Contribution” means that the intervenor substantially contributed,
7 as a whole, to a decision, order, regulation, or other action of the Commissioner
8 by presenting relevant issues, evidence, or arguments which were separate and
9 distinct from those emphasized by the Department of Insurance staff or any
10 other party, such that ***the intervenor’s participation resulted in more credible,
11 and non-frivolous information being available for the Commissioner to make
12 his or her decision than would have been available to a Commissioner had
13 the intervenor not participated.*** A substantial contribution may be
14 demonstrated without regard to whether a petition for hearing is granted or
15 denied.

16 (10 CCR § 2661.1(k), emphasis added.)

17 The detailed summary of this proceeding presented in section III above, the
18 accompanying Powell and Schwartz Declarations, and the record in this proceeding make clear
19 that Consumer Watchdog has met the substantial contribution requirement. CWD’s counsel are
20 veterans of over a hundred administrative proceedings concerning Proposition 103 since the
21 law’s passage. They have also litigated challenges to Proposition 103 in the civil courts and
22 participated in all of the cases that led to landmark judicial decisions. Consumer Watchdog
23 counsel and consulting actuary were able to provide an effective professional balance to Auto
24 Club’s highly qualified team of in-house counsel and actuaries. (See Powell Decl., ¶¶ 9–19.)

25 Consumer Watchdog’s substantial contribution in this proceeding, as detailed in
26 section III above and in the accompanying Powell Declaration and further evidenced by the
27 record in this matter, is demonstrated by at least the following:

- 28 • Consumer Watchdog’s Petition initiated the proceeding and first raised issues
with the Application, including (1) Auto Club owed additional COVID-19
refunds to its customers; (2) Auto Club’s excessive net trends overstated the
projected loss ratios resulting in an inflated rate indication; (3) Auto Club failed to
explain why there was such a large difference between paid and incurred

1 development; (4) Auto Club had not shown that it had properly accounted for
2 institutional advertising expenses; (5) Auto Club's selected trend values in the
3 variance request were excessive and unsupported; (6) Auto Club's use of
4 education and occupation as rating factors violated the insurance code; and
5 (7) Auto Club's earned premiums were gross of COVID-19 refunds when they
6 should have been net of COVID-19 refunds.

- 7 • Consumer Watchdog attorneys participated in an initial three-way teleconference
8 with the Department and Applicants to discuss the legal issues raised by its
9 Petition.
- 10 • Consumer Watchdog submitted Requests for Information to Auto Club, requesting
11 further data and documentation of the issues raised by its Petition and issues
12 subsequently identified as discussed *supra*, section IIB. Specifically, Consumer
13 Watchdog requested further detail and explanation regarding incurred losses and
14 additional documentation about Auto Club's payments to affiliates relative to fair
15 market value.
- 16 • Auto Club provided responses, though not in full, to Consumer Watchdog's
17 Requests for Information, including additional explanations. After initially
18 insisting that it had no duty to verify to Consumer Watchdog its representations
19 regarding payments to affiliates, Auto Club did ultimately provide an explanation
20 of its management fee agreement. (*See supra*, Section IIIB.)
- 21 • Consumer Watchdog's actuary prepared a written analysis and rate indications
22 concluding a smaller overall rate increase was justified.

23 In sum, Consumer Watchdog's separate and distinct presentation of relevant issues,
24 evidence, and arguments provided in its Petition, requests for information, and communications
25 with the Parties, as well as the additional information it elicited from Applicant in response to the
26 distinct issues raised by Consumer Watchdog in its Petition and in verbal and written exchange
27 with the Applicant, resulted in more relevant, credible, and non-frivolous information being
28 available to the Commissioner in making his final decision approving the Application than if

1 Consumer Watchdog had not participated. Thus, Consumer Watchdog clearly meets the
2 “substantial contribution” requirement of the Insurance Code and the regulations.

3 **B. Consumer Watchdog’s Requested Advocacy Fees Are Reasonable.**

4 When a consumer representative makes a “substantial contribution,” as here, Insurance
5 Code section 1861.10(b) requires payment of all of a consumer representative’s “reasonable
6 advocacy and witness fees and expenses.” (Emphasis added.) As *SFG* held, “section 1861.10(b)
7 requires only that advocacy fees be ‘reasonable,’ within the usual meaning of the term in the fees
8 context: fair and appropriate under the circumstances.” (*SFG, supra*, 71 Cal.App.5th at 218.) That
9 means, in general, parties “who qualify for a fee should recover compensation for all the hours
10 reasonably spent.” (*Ibid.*, quotations omitted.) Indeed, *SFG* recognizes that “California law
11 requires that attorney fee awards be ‘fully compensatory’” (*ibid.*, quoting *Ketchum v. Moses*
12 (2001) 24 Cal.4th 1122, 1133), and that permitting “recovery of all reasonable fees” under section
13 1861.10(b) supports Proposition 103’s consumer-participation purposes “by encouraging
14 intervention in the first place and ensuring intervenors can vigorously represent consumers once
15 involved” (*id.* at 219).

16 For its substantial contribution, Consumer Watchdog requests reasonable advocacy fees in
17 the amount of \$21,889.00 for the work of its counsel and paralegal. The requested fees, including
18 the total hours of work performed and the hourly rates of each Consumer Watchdog attorney, are
19 summarized in the attached Exhibit A, “Summary of Fees.” Insurance Code section 1861.10,
20 subdivision (b), requires an award of all “reasonable advocacy and witness fees” once the
21 requirements of the statute are met, including making a substantial contribution. The procedural
22 history of this matter set forth above and supported by the Powell Declaration demonstrates the
23 reasonableness of the compensation requested in light of the amount of work performed. The
24 procedural history and Consumer Watchdog’s time records (Powell Decl., Exh. 1a) also
25 demonstrate the work Consumer Watchdog performed in this proceeding.

26 As required by the regulations, the specific tasks performed by Consumer Watchdog’s
27 attorneys are set forth in its detailed time records attached as Exhibit 1a to the Powell Declaration.
28 (See Powell Decl., ¶ 3 & Exh. 1a.) These time records were maintained contemporaneously and

1 reflect the actual time spent and actual work performed, billed to the tenth of an hour, by all
2 Consumer Watchdog legal staff who worked on this matter. (Powell Decl., ¶ 6.) In preparing their
3 respective time records for this request, Consumer Watchdog’s legal staff exercised billing
4 judgment and eliminated time entries where appropriate. (Powell Decl., ¶ 5.) Consumer
5 Watchdog submits that the time expended and work performed in the proceeding, as reflected in
6 the time records, was reasonable and appropriate, and the minimum required to make a substantial
7 contribution in this proceeding and to achieve the result obtained. (*Ibid.*)

8 The 2023 hourly rates set forth in Exhibit A are also reasonable and consistent with
9 prevailing market rates. The intervenor regulations specify, “[t]he compensation awarded **shall**
10 **equal** the market rate of the services provided.” (10 CCR § 2662.6(b), emphasis added.) “Market
11 rate” is defined as the “prevailing rate for comparable services in the private sector in the Los
12 Angeles and San Francisco Bay Areas **at the time of the Commissioner’s decision awarding**
13 **compensation** for attorney advocates, non-attorney advocates, or experts with similar experience,
14 skill and ability.” (10 CCR § 2661.1(c)(1), emphasis added.)

15 The qualifications and experience of Consumer Watchdog’s attorneys and paralegal who
16 performed work in this matter, Pamela Pressley, Harvey Rosenfield, Benjamin Powell, and
17 Kaitlyn Gentile, are summarized in the Powell Declaration. (Powell Decl., ¶¶ 9–23.) The
18 Declaration of Richard M. Pearl (“Pearl Decl.”), attached as Exhibit 2 to the Powell Declaration,
19 confirms that the requested rates for Consumer Watchdog’s counsel are consistent with prevailing
20 market rates.⁴ Mr. Pearl is a recognized expert on attorneys’ fees issues under California law. (See
21 Powell Decl., Exh. 2 [Pearl Decl.], ¶¶ 3–9.) The Pearl Declaration shows that Consumer
22 Watchdog counsel’s and paralegal’s 2023 rates are well within, if not below, the range of non-
23 contingent rates charged by California attorneys in the Los Angeles area of equivalent experience,
24 skill, and expertise for comparable services. (See *id.*, ¶¶ 10–19.) The Commissioner has also
25 approved fee awards for Consumer Watchdog based on the same hourly rates Consumer
26

27 ⁴ The Pearl Declaration was filed on April 15, 2022 in connection with a State Farm write matter
28 arising out of a rate proceeding and is equally applicable to this proceeding, given that Consumer
Watchdog’s 2023 rates are within the range of rates considered reasonable for attorneys with
comparable experience at that time.

1 Watchdog’s legal staff is currently using in 2023 for work done in 2017–2022. (Powell Decl.,
2 ¶ 7.)

3 Finally, this Request also includes the time expended preparing the instant Request for
4 Compensation. This is also reasonable because the regulations permit reimbursement for
5 preparation of a request for an award of compensation. (10 CCR § 2661.1(d).) Preparing such a
6 request requires the intervenor to perform a comprehensive review of the record, review the
7 regulations, cite to the record in this proceeding, review billing and expense records, and prepare
8 the Request and supporting documents.

9 **C. Consumer Watchdog’s Expert Fees Are Reasonable.**

10 Consumer Watchdog incurred reasonable expert fees of \$34,665.50 for the actuarial
11 consulting services of Allan I. Schwartz at AIS Risk Consultants, Inc. (See Schwartz Decl.,
12 Exh. 8.) The specific tasks performed by Mr. Schwartz are set forth in the detailed billing records
13 of AIS Risk Consultants, Inc. (*Ibid.*) Consumer Watchdog is informed and believes that these
14 time records were maintained contemporaneously and reflect the actual time spent and actual
15 work performed by Mr. Schwartz and his associates. (Schwartz Decl., ¶ 14; Powell Decl., ¶ 26.)
16 Pursuant to 10 CCR sections 2662.6(b) and 2661.1(c)(1), the expert fees billed for the actuarial
17 consulting services of Mr. Schwartz and his staff at AIS Risk Consultants, Inc. reflect their
18 current 2023 market rates for such services and amount to less than the total expert fees projected
19 in Consumer Watchdog’s Petition. (*Ibid.*; see Petition, Exh. A.)

20 The Commissioner has awarded Consumer Watchdog compensation for Mr. Schwartz’s
21 services based on his 2022 rate of \$870 per hour in prior proceedings (Decision Awarding
22 Compensation, June 29, 2022, *In the Matter of the Rate Applications of Farmers Insurance*
23 *Exchange, Fire Insurance Exchange, and Mid-Century Insurance Company*, File No. PA-2021-
24 00007, p. 10; Decision Awarding Compensation, March 8, 2023, *In the Matter of the Rulemaking*
25 *Hearing Re: Risk in Mitigation Plans and Wildfire Risk Models*, File Nos. REG-2020-00015 and
26 REG-2020-00016, pp. 25–26; Schwartz Decl., ¶ 8.) The Commissioner also awarded Consumer
27 Watchdog compensation for Mr. Schwartz’s actuarial consulting services based on his 2021
28 hourly rate of \$835 in three proceedings. In the decisions awarding compensation in these matters

1 issued in 2021 for work performed in 2020–2021, the Commissioner found that the hourly rates
2 requested for Consumer Watchdog’s attorneys and experts were reasonable. (*See* Decision
3 Awarding Compensation, Oct. 6, 2021, *In the Matter of the Rate Applications of Farmers*
4 *Insurance Exchange, Fire Insurance Exchange, and Mid-Century Insurance Company*, File No.
5 PA-2020-00006, p. 10; Decision Awarding Compensation, Feb. 14, 2022, *In the Matter of the*
6 *Rate Application of Homesite Insurance Company of California*, File No. PA-2020-00003, p. 9;
7 Decision Awarding Compensation, Feb. 16, 2022, *In the Matter of the New Program Applications*
8 *of Farmers Insurance Exchange and Fire Insurance Exchange*, File No. PA-2020-00004, p. 9
9 (*Ibid.*; Schwartz Decl., Exh. 4). Mr. Schwartz’s 2023 rate of \$915 per hour is an increase of 5.2%
10 from his 2022 rate of \$870 per hour. (*Ibid.*)

11 Mr. Schwartz’s over 40 years of professional actuarial experience include being President
12 of AIS Risk Consultants, Assistant Commissioner of the New Jersey Department of Insurance,
13 and chief actuary of the North Carolina Department of Insurance. His resume is attached to the
14 accompanying Schwartz Declaration. (Schwartz Decl., ¶ 10, Exh. 5.) Consumer Watchdog
15 submits that the time expended and work performed by Mr. Schwartz as CWD’s sole expert in
16 this proceeding, as reflected in his time records, including review of the initial Application,
17 formulation of issues for the Petition, drafting of requests for information, review of Auto Club’s
18 responses and updated data, and preparation of a written analysis and rate indications was
19 reasonable and appropriate and the minimum required to achieve the result obtained. (Powell
20 Decl., ¶ 26; Schwartz Decl., ¶ 14, Exh. 8.)

21 **V. CONCLUSION**

22 In sum, Consumer Watchdog made a substantial contribution to the Commissioner’s final
23 decision approving Auto Club’s Application by identifying relevant issues and arguments as set
24 forth in Consumer Watchdog’s Petition and expanded upon in Consumer Watchdog’s Requests
25 for Information, correspondence, and discussions with the Parties. In addition, during the course
26 of the proceeding, Applicant submitted additional relevant information, argument, and evidence
27 in response to each of the issues raised and requests for information by Consumer Watchdog that
28 would not have otherwise been available had Consumer Watchdog not participated. The decision

1 denying Consumer Watchdog's petition explicitly stated that it considered the issues raised by
2 Consumer Watchdog and responded to each one. Accordingly, Consumer Watchdog made a
3 substantial contribution to the Commissioner's decision to approve the Application and is thus
4 entitled to its reasonable advocacy and witness fees as requested in the total amount of
5 \$56,554.50.

6
7 DATED: March 20, 2023

Respectfully submitted,

8 Harvey Rosenfield
9 Pamela Pressley
10 Benjamin Powell
11 Ryan Mellino

12 CONSUMER WATCHDOG

13 By:



14 Benjamin Powell
15 Attorneys for CONSUMER WATCHDOG
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EXHIBIT A

EXHIBIT A

SUMMARY OF FEES AND EXPENSES

File No. PA-2022-00005

<u>ITEMS</u>	<u>COST</u>
1. <u>Consumer Watchdog's Fees</u> (Detailed in Billing Records attached as Exhibit 1a to Powell Decl.)	
Harvey Rosenfield @ \$695 per hour, 2.4 hours	\$1,668.00
Pamela Pressley @ \$595 per hour, 28.8 hours	\$17,136.00
Benjamin Powell @ \$350 per hour, 5.5 hours	\$1,925.00
Kaitlyn Gentile @ \$200 per hour, 5.8 hours	\$1,160.00
Subtotal of Consumer Watchdog Fees	\$21,889.00
2. <u>Expert Witness Fees – AIS Risk Consultants, Inc.</u> (Detailed in Billing Records attached as Exhibit 8 to Schwartz Decl.)	
Allan Schwartz @ \$915 per hour, 30.0 hours	\$27,450.00
Katherine Tollar @ \$415 per hour, 15.1 hours	\$6,266.50
Mary Anne Dwyer @ \$365 per hour, 2.6 hours	\$949.00
Subtotal of AIS Risk Consultants, Inc. Fees	\$34,665.50
TOTAL ADVOCACY FEES AND WITNESS FEES:	\$56,554.50

EXHIBIT B



Interinsurance Exchange of the Automobile Club

P.O. Box 25001, Santa Ana, CA 92799-5001
(877) 422-2100

Delivered Electronically

October 18, 2022

Ken Allen
Deputy Commissioner
Rate Regulation Branch
California Department of Insurance
300 South Spring Street, 12th Floor
Los Angeles, CA 90013

Re: Private Passenger Auto Filing 22-1466 (SERFF IACA-133266980) and Matter
2022-00005

Dear Ken:

The Interinsurance Exchange of the Automobile Club (“Exchange”) submitted its private passenger auto (PPA) filing 140 days ago, on May 31, 2022. Subsequently, we waived the deemer and have not received any indication that the California Department of Insurance (“Department”) has commenced reviewing our filing. This is unprecedented, as the Department has a duty and obligation to review and approve filings in a reasonable timeframe to ensure that rates are adequate, not excessive, and not unfairly discriminatory.

The support in our filing for a 6.9% rate increase is straightforward and compelling. Since the time of filing, results have further deteriorated, reinforcing the urgent need for immediate approval. Our current rates are not adequate, and we continue to operate at a loss. The attached exhibit displays our 3rd quarter year-to-date 2022 financial results. As shown, the Exchange has experienced an underwriting loss in 2022 of over \$152 million.

The Exchange has provided quality insurance products to the people of Southern California for over 100 years and is currently one of the top five automobile insurers in the state. We employ over 8,000 people in California and support a host of other small and medium sized businesses as a result. The Department’s continued, undue delay in reviewing and approving our PPA filing will result in a negative impact on our operations. In addition, continued delay may negatively impact the health of the California insurance market given the Exchange’s market share and ranking as one of the largest PPA insurers in the state.

We look forward to continuing the positive working relationship we have maintained with the Department for decades. We kindly request that the Department immediately move forward with reviewing and approving our pending private passenger auto rate filing.

Sincerely,



Jeffrey Farr, FCAS, MAAA
Vice President and Chief Actuary
On the behalf of Management Services Inc.
Attorney-in-Fact for the Interinsurance Exchange of the Automobile Club

CC:

John Boyle (Exchange)
Kathy Sieck (Exchange)
Lincoln Tomlin (Exchange)
Ricardo Lara (Department)
Ken Schnoll (Department)
Cecilia Padua (Department)
Lisbeth Landsman-Smith (Department)
Jamie Katz (Department)
Alec Stone (Department)
Tina Warren (Department)
Harvey Rosenfield (CW)
Pamela Pressley (CW)
Kaitlyn Gentile (CW)
Ryan Mellino (CW)
Ben Powell (CW)

INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB - CA PERSONAL AUTO

	<u>1st Qtr 2022</u>	<u>2nd Qtr 2022</u>	<u>3rd Qtr 2022</u>	<u>YTD September 2022</u>
		(in thousands of dollars)		
1 Premiums Earned	705,597	720,908	738,920	2,165,425
2 Losses Incurred	485,682	538,414	588,042	1,612,138
3 LAE Incurred	68,185	69,743	84,208	222,136
4 Underwriting Expenses	<u>161,468</u>	<u>160,490</u>	<u>161,683</u>	<u>483,641</u>
5 Net Underwriting Gain/(Loss)	<u>(9,738)</u>	<u>(47,739)</u>	<u>(95,013)</u>	<u>(152,490)</u>

EXHIBIT C

Subject: Re: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466
Date: Thursday, February 2, 2023 at 12:38:24 PM Pacific Standard Time
From: Pam Pressley
To: Tomlin.Lincoln, Lisbeth Landsman-Smith, Cecilia Padua, Harvey Rosenfield, Ryan Mellino, Ben Powell, Katz, Jamie, Stone, Alec, Kaitlyn Gentile, Warren, Tina
CC: Ken Allen, adam.gammell@insurance.ca.gov
Attachments: image001.jpg, image002.jpg, Interins Exchange 2022 financial results.pdf

Consumer Watchdog requests the following information from Interinsurance Exchange of the Automobile Club.

1. With respect to the 2022 financial information provided by the company in the attached pdf, please provide:
 - > A breakdown of the values shown by coverage.
 - > For each period a breakdown of both the losses incurred and LAE incurred into the following component parts
 1. amount paid
 2. starting case reserves, ending case reserves and change in case reserves
 3. starting IBNR reserves, ending IBNR reserves and change in IBNR reserves
2. Provide a complete list and discussion of all payments to affiliates during 2019, 2020 and 2021. Provide documentation comparing those actual payments to the fair market rate or value of the goods or services in the open market. Also include the dollar amount of the payments to affiliates and the amount of profit the affiliates made related to those payments

Thank you,

Pam

--

Pamela Pressley
Senior Staff Attorney
Consumer Watchdog
www.consumerwatchdog.org
6330 San Vicente Blvd., Suite 250
Los Angeles, CA 90048
310-392-1372
310-392-8874 fax
pam@consumerwatchdog.org

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From: Tomlin.Lincoln <Tomlin.Lincoln@aaa-calif.com>
Date: Friday, January 20, 2023 at 1:49 PM
To: Lisbeth Landsman-Smith <Lisbeth.Landsman@insurance.ca.gov>, Cecilia Padua <Cecilia.Padua@insurance.ca.gov>, Harvey Rosenfield <harvey@consumerwatchdog.org>, Pam Pressley <pam@consumerwatchdog.org>, Ryan Mellino

<Ryan.m@consumerwatchdog.onmicrosoft.com>, Ben Powell <ben@consumerwatchdog.org>, Katz, Jamie <Jamie.Katz@insurance.ca.gov>, Stone, Alec <Alec.Stone@insurance.ca.gov>, Kaitlyn Gentile <kaitlyn@consumerwatchdog.org>, Warren, Tina <Tina.Warren@insurance.ca.gov>
Cc: Ken Allen <Ken.Allen@insurance.ca.gov>, adam.gammell@insurance.ca.gov <adam.gammell@insurance.ca.gov>

Subject: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466

Hello,

This email is to notify interested parties that the Interinsurance Exchange of the Automobile Club has submitted responses in SERFF to the recent set of objections related to PPA filing 22-1466 (IACA-133266980).

Thank you,

Lincoln K. Tomlin (He/Him/His), CPCU
Vice President, Public and Government Affairs
Auto Club Enterprises
Office | (714) 885-2315



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A sobering message from AAA

EXHIBIT D



Don't drive intoxicated.
Don't drive intoxicated.

A sobering message from AAA

From: Pam Pressley <pam@consumerwatchdog.org>

Sent: Friday, February 3, 2023 4:28 PM

To: Lisbeth Landsman-Smith <Lisbeth.Landsman@insurance.ca.gov>; Tomlin.Lincoln <Tomlin.Lincoln@aaa-calif.com>; Cecilia Padua <Cecilia.Padua@insurance.ca.gov>; Harvey Rosenfield <harvey@consumerwatchdog.org>; Ryan Mellino <Ryan.m@consumerwatchdog.onmicrosoft.com>; Ben Powell <ben@consumerwatchdog.org>; Katz, Jamie <Jamie.Katz@insurance.ca.gov>; Stone, Alec <Alec.Stone@insurance.ca.gov>; Kaitlyn Gentile <kaitlyn@consumerwatchdog.org>; Warren, Tina <Tina.Warren@insurance.ca.gov>

Cc: Ken Allen <Ken.Allen@insurance.ca.gov>; Gammell, Adam <Adam.Gammell@insurance.ca.gov>

Subject: Re: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466

CAUTION! EXTERNAL SENDER! STOP, ASSESS, AND VERIFY

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Lisbeth,

Both requests are relevant to issues raised Consumer Watchdog's Petition (see, e.g., ¶8c (improper loss development) and ¶8d (excluded expenses)) and requested by our actuary to complete his analysis and rate indications. With respect to the issue of excluded expenses, our petition stated: *There may also be excluded expenses for other categories that should be reflected in the rate calculation but were not adequately reflected in the filing.* Under section 2644.10(g), one of the excluded expense items is: "(g) All payments to affiliates, to the extent that such payments exceed the fair market rate or value of the goods or services in the open market." According to the Annual Statement for IIECA, the company uses management agreements and service contracts between affiliates.

Thank you,

Pam

--

Pamela Pressley

Senior Staff Attorney

Consumer Watchdog

www.consumerwatchdog.org

6330 San Vicente Blvd., Suite 250

Los Angeles, CA 90048

310-392-1372

310-392-8874 fax

pam@consumerwatchdog.org

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From: Landsman, Lisbeth <Lisbeth.Landsman@insurance.ca.gov>

Date: Friday, February 3, 2023 at 12:05 PM

To: Pam Pressley <pam@consumerwatchdog.org>, Tomlin.Lincoln <Tomlin.Lincoln@aaa-calif.com>, Cecilia Padua <Cecilia.Padua@insurance.ca.gov>, Harvey Rosenfield <harvey@consumerwatchdog.org>, Ryan Mellino <Ryan.m@consumerwatchdog.onmicrosoft.com>, Ben Powell <ben@consumerwatchdog.org>, Katz, Jamie <Jamie.Katz@insurance.ca.gov>, Stone, Alec <Alec.Stone@insurance.ca.gov>, Kaitlyn Gentile <kaitlyn@consumerwatchdog.org>, Warren, Tina <Tina.Warren@insurance.ca.gov>

Cc: Ken Allen <Ken.Allen@insurance.ca.gov>, Gammell, Adam <Adam.Gammell@insurance.ca.gov>

Subject: RE: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466

Pam, please explain the basis for your two questions below. Are they intended to help you determine paid vs. incurred losses or COVID refunds? Or is there another reason you are asking for this information? Thanks, Lisbeth

From: Pam Pressley <pam@consumerwatchdog.org>

Sent: Thursday, February 2, 2023 12:38 PM

To: Tomlin.Lincoln <Tomlin.Lincoln@aaa-calif.com>; Landsman, Lisbeth <Lisbeth.Landsman@insurance.ca.gov>; Padua, Cecilia <Cecilia.Padua@insurance.ca.gov>; Harvey Rosenfield <harvey@consumerwatchdog.org>; Ryan Mellino <Ryan.m@consumerwatchdog.onmicrosoft.com>; Ben Powell <ben@consumerwatchdog.org>; Katz, Jamie <Jamie.Katz@insurance.ca.gov>; Stone, Alec <Alec.Stone@insurance.ca.gov>; Kaitlyn Gentile <kaitlyn@consumerwatchdog.org>; Warren, Tina <Tina.Warren@insurance.ca.gov>

Cc: Allen, Ken <Ken.Allen@insurance.ca.gov>; Gammell, Adam <Adam.Gammell@insurance.ca.gov>

Subject: Re: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466

Consumer Watchdog requests the following information from Interinsurance Exchange of the Automobile Club.

1. With respect to the 2022 financial information provided by the company in the attached pdf, please provide:
 - > A breakdown of the values shown by coverage.
 - > For each period a breakdown of both the losses incurred and LAE incurred into the following component parts
 1. amount paid
 2. starting case reserves, ending case reserves and change in case reserves
 3. starting IBNR reserves, ending IBNR reserves and change in IBNR reserves
2. Provide a complete list and discussion of all payments to affiliates during 2019, 2020 and 2021. Provide documentation comparing those actual payments to the fair market rate or value of the goods or services in the open market. Also include the dollar amount of the payments to affiliates and the amount of profit the affiliates made related to those payments

Thank you,

Pam

--

Pamela Pressley
Senior Staff Attorney
Consumer Watchdog
www.consumerwatchdog.org

EXHIBIT E

Subject: RE: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466
Date: Thursday, February 9, 2023 at 1:50:55 PM Pacific Standard Time
From: Tomlin.Lincoln
To: Pam Pressley, Lisbeth Landsman-Smith, Cecilia Padua, Harvey Rosenfield, Ryan Mellino, Ben Powell, Katz, Jamie, Stone, Alec, Kaitlyn Gentile, Warren, Tina
CC: Ken Allen, Gammell, Adam
Attachments: image001.jpg, image002.jpg

Please see the Exchange's responses to the petitioner's requests captured below:

Request 1: With respect to the 2022 financial information provided by the company in the attached pdf, please provide:

> A breakdown of the values shown by coverage.

> For each period a breakdown of both the losses incurred and LAE incurred into the following component parts

1. amount paid
2. starting case reserves, ending case reserves and change in case reserves
3. starting IBNR reserves, ending IBNR reserves and change in IBNR reserves

Response 1: The requested information is not required by the petitioner and their actuary to complete their review of our rate indications. The 2022 calendar year financial exhibit provided by the Exchange cannot be used to derive rate indications. This work must be done using accident year losses, in keeping with the California Code of Regulations and CDI filing instructions. All required data, including historical paid and incurred losses, is contained in the exhibits provided by the Exchange in SERFF. Those exhibits, along with any associated CDI objections and responses by the Exchange are available to all parties.

Request 2: Provide a complete list and discussion of all payments to affiliates during 2019, 2020 and 2021. Provide documentation comparing those actual payments to the fair market rate or value of the goods or services in the open market. Also include the dollar amount of the payments to affiliates and the amount of profit the affiliates made related to those payments

Response 2: The Exchange has accounted for all payments to affiliates in its annual statements filed with the Department (refer to page 14.6, note #10). All such affiliate payments are based on fair market value.

Thank you!

Lincoln K. Tomlin (He/Him/His), CPCU
Vice President, Public and Government Affairs
Auto Club Enterprises
Office | (714) 885-2315

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EXHIBIT F

Subject: Re: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466

Date: Thursday, February 9, 2023 at 2:47:50 PM Pacific Standard Time

From: Pam Pressley

To: Tomlin.Lincoln, Lisbeth Landsman-Smith, Cecilia Padua, Harvey Rosenfield, Ryan Mellino, Ben Powell, Katz, Jamie, Stone, Alec, Kaitlyn Gentile, Warren, Tina

CC: Ken Allen, Gammell, Adam

Attachments: image001.jpg, image002.jpg

Mr. Tomlin,

With respect to request #1 regarding loss experience, the Applicant sent a letter to CDI dated October 18, 2022, which attached the 2022 financial exhibit referenced and attached to our 2/2 requests. That exhibit contained data not included with the filing, and based on time periods subsequent to what was included in the filing. That October 18 letter alleged "As shown, the Exchange has experienced an underwriting loss in 2022 of over \$152 million." The information requested deals with the issue of how much of that alleged loss is due to losses and expenses actually paid, as opposed to much is attributable to changes in reserves (both case and IBNR) established by the Applicant. If the Applicant and CDI would agree that the October 18, 2022 letter and 2022 financial data exhibit will be given no consideration in evaluating the rate request, CWD is willing to withdraw that information request.

With respect to request #2, we requested not only the dollar amounts of payments to affiliates for 2019, 2020, and 2021, but also a discussion of all payments to affiliates, including documentation comparing those actual payments to the fair market rate or value of the goods or services in the open market and the amount of profit the affiliates made related to those payments. That information is not available in the annual statements. For example, the 2021 Annual Statement shows a value of management agreements and service contracts between the Applicant and ACSC Management Services of about \$743 million. Please provide documentation comparing the actual payments to ACSC Management Services for those agreements/contracts to the fair market rate or value of the goods or services in the open market and the amount of profit ACSC Management Services made related to those payments for 2019, 2020, and 2021.

Thank you,

Pam

Pamela Pressley
Senior Staff Attorney
Consumer Watchdog
www.consumerwatchdog.org
6330 San Vicente Blvd., Suite 250
Los Angeles, CA 90048
310-392-1372
310-392-8874 fax
pam@consumerwatchdog.org

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From: Tomlin.Lincoln <Tomlin.Lincoln@aaa-calif.com>

Date: Thursday, February 9, 2023 at 1:50 PM

EXHIBIT G

Subject: Re: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466
Date: Friday, February 10, 2023 at 3:05:26 PM Pacific Standard Time
From: Pam Pressley
To: Tomlin.Lincoln, Lisbeth Landsman-Smith, Cecilia Padua, Harvey Rosenfield, Ryan Mellino, Ben Powell, Katz, Jamie, Stone, Alec, Kaitlyn Gentile, Warren, Tina
CC: Ken Allen, Gammell, Adam
Attachments: image001.jpg, image002.jpg

Mr. Tomlin,

In addition to the information we requested in request #2 as reiterated in my email yesterday, please provide any documentation to support your statement: "All such affiliate payments are based on fair market value."

Thank you,

--

Pamela Pressley
Senior Staff Attorney
Consumer Watchdog
www.consumerwatchdog.org
6330 San Vicente Blvd., Suite 250
Los Angeles, CA 90048
310-392-1372
310-392-8874 fax
pam@consumerwatchdog.org

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From: Pam Pressley <pam@consumerwatchdog.org>
Date: Thursday, February 9, 2023 at 2:47 PM
To: Tomlin.Lincoln <Tomlin.Lincoln@aaa-calif.com>, Lisbeth Landsman-Smith <Lisbeth.Landsman@insurance.ca.gov>, Cecilia Padua <Cecilia.Padua@insurance.ca.gov>, Harvey Rosenfield <harvey@consumerwatchdog.org>, Ryan Mellino <Ryan.m@consumerwatchdog.onmicrosoft.com>, Ben Powell <ben@consumerwatchdog.org>, Katz, Jamie <Jamie.Katz@insurance.ca.gov>, Stone, Alec <Alec.Stone@insurance.ca.gov>, Kaitlyn Gentile <kaitlyn@consumerwatchdog.org>, Warren, Tina <Tina.Warren@insurance.ca.gov>
Cc: Ken Allen <Ken.Allen@insurance.ca.gov>, Gammell, Adam <Adam.Gammell@insurance.ca.gov>
Subject: Re: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466

Mr. Tomlin,

EXHIBIT H

Subject: RE: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466

Date: Monday, February 13, 2023 at 12:49:10 PM Pacific Standard Time

From: Tomlin.Lincoln

To: Pam Pressley, Lisbeth Landsman-Smith, Cecilia Padua, Harvey Rosenfield, Ryan Mellino, Ben Powell, Katz, Jamie, Stone, Alec, Kaitlyn Gentile, Warren, Tina

CC: Ken Allen, Gammell, Adam

Attachments: image001.jpg, image002.jpg

Hello,

The Exchange's responses appear below directly after each of the follow-up requests from Feb. 9 posed by the petitioner:

Request #1

With respect to request #1 regarding loss experience, the Applicant sent a letter to CDI dated October 18, 2022, which attached the 2022 financial exhibit referenced and attached to our 2/2 requests. That exhibit contained data not included with the filing, and based on time periods subsequent to what was included in the filing. That October 18 letter alleged "As shown, the Exchange has experienced an underwriting loss in 2022 of over \$152 million." The information requested deals with the issue of how much of that alleged loss is due to losses and expenses actually paid, as opposed to much is attributable to changes in reserves (both case and IBNR) established by the Applicant. If the Applicant and CDI would agree that the October 18, 2022 letter and 2022 financial data exhibit will be given no consideration in evaluating the rate request, CWD is willing to withdraw that information request.

Response to #1

The Exchange confirms the October 18, 2022 letter and 2022 financial data exhibit are not expected to be given consideration in evaluating the Exchange's pending rate filing.

Request #2

With respect to request #2, we requested not only the dollar amounts of payments to affiliates for 2019, 2020, and 2021, but also a discussion of all payments to affiliates, including documentation comparing those actual payments to the fair market rate or value of the goods or services in the open market and the amount of profit the affiliates made related to those payments. That information is not available in the annual statements. For example, the 2021 Annual Statement shows a value of management agreements and service contracts between the Applicant and ACSC Management Services of about \$743 million. Please provide documentation comparing the actual payments to ACSC Management Services for those agreements/contracts to the fair market rate or value of the goods or services in the open market and the amount of profit ACSC Management Services made related to those payments for 2019, 2020, and 2021.

Response to #2

The Exchange entered into its Management Agreement with ACSC Management Services (MS), an affiliate of the Exchange, many decades ago. The Exchange files a copy of this Agreement with the Department annually. The terms and conditions of the Management Agreement, including payment due to MS, has not changed in decades.

Under this agreement, MS agrees to act as attorney-in-fact and manage and operate the business of the Exchange, including performing many functions including the following:

- All actuarial functions
- All underwriting functions
- All claims functions, and legal services related thereto
- Financial functions associated with the business of the Exchange, including accounting services, internal auditing, remittance processing, financial planning, tax administration, purchasing administration and investment planning
- Information systems, including insurance systems, technical services, planning and administration
- Human resources functions, including recruiting, training and development and employee benefits
- Marketing, advertising and promotional activities, market research and product management
- General legal services
- Various administrative services

The Exchange relies on MS for these functions as the Exchange has no employees of its own. In accordance with the Management Agreement, the Exchange reimburses MS the actual cost of the operating expense incurred by MS in performing these functions for the Exchange along with a fee of less than 1% of premiums earned annually. Furthermore, the Exchange consistently has lower underwriting expenses and expense ratios than most competitors, so this payment clearly does not exceed the fair market value of the broad and important services MS performs for the Exchange. Therefore, the Exchange does not have any payments to affiliates that meet the criteria outlined in CCR 2644.10(g).

Thank you,

Lincoln K. Tomlin (He/Him/His), CPCU
Vice President, Public and Government Affairs
Auto Club Enterprises
Office | (714) 885-2315



From: Pam Pressley <pam@consumerwatchdog.org>
Sent: Thursday, February 9, 2023 2:48 PM
To: Tomlin.Lincoln <Tomlin.Lincoln@aaa-calif.com>; Lisbeth Landsman-Smith <Lisbeth.Landsman@insurance.ca.gov>; Cecilia Padua <Cecilia.Padua@insurance.ca.gov>; Harvey Rosenfield <harvey@consumerwatchdog.org>; Ryan Mellino <Ryan.m@consumerwatchdog.onmicrosoft.com>; Ben Powell <ben@consumerwatchdog.org>; Katz, Jamie <Jamie.Katz@insurance.ca.gov>; Stone, Alec <Alec.Stone@insurance.ca.gov>; Kaitlyn Gentile <kaitlyn@consumerwatchdog.org>; Warren, Tina <Tina.Warren@insurance.ca.gov>
Cc: Ken Allen <Ken.Allen@insurance.ca.gov>; Gammell, Adam <Adam.Gammell@insurance.ca.gov>

EXHIBIT I

Subject: Re: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466
Date: Monday, February 13, 2023 at 3:02:10 PM Pacific Standard Time
From: Pam Pressley
To: Tomlin.Lincoln, Lisbeth Landsman-Smith, Cecilia Padua, Harvey Rosenfield, Ryan Mellino, Ben Powell, Katz, Jamie, Stone, Alec, Kaitlyn Gentile, Warren, Tina
CC: Ken Allen, Gammell, Adam
Attachments: image001.jpg, image002.jpg

Thank you, Mr. Tomlin. We have a few follow up requests regarding the explanation you provided in your 2/13 email on Request #2:

> Confirmation that the management fees paid from IEAA to ACSC are calculated as the actual costs of ACSC MS plus an amount less than 1% of premiums.

> Provide written documentation, such as the Management Agreement, that this is the compensation agreement of IEAA with ACSC.

> A recent annual financial statement of ACSC showing the income, costs and profit.

Thank you,

Pam

--

Pamela Pressley
Senior Staff Attorney
Consumer Watchdog
www.consumerwatchdog.org
6330 San Vicente Blvd., Suite 250
Los Angeles, CA 90048
310-392-1372
310-392-8874 fax
pam@consumerwatchdog.org

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From: Tomlin.Lincoln <Tomlin.Lincoln@aaa-calif.com>
Date: Monday, February 13, 2023 at 12:49 PM
To: Pam Pressley <pam@consumerwatchdog.org>, Lisbeth Landsman-Smith <Lisbeth.Landsman@insurance.ca.gov>, Cecilia Padua <Cecilia.Padua@insurance.ca.gov>, Harvey Rosenfield <harvey@consumerwatchdog.org>, Ryan Mellino <Ryan.m@consumerwatchdog.onmicrosoft.com>, Ben Powell <ben@consumerwatchdog.org>, Katz, Jamie <Jamie.Katz@insurance.ca.gov>, Stone, Alec <Alec.Stone@insurance.ca.gov>, Kaitlyn Gentile <kaitlyn@consumerwatchdog.org>, Warren, Tina <Tina.Warren@insurance.ca.gov>
Cc: Ken Allen <Ken.Allen@insurance.ca.gov>, Gammell, Adam <Adam.Gammell@insurance.ca.gov>
Subject: RE: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466

EXHIBIT J

Subject: RE: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466
Date: Tuesday, February 14, 2023 at 8:46:16 AM Pacific Standard Time
From: Tomlin.Lincoln
To: Pam Pressley, Ken Allen, Gammell, Adam, Lisbeth Landsman-Smith, Cecilia Padua, Harvey Rosenfield, Ryan Mellino, Ben Powell, Katz, Jamie, Stone, Alec, Kaitlyn Gentile, Warren, Tina
Attachments: image001.jpg, image002.jpg

Ms. Pam Pressley,

Please see below the Exchange's responses to your last set of requests:

Confirmation that the management fees paid from IEAA to ACSC are calculated as the actual costs of ACSC MS plus an amount less than 1% of premiums. Confirmed

Provide written documentation, such as the Management Agreement, that this is the compensation agreement of IEAA with ACSC. The Exchange files a copy of the Management Agreement with the Department annually with its Form B. Consequently there is no need to provide an additional copy to the Department.

A recent annual financial statement of ACSC showing the income, costs and profit. See response to question 1. This additional information is irrelevant.

Mr. Ken Allen and Department Staff,

The Exchange has provided the necessary additional information in response to the petitioner's requests for the Department to conclude its review. Accordingly, the Exchange requests that the Department approve our filing and avoid additional unreasonable delay.

Thank you,

Lincoln K. Tomlin (He/Him/His), CPCU
Vice President, Public and Government Affairs
Auto Club Enterprises
Office | (714) 885-2315



From: Pam Pressley <pam@consumerwatchdog.org>
Sent: Monday, February 13, 2023 3:02 PM
To: Tomlin.Lincoln <Tomlin.Lincoln@aaa-calif.com>; Lisbeth Landsman-Smith <Lisbeth.Landsman@insurance.ca.gov>; Cecilia Padua <Cecilia.Padua@insurance.ca.gov>; Harvey Rosenfield <harvey@consumerwatchdog.org>; Ryan Mellino <Ryan.m@consumerwatchdog.onmicrosoft.com>; Ben

EXHIBIT K

Subject: Re: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466
Date: Wednesday, February 15, 2023 at 12:36:52 PM Pacific Standard Time
From: Pam Pressley
To: Tomlin.Lincoln, Ken Allen, Gammell, Adam, Lisbeth Landsman-Smith, Cecilia Padua, Harvey Rosenfield, Ryan Mellino, Ben Powell, Katz, Jamie, Stone, Alec, Kaitlyn Gentile, Warren, Tina
Attachments: image001.jpg, image002.jpg

Mr. Tomlin,

Please provide a copy of the Management Agreement to Consumer Watchdog or direct us to where it can be downloaded online. Based on the information provided by Applicant to date, Consumer Watchdog aims to circulate its indications by this Friday, or Tuesday at the latest. (Monday is President's Day Holiday) We can provide an update of our timing tomorrow and availability for a 3-way call to discuss any remaining issues.

Thank you,

--

Pamela Pressley
Senior Staff Attorney
Consumer Watchdog
www.consumerwatchdog.org
6330 San Vicente Blvd., Suite 250
Los Angeles, CA 90048
310-392-1372
310-392-8874 fax
pam@consumerwatchdog.org

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From: Tomlin.Lincoln <Tomlin.Lincoln@aaa-calif.com>
Date: Tuesday, February 14, 2023 at 8:46 AM
To: Pam Pressley <pam@consumerwatchdog.org>, Ken Allen <Ken.Allen@insurance.ca.gov>, Gammell, Adam <Adam.Gammell@insurance.ca.gov>, Lisbeth Landsman-Smith <Lisbeth.Landsman@insurance.ca.gov>, Cecilia Padua <Cecilia.Padua@insurance.ca.gov>, Harvey Rosenfield <harvey@consumerwatchdog.org>, Ryan Mellino <Ryan.m@consumerwatchdog.onmicrosoft.com>, Ben Powell <ben@consumerwatchdog.org>, Katz, Jamie <Jamie.Katz@insurance.ca.gov>, Stone, Alec <Alec.Stone@insurance.ca.gov>, Kaitlyn Gentile <kaitlyn@consumerwatchdog.org>, Warren, Tina <Tina.Warren@insurance.ca.gov>
Subject: RE: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466

Ms. Pam Pressley,

Please see below the Exchange's responses to your last set of requests:

Confirmation that the management fees paid from IEAA to ACSC are calculated as the actual costs of ACSC MS plus an amount less than 1% of premiums. Confirmed

EXHIBIT L

Subject: RE: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466
Date: Thursday, February 16, 2023 at 3:03:57 PM Pacific Standard Time
From: Tomlin.Lincoln
To: Pam Pressley, Ken Allen, Gammell, Adam, Lisbeth Landsman-Smith, Cecilia Padua, Harvey Rosenfield, Ryan Mellino, Ben Powell, Katz, Jamie, Stone, Alec, Kaitlyn Gentile, Warren, Tina
Attachments: image001.jpg, image002.jpg

Ms. Pressley,

The Exchange's Management Agreement is proprietary and the Exchange will not send a copy of its Management Agreement to the petitioner. The Department has a copy of the Management Agreement and can confirm our representations. The petitioner does not need a copy of the Management Agreement to complete its review. The Management Agreement is not available online.

Thank you,

Lincoln K. Tomlin (He/Him/His), CPCU
Vice President, Public and Government Affairs
Auto Club Enterprises
Office | (714) 885-2315



From: Pam Pressley <pam@consumerwatchdog.org>
Sent: Wednesday, February 15, 2023 12:37 PM
To: Tomlin.Lincoln <Tomlin.Lincoln@aaa-calif.com>; Ken Allen <Ken.Allen@insurance.ca.gov>; Gammell, Adam <Adam.Gammell@insurance.ca.gov>; Lisbeth Landsman-Smith <Lisbeth.Landsman@insurance.ca.gov>; Cecilia Padua <Cecilia.Padua@insurance.ca.gov>; Harvey Rosenfield <harvey@consumerwatchdog.org>; Ryan Mellino <Ryan.m@consumerwatchdog.onmicrosoft.com>; Ben Powell <ben@consumerwatchdog.org>; Katz, Jamie <Jamie.Katz@insurance.ca.gov>; Stone, Alec <Alec.Stone@insurance.ca.gov>; Kaitlyn Gentile <kaitlyn@consumerwatchdog.org>; Warren, Tina <Tina.Warren@insurance.ca.gov>
Subject: Re: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466

CAUTION! EXTERNAL SENDER! STOP, ASSESS, AND VERIFY

Do you know this person? Were you expecting this email? If not, report it using the Report Phishing Button!

Mr. Tomlin,

Please provide a copy of the Management Agreement to Consumer Watchdog or direct us to where it can be downloaded online. Based on the information provided by Applicant to date, Consumer Watchdog aims to

EXHIBIT M

Subject: Re: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466
Date: Friday, February 17, 2023 at 11:03:13 AM Pacific Standard Time
From: Pam Pressley
To: Tomlin.Lincoln, Ken Allen, Gammell, Adam, Lisbeth Landsman-Smith, Cecilia Padua, Harvey Rosenfield, Ryan Mellino, Ben Powell, Katz, Jamie, Stone, Alec, Kaitlyn Gentile, Warren, Tina
Attachments: image001.jpg, image002.jpg

Mr. Tomlin,

We asked for written confirmation (“such as the management agreement”) of your statement regarding the management fees being cost of service, plus a fee of less than 1%. It is the company’s burden to prove that their payments to affiliates do not exceed fair market value, not the CDI’s or Intervenor’s burden. As a party to this proceeding, Consumer Watchdog raised this issue in our petition and has a right to seek information to confirm your representations. Please either provide the agreement containing that statement with any portions you claim are proprietary redacted or other written documentation of the compensation agreement with ACSC.

Thank you,

Pamela Pressley
Senior Staff Attorney
Consumer Watchdog
www.consumerwatchdog.org
6330 San Vicente Blvd., Suite 250
Los Angeles, CA 90048
310-392-1372
310-392-8874 fax
pam@consumerwatchdog.org

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From: Tomlin.Lincoln <Tomlin.Lincoln@aaa-calif.com>
Sent: Thursday, February 16, 2023 3:03 PM
To: Pam Pressley <pam@consumerwatchdog.org>; Ken Allen <Ken.Allen@insurance.ca.gov>; Gammell, Adam <Adam.Gammell@insurance.ca.gov>; Lisbeth Landsman-Smith <Lisbeth.Landsman@insurance.ca.gov>; Cecilia Padua <Cecilia.Padua@insurance.ca.gov>; Harvey Rosenfield <harvey@consumerwatchdog.org>; Ryan Mellino <Ryan.m@consumerwatchdog.onmicrosoft.com>; Ben Powell <ben@consumerwatchdog.org>; Katz, Jamie <Jamie.Katz@insurance.ca.gov>; Stone, Alec <Alec.Stone@insurance.ca.gov>; Kaitlyn Gentile <kaitlyn@consumerwatchdog.org>; Warren, Tina <Tina.Warren@insurance.ca.gov>
Subject: RE: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466

Ms. Pressley,

The Exchange’s Management Agreement is proprietary and the Exchange will not send a copy of its Management Agreement to the petitioner. The Department has a copy of the Management Agreement and can confirm our representations. The petitioner does not need a copy of the Management Agreement to complete its review. The Management Agreement is

EXHIBIT N

Subject: RE: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466
Date: Friday, February 17, 2023 at 11:24:53 AM Pacific Standard Time
From: Tomlin.Lincoln
To: Pam Pressley, Ken Allen, Gammell, Adam, Lisbeth Landsman-Smith, Cecilia Padua, Harvey Rosenfield, Ryan Mellino, Ben Powell, Katz, Jamie, Stone, Alec, Kaitlyn Gentile, Warren, Tina
Attachments: image001.jpg, image002.jpg

Ms. Pressley,

We respectfully disagree. The Exchange's Management Agreement is proprietary and the Exchange will not send a copy of its Management Agreement to the petitioner. The Department has a copy of the Management Agreement and can confirm our representations. The petitioner does not need a copy of the Management Agreement to complete its review.

Thank you,

Lincoln K. Tomlin (He/Him/His), CPCU
Vice President, Public and Government Affairs
Auto Club Enterprises
Office | (714) 885-2315



From: Pam Pressley <pam@consumerwatchdog.org>
Sent: Friday, February 17, 2023 11:03 AM
To: Tomlin.Lincoln <Tomlin.Lincoln@aaa-calif.com>; Ken Allen <Ken.Allen@insurance.ca.gov>; Gammell, Adam <Adam.Gammell@insurance.ca.gov>; Lisbeth Landsman-Smith <Lisbeth.Landsman@insurance.ca.gov>; Cecilia Padua <Cecilia.Padua@insurance.ca.gov>; Harvey Rosenfield <harvey@consumerwatchdog.org>; Ryan Mellino <Ryan.m@consumerwatchdog.onmicrosoft.com>; Ben Powell <ben@consumerwatchdog.org>; Katz, Jamie <Jamie.Katz@insurance.ca.gov>; Stone, Alec <Alec.Stone@insurance.ca.gov>; Kaitlyn Gentile <kaitlyn@consumerwatchdog.org>; Warren, Tina <Tina.Warren@insurance.ca.gov>
Subject: Re: In the Matter of the Rate Application of Interinsurance Exchange of the Automobile Club, Applicants - CDI File No. PA-2022-00005, RRB File No. 22-1466

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Mr. Tomlin,

We asked for written confirmation ("such as the management agreement") of your statement regarding the management fees being cost of service, plus a fee of less than 1%. It is the company's burden to prove that their payments to affiliates do not exceed fair market value, not the CDI's or Intervenor's burden. As a party

EXHIBIT O

AIS RISK CONSULTANTS, INC.

Consulting Actuaries • Insurance Advisors

4400 Route 9 South • Suite 1000 • Freehold, NJ 07728 • (732) 780-0330

Date: February 17, 2023

To: Consumer Watchdog

From: Allan I. Schwartz

Re: Review of Interinsurance Exchange of the Automobile Club
Private Passenger Automobile Insurance Rate Filing
SERFF Tracking #: IACA-133266980
State Tracking #: 22-1466
Company Tracking #: CA-AUTO-RATE-2022-01

As you requested, in connection with a possible settlement, we have reviewed the above captioned filing, as well as the updates and additional information submitted by Interinsurance Exchange of the Automobile Club (“IIEAC”), along with other information.

Our analysis indicates a maximum rate based an overall rate increase of 0.9%.

The differences between our analysis and those of the Applicant are summarized below:

- Premium and Loss Trends – Our selected values are shown in the enclosed rate templates.
- Development for Bodily Injury Liability – We used average of incurred and paid development.¹
- Update to Interest Rates, etc. – We used value consistent with CDI update.²

With regard to the loss trends, items considered included that inflation rates have generally been decreasing since the end of the experience period (i.e., March 2022) used in the IIEAC filing.

The annualized rate of overall inflation from April 2022 to January 2023 was 4.7%.³ The annualized rate of inflation during the last six months from July 2022 to January 2023 and the last three months from October 2022 to January 2023 were 2.0% and 1.6% respectively.

¹ This was done by applying an effective development factor to the paid losses.

² Some of the updated values we used differed from that used by CDI by 0.1%. This is not a material difference. ASOP No. 1 states in part “2.6 *Materiality*—“Materiality” is a consideration in many aspects of the actuary’s work. An item or a combination of related items is material if its omission or misstatement could influence a decision of an intended user.” The 0.1% differences do not change the conclusion that the rate increase proposed by would result in excessive rates.

The annualized rate of medical inflation from April 2022 to January 2023 was 2.4%.⁴ The annualized rate of inflation during the last six months from July 2022 to January 2023 and the last three months from October 2022 to January 2023 were 0.7% and -1.9% respectively.

The Manheim Used Vehicle Value Index, an “inflation” index that insurance companies have cited in the past when it was increasing, reached a maximum value in December 2021 / January 2022 and has since been decreasing.⁵

The annualized rate of inflation for Motor Vehicle Parts and Equipment from April 2022 to January 2023 was 7.5%.⁶ The annualized rate of inflation during the last six months from July 2022 to January 2023 and the last three months from October 2022 to January 2023 were 6.4% and 3.6% respectively.

With regard to the trend for Comprehensive, a significant portion of that is due to the rapid increase in catalytic converter thefts in recent years.⁷ Furthermore, California has had the highest number of such thefts.⁸ Using that recent data to project even further huge increases in such thefts into the future is not realistic. Furthermore, steps are being taken to address this issue, both by the Department of Justice⁹ and the California legislature which passed three bills

³ Data from <https://www.bls.gov/cpi/>
Series ID CUUR0000SA0, All items in U.S. city average, all urban consumers, not seasonally adjusted
Incorporating seasonal adjustment factors would not make a material difference in the results.
Seasonal adjustment factors are available at
<https://www.bls.gov/cpi/seasonal-adjustment/>

⁴ Data from <https://www.bls.gov/cpi/>
Series ID CUUR0000SAM, Medical care in U.S. city average, all urban consumers, not seasonally adjusted

⁵ Data available at <https://publish.manheim.com/en/services/consulting/used-vehicle-value-index.html>

⁶ Data from <https://www.bls.gov/cpi/>
Series ID CUUR0000SETC, Motor vehicle parts and equipment in U.S. city average, all urban consumers, not seasonally adjusted

⁷ “Catalytic converter theft has spiked across the country in recent years, from 1,298 reported thefts in 2018 to 52,206 in 2021, according to claims data from the National Insurance Crime Bureau.”
<https://calmatters.org/economy/2022/10/california-is-a-hotspot-for-catalytic-converter-theft-will-new-laws-make-a-difference/>

⁸ “Nationally, 37% of catalytic converter theft claims tracked by the bureau in 2021 were in the Golden State — a disproportionate share, even accounting for California’s large population.”
Ibid.

⁹ <https://www.justice.gov/opa/pr/justice-department-announces-takedown-nationwide-catalytic-converter-theft-ring>

dealing with this issue.¹⁰ These factors should be taken into account when selecting a loss trend for comprehensive coverage.

With regard to the bodily injury loss development, there is a very large difference between the results from paid and incurred development. The company has not provided an explanation for this difference, or why incurred development is better than paid. Furthermore, the IIEAC has indicated that there have been no changes in claim practices that would make paid development unreliable.¹¹ Given this situation, we gave equal weight to both indications.

Some additional comments regarding the IIEAC filing follow.

With regard to the variance template submitted by IIEAC, for three coverages (BI, UM, Comp), the proposed % rate change falls outside the range from minimum to maximum. Therefore, IIEAC should have filed an additional variance for that, which the company did not do.

In the variance templates submitted by IIEAC, 0% credibility was assigned to BI, PD, MP, Collision and Rental coverages. That is inconsistent with 10 CCR § 2644.23 for determining credibility. IIEAC did not file for a variance regarding credibility. The only variance IIEAC filed was for 8D dealing with trend. To the extent that IIEAC may argue that credibility was part of the trend variance, it should be noted that “Exhibit 13 - Request for Variance” did not have any reference to credibility.

Finally, to the extent that IIEAC believes its experience for these coverages has 0% credibility, that implies that IIEAC’s trend data for these coverages has 0% credibility. It is generally accepted that the standard for credibility is higher for trend than for experience.¹² Therefore, in order to be consistent, IIEAC’s trend data for these coverages should be given 0% credibility.

¹⁰ AB 1653, SB 1087 and AB 1740

<https://calmatters.org/economy/2022/10/california-is-a-hotspot-for-catalytic-converter-theft-will-new-laws-make-a-difference/>

¹¹ See IIEAC response to COVID-19 Rate Filing Questionnaire.
See for example the response to Item 4a.

“We have not observed any changes in development patterns that require changes to our link ratio selections for loss development triangles. The previously mentioned slowdown in closing material damage claims is less evident in annual triangles, as most claims are closed by the end of the first reporting period.”

¹² This conclusion is consistent with CDI’s rate regulations, which requires 6,000 claims for full credibility trend, but only half that amount of 3,000 claims for experience. See 10 CCR § 2644.7(d) and 10 CCR § 2644.23(b).

February 17, 2023
Consumer Watchdog
Page 4 of 4

Please feel free to contact me if there is anything you would care to discuss.

Enclosures

Basis of Trend Selections by Coverage

Bodily Injury : 16-point, Reported Frequency, Total Paid Severity

Property Damage : 15-point, Reported Frequency, Total Paid Severity

Medical Payments : 0% Net Trend

Uninsured Motorists : 16-point, Reported Frequency, Total Paid Severity

Collision : 0% Net Trend

Comprehensive : Injury : 16-Point Reported Frequency, Total Paid Severity

Rental : 16-point, Reported Frequency, Total Paid Severity

Note:

16-point trend covers year ending 2016Q2 to 2019Q4 and 2022Q1

15-point trend covers year ending 2016Q2 to 2019Q4

**PRIOR APPROVAL RATE TEMPLATE FOR PROPERTY & LIABILITY LINES
SUMMARY**

Coverage/Form/Program	Latest Year Adjusted Annual Premium (\$)	Minimum Permitted Earned Premium (\$)	Maximum Permitted Earned Premium (\$)	Change at Minimum %	Change at Maximum %
Bodily Injury	708,795,737	590,133,596	814,022,583	-16.7%	14.8%
Property Damage	639,546,811	344,664,889	475,426,251	-46.1%	-25.7%
Medical Payments	17,706,039	10,522,064	14,513,997	-40.6%	-18.0%
Uninsured Motorist	190,457,248	288,675,995	398,195,901	51.6%	109.1%
Collision	1,036,257,387	697,602,738	856,332,838	-32.7%	-17.4%
Comprehensive	191,472,508	210,509,502	258,408,102	9.9%	35.0%
Rental	50,100,540	35,514,820	43,595,739	-29.1%	-13.0%
Combined	2,834,336,269	2,177,623,605	2,860,495,410	-23.2%	0.9%

Combined Total Earned Exposures for Latest Year: **2,683,316**

Coverage/Form/Program	Average Earned Premium \$ per Exposure				Latest Year Earned Exposures
	Latest Year Adjusted	Minimum Permitted	Maximum Permitted	Proposed	
Bodily Injury	264.15	219.93	303.36	320.42	2,683,316
Property Damage	238.34	128.45	177.18	201.53	2,683,316
Medical Payments	20.38	12.11	16.70	18.72	868,862
Uninsured Motorist	77.16	116.96	161.33	116.05	2,468,252
Collision	431.10	290.22	356.25	430.88	2,403,740
Comprehensive	94.23	103.60	127.17	120.04	2,032,017
Rental	62.82	44.53	54.67	63.32	797,470
Combined	1,056.28	811.54	1,066.03	1,130.47	2,683,316

Coverage/Form/Program	Latest Year Adjusted Annual Premium (\$)	Latest Year Projected Ultimate Loss & DCCE (\$)	Latest Year Projected Ultimate Loss & DCCE Ratio
Bodily Injury	708,795,737	626,745,042	88.4%
Property Damage	639,546,811	375,206,391	58.7%
Medical Payments	17,706,039	11,379,938	64.3%
Uninsured Motorist	190,457,248	299,976,409	157.5%
Collision	1,036,257,387	626,480,130	60.5%
Comprehensive	191,472,508	184,190,395	96.2%
Rental	50,100,540	31,729,922	63.3%
Combined	2,834,336,269	2,155,708,227	76.1%

VARIANCE - NONE

RATE CHANGE CALCULATION

Completed by: AIS
Date Completed: 2/17/2023
Prior Effective Date: 1/1/2022
Proposed Effective Date: 1/1/2023
Detailed Line Description: Private Passenger Auto Liability
Coverage: Bodily Injury

Data Provided by Filer	20201	20211	20221	Projected
Prem_Written			717,824,725	717,824,725
Prem_Earned			717,824,725	717,824,725
Prem_Adj			1.000	
Prem_Trend			0.987	-0.6%
Misc_Fees			0	0
Exposures_Earned			2,683,316	2,683,316
Losses			227,379,242	227,379,242
DCCE			787,722	787,722
Loss_Devt			2.411	
DCCE_Devt			31.715	
Loss_Trend			1.093	4.0%
DCCE_Trend			1.093	4.0%
CAT_Adj			1.000	
Anc_Income			27,064,082	27,064,082
Credibility				100.0%
ExpRatio_Excluded				0.2%
FIT_Inv				18.8%
Yield				7.8%

CDI Parameters				
FIT_UW				21.0%
EffStd_Final			<i>Data as of: 2020</i>	30.9%
LevFact_Final			<i>Data as of: 2020</i>	0.80
PremTaxRate				2.4%
SurplusRatio				1.25
ResRatio_UPR			<i>Data as of: 2020</i>	0.33
ResRatio_Loss			<i>Data as of: 2020</i>	1.23
ROR_RiskFree			<i>Data as of: March 2022</i>	3.8%
ROR_Min				-6.0%
ROR_Max				9.8%

Calculations	20201	20211	20221	
Prem_Adjusted			708,795,737	708,795,737
Losses_Adjusted			599,428,430	599,428,430
DCCE_Adjusted			27,316,613	27,316,613
LossDCCERatio_Adjusted			88.4%	88.4%
TCRLP_perExp			264.15	264.15
LossDCCE_perExp			233.57	233.57
CompLossDCCE_perExp			213.79	213.79
CredLoss_perExp			233.57	233.57
Anc_Inc_perExp			10.09	10.09
InvInc_Fixed				9.8%
InvInc_Variable				12.6%
Net_AnnualTrend				4.6%
Comp_Trend				4.6%
Max_Profit				15.6%
Min_Profit				-9.5%
UW_Profit				-7.9%
Min_Denom				0.91
Max_Denom				0.66
Min_Premium				\$219.93
Max_Premium				\$303.36
CHANGE_AT_MIN				-16.7%
CHANGE_AT_MAX				14.8%

State of California
Department of Insurance (CDI)

Company: Interinsurance Exchange of the Automobile Club
Line: Auto Liability and Physical Damage
CDI File # (Department Use Only):

VARIANCE - NONE

RATE CHANGE CALCULATION

Completed by: AIS
Date Completed: 2/17/2023
Prior Effective Date: 1/1/2022
Proposed Effective Date: 1/1/2023
Detailed Line Description: Private Passenger Auto Liability
Coverage: Property Damage

Data Provided by Filer	20201	20211	20221	Projected
Prem_Written			638,382,770	638,382,770
Prem_Earned			638,382,770	638,382,770
Prem_Adj			1.000	
Prem_Trend			1.002	0.1%
Misc_Fees			0	0
Exposures_Earned			2,683,316	2,683,316
Losses			291,779,402	291,779,402
DCCE			409,236	409,236
Loss_Devt			1.203	
DCCE_Devt			2.160	
Loss_Trend			1.066	2.9%
DCCE_Trend			1.066	2.9%
CAT_Adj			1.000	
Anc_Income			24,068,889	24,068,889
Credibility				100.0%
ExpRatio_Excluded				0.2%
FIT_Inv				18.8%
Yield				7.8%

CDI Parameters				
FIT_UW				21.0%
EffStd_Final			<i>Data as of: 2020</i>	30.9%
LevFact_Final			<i>Data as of: 2020</i>	0.80
PremTaxRate				2.4%
SurplusRatio				1.25
ResRatio_UPR			<i>Data as of: 2020</i>	0.33
ResRatio_Loss			<i>Data as of: 2020</i>	1.23
ROR_RiskFree			<i>Data as of: March 2022</i>	3.8%
ROR_Min				-6.0%
ROR_Max				9.8%

Calculations	20201	20211	20221	
Prem_Adjusted			639,546,811	639,546,811
Losses_Adjusted			374,263,666	374,263,666
DCCE_Adjusted			942,725	942,725
LossDCCERatio_Adjusted			58.7%	58.7%
TCRLP_perExp			238.34	238.34
LossDCCE_perExp			139.83	139.83
CompLossDCCE_perExp			189.58	189.58
CredLoss_perExp			139.83	139.83
Anc_Inc_perExp			8.97	8.97
InvInc_Fixed				9.8%
InvInc_Variable				12.6%
Net_AnnualTrend				2.8%
Comp_Trend				2.8%
Max_Profit				15.6%
Min_Profit				-9.5%
UW_Profit				-9.8%
Min_Denom				0.91
Max_Denom				0.66
Min_Premium				\$128.45
Max_Premium				\$177.18
CHANGE_AT_MIN				-46.1%
CHANGE_AT_MAX				-25.7%

VARIANCE - NONE

RATE CHANGE CALCULATION

Completed by: AIS
Date Completed: 2/17/2023
Prior Effective Date: 1/1/2022
Proposed Effective Date: 1/1/2023
Detailed Line Description: Private Passenger Auto Liability
Coverage: Medical Payments

Data Provided by Filer	20201	20211	20221	Projected
Prem_Written			17,706,039	17,706,039
Prem_Earned			17,706,039	17,706,039
Prem_Adj			1.000	
Prem_Trend			1.000	0.0%
Misc_Fees			0	0
Exposures_Earned			868,862	868,862
Losses			9,007,023	9,007,023
DCCE			1,273	1,273
Loss_Devt			1.261	
DCCE_Devt			16.082	
Loss_Trend			1.000	0.0%
DCCE_Trend			1.000	0.0%
CAT_Adj			1.000	
Anc_Income			667,569	667,569
Credibility				100.0%
ExpRatio_Excluded				0.2%
FIT_Inv				18.8%
Yield				7.8%

CDI Parameters				
FIT_UW				21.0%
EffStd_Final		<i>Data as of:</i>	2020	30.9%
LevFact_Final		<i>Data as of:</i>	2020	0.80
PremTaxRate				2.4%
SurplusRatio				1.25
ResRatio_UPR		<i>Data as of:</i>	2020	0.33
ResRatio_Loss		<i>Data as of:</i>	2020	1.23
ROR_RiskFree		<i>Data as of:</i>	March 2022	3.8%
ROR_Min				-6.0%
ROR_Max				9.8%

Calculations	20201	20211	20221	
Prem_Adjusted			17,706,039	17,706,039
Losses_Adjusted			11,359,460	11,359,460
DCCE_Adjusted			20,478	20,478
LossDCCERatio_Adjusted			64.3%	64.3%
TCRLP_perExp			20.38	20.38
LossDCCE_perExp			13.10	13.10
CompLossDCCE_perExp			15.79	15.79
CredLoss_perExp			13.10	13.10
Anc_Inc_perExp			0.77	0.77
InvInc_Fixed				9.8%
InvInc_Variable				12.6%
Net_AnnualTrend				0.0%
Comp_Trend				0.0%
Max_Profit				15.6%
Min_Profit				-9.5%
UW_Profit				-9.3%
Min_Denom				0.91
Max_Denom				0.66
Min_Premium				\$12.11
Max_Premium				\$16.70
CHANGE_AT_MIN				-40.6%
CHANGE_AT_MAX				-18.0%

VARIANCE - NONE

RATE CHANGE CALCULATION

Completed by: AIS
Date Completed: 2/17/2023
Prior Effective Date: 1/1/2022
Proposed Effective Date: 1/1/2023
Detailed Line Description: Private Passenger Auto Liability
Coverage: Uninsured Motorist

Data Provided by Filer	20201	20211	20221	Projected
Prem_Written			193,010,012	193,010,012
Prem_Earned			193,010,012	193,010,012
Prem_Adj			1.000	
Prem_Trend			0.987	-0.6%
Misc_Fees			0	0
Exposures_Earned			2,468,252	2,468,252
Losses			79,438,122	79,438,122
DCCE			105,702	105,702
Loss_Devt			2.967	
DCCE_Devt			48.466	
Loss_Trend			1.245	10.2%
DCCE_Trend			1.245	10.2%
CAT_Adj			1.000	
Anc_Income			7,277,039	7,277,039
Credibility				100.0%
ExpRatio_Excluded				0.2%
FIT_Inv				18.8%
Yield				7.8%

CDI Parameters				
FIT_UW				21.0%
EffStd_Final		<i>Data as of:</i>	2020	30.9%
LevFact_Final		<i>Data as of:</i>	2020	0.80
PremTaxRate				2.4%
SurplusRatio				1.25
ResRatio_UPR		<i>Data as of:</i>	2020	0.33
ResRatio_Loss		<i>Data as of:</i>	2020	1.23
ROR_RiskFree		<i>Data as of:</i>	March 2022	3.8%
ROR_Min				-6.0%
ROR_Max				9.8%

Calculations	20201	20211	20221	
Prem_Adjusted			190,457,248	190,457,248
Losses_Adjusted			293,595,757	293,595,757
DCCE_Adjusted			6,380,652	6,380,652
LossDCCERatio_Adjusted			157.5%	157.5%
TCRLP_perExp			77.16	77.16
LossDCCE_perExp			121.53	121.53
CompLossDCCE_perExp			66.00	66.00
CredLoss_perExp			121.53	121.53
Anc_Inc_perExp			2.95	2.95
InvInc_Fixed				9.8%
InvInc_Variable				12.6%
Net_AnnualTrend				10.9%
Comp_Trend				10.9%
Max_Profit				15.6%
Min_Profit				-9.5%
UW_Profit				-6.3%
Min_Denom				0.91
Max_Denom				0.66
Min_Premium				\$116.96
Max_Premium				\$161.33
CHANGE_AT_MIN				51.6%
CHANGE_AT_MAX				109.1%

VARIANCE - NONE

RATE CHANGE CALCULATION

Completed by: AIS
Date Completed: 2/17/2023
Prior Effective Date: 1/1/2022
Proposed Effective Date: 1/1/2023
Detailed Line Description: Private Passenger Auto Physical Damage
Coverage: Collision

Data Provided by Filer	20201	20211	20221	Projected
Prem_Written			984,153,867	984,153,867
Prem_Earned			1,036,257,387	1,036,257,387
Prem_Adj			1.000	
Prem_Trend			1.000	0.0%
Misc_Fees			0	0
Exposures_Earned			2,403,740	2,403,740
Losses			730,982,595	730,982,595
DCCE			915,742	915,742
Loss_Devt			0.855	
DCCE_Devt			1.900	
Loss_Trend			1.000	0.0%
DCCE_Trend			1.000	0.0%
CAT_Adj			1.000	
Anc_Income			39,069,920	39,069,920
Credibility				100.0%
ExpRatio_Excluded				0.2%
FIT_Inv				18.8%
Yield				7.8%

CDI Parameters				
FIT_UW				21.0%
EffStd_Final		<i>Data as of:</i>	2020	31.1%
LevFact_Final		<i>Data as of:</i>	2020	1.29
PremTaxRate				2.4%
SurplusRatio				0.78
ResRatio_UPR		<i>Data as of:</i>	2020	0.34
ResRatio_Loss		<i>Data as of:</i>	2020	0.07
ROR_RiskFree		<i>Data as of:</i>	March 2022	3.8%
ROR_Min				-6.0%
ROR_Max				9.8%

Calculations	20201	20211	20221	
Prem_Adjusted			1,036,257,387	1,036,257,387
Losses_Adjusted			624,740,207	624,740,207
DCCE_Adjusted			1,739,923	1,739,923
LossDCCERatio_Adjusted			60.5%	60.5%
TCRLP_perExp			431.10	431.10
LossDCCE_perExp			260.63	260.63
CompLossDCCE_perExp			311.95	311.95
CredLoss_perExp			260.63	260.63
Anc_Inc_perExp			16.25	16.25
InvInc_Fixed				0.6%
InvInc_Variable				8.8%
Net_AnnualTrend				0.0%
Comp_Trend				0.0%
Max_Profit				9.6%
Min_Profit				-5.9%
UW_Profit				-4.2%
Min_Denom				0.84
Max_Denom				0.68
Min_Premium				\$290.22
Max_Premium				\$356.25
CHANGE_AT_MIN				-32.7%
CHANGE_AT_MAX				-17.4%

VARIANCE - NONE

RATE CHANGE CALCULATION

Completed by: AIS
Date Completed: 2/17/2023
Prior Effective Date: 1/1/2022
Proposed Effective Date: 1/1/2023
Detailed Line Description: Private Passenger Auto Physical Damage
Coverage: Comprehensive

Data Provided by Filer	20201	20211	20221	Projected
Prem_Written			184,627,963	184,627,963
Prem_Earned			184,627,963	184,627,963
Prem_Adj			1.000	
Prem_Trend			1.037	1.6%
Misc_Fees			0	0
Exposures_Earned			2,032,017	2,032,017
Losses			155,004,888	155,004,888
DCCE			433,906	433,906
Loss_Devt			1.029	
DCCE_Devt			1.944	
Loss_Trend			1.149	6.4%
DCCE_Trend			1.149	6.4%
CAT_Adj			1.000	
Anc_Income			6,961,012	6,961,012
Credibility				100.0%
ExpRatio_Excluded				0.2%
FIT_Inv				18.8%
Yield				7.8%

CDI Parameters				
FIT_UW				21.0%
EffStd_Final			<i>Data as of: 2020</i>	31.1%
LevFact_Final			<i>Data as of: 2020</i>	1.29
PremTaxRate				2.4%
SurplusRatio				0.78
ResRatio_UPR			<i>Data as of: 2020</i>	0.34
ResRatio_Loss			<i>Data as of: 2020</i>	0.07
ROR_RiskFree			<i>Data as of: March 2022</i>	3.8%
ROR_Min				-6.0%
ROR_Max				9.8%

Calculations	20201	20211	20221	
Prem_Adjusted			191,472,508	191,472,508
Losses_Adjusted			183,221,356	183,221,356
DCCE_Adjusted			969,039	969,039
LossDCCERatio_Adjusted			96.2%	96.2%
TCRLP_perExp			94.23	94.23
LossDCCE_perExp			90.64	90.64
CompLossDCCE_perExp			71.07	71.07
CredLoss_perExp			90.64	90.64
Anc_Inc_perExp			3.43	3.43
InvInc_Fixed				0.6%
InvInc_Variable				8.8%
Net_AnnualTrend				4.7%
Comp_Trend				4.7%
Max_Profit				9.6%
Min_Profit				-5.9%
UW_Profit				-2.3%
Min_Denom				0.84
Max_Denom				0.68
Min_Premium				\$103.60
Max_Premium				\$127.17
CHANGE_AT_MIN				9.9%
CHANGE_AT_MAX				35.0%

VARIANCE - NONE

RATE CHANGE CALCULATION

Completed by: AIS
Date Completed: 2/17/2023
Prior Effective Date: 1/1/2022
Proposed Effective Date: 1/1/2023
Detailed Line Description: Private Passenger Auto Physical Damage
Coverage: Rental

Data Provided by Filer	20201	20211	20221	Projected
Prem_Written			48,429,603	48,429,603
Prem_Earned			48,429,603	48,429,603
Prem_Adj			1.000	
Prem_Trend			1.035	1.5%
Misc_Fees			0	0
Exposures_Earned			797,470	797,470
Losses			29,951,559	29,951,559
DCCE			5,453	5,453
Loss_Devt			0.955	
DCCE_Devt			1.828	
Loss_Trend			1.109	4.7%
DCCE_Trend			1.109	4.7%
CAT_Adj			1.000	
Anc_Income			1,825,937	1,825,937
Credibility				100.0%
ExpRatio_Excluded				0.2%
FIT_Inv				18.8%
Yield				7.8%

CDI Parameters				
FIT_UW				21.0%
EffStd_Final			<i>Data as of: 2020</i>	31.1%
LevFact_Final			<i>Data as of: 2020</i>	1.29
PremTaxRate				2.4%
SurplusRatio				0.78
ResRatio_UPR			<i>Data as of: 2020</i>	0.34
ResRatio_Loss			<i>Data as of: 2020</i>	0.07
ROR_RiskFree			<i>Data as of: March 2022</i>	3.8%
ROR_Min				-6.0%
ROR_Max				9.8%

Calculations	20201	20211	20221	
Prem_Adjusted			50,100,540	50,100,540
Losses_Adjusted			31,718,873	31,718,873
DCCE_Adjusted			11,048	11,048
LossDCCERatio_Adjusted			63.3%	63.3%
TCRLP_perExp			62.82	62.82
LossDCCE_perExp			39.79	39.79
CompLossDCCE_perExp			46.73	46.73
CredLoss_perExp			39.79	39.79
Anc_Inc_perExp			2.29	2.29
InvInc_Fixed				0.6%
InvInc_Variable				8.8%
Net_AnnualTrend				3.1%
Comp_Trend				3.1%
Max_Profit				9.6%
Min_Profit				-5.9%
UW_Profit				-3.8%
Min_Denom				0.84
Max_Denom				0.68
Min_Premium				\$44.53
Max_Premium				\$54.67
CHANGE_AT_MIN				-29.1%
CHANGE_AT_MAX				-13.0%

1 **PROOF OF SERVICE**
2 **BY OVERNIGHT OR U.S. MAIL, FAX TRANSMISSION,**
3 **EMAIL TRANSMISSION AND/OR PERSONAL SERVICE**

4 **State of California, City of Los Angeles, County of Los Angeles**

5 I am employed in the City and County of Los Angeles, State of California. I am over the age of 18
6 years and not a party to the within action. My business address is 6330 South San Vicente Boulevard,
7 Suite 250, Los Angeles, California 90048, and I am employed in the city and county where this
8 service is occurring.

9 On March 20, 2023, I caused service of true and correct copies of the document entitled

10 **CONSUMER WATCHDOG'S REQUEST FOR COMPENSATION**

11 upon the persons named in the attached service list, in the following manner:

- 12 1. If marked FAX SERVICE, by facsimile transmission this date to the FAX number stated to
13 the person(s) named.
- 14 2. If marked EMAIL, by electronic mail transmission this date to the email address stated.
- 15 3. If marked U.S. MAIL or OVERNIGHT or HAND DELIVERED, by placing this date for
16 collection for regular or overnight mailing true copies of the within document in sealed envelopes,
17 addressed to each of the persons so listed. I am readily familiar with the regular practice of collection
18 and processing of correspondence for mailing of U.S. Mail and for sending of Overnight mail. If
19 mailed by U.S. Mail, these envelopes would be deposited this day in the ordinary course of business
20 with the U.S. Postal Service. If mailed Overnight, these envelopes would be deposited this day in a
21 box or other facility regularly maintained by the express service carrier, or delivered this day to an
22 authorized courier or driver authorized by the express service carrier to receive documents, in the
23 ordinary course of business, fully prepaid.

24 I declare under penalty of perjury that the foregoing is true and correct. Executed on March 20, 2023
25 at Los Angeles, California.

26
27
28

Kaitlyn Gentile

Service List

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Alec Stone
Lisbeth Landsman-Smith
Rate Enforcement Bureau
California Department of Insurance
1901 Harrison Street, 4th Floor
Oakland, CA 94612
Tel. (415) 538-4111
Fax (510) 238-7830
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Lisbeth.Landsman@insurance.ca.gov

- FAX
- U.S. MAIL
- OVERNIGHT MAIL
- HAND DELIVERED
- EMAIL

Jamie Katz
Public Advisor
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- FAX
- U.S. MAIL
- OVERNIGHT MAIL
- HAND DELIVERED
- EMAIL

Lincoln Tomlin
Vice President, Public and Government Affairs
Interinsurance Exchange of the Automobile Club
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Tel. (714) 885-2315
Tomlin.Lincoln@aaa-calif.com

- FAX
- U.S. MAIL
- OVERNIGHT MAIL
- HAND DELIVERED
- EMAIL

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3 Benjamin Powell, SBN 311624
4 Ryan Mellino, SBN 342497
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9 Fax (310) 392-8874
10 harvey@consumerwatchdog.org
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12 ben@consumerwatchdog.org
13 ryan.m@consumerwatchdog.org

14 Attorneys for CONSUMER WATCHDOG

15 BEFORE THE INSURANCE COMMISSIONER
16 OF THE STATE OF CALIFORNIA

17 In the Matter of the Rate Application of
18 Interinsurance Exchange of the
19 Automobile Club,
20 Applicant.

21 File No.: PA-2022-00005

22 **DECLARATION OF BENJAMIN POWELL IN**
23 **SUPPORT OF CONSUMER WATCHDOG'S**
24 **REQUEST FOR COMPENSATION**

1 I, Benjamin Powell, declare:

2 1. I am over eighteen years of age and staff attorney for Intervenor in this proceeding,
3 Consumer Watchdog. This declaration is submitted in support of Consumer Watchdog's Request for
4 Compensation in the above-captioned proceeding. I have personal knowledge of the matters set forth
5 herein, and if called as a witness, I could and would testify competently to the facts stated herein.

6 2. Consumer Watchdog is a nonprofit, tax-exempt consumer research, education, litigation,
7 and advocacy organization. Consumer Watchdog advocates on behalf of consumers before regulatory
8 agencies, the Legislature, and the courts.

9 **Consumer Watchdog's Billed Hours Are Reasonable and in Compliance with the Regulations.**

10 3. Attached as Exhibit 1a are true and correct printouts of detailed time billing reports
11 showing the tasks performed and hours expended by each Consumer Watchdog attorney and paralegal
12 in this rate proceeding, including Harvey Rosenfield, Pamela Pressley, Benjamin Powell, and Kaitlyn
13 Gentile.¹

14 4. As a nonprofit, public interest organization, Consumer Watchdog conducts its education
15 and advocacy efforts as a public interest service. Therefore, consistent with the decisions of the
16 California Supreme Court and the United States Supreme Court and the intervenor regulations
17 applicable to this proceeding (see 10 CCR § 2661.1(c)), Consumer Watchdog's policy is to seek
18 prevailing market rates in all fee award applications. Consumer Watchdog has consistently been
19 awarded prevailing market hourly rates in fee awards by the Commissioner and the courts.

20 5. I have reviewed Consumer Watchdog's time billing records and believe that the hours
21 and fees listed were necessary and reasonable. In preparing their respective time records for this
22 submission, Consumer Watchdog's attorneys exercised billing judgment by eliminating time entries
23 where appropriate. The time expended and work performed in the proceeding for which Consumer
24 Watchdog seeks compensation, as reflected in the time records, was reasonable and appropriate, and the
25 minimum required to achieve the results obtained.

26
27
28 ¹ Pursuant to a prior request of the Public Advisor, attached as Exhibit 1b is a list of all persons identified
in the billing reports.

1 6. Based upon Consumer Watchdog’s time billing reports attached hereto as Exhibit 1a,
2 after eliminating time entries as noted above, Consumer Watchdog’s attorneys and paralegal have
3 incurred 42.5 hours in this proceeding through March 17, 2023. The billing reports detail the tasks
4 performed, are based on contemporaneous daily time records maintained by Consumer Watchdog’s
5 attorneys and paralegal, and are billed in tenth-of-an-hour increments.

6 7. The 2023 hourly rates sought by Consumer Watchdog for its attorneys and paralegal are
7 \$695 for Harvey Rosenfield, \$595 for Pamela Pressley, \$350 for Benjamin Powell, and \$200 for
8 Kaitlyn Gentile. The hourly rates for Consumer Watchdog attorneys who worked on the proceeding are
9 consistent with the prevailing market rates for attorneys of similar experience, qualifications, and
10 expertise in insurance regulatory law. The Commissioner has approved fee awards for Consumer
11 Watchdog based on the same hourly rates Consumer Watchdog’s legal staff is currently using in 2023
12 for work done in 2017–2022. (E.g., Decision Awarding Compensation, Oct. 6, 2021, *In the Matter of*
13 *the Rate Applications of Farmers Insurance Exchange, Fire Insurance Exchange, and Mid-Century*
14 *Insurance Company*, File No. PA-2020-00006, p. 10; Decision Awarding Compensation, Feb. 14, 2022,
15 *In the Matter of the Rate Application of Homesite Insurance Company of California*, File No. PA-2020-
16 00003, p. 9; Decision Awarding Compensation, Feb. 16, 2022, *In the Matter of the New Program*
17 *Applications of Farmers Insurance Exchange and Fire Insurance Exchange*, File No. PA-2020-00004,
18 p. 9 [included in Exh. 4 to accompanying Schwartz Declaration].) Consumer Watchdog arrived at these
19 hourly rates based on the experience and qualifications of its attorneys, information obtained from other
20 attorneys working at several reputable law firms in Los Angeles and San Francisco, the opinion of
21 attorneys’ fees expert Richard M. Pearl, and historical rates awarded or paid for Consumer Watchdog
22 attorneys’ professional services in civil and administrative proceedings. Mr. Pearl is a recognized expert
23 on attorneys’ fees issues in the California market.² His attached declaration evidences the
24 reasonableness of Consumer Watchdog’s hourly rates. (See Exh. 2, Declaration of Richard M. Pearl in
25 Support of Intervenor Consumer Watchdog’s Motion for Attorneys’ Fees and Expenses [“Pearl Decl.”],
26
27

28 ² Richard M. Pearl is the author of the Continuing Education of the Bar’s treatise on attorneys’ fees in California.

¶¶ 10–19.)³ In his declaration, Mr. Pearl concludes that Consumer Watchdog’s rates are “well within, if not below, the range of non-contingent market rates charged by comparably qualified Los Angeles Area attorneys for reasonably similar work.” (Pearl Decl., ¶ 19.) Mr. Pearl’s declaration contains substantial details on attorneys’ fees and hourly rates and shows that Consumer Watchdog’s 2023 rates are within the market rates charged by attorneys with similar experience level and skill.

8. In this proceeding, Consumer Watchdog attorneys performed the following general tasks:

- Conferred regarding overall strategy and positions;
- Drafted, reviewed, and edited Consumer Watchdog’s Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation;
- Reviewed the rate application of Interinsurance Exchange of the Automobile Club (“Applicant” or “Auto Club”) and updates;
- Reviewed and conferred with Consumer Watchdog’s actuarial expert regarding Applicant’s rate application;
- Exchanged correspondence with, and participated in discussions with, the Parties regarding issues raised by Consumer Watchdog;
- In consultation with Consumer Watchdog’s consulting actuary, Mr. Schwartz, prepared analyses and Requests for Information for the Parties and the Department’s actuaries and rate regulation team; and
- Drafted, reviewed, and edited Consumer Watchdog’s Request for Compensation (“Request”), including this supporting declaration and exhibits.

Harvey Rosenfield

9. Harvey Rosenfield is an attorney with over 40 years of experience in insurance regulatory and litigation matters, counsel to and founder of Consumer Watchdog,⁴ and the author and proponent of Proposition 103. As discussed in greater detail below, Mr. Rosenfield has participated in

³ The Pearl Declaration was filed on April 15, 2022 in connection with a State Farm writ matter arising out of a rate proceeding and is equally applicable to this proceeding, given that Consumer Watchdog’s 2023 rates are within the range of rates considered reasonable for attorneys with comparable experience at that time.

⁴ The organization was previously known as the Foundation for Taxpayer and Consumer Rights.

1 every major lawsuit to enforce the initiative’s provisions, including *Calfarm Ins. Co. v. Deukmejian*
2 (1989) 48 Cal.3d 805, *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216, *Amwest Surety Ins.*
3 *Co. v. Wilson* (1995) 11 Cal.4th 1243, *Proposition 103 Enforcement Project v. Quackenbush* (1998) 64
4 Cal.App.4th 1473, *Donabedian v. Mercury Ins. Co.* (2004) 116 Cal.App.4th 968, *The Foundation for*
5 *Taxpayer and Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th 1354, *Association of California*
6 *Insurance Companies v. Poizner* (2009) 180 Cal.App.4th 1029, *Mercury Casualty Company v. Jones*
7 (2017) 8 Cal.App.5th 561, and *Mercury Ins. Co. v. Lara* (2019) 35 Cal.App.5th 82, among others.

8 10. Mr. Rosenfield has represented Consumer Watchdog as counsel to provide his expertise
9 in numerous other insurance matters before the courts and administrative agencies on behalf of
10 Consumer Watchdog. Notable instances include:

11 a. *Villanueva v. Fidelity Nat’l Title Co.*, No. S252035 (Cal. Sup. Ct., filed Oct. 17,
12 2018), in which he represented Consumer Watchdog, Consumer Federation of America, and Consumer
13 Federation of California as amicus curiae. This case concerned whether California consumers have the
14 right to hold title insurance companies accountable for overcharges and other wrongdoing under
15 Insurance Code section 12414.26. While Proposition 103 does not apply to title insurance, the Court of
16 Appeal erred in relying on two appellate cases that incorrectly concluded that there is no private right of
17 action under Proposition 103. In a March 18, 2021 published Opinion, the California Supreme Court
18 agreed with positions taken by amici Consumer Watchdog, et. al. to reverse the Court of Appeal’s
19 judgment and remand for further proceedings.

20 b. *Mercury Insurance Company v. Lara* (2019) 35 Cal.App.5th 82, in which he joined
21 me to successfully defend against a petition for writ of mandate by Mercury, resulting in the Court of
22 Appeal upholding a \$27.6 million civil penalty against Mercury for violations of Proposition 103’s prior
23 approval requirement and its prohibition against unfair rate discrimination (Insurance Code sections
24 1861.01 and 1861.05).

25 c. *Mercury Casualty Company v. Jones* (2017) 8 Cal.App.5th 561, in which he joined
26 me in representing Consumer Watchdog as Intervenor to successfully defend against petitions for writ
27 of mandate by Mercury and insurance trade associations seeking to vacate the Commissioner’s decision
28

1 ordering Mercury to lower its homeowner rates, and challenging the Commissioner’s application and
2 interpretation of the Proposition 103 prior approval regulations.

3 d. *In the Matter of the Rate Application of State Farm General Insurance Company*,
4 File No. PA-2015-00004, an administrative proceeding before the Department which resulted in an
5 order requiring State Farm to lower its homeowners’ rates overall by 7%, saving consumers
6 \$78.6 million, and issue an additional \$110 million in refunds. (The administrative orders in that matter
7 are presently on appeal.)

8 e. *Association of California Insurance Companies v. Poizner* (2009) 180 Cal.App.4th
9 1029, in which he joined me in representing Consumer Watchdog as Intervenor to successfully defend
10 against a petition for writ of mandate by insurance trade associations seeking to invalidate the
11 Commissioner’s amendments to the intervenor regulations that clarified the scope of a proceeding under
12 Proposition 103.

13 f. *Allstate Insurance Co. v. Poizner* (Super. Ct. S.F. County, 2008, No. CPF-08-50821),
14 in which he joined me in representing Consumer Watchdog as Intervenor to successfully defend against
15 Allstate’s petition for a stay of the Commissioner’s order requiring Allstate to lower its private
16 passenger auto insurance rates by 15.9% (*In the Matter of the Rate Application of Allstate Insurance*
17 *Co. and Allstate Indemnity Co.*, File No. 2007-00004 (Cal. Ins. Comm’r, Mar. 14, 2008)).

18 g. *Fogel v. Farmers Group, Inc.*, (2008) 160 Cal.App.4th 1403, in which Consumer
19 Watchdog submitted an amicus brief to the Court of Appeal arguing against Farmers’ request that the
20 judiciary adopt the “filed rate doctrine” to immunize challenges to insurance company misconduct; the
21 court concluded that the doctrine was not “analogous” to provisions of Proposition 103.

22 h. *American Insurance Association, et al. v. Garamendi and California Farm Bureau*
23 *Federation v. Garamendi* (Super. Ct. Sacramento County, 2007, Nos. 06AS03053 and 06AS03036
24 (consolidated)), representing Consumer Watchdog as an intervenor in a successful motion for summary
25 judgment against insurer plaintiffs who challenged the Insurance Commissioner’s regulations enforcing
26 Insurance Code section 1861.02(a). That statute requires that automobile insurance premiums be based
27 primarily on the policyholder’s driving safety record, and not where one lives.
28

1 i. *In the Matter of the Rates, Rating Plans, or Rating Systems of Farmers Ins. Exch.,*
2 *Fire Ins. Exch., and Mid-Century Ins. Co.* (Cal. Ins. Comm’r, Aug. 8, 2007), a “non-compliance”
3 administrative proceeding against Farmers Insurance in which Consumer Watchdog intervened,
4 alleging that the company had been misapplying its own rating guidelines to overcharge certain
5 homeowners policyholders based on the number of claims they made or how far they lived from a fire
6 hydrant. Farmers agreed to refund its policyholders \$1.4 million for the overcharges, pay a \$2 million
7 penalty to the CDI, and use rating practices that comply with the law.

8 j. *The Found. for Taxpayer and Consumer Rights v. Garamendi* (2005)
9 132 Cal.App.4th 1354, in which Consumer Watchdog brought a successful writ of mandate action to
10 invalidate an insurer-sponsored amendment to Proposition 103 that purported to authorize a rating
11 factor based on prior insurance with any carrier, a violation of Insurance Code section 1861.02(c).

12 k. *Poirer v. State Farm Mutual Automobile Insurance Co.* (B165389) 2004 WL
13 2325837 (unpublished decision), in which Consumer Watchdog submitted an amicus brief arguing that
14 Proposition 103 prohibited auto insurers from considering a driver’s lack of prior insurance as a rating
15 factor.

16 l. *Donabedian v. Mercury Ins. Co.* (2004) 116 Cal.App.4th 968, in which Consumer
17 Watchdog submitted an amicus brief arguing that Proposition 103 prohibited auto insurers from
18 considering a driver’s lack of prior insurance as a rating factor. After conducting a thorough statutory
19 analysis, the Court of Appeal concluded that Proposition 103 created a private right of action and
20 authorized consumers to bring civil actions against insurance companies for violations of Proposition
21 103.

22 m. Class action and representative lawsuits to enforce Insurance Code section
23 1861.02(c)’s prohibition against surcharging motorists with an absence of prior insurance (*Proposition*
24 *103 Enforcement Project v. GEICO*, Case No. BC266220; *Proposition 103 Enforcement Project v.*
25 *Interinsurance Exch. of the Auto. Club*, Case No. BC266218; and *Landers v. Interinsurance Exch. of*
26 *the Auto. Club*, JCCP No. 4438).

27 n. *State Farm Mutual Automobile Ins. Co. v. Garamendi* (2004) 32 Cal.4th 1029, in
28 which Consumer Watchdog filed an amicus curiae brief in support of Proposition 103’s disclosure

1 requirements. The Supreme Court rejected an industry challenge to Department of Insurance regulations
2 requiring the public disclosure of insurance redlining data submitted to the Insurance Commissioner.

3 o. *Mitchell v. Allstate Ins. Co.* (Super. Ct. L.A. County, 2003, No. BC212492), in which
4 Consumer Watchdog successfully objected to a class action settlement that resolved a challenge to the
5 insurance company's improper consideration of a motorist's prior insurance.

6 p. *Spanish Speaking Citizens Found. v. Low* (2000) 85 Cal.App.4th 1179, the appeal in
7 a writ of mandate challenge to a regulation promulgated by Insurance Commissioner Quackenbush,
8 which authorized insurers to use zip code as the primary determinant of automobile insurance premiums
9 in violation of Insurance Code section 1861.02(a).

10 q. *Proposition 103 Enforcement Project v. Chuck Quackenbush* (Super. Ct. L.A.
11 County, 1999, No. BC202283), which was a successful writ of mandate action against former Insurance
12 Commissioner Quackenbush to require that the Commissioner not approve any insurer's rate
13 application prior to the expiration of the 45-day period in which a consumer may petition for a rate
14 hearing as required by Insurance Code section 1861.05.

15 r. *Proposition 103 Enforcement Project v. Quackenbush* (1998) 64 Cal.App.4th 1473,
16 which successfully invalidated an illegal legislative amendment to Proposition 103 that would have
17 decreased the amount of refunds owed to policyholders under the initiative's rate rollback provision.

18 s. *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216, in which the California
19 Supreme Court upheld insurance rate regulations enforcing Proposition 103's prohibition against
20 excessive or inadequate rates.

21 t. *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805, in which the California
22 Supreme Court issued a decision upholding Proposition 103 against a constitutional challenge by the
23 insurance industry.

24 u. Numerous rulemaking proceedings implementing Proposition 103's prior approval
25 and automobile rating factor and public participation requirements, including: (1) the Gender
26 Nondiscrimination rulemaking matter (REG-2018-00020), supporting the removal of gender as an
27 optional rating factor; (2) the Intervenor Regulations rulemaking matter (RH-06092874), adopting
28 amendments to update and clarify the regulations implementing Insurance Code 1861.10's public

1 participation requirements; (3) the Mileage Verification rulemaking matter (RH-06091489),
2 implementing amendments to the Automobile Rating Factors regulations to provide requirements for
3 verified mileage programs; (4) the Prior Approval rulemaking matter (RH-05042749), adopting, among
4 other amendments, the generic determinations included in the prior approval ratemaking formula
5 pertaining to profit and expense provisions; (5) the Automobile Rating Factors rulemaking matter (RH-
6 03029826, Cal. Dept. of Ins., June 2, 2005), in which Consumer Watchdog and other groups
7 successfully petitioned for, and the Commissioner adopted, amendments to section 2632.8 of title 10 of
8 the California Code of Regulations requiring that insurers base automobile insurance premiums
9 primarily on how one drives and not on other optional factors such as zip code and marital status as
10 required by Insurance Code section 1861.02(a); (6) the Persistency Rulemaking matter (Persistency
11 Rulemaking, RH-402 (Cal. Dept. of Ins., April 18, 2003)); and (7) a rulemaking matter adopting
12 regulations to prevent insurers from requiring that motorists show proof of prior insurance to verify
13 their accident record in violation of Insurance Code section 1861.02(c) (Accident Verification
14 Rulemaking, RH 01015532 (Cal. Dept. of Ins., Sept. 3, 2003)), among others. In each of these
15 proceedings, Consumer Watchdog received compensation pursuant to Section 1861.10, subd. (b), from
16 the Proposition 103 Fund maintained by the Department.

17 v. *Thompson v. Transamerica Life Ins. Co.*, 18-05422 (C.D. Cal., filed June 18, 2018),
18 in which he served as co-lead class counsel, reaching a class action settlement with Transamerica for
19 universal life policy overcharges in 2017–2018; under that settlement, Transamerica agreed to pay up to
20 \$88 million in account value credits to policies in effect and those for which death claims were pending
21 as of December 31, 2019. On August 31, 2020, the U.S. District Court in Los Angeles held a hearing on
22 the motion for final approval of the settlement.

23 w. *Feller v. Transamerica Life Ins. Co.*, No. 16-01378 (C.D. Cal., filed Feb. 28, 2016),
24 in which he served as co-lead class counsel, settling a class action lawsuit on behalf of universal life
25 insurance policyholders whose costs had unexpectedly and illegally skyrocketed, requiring
26 Transamerica to repay more than \$150 million in overcharges and freeze future increases for five years.

27 x. Multiple class action cases in which insurance providers dramatically reduced the
28 number of doctors in their individual health plan networks and misrepresented these changes to

1 consumers, leaving patients without adequate coverage and higher out-of-pocket costs, including
2 *Anthem Blue Cross Affordable Care Act Cases*, JCCP No. 4805 (2019); *Lehman v. Health Net* (Super.
3 Ct. L.A. County, 2019, No. BC567361); *Davidson v. Cigna Health and Life Ins. Co.*, No. BC558566
4 (Super. Ct. L.A. County, filed Sept. 24, 2014); and *Blue Shield of Cal. Affordable Care Act Cases*,
5 JCCP No. 4800 (filed Sept. 23, 2014).

6 y. *Taub v. Blue Cross of Cal.* (Super. Ct. L.A. County, 2017, No. BC457809) and
7 *Kassouf v. Blue Cross of Cal.* (Super. Ct. L.A. County, 2017, No. BC473408) (consolidated), which
8 garnered a settlement of \$8.3 million on behalf of insurance customers whose deductibles were
9 increased mid-year by Anthem Blue Cross, resulting in higher out-of-pocket costs.

10 z. *Consumer Watchdog et al. v. Department of Managed Health Care et al.* (2014) 225
11 Cal.App.4th 862, a writ case which held that the Department of Managed Health Care can no longer
12 uphold a health plan's denial of coverage for autism treatment provided or supervised by a nationally
13 board-certified individual on the basis that the provider is not licensed.

14 aa. *Fairbanks v. Farmers New World Life Ins. Co.* (2009) 46 Cal.4th 56, in which
15 Consumer Watchdog argued that Proposition 103 did not apply to life insurance.

16 11. Prior to founding Consumer Watchdog in 1985, Mr. Rosenfield served for three years as
17 Program Director for the California Public Interest Research Group and two years as a Staff Attorney
18 and Legislative Advocate for Public Citizen's Congress Watch in Washington, D.C. He is a graduate of
19 Georgetown University, from which he earned both a J.D. and a M.S.F.S. degree in 1979. He is a
20 graduate of Amherst College, where he earned a B.A. in 1974, and received an honorary degree in
21 2010. He is admitted to the Bar in Washington, D.C. and California.

22 12. I am informed through the Pearl Declaration and conversations with attorneys in the Los
23 Angeles and San Francisco Bay Areas discussing their billing rates that \$695 per hour is a very
24 reasonable rate in 2023 for the professional services of an attorney with experience and qualifications
25 comparable to Mr. Rosenfield's.

26 Pamela Pressley

27 13. Pamela Pressley is an attorney with over 26 years of professional experience advocating
28 on behalf of consumers. For over 16 years Ms. Pressley served as Consumer Watchdog's Litigation

1 Director and now serves as its Senior Staff Attorney. During this time, her legal work with Consumer
2 Watchdog has focused primarily on insurance regulatory and litigation matters before the California
3 Department of Insurance (the “Department” or “CDI”) and the courts, and particularly on the
4 enforcement and implementation of Proposition 103. Several of these matters involved issues of first
5 impression before the courts in which Ms. Pressley was primarily responsible for litigating the matters
6 through trial and on appeal. Examples include:

7 a. *State Farm General Insurance Company v. Lara* (2021) 71 Cal.App.5th 197, in
8 which she served as co-lead counsel representing Consumer Watchdog as a respondent and defendant to
9 successfully defend against a challenge by State Farm to the substantial contribution standard for
10 intervenor fee awards under Insurance Code section 1861.10(b).

11 b. *Mercury Ins. Co. v. Lara* (2019) 35 Cal.App.5th 82, in which she served as lead
12 counsel representing Consumer Watchdog as Intervenor to successfully defend against a petition for
13 writ of mandate by Mercury, resulting in the Court of Appeal upholding a \$27.6 million civil penalty
14 against Mercury for violations of Proposition 103’s prior approval requirement and prohibition against
15 unfair rate discrimination (sections 1861.01 and 1861.05) based on its agents charging unapproved fees
16 in addition to the approved premium amounts on over 180,000 insurance transactions over a four-year
17 period from 1999–2004.

18 c. *Mercury Casualty Company v. Jones* (2017) 8 Cal.App.5th 561, in which she served
19 as lead counsel representing Consumer Watchdog as Intervenor to successfully defend against petitions
20 for writ of mandate by Mercury and insurance trade associations seeking to vacate the Commissioner’s
21 decision ordering Mercury to lower its homeowner rates and challenging the Commissioner’s
22 application and interpretation of regulations relating to the standard and process for obtaining a
23 confiscation variance and limiting the amount of institutional advertising that insurers may include in
24 their premium calculations.

25 d. *Association of California Insurance Companies v. Poizner* (2009) 180 Cal.App.4th
26 1029, in which she served as lead counsel representing Consumer Watchdog as Intervenor to
27 successfully defend against a petition for writ of mandate by insurance trade associations seeking to
28 invalidate the Commissioner’s amendments to the intervenor regulations clarifying the scope of a rate

1 proceeding.

2 e. *Allstate Insurance Co. v. Poizner* (Super. Ct. S.F. County, 2008, No. CPF-08-50821),
3 in which she served as lead counsel representing Consumer Watchdog as Intervenor to successfully
4 defend against Allstate's petition for a stay of the Commissioner's order requiring Allstate to lower its
5 private passenger auto insurance rates by 15.9%, and serving as supervising counsel in the rate
6 proceeding that led to that rate decrease order, *In the Matter of the Rate Application of Allstate*
7 *Insurance Co. and Allstate Indemnity Co.*, File No. 2007-00004 (Cal. Ins. Comm'r, Mar. 14, 2008).

8 f. *American Insurance Association v. Garamendi and California Farm Bureau*
9 *Federation v. Garamendi* (Super. Ct. Sacramento County, 2007, Nos. 06AS03053 and 06AS03036
10 (consolidated)), in which she served as lead counsel representing Consumer Watchdog as an intervenor
11 in a successful motion for summary judgment against insurer plaintiffs upholding the Insurance
12 Commissioner's regulations (see paragraph (f), below) enforcing Insurance Code section 1861.02(a),
13 which requires that automobile insurance premiums be based primarily on one's driving safety record,
14 and not where one lives.

15 g. A successful writ of mandate action to invalidate an insurer-sponsored amendment to
16 Proposition 103 that purported to allow a rating factor based on prior insurance with any carrier in
17 violation of Insurance Code section 1861.02(c) (*The Found. for Taxpayer and Consumer Rights v.*
18 *Garamendi* (2005) 132 Cal.App.4th 1354). In that proceeding, she participated in overall strategy
19 discussions, drafted and edited pleadings and the appellate brief, performed legal research, appeared at
20 all court hearings, and argued the case before the Court of Appeal, among other tasks.

21 h. Class action and representative lawsuits to enforce Insurance Code section
22 1861.02(c)'s prohibition against surcharging motorists with an absence of prior insurance
23 (*Proposition 103 Enforcement Project v. GEICO*, Case No. BC266220; *Proposition 103 Enforcement*
24 *Project v. Interinsurance Exch. of the Automobile Club*, Case No. BC266218; *Landers v. Interinsurance*
25 *Exch. of the Auto. Club*, JCCP No. 4438; and *Donabedian v. Mercury Ins. Co.* (2004) 116 Cal.App.4th
26 968), which resulted in settlements that required the insurers to make refunds to affected auto
27 policyholders.

1 i. *Mitchell v. Allstate Ins. Co.* (Super. Ct. L.A. County, 2003, No. BC212492), in which
2 she drafted all Consumer Watchdog pleadings submitted to the Court and the Department and made
3 court appearances on Consumer Watchdog’s behalf, successfully objecting to the class action
4 settlement.

5 j. The appeal in writ of mandate challenge to a regulation promulgated by Insurance
6 Commissioner Quackenbush, which authorized insurers to use zip code as the primary determinant of
7 automobile insurance premiums in violation of Insurance Code section 1861.02(a). (*Spanish Speaking*
8 *Citizens Found. v. Low* (2000) 85 Cal.App.4th 1179.)

9 k. A successful writ of mandate action against former Insurance Commissioner
10 Quackenbush to require that the Commissioner not approve any insurer’s rate application prior to the
11 expiration of the 45-day period in which a consumer may petition for a rate hearing as required by
12 Insurance Code section 1861.05. (*Proposition 103 Enforcement Project v. Chuck Quackenbush* [Super.
13 Ct. L.A. County, 1999, No. BC202283].)

14 l. Two successful noncompliance proceedings, including *In the Matter of Mercury Ins.*
15 *Co., Mercury Cas. Co., and California Auto. Ins. Co.* (Cal. Ins. Comm’r, Feb. 6, 2015), in which she
16 represented Consumer Watchdog as intervenor, resulting in a \$27.5 million penalty against Mercury for
17 its illegal brokers fees charges; and *In the Matter of the Rates, Rating Plans, or Rating Systems of*
18 *Farmers Ins. Exch., Ins. Exch., and Mid-Century Ins. Co.* (Cal. Ins. Comm’r, Aug. 8, 2007) in which
19 she served as lead counsel representing Consumer Watchdog as Intervenor in a “non-compliance”
20 administrative proceeding against Farmers Insurance, alleging that the company had been misapplying
21 its own rating guidelines to overcharge certain homeowners policyholders based on the number of
22 claims they made or how far they lived from a fire hydrant. According to the 2007 settlement approved
23 by the Commissioner, Farmers refunded its policyholders \$1.4 million for the overcharges, was ordered
24 to pay a \$2 million penalty to the CDI, will use rating practices that comply with the law, had to review
25 its computer data to find and refund any other policyholders who were overcharged, and was subject to
26 another review of its practices in 2008.

27 m. Successful rate challenges before the CDI to insurers’ earthquake and homeowners
28 rate hikes in which she served as lead counsel for Consumer Watchdog, resulting in combined savings

1 of over \$790 million, including PA-04041210, PA-2007-00008, and PA-2007-00019, regarding the
2 earthquake insurance rates of Safeco, GeoVera, and Fireman’s Fund; and PA06093080, PA06093078,
3 PA06092759/PA-2006-00016, PA-2006-00006, and PA-2007-00017, regarding the homeowners rates
4 of Safeco, Fire Insurance Exchange, State Farm, Allstate, and Fireman’s Fund.

5 n. Hearings regarding LCAIP proposed rates in 2003, 2005, 2006, 2012, 2014, and
6 2015, 2016, and 2020. In 2012, Consumer Watchdog’s participation and comments contributed to the
7 Commissioner’s decision requiring the California Automobile Assigned Risk Pool (“CAARP”) to
8 implement an overall rate decrease for the LCAIP of -2.8%, 11.1% *lower than* the overall +8.3% rate
9 increase requested by CAARP. In 2014, Consumer Watchdog’s participation and comments contributed
10 to the Commissioner’s decision requiring CAARP to implement an overall LCAIP rate of +2.2%, 5.4%
11 *lower than* the overall +7.6% rate increase requested by CAARP, resulting in an overall savings of \$140
12 thousand in annual premiums. In 2015, Consumer Watchdog’s participation resulted in an approved rate
13 that was 10.5% *lower* than the rate requested by CAARP for a savings of nearly \$318 thousand in
14 annual premiums, and in 2016 Consumer Watchdog’s participation contributed to an approved rate that
15 was 5.8% lower than requested, resulting in \$237 thousand in savings. In 2020, after Consumer
16 Watchdog submitted comments, CAARP withdrew its requested +3.8% rate increase, resulting in a
17 savings of \$259,000 in annual premiums.

18 o. Numerous other successful challenges to automobile, homeowners, and medical
19 malpractice insurers’ rate applications since 2003, resulting in collective savings to consumers of over
20 \$3.4 billion. Examples include *In the Matter of the Rate Application of Esurance Property and Casualty*
21 *Insurance Company*, PA-2020-00001 (Ins. Comm’r 2020), resulting in an annual savings of over
22 \$26.7 million in auto insurance premiums; *In the Matter of the Rate and Rating Plan Application of*
23 *Pacific Specialty Insurance Company*, PA-2019-00003 (Ins. Comm’r 2020), resulting in an annual
24 savings of \$5.95 million in homeowners insurance; *In the Matter of the Rate and Rating Plan*
25 *Applications of Pacific Specialty Insurance Company*, PA-2019-00001 (Ins. Comm’r 2020), resulting in
26 an annual savings of \$800,000 in annual renters, mobile home, and condo owners insurance; *In the*
27 *Matter of the Rate and Class Plan Applications of Liberty Mutual Fire Ins. Co.*, PA-2017-00007 and
28 PA-2018-00001 (Ins. Comm’r 2018), resulting in an annual savings of \$3 million in auto insurance

1 premiums; *In the Matter of the Rate and Class Plan Applications of GEICO Cas. Co.*, PA-2017-00005
2 and PA-2017-00006 (Ins. Comm'r 2017), resulting an annual savings of \$9.3 million in auto insurance
3 premiums; *In the Matter of the Rate Applications of Allstate Ins. Co. and Allstate Indemnity Co.*, PA-
4 2015-00009 (Ins. Comm'r 2016), resulting in a savings of \$34.2 million in annual homeowners
5 insurance premiums; *In the Matter of the Rate Application of State Farm General Insurance Company*,
6 PA-2015-00004, which resulted in an order requiring State Farm to lower its homeowners' rates overall
7 by 7%, saving consumers \$78.6 million, and issue an additional \$110 million in refunds (the
8 administrative orders in that matter are presently on appeal); *In the Matter of the Rate Application of*
9 *Mercury Ins. Co.*, PA-2014-00010 (Ins. Comm'r 2015), resulting in a savings of \$7 million in annual
10 auto insurance premiums; *In the Matter of the Rates and Rate Applications of United Services Auto.*
11 *Ass'n, Garrison Prop. and Cas. Ins. Co. and USAA Gen. Ins. Co.*, PA-2013-00009, PA-2013-00009,
12 and PA-2013-00010 (Ins. Comm'r 2014), resulting in an annual savings of \$40.5 million in
13 homeowners insurance premiums; *In the Matter of the Rate Application of State Farm Gen. Ins. Co.*,
14 PA-2013-00012 (Ins. Comm'r 2014), resulting in \$86 million in savings for annual homeowners
15 insurance premiums; *In the Matter of the Rate Application of Mercury Cas. Co.*, PA-2013-00004 (Ins.
16 Comm'r 2013), resulting in over \$11 million of savings per year in homeowners insurance premiums;
17 *In the Matter of the Rate Application of Allstate Ins. Co., Allstate Indem. Co., and Northbrook Indem.*
18 *Co.*, PA-2013-00003 (Ins. Comm'r 2013), resulting in over \$92 million in savings per year in auto
19 insurance premiums; *In the Matter of the Rates and Rating Plan Application of GEICO Indem. Co.,*
20 *GEICO Gen. Ins. Co. and Gov't Emp. Ins. Co.*, PA-2013-00002 (Ins. Comm'r 2013), resulting in a
21 savings of \$9.4 million in annual auto insurance premiums; *In the Matter of the Rate Application of*
22 *Progressive West Insurance Company*, PA-2012-00008 (Ins. Comm'r 2013), resulting in savings of
23 almost \$1.5 million in annual auto insurance premiums; *In the Matter of the Rate Application of Coast*
24 *Nat'l Ins. Co.*, PA-2012-00007 (Cal. Ins. Comm'r 2013), resulting in \$10.9 million in annual auto
25 insurance premium savings; *In the Matter of the Rate Applications of State Farm Mut. Auto. Co.*, PA-
26 2012-00006 (Cal. Ins. Comm'r 2013), resulting in auto insurance premium savings of \$69 million per
27 year; *In the Matter of the Rate Application of Mercury Cas. Co.*, PA-2009-00009 (Cal. Ins. Comm'r
28 2013), resulting in savings of over \$16 million per year in homeowners insurance premiums; *In the*

1 *Matter of the Rate Application of State Farm Gen. Ins. Co.*, PA-2011-00010 (Cal. Ins. Comm'r 2013),
2 resulting in savings of over \$157 million per year in homeowners insurance premiums; *In the Matter of*
3 *the Rate Application of Interinsurance Exch. of the Auto. Club*, PA-2012-00009 (Cal. Ins. Comm'r
4 2013), resulting in annual auto insurance premium savings of \$70 million; *In the Matter of the Rate*
5 *Application of Fed. Ins. Co., et al.*, PA-2012-00002 (Cal. Ins. Comm'r 2012), resulting in savings of
6 over \$4.2 million per year in earthquake insurance premiums; *In the Matter of the Rate Application of*
7 *Chartis Prop. and Cas.*, PA-2011-000015 (Cal. Ins. Comm'r 2012), resulting in savings of over
8 \$7.6 million per year in earthquake insurance premiums; *In the Matter of the Rate Application of*
9 *NORCAL Mut. Ins. Co.*, PA-2011-00007 (Cal. Ins. Comm'r 2012), resulting in savings of \$2.8 million
10 per year in medical malpractice insurance premiums; *In the Matter of the Rate Application of The*
11 *Doctors Co.*, PA-2011-00006 (Cal. Ins. Comm'r 2012), resulting in savings of \$5.6 million per year in
12 medical malpractice insurance premiums; *In the Matter of the Rates of California State Auto. Ass'n*
13 *Inter-Insurance Bureau*, PA-2010-00014 (Cal. Ins. Comm'r 2012), resulting in annual homeowners
14 insurance premium savings of \$52 million; *In the Matter of the Rate Application of Med. Protective*
15 *Co.*, PA-2011-00008 (Cal. Ins. Comm'r 2011), resulting in annual premium savings of \$2.5 million; *In*
16 *the Matter of the Rate Application of Explorer Ins. Co.*, PA-2007-00013 (Cal. Ins. Comm'r 2008),
17 resulting in annual auto insurance premium savings of \$8.2 million; *In the Matter of the Rate*
18 *Application of the Med. Protective Co.*, PA-05045074 (Cal. Ins. Comm'r 2005), resulting in savings of
19 \$2 million per year in medical malpractice insurance premiums; *In the Matter of the Rate Application of*
20 *American Cas. Co.*, File No. PA-04039736 (Cal. Ins. Comm'r 2005), resulting in savings of
21 \$1.6 million per year in medical malpractice insurance premiums; *In the Matter of the Rate Application*
22 *of Med. Protective Co.*, PA-04036735 (Cal. Ins. Comm'r 2004), resulting in savings of \$3.9 million per
23 year in medical malpractice insurance premiums; *SCPIE Indem. Co.*, PA-02025379 (Cal. Ins. Comm'r
24 2004), resulting in savings of \$23 million per year in medical malpractice insurance premiums; and *In*
25 *the Matter of the Rate Application of: NORCAL Mutual Insurance Co.*, PA 03032128 (Cal. Ins.
26 Comm'r 2003), resulting in savings of \$11.6 million per year in medical malpractice insurance
27 premiums. In these proceedings, Ms. Pressley was responsible for overall strategy, briefing,
28

1 communication with expert witnesses and parties, discovery, and settlement negotiations, among other
2 tasks.

3 p. Several rulemaking proceedings implementing Proposition 103's prior approval and
4 automobile rating factor requirements including: (1) the Intervenor Regulations rulemaking matter (RH-
5 06092874) adopting amendments to update and clarify the regulations implementing Insurance Code
6 1861.10's public participation requirements; (2) the Mileage Verification rulemaking matter (RH-
7 06091489) implementing amendments to the Automobile Rating Factors regulations to provide
8 requirements for verified mileage programs; (3) the Prior Approval rulemaking matter (RH-05042749)
9 adopting, among other amendments, the generic determinations included in the prior approval
10 ratemaking formula pertaining to profit and expense provisions; (4) the Automobile Rating Factors
11 rulemaking matter (RH-03029826, Cal. Dept. of Ins., June 2, 2005) in which Consumer Watchdog and
12 other groups successfully petitioned for, and the Commissioner adopted amendments to, section 2632.8
13 of title 10 of the California Code of Regulations requiring that insurers base automobile insurance
14 premiums primarily on how one drives and not on other optional factors such as zip code and marital
15 status as required by Insurance Code section 1861.02(a); (5) the Persistency Rulemaking matter
16 (*Persistency Rulemaking*, RH-402 (Cal. Dept. of Ins., April 18, 2003)); and (6) a rulemaking matter
17 adopting regulations to prevent insurers from requiring that motorists show proof of prior insurance to
18 verify their accident record in violation of Insurance Code section 1861.02(c) (*Accident Verification*
19 *Rulemaking*, RH 01015532 (Cal. Dept. of Ins., Sept. 3, 2003)), among others. In these proceedings, Ms.
20 Pressley acted as Consumer Watchdog's lead counsel, participating in all strategy discussions and
21 workshops, and preparing and presenting written and oral testimony at hearings, among other tasks.

22 14. Prior to her employment with Consumer Watchdog, Ms. Pressley served for two years as
23 CALPIRG's lead consumer attorney and for one year as a staff attorney for The Center for Law in the
24 Public Interest in Los Angeles litigating in the areas of civil rights, justice, and consumer issues. She is
25 a 1995 graduate of Pepperdine University School of Law and was admitted to the California State Bar
26 in November 1995.

27 15. I am informed through the Pearl Declaration and conversations with attorneys in the Los
28 Angeles and San Francisco Bay Areas discussing their billing rates that \$595 per hour is a very

1 reasonable rate in 2023 for the professional services of an attorney with experience and qualifications
2 comparable to Ms. Pressley's.

3 Benjamin Powell

4 16. I am an attorney with six years of professional experience in litigation and advocacy. I
5 have been with Consumer Watchdog since 2015, first as a law clerk and then as a staff attorney, during
6 which time I have performed legal research, brief drafting, and oral advocacy on numerous Proposition
7 103 and civil litigation matters.

8 17. I am a 2016 graduate of Loyola Law School in Los Angeles. I was admitted to the
9 California State Bar in 2016.

10 18. During law school, I was a member of the Loyola of Los Angeles Law Review, writing
11 articles for the journal's specialized "Developments in the Law" issue. My scholarship included an
12 analysis of the shifting employment status of California Uber drivers and a discussion of the fate of
13 class action waivers under California contract law. I also served as a Coordinator for Loyola's Young
14 Lawyers Program, providing students from local high schools with mentorship as well as training for a
15 mock trial experience in front of actual Los Angeles Superior Court judges.

16 19. I am informed through the Pearl Declaration and conversations with attorneys in the Los
17 Angeles and San Francisco Bay Areas discussing their billing rates that \$350 per hour is a very
18 reasonable rate in 2023 for the professional services of an attorney with experience and qualifications
19 comparable to mine.

20 Kaitlyn Gentile

21 20. Ms. Gentile is a paralegal at Consumer Watchdog with over fourteen years of
22 professional experience in litigation matters. Ms. Gentile provides legal support to all members of the
23 litigation team, including drafting pleadings and motions such as the instant request for compensation.

24 21. Prior to joining Consumer Watchdog in November 2018, Ms. Gentile worked for eight
25 years as a legal assistant at Lambda Legal. She also worked for four years as a legal secretary at
26 Sullivan & Cromwell, LLP.

1 22. Ms. Gentile is a 2003 graduate of the University of Massachusetts at Amherst, where she
2 earned a Bachelor of Arts in Sociology. She holds a signed declaration from a California State Bar
3 member verifying her as a member of the paralegal profession under Cal. Bus. & Prof. Code § 6450.

4 23. I am informed through the Declaration of Richard M. Pearl, which details his extensive
5 familiarity with the billing practices and schedules for numerous private law firms in San Francisco and
6 Los Angeles, and believe that a rate of \$200 per hour is a very reasonable rate in 2023 for the
7 professional services in comparable matters of a paralegal with experience and qualifications
8 comparable to Ms. Gentile's.

9 **Consumer Watchdog's Fees**

10 24. In accordance with the well-established standards set forth by the California Supreme
11 Court for private-attorney-general statutes, the "lodestar" is the product of each attorney's reasonable
12 hours, at that attorney's prevailing market rate, plus expenses. Consumer Watchdog's attorneys are
13 responsible for entering their contemporaneous time billing records into the organization's time billing
14 software. The time billing software is then used to multiply each attorney's billed hours by that
15 individual's prevailing market rate. The lodestar component of Consumer Watchdog's attorney fees for
16 work performed in this proceeding for which compensation is requested (which does not include the
17 fees incurred by Consumer Watchdog's experts that are accounted for separately), totals \$21,889.00 as
18 follows:

19

Attorney	Total Hours	Hourly Rate	Total Lodestar
Harvey Rosenfield	2.4	\$695.00	\$1,668.00
Pamela Pressley	28.8	\$595.00	\$17,136.00
Benjamin Powell	5.5	\$350.00	\$1,925.00
Kaitlyn Gentile	5.8	\$200.00	\$1,160.00
Total	42.5		\$21,889.00

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26 **Consumer Watchdog's Expert Witness Fees**

27 25. Consumer Watchdog incurred \$34,665.50 in fees for its consulting actuary, as set forth
28 in the billing statement and detailed time records of AIS Risk Consultants, Inc., attached as Exhibit 8 to

1 the Declaration of Allan I. Schwartz. These time records show Consumer Watchdog’s consulting
2 actuary, Allan I. Schwartz, performed the following tasks in this proceeding:

- 3 • Reviewed and provided analyses regarding Applicants’ rate applications, updates, and
4 responses;
- 5 • Consulted with Consumer Watchdog regarding actuarial issues in the proceeding for
6 preparation of the Petition for Hearing and subsequent Requests for Information, and
7 prepared a written analysis of issues with the filing, including rate templates with indications
8 by coverage; and
- 9 • Consulted with Consumer Watchdog regarding this Request for Compensation and
10 preparation of his supporting declaration.

11 26. I am informed and believe that the time records for AIS Risk Consultants, Inc. detail the
12 actual tasks performed in this proceeding, are based on contemporaneous time entries, and accurately
13 represent the total time spent by Consumer Watchdog’s actuarial expert in this proceeding. I am
14 informed and believe that the time expended and work performed by Mr. Schwartz and his staff in this
15 proceeding, as reflected in his time records, was reasonable and appropriate and the minimum required
16 to achieve the result obtained. I am informed and believe that the rate charged by AIS Risk Consultants
17 reflects the 2023 hourly rates of Mr. Schwartz and his staff. Pursuant to 10 CCR §§ 2662.6(b) and
18 2661.1(c)(1), the expert witness fees billed for the actuarial consulting services of Mr. Schwartz and his
19 associates reflect their current 2023 market rates for such services. Mr. Schwartz’s over 40 years of
20 professional actuarial experience includes being President of AIS Risk Consultants, Assistant
21 Commissioner of the New Jersey Department of Insurance, and chief actuary of the North Carolina
22 Department of Insurance. His resume is attached to the Declaration of Allan I. Schwartz as Exhibit 5.

23 **Facts Regarding This Proceeding and Consumer Watchdog’s Substantial Contribution**

24 27. On or about May 31, 2022, Applicant filed a Rate Application with the Department,
25 seeking approval of an overall rate increase of 6.9% to its private passenger automobile line of
26 insurance. The Department notified the public of the Application on or about June 17, 2022.

27 28. Consumer Watchdog and its actuarial expert, Allan I. Schwartz, reviewed the
28 Application in detail and determined that the proposed rate changes were excessive and/or unfairly

1 discriminatory in violation of Insurance Code section 1861.05, subdivision (a), and the prior approval
2 rate regulations, 10 CCR § 2644.1, et seq. Mr. Schwartz's analysis of the Application identified several
3 specific issues that contributed to Applicant's proposed rates being excessive.

4 29. On July 28, 2022, pursuant to Insurance Code section 1861.10(a), Consumer Watchdog
5 filed its Petition including the issues on which it would provide evidence to show why Applicant's
6 proposed rates were excessive and/or unfairly discriminatory. (Petition, pp. 4–6, attached hereto as
7 Exh. 3.)

8 30. Specifically, Consumer Watchdog's Petition alleged that Auto Club failed to prove that
9 its proposed overall 6.9% rate increase and rates currently in effect did not result in rates that were
10 excessive, unfairly discriminatory, or otherwise in violation of the chapter under Insurance Code section
11 1861.05(a). Through a series of Bulletins, the Commissioner put insurers on notice starting in April
12 2020 that their projected losses had become overstated due to curtailed activities of policyholders after
13 the state COVID-19 stay-at-home orders went into effect and ordered companies provide refunds or
14 premium credits for the overcharges. As alleged by Consumer Watchdog, the private passenger auto
15 COVID-19 refunds and/or credits provided by Auto Club to date pursuant to the orders of the
16 Commissioner were inadequate and insufficient in relation to the reduction in claims during the
17 COVID-19 pandemic from March 2020 through at least June 2021 and, therefore, Auto Club owed
18 additional refunds. (Petition, ¶ 8a.)

19 31. The Petition also alleged that in the company's no variance indication, the selected
20 annual net trends for all coverages were among the highest of the possible twenty values based upon the
21 applicable regulation. The excessive net trends overstated the projected loss ratios resulting in an
22 inflated rate indication. Also, Applicant did not demonstrate that the selected trend factors and trend
23 data period used were the most actuarially sound. (Petition, ¶ 8b.)

24 32. The Petition alleged that Applicant used incurred loss development in the rate templates.
25 For the BI, PD, UM, and COLL coverages, incurred development was materially higher than paid
26 development. The developed incurred losses were 18% higher than the developed paid losses for the
27 most recent year for BI, about 6% higher for both PD and COLL, and about 5% higher for UM.
28 Applicant failed to explain why there was such a large difference between the paid and incurred

1 development. Nor did Applicant prove that the much higher incurred development method was the most
2 actuarially sound. (Petition, ¶ 8c.)

3 33. The Petition further alleged that Applicant had not shown that the institutional
4 advertising expenses listed on page 4.1 of the rate application were appropriate. There may also have
5 been excluded expenses for other categories as specified under the regulations, such as excessive
6 payments to affiliates, that should be reflected in the rate calculation but were not adequately reflected
7 in the filing. (Petition, ¶ 8d.)

8 34. The Petition also alleged that Applicant’s selected trend values in the variance request
9 were excessive and unsupported. The excessive net trend overstated the projected loss ratios, resulting in
10 an inflated rate indication. (Petition, ¶ 8e.)

11 35. The Petition also alleged that Applicant’s use of education and occupation as rating
12 factors violated sections 1861.05(a) and 1861.02(a), and 10 CCR § 2632.5(d). The authorized optional
13 rating factors that have been adopted by the Commissioner are set forth in 10 CCR § 2632.5(d), and do
14 not include education or occupation. Applicant charged higher premiums to its “Non-Qualifying
15 Policyholders” group than its other two rating categories based on education and occupational status.
16 Specifically, Applicant applied a 0.921 rate multiplier (8% discount) to those in the “Scientist,
17 Educators, Engineers[,] Medical Professionals, CPAs, and Alumni Associations” rating category, and a
18 0.985 rate multiplier (1.5% discount) to those in the “Lawyers” rating category, as Rating Table 36 of
19 Applicant’s Proposed Rating Manual in the Application shows. (See Petition, Exhibit B.) Use of these
20 rating factors to charge rates and premiums based on education and occupational status results in
21 excessive and/or unfairly discriminatory rates in violation of sections 1861.02(a)(4) and 1861.05(a), and
22 the application of unauthorized rating factors is in violation of section 1861.02(a)(1)–(3) and the auto
23 rating factor regulations at 10 CCR §§ 2632.4 and 2632.5. (Petition, ¶ 8f.)

24 36. Finally, the Petition alleged that the earned premiums contained in the Supplemental
25 COVID-19 Premium Exposure and Premium Template were gross of COVID-19 refunds when they
26 should have been net of COVID-19 refunds. (Petition, ¶ 8g.)

27 37. The Commissioner granted Consumer Watchdog’s Petition to Intervene in the
28 proceeding on the Application on August 11, 2022, finding that Consumer Watchdog “has raised and

1 seeks to address issues that are relevant to the ratemaking process.” (Ruling Granting Consumer
2 Watchdog’s Petition to Intervene, Aug. 11, 2022, at p. 4, attached hereto as Exh. 4.)

3 38. On August 25, 2022, Applicant submitted a letter response to Consumer Watchdog’s
4 Petition, in which it responded to each of the points raised in the Petition. (Letter Response to Petition,
5 Aug. 25, 2022, attached hereto as Exh. 5.)

6 39. On August 30, 2022, the Commissioner issued a Supplemental Ruling Granting
7 Consumer Watchdog’s Petition. (Supplemental Ruling Granting Consumer Watchdog’s Petition,
8 Aug. 30, 2022, attached hereto as Exh. 6.)

9 40. On October 18, 2022, Auto Club submitted a letter to the Department requesting that the
10 Department move forward with its review of the Application. (Request, Exh. B.)

11 41. On January 31, 2023, Consumer Watchdog attorneys participated in a three-way
12 teleconference with the CDI and Auto Club to discuss legal issues raised by Consumer Watchdog’s
13 Petition. During the January 31 teleconference, the Parties discussed Consumer Watchdog’s allegations
14 that (1) Auto Club’s COVID-19 refunds were inadequate and insufficient in relation to the reduction in
15 claims during the COVID-19 pandemic; (2) Auto Club’s use of education and occupation to provide
16 discounts results in excessive and/or unfairly discriminatory rates, and the application of unauthorized
17 rating factors.

18 42. Following this teleconference, on February 2, 2023, Consumer Watchdog submitted
19 Requests for Information to Auto Club. (Request, Exh. C.) With respect to the 2022 financial
20 information provided by Auto Club, Consumer Watchdog requested a breakdown of the values shown
21 by coverage. Additionally, for each period, Consumer Watchdog requested a breakdown of both the
22 losses incurred and LAE incurred into the following component parts: (1) amount paid; (2) starting case
23 reserves, ending case reserves, and change in case reserves; and (3) starting IBNR reserves, ending
24 IBNR reserves, and change in IBNR reserves. Consumer Watchdog further requested a complete list
25 and discussion of all payments to affiliates during 2019, 2020, and 2021, as well as documentation
26 comparing those actual payments to the fair market rate or value of the goods or services in the open
27 market. Finally, Consumer Watchdog requested the dollar amount of the payments to affiliates and the
28 amount of profit the affiliates made related to those payments.

1 43. In response to a February 3 query by the Department, Consumer Watchdog explained
2 that the requests were relevant to issued raised by Consumer Watchdog’s Petition. Specifically, with
3 respect to the issue of excluded expenses, Consumer Watchdog’s Petition stated: *There may also be*
4 *excluded expenses for other categories that should be reflected in the rate calculation but were not*
5 *adequately reflected in the filing.* Consumer Watchdog pointed out that under section 2644.10(g), one
6 of the excluded expense items is: “(g) All payments to affiliates, to the extent that such payments
7 exceed the fair market rate or value of the goods or services in the open market,” and that according to
8 the Annual Statement for Auto Club, the company uses management agreements and service contracts
9 between affiliates. (Request, Exh. D.)

10 44. On February 9, 2023, Auto Club responded to Consumer Watchdog’s Requests for
11 Information. With regard to the first request, Auto Club claimed that “the requested information is not
12 required by the petitioner and their actuary to complete their review of our rate indications.” Auto Club
13 further claimed that “[a]ll required data, including historical paid and incurred losses, is contained in the
14 exhibits provided by the Exchange in SERFF.” (Request, Exh. E.) With regard to the second request,
15 Auto Club explained that it had “accounted for all payments to affiliates in its annual statements filed
16 with the Department,” and that “All such affiliate payments are based on fair market value.”

17 45. Later that day, Consumer Watchdog responded with follow-up questions. It noted that
18 with respect to the first request regarding loss experience, the Applicant sent a letter to CDI dated
19 October 18, 2022, which attached the 2022 financial exhibit referenced and attached to its February 2
20 requests. That exhibit contained data not included with the filing and was based on time periods
21 subsequent to what was included in the filing. That October 18 letter alleged, “As shown, the Exchange
22 has experienced an underwriting loss in 2022 of over \$152 million.” Consumer Watchdog noted that the
23 information requested deals with the issue of how much of that alleged loss is due to losses and expenses
24 actually paid, as opposed to much is attributable to changes in reserves (both case and IBNR) established
25 by the Applicant. Consumer Watchdog offered that if the Applicant and CDI would agree that the
26 October 18, 2022 letter and 2022 financial data exhibit be given no consideration in evaluating the rate
27 request, Consumer Watchdog would be willing to withdraw that information request. (Request, Exh. F.)
28

1 46. With respect to the second request, Consumer Watchdog noted that it requested not only
2 the dollar amounts of payments to affiliates for 2019, 2020, and 2021, but also a discussion of all
3 payments to affiliates, including documentation comparing those actual payments to the fair market rate
4 or value of the goods or services in the open market and the amount of profit the affiliates made related
5 to those payments, as that information is not available in the annual statements. For example, the 2021
6 Annual Statement shows a value of management agreements and service contracts between the
7 Applicant and ACSC Management Services of about \$743 million. As such, Consumer Watchdog
8 requested that Auto Club provide documentation comparing the actual payments to ACSC Management
9 Services for those agreements/contracts to the fair market rate or value of the goods or services in the
10 open market and the amount of profit ACSC Management Services made related to those payments for
11 2019, 2020, and 2021.

12 47. On February 10, 2023, Consumer Watchdog requested additional supporting
13 documentation for Auto Club’s statement that “all such affiliate payments are based on fair market
14 value.” (Request, Exh. G.)

15 48. On February 13, 2023, Auto Club provided responses to Consumer Watchdog’s
16 February 9 follow-up questions. Auto Club confirmed that the October 18, 2022 letter and 2022
17 financial data exhibit would not be expected to be given consideration in evaluating Auto Club’s
18 pending rate filing. With regard to the Management Agreement issue noted above, Auto Club explained
19 that it entered into its Management Agreement with ACSC Management Services, an affiliate of Auto
20 Club, many decades ago, and that under the agreement, ASCS Management Services agrees to act as
21 attorney-in-fact and manage and operate the business of Auto Club, performing a number of functions.
22 Auto Club explained that in accordance with the Management Agreement, Auto Club reimburses ACSC
23 Management Services the actual cost of the operating expense incurred in performing its functions
24 along with a fee of less than 1% of annual premiums. Auto Club claimed that since it “consistently has
25 lower underwriting expenses and expense ratios than most competitors . . . this payment clearly does
26 not exceed the fair market value of the broad and important services” performed by ACSC
27 Management, and that therefore, Auto Club does not have any payments to affiliates that meet the
28 criteria outlined in CCR 2644.10(g). (Request, Exh. H.)

1 49. Later that day, Consumer Watchdog requested additional clarifications from Auto Club.
2 Specifically, Consumer Watchdog sought (1) confirmation that the management fees paid from Auto
3 Club to ACSC are calculated as the actual costs of ACSC plus an amount less than 1% of premiums, (2)
4 written document, such as the Management Agreement, that this is the compensation agreement of Auto
5 Club with ACSC, and (3) a recent annual financial statement of ACSC showing the income, costs, and
6 profit. (Request, Exh. I.)

7 50. On February 14, 2023, Auto Club provided responses to Consumer Watchdog's
8 February 13 requests for clarification. It confirmed the amount of management fees paid to ACSC,
9 noted that the Management Agreement is filed with the Department annually with its Form B, and
10 claimed that the additional information requested (documentation of income, costs, and profit of ACSC)
11 is irrelevant and would not be provided. (Request, Exh. J.)

12 51. On February 15, 2023, Consumer Watchdog requested a copy of the Management
13 Agreement. (Request, Exh. K.)

14 52. On February 16, 2023, Auto Club wrote back and said that it would not provide the
15 Management Agreement as it considered it proprietary information. (Request, Exh. L.)

16 53. On February 17, 2023, Consumer Watchdog responded to Auto Club noting that it was
17 the company's burden to prove that its payments to affiliates did not exceed fair market value.
18 Consumer Watchdog asserted its right as Petitioner to seek information to confirm Auto Club's
19 representations, and insisted that Auto Club either provide a redacted agreement containing the
20 verification information or other written documentation of the compensation agreement with ACSC.
21 (Request, Exh. M.)

22 54. Later that day, Auto Club responded to Consumer Watchdog, once again refusing to
23 provide a copy of the Management Agreement. (Request, Exh. N.)

24 55. On February 17, 2023, Consumer Watchdog circulated its actuary's comments and
25 analysis of the Application, including rate indications showing that a smaller .9% overall rate increase
26 would be justified. (Request, Exh. O.) That analysis discussed why the company's selected trends
27 overstated its projected losses by providing a discussion of several sources showing decreasing inflation
28 rates in recent months. It also pointed out issues with the company's use of incurred loss development,

1 proposed rates for some coverages falling outside the allowable maximum to minimum rate indication
2 range, and issues concerning the credibility the company assigned to its experience for certain
3 coverages. (*Ibid.*)

4 56. Later that day, after the Department received Consumer Watchdog’s analysis, the
5 Commissioner issued an order denying Consumer Watchdog’s Petition for Hearing. (Decision Denying
6 Petitioner’s Petition for Hearing, Feb. 17, 2023; Exh. 7.) In approving the Application, the Decision
7 responded to each of the issues raised by Consumer Watchdog and concluded that the Parties had
8 “exchanged correspondence, participated in teleconferences, and considered all evidence presented by
9 the Parties. The Department is satisfied that the allegations raised in the Petition have been satisfactorily
10 resolved . . . and is prepared to approve a rate increase of 6.9%.”

11 I declare under penalty of perjury under the laws of the State of California that the foregoing is
12 true and correct.

13 Executed on March 20, 2023 at Los Angeles, California.


14
15 
16 Benjamin Powell

EXHIBIT 1a

Consumer Watchdog Time Entries
PA-2022-00005

Pamela Pressley

Date	Description	Hours	Total
7/8/22	email K Gentile re petition for hearing	0.1	\$59.50
7/11/22	review and reply to A Schwartz email re Auto Club issues	0.1	\$59.50
7/12/22	review Auto Club filing and manual, email B Powell and R Mellino re same	2.3	\$1,368.50
7/18/22	review Auto Club filing, email K Gentile re petition for hearing issues (.8); review Auto Club covid refund filings (1.0)	1.8	\$1,071.00
7/19/22	review Auto Club covid refund reports, email A Schwartz, C Balber, B Powell and R Mellino re same (.7); email B Powell re review of petition for hearing, review issues (.2)	0.9	\$535.50
7/20/22	review A Schwartz email, text B Powell re petition for hearing (.2); teleconference with A Schwartz and B Powell re same (.3)	0.5	\$297.50
7/22/22	review Auto Club filing, email C Balber re info for petition for hearing and press release	0.5	\$297.50
7/24/22	review A Schwartz emails re Auto Club data	0.2	\$119.00
7/25/22	review and reply to B Powell emails re petition for hearing (.3); email re petition for hearing (.1); reply and reply to B Powell email re petition for hearing (.2); edit petition (.7)	1.3	\$773.50
7/26/22	emails with K Gentile re petition for hearing (.2); review and reply to emails (.2);	0.4	\$238.00
7/28/22	emails re press release (.3)	0.3	\$178.50
8/25/22	review Auto Club response to PTI (.5); review and reply to C Balber email re same (.1)	0.6	\$357.00
8/29/22	review and reply to H Rosenfield email re response	0.3	\$178.50
8/30/22	review supplemental ruling granting intervention	0.1	\$59.50
10/18/22	review AAA letter to CDI	0.2	\$119.00
10/24/22	forward AAA letter to H Rosenfield and review same	0.1	\$59.50
12/2/22	review emails re next steps	0.2	\$119.00
1/4/23	review file/updates, email K Gentile re same	0.1	\$59.50
1/4/23	review emails re updates, review same	0.2	\$119.00
1/9/23	review and forward Auto Club email/update to A Schwartz	0.2	\$119.00
1/10/23	review and forward emails re 3-way call	0.2	\$119.00
1/17/23	email B Powell re email to CDI/Auto Club re call (.1); review and reply to B Powell email re dame (.2)	0.3	\$178.50
1/20/23	review email re objection responses	0.2	\$119.00
1/25/23	review and reply to A Schwartz email re status	0.1	\$59.50
1/31/23	text B Powell re petition for hearing issues (.1); email K Gentile re files, A Schwartz re indications (.2); review petition for hearing, filing updates (.3); emails with B Powell (.1); teleconference with CDI, Auto Club to discuss legal issues (.5); emails to Auto Club, team re summary of 3-way call (1.0)	2.2	\$1,309.00
2/1/23	review A Schwartz email, draft email re requests for information	0.2	\$119.00
2/2/23	email A Schwartz re RFIs (.1); emails re RFIs to parties (.2)	0.3	\$178.50
2/3/23	draft email response to L Landsman-Smith email re RFIs (.3)	0.3	\$178.50

2/3/23	voicemail to A Schwartz re RFIs, email parties	0.2	\$119.00
2/4/23	review A Schwartz email	0.1	\$59.50
2/7/23	email A Schwartz, review reply re rate indications	0.2	\$119.00
2/9/23	review and reply to L Tomlin email re RFIs	1	\$595.00
2/10/23	email to L Tomlin, Auto Club re payments to affiliates	0.1	\$59.50
2/13/23	teleconference with A Schwartz re analysis (.1); conference with B Powell and C Balber re same (.1); factual research, reply to A Schwartz email re requests re company data (1.0); email L Tomlin re additional requests (.2); conference with H Rosenfield re status (.1)	1.5	\$892.50
2/14/23	review and forward L Tomlin email	0.2	\$119.00
2/14/23	email A Schwartz re indication (.2); review A Schwartz email re same (.1); email update to A Schwartz (.1)	0.4	\$238.00
2/15/23	review and reply to L Tomlin email, email A Schwartz re analysis, 3-way call (.3); review and reply to A Schwartz email re call (.2); review case status, updates (.2); review and reply to A Schwartz email re analysis (.4); set call with A Schwartz (.1)	1.2	\$714.00
2/16/23	teleconference with A Schwartz re CDI/AAA templates (.4); draft email to CDI re questions on rate templates (.5); review K Allen email, email A Schwartz re same (.2);	1.1	\$654.50
2/17/23	emails with A Schwartz re analysis, voicemail to K Allen; emails to team re same (1.0); draft emails to L Tomlin, H Rosenfield (.3); review A Schwartz indications, analysis, forward to partes (.7); review comparison chart, regs and emails to CW team re same (1.1); teleconference with H Rosenfield re decision and review same, email team re same (.6)	3.7	\$2,201.50
3/15/23	review and edit request for compensation	2	\$1,190.00
3/16/23	edit request for compensation	1.1	\$654.50
3/17/23	emails re request for compensation/declaration (.3); review and edit Powell declaration (1.5)	1.8	\$1,071.00
Pamela Pressley Total:		28.8	\$17,136.00

Harvey Rosenfield

Date	Description	Hours	Total
7/25/22	Review draft Petition for Hearing from Ben Powell (.2)	0.2	\$139.00
8/26/22	Review Auto Club objections to Petition for Hearing (.2)	0.2	\$139.00
8/28/22	Review email from Pam Pressley re Auto Club communication with Commissioner re Consumer Watchdog Petition for Hearing, reply to Pam Pressley (.2)	0.2	\$139.00
8/29/22	Review Pam Pressley reply to my email re responding to AAA (.1)	0.1	\$69.50
2/1/23	Review Pam Pressley status report on proceeding, call with CDI (.1)	0.1	\$69.50
2/4/23	Review email from CDI and Pam Pressley re request for info (.2); Review A Schwartz redlined response (.1)	0.3	\$208.50
2/9/23	Review email response from Auto Club re Consumer Watchdog info request, and review Pam Pressley reply (.2)	0.2	\$139.00
2/14/23	Review response to requests for information, email Pam Pressley re same (.1)	0.1	\$69.50

2/15/23	Review Pam Pressley response to Auto Club re docs requested (.1)	0.1	\$69.50
2/16/23	Review response from Auto Club re management agreement (.1)	0.1	\$69.50
2/17/23	Review email with parties re indications, management contract, reply to Pam Pressley, review further email from Pam Pressley re CDI approval (.5)	0.5	\$347.50
2/22/23	Email with Consumer Watchdog team re status and strategy, set call re same (.2)	0.2	\$139.00
2/23/23	Email with Consumer Watchdog re Request for Compensation (.1)	0.1	\$69.50
Harvey Rosenfield:		2.4	\$1,668.00

Benjamin Powell

Date	Description	Hours	Total
1/17/23	research Re legal issues in filing and correspondence Re same	0.3	\$105.00
1/31/23	review petition for hearing in preparation for teleconference with parties Re legal issues in petition; teleconference Re same	1.1	\$385.00
2/8/23	review correspondence Re requests for information and email correspondence with A Schwartz and P Pressley Re same	0.2	\$70.00
2/13/23	review correspondence from L Tomlin Re requests for information and correspondence with A Schwartz and P Pressley Re same	0.2	\$70.00
2/16/23	teleconference with P Pressley and A Schwartz Re rate filing issues	0.4	\$140.00
3/14/23	draft request for compensation	0.5	\$175.00
3/15/23	draft request for compensation	2.8	\$980.00
Benjamin Powell Total:		5.5	\$1,925.00

Kaitlyn Gentile

Date	Description	Hours	Total
7/18/22	prepare draft Petition for Hearing	0.5	\$100.00
7/26/22	proof and edit Petition for Hearing	0.9	\$180.00
7/27/22	finalize Petition for Hearing and exhibits and prepare for filing	0.2	\$40.00
7/28/22	file and serve Petition for Hearing	0.3	\$60.00
3/14/23	prepare draft Request for Compensation	2.3	\$460.00
3/16/23	input edits to Request for Compensation and Declarations; compile exhibits	1.6	\$320.00
Kaitlyn Gentile Total:		5.8	\$1,160.00

Consumer Watchdog Total: 42.5 \$21,889.00

EXHIBIT 1b

Identification and Association of Individuals Referenced in Billing Records

Consumer Watchdog

Carmen Balber, Executive Director
Kaitlyn Gentile, Paralegal
Ryan Mellino, Staff Attorney
Pamela Pressley, Senior Staff Attorney
Benjamin Powell, Staff Attorney
Harvey Rosenfield, Founder

AIS Risk Consultants, Inc.

Allan I. Schwartz, consulting actuary for Consumer Watchdog

California Department of Insurance

Ken Allen, Deputy Commissioner, Rate Regulation
Lisbeth Landsman-Smith, Senior Staff Attorney

Interinsurance Exchange of the Automobile Club

Lincoln Tomlin, Vice President, Public and Government Affairs

EXHIBIT 2

1 HARVEY ROSENFELD (SBN 123082)
PAMELA PRESSLEY (SBN 180362)
2 CONSUMER WATCHDOG
6330 South San Vicente Boulevard, Suite 250
3 Los Angeles, California 90048
Telephone: (310) 392-0522
4 Facsimile: (310) 392-8874
harvey@consumerwatchdog.org
5

MICHAEL J. STRUMWASSER (SBN 58413)
6 BRYCE A. GEE (SBN 222700)
JULIA MICHEL (SBN 331864)
7 STRUMWASSER & WOOCHEER LLP
10940 Wilshire Boulevard, Suite 2000
8 Los Angeles, California 90024
Telephone: (310) 576-1233
9 Facsimile: (310) 319-0156
bgee@strumwooch.com
10

Attorneys for Respondent Consumer Watchdog
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12
13 IN THE SUPERIOR COURT OF CALIFORNIA
14 COUNTY OF SAN DIEGO

15 STATE FARM GENERAL INSURANCE
COMPANY,

16
17 Petitioner and Plaintiff,

v.

18 RICARDO LARA, in his official capacity
19 as the Insurance Commissioner of the State
of California; and DOES 1-50,

20 Respondent and Defendant,

21 CONSUMER WATCHDOG,

22 Respondent and Defendant.
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Case No. 37-2016-00041750-CU-MC-CTL

**DECLARATION OF RICHARD M.
PEARL IN SUPPORT OF CONSUMER
WATCHDOG'S MOTION FOR
ATTORNEYS' FEES AND EXPENSES**

Date Action Filed: November 28, 2016

Date: August 26, 2022

Time: 11:00 a.m.

Dept.: C-69

Judge: Hon. Katherine A. Bacal

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DECLARATION OF RICHARD M. PEARL

I, Richard M. Pearl, declare as follows:

1. I am a member in good standing of the California State Bar. I am in private practice as the principal of my own law firm, the Law Offices of Richard M. Pearl, in Berkeley, California. I specialize in issues relating to court-awarded attorneys’ fees, including: the representation of parties in fee litigation and appeals; serving as an expert witness; and serving as a mediator and arbitrator in disputes concerning attorneys’ fees and related issues. I have personal knowledge of the facts set forth herein, and if called as a witness, I could and would competently testify thereto. I make this declaration in support of Defendant and Respondent Consumer Watchdog’s Motion for Attorneys’ Fees and Expenses in the appeal in the above-referenced action. Specifically, I have been asked by counsel for Consumer Watchdog (“Consumer Watchdog Counsel”)¹ to render my opinion as to the reasonableness of the hourly rates they have requested for their work on the appeal in this matter and do so here.

2. To form my opinion as to the reasonableness of the attorneys’ fees Consumer Watchdog Counsel request for their work in this case, I have reviewed the Court of Appeal’s opinion, documents that describe the history of this matter, counsel’s qualifications and experience, the nature and quality of the work required by this case, the results achieved, and the hourly rates that Counsel request. I also have consulted with Ms. Pressley about this motion and the underlying facts of the case.

MY BACKGROUND AND EXPERIENCE

3. Briefly summarized, my background is as follows: I am a 1969 graduate of Berkeley School of Law (then Boalt Hall), University of California, Berkeley, California. I took the California Bar Examination in August 1969 and learned that I had passed it in November of that year, but because I was working as an attorney in Atlanta, Georgia for the Legal Aid Society of Atlanta (LASA), I was not admitted to the California Bar until January 1970. I worked for LASA

¹ Consumer Watchdog Counsel refers to Harvey Rosenfield and Pamela Pressley and their outside co-counsel with the law firm Strumwasser & Woocher, LLP.

1 until the summer of 1971, when I went to work in California’s Central Valley for California Rural
2 Legal Assistance, Inc. (CRLA), a statewide legal services program. From 1977 to 1982, I was
3 CRLA’s Director of Litigation, supervising more than fifty attorneys. In 1982, I went into private
4 practice, first in a small law firm, then as a sole practitioner. Martindale Hubbell rates my law firm
5 “AV.” I also have been selected as a Northern California “Super Lawyer” in Appellate Law for
6 2005, 2006, 2007, 2008, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021,
7 and 2022. A true and correct copy of my Resume is attached as **Exhibit A**.

8 4. Since 1982, the focus of my legal work has been in general civil litigation and
9 appellate practice, with an emphasis on cases and appeals involving court-awarded attorneys’ fees. I
10 have lectured and written extensively on court-awarded attorneys’ fees. I have been a member of
11 the California State Bar’s Attorneys’ Fees Task Force and have testified before the State Bar Board
12 of Governors and the California Legislature on attorneys’ fee issues. I am the author of *California*
13 *Attorney Fee Awards* (3d Ed., Cal. CEB 2010) (“Cal. Fee Awards”) and its cumulative annual
14 Supplements between 2011 and March 2022. I also was the author of *California Attorney Fee*
15 *Awards*, 2d Ed. (Cal. Cont. Ed. of Bar 1994), and its 1995 through 2008 annual Supplements.
16 Several courts have referred to this treatise as “[t]he leading California attorney fee treatise.” *Calvo*
17 *Fisher & Jacob LLP v. Lujan*, 234 Cal.App.4th 608, 621 (2015); *see also, e.g., Int’l Billing Servs.,*
18 *Inc. v. Emigh*, 84 Cal.App.4th 1175, 1193 (2000) (“the leading treatise”); *Stratton v. Beck*, 30
19 Cal.App.5th 901, 911 (2019) (“a leading treatise”); *Orozco v. WPV San Jose, LLC*, 36 Cal.App.5th
20 375, 409 (2019) (“a leading treatise on California attorney’s fees”). It also has been cited by the
21 California Supreme Court and Court of Appeal on many occasions, including the Court of Appeal
22 in this case. (Sl. Op. at 36). *See also Graham v. DaimlerChrysler Corp.*, 34 Cal.4th 553, 576, 584
23 (2004); *Lolley v. Campbell*, 28 Cal.4th 367, 373 (2002); *In re Conservatorship of Whitley*, 50
24 Cal.4th 1206, 1214–15, 1217 (2010); *Sonoma Land Trust v. Thompson*, 63 Cal.App.5th 978, 986
25 (2021); *Yost v. Forestiere*, 51 Cal.App.5th 509, 530 n. 8 (2020); *Highland Springs Conference &*
26 *Training Ctr. v. City of Banning*, 42 Cal.App.5th 416, 428 n. 11 (2019); *Sweetwater Union High*
27 *Sch. Dist. v. Julian Union Elementary Sch. Dist.*, 36 Cal.App.5th 970, 988 (2019); *Hardie v.*
28 *Nationstar Mortg. LLC*, 32 Cal. App. 5th 714, 720 (2019); *Syers Props III, Inc. v. Rankin*, 226

1 Cal.App.4th 691, 698, 700 (2014). California Superior Courts also cite the treatise with approval.
2 *See, e.g., Davis v. St. Jude Hosp.*, No. 30201200602596CUOECX, 2018 WL 7286170, at *4
3 (Orange Cty. Super. Ct. Aug. 31, 2018); *Hartshorne v. Metlife, Inc.*, No. BC576608, 2017 WL
4 1836635, at *10 (Los Angeles Super. Ct. May 02, 2017). Federal courts also have cited it. *See In re*
5 *Hurtado*, Case No. 09-16160-A-13, 2015 WL 6941127 (E.D. Cal. Nov. 6, 2015); *TruGreen*
6 *Companies LLC v. Mower Brothers, Inc.*, 953 F. Supp. 2d 1223, 1236 nn.50, 51 (D. Utah 2013). I
7 also authored the 1984 through 1993 annual Supplements to the predecessor treatise, *CEB's*
8 *California Attorney's Fees Award Practice*. In addition, I authored a federal manual on attorneys'
9 fees entitled "Attorneys' Fees: A Legal Services Practice Manual," published by the Legal Services
10 Corporation. I also co-authored the chapter on "Attorney Fees" in Volume 2 of *CEB's Wrongful*
11 *Employment Termination Practice*, 2d Ed. (1997).

12 5. More than 95% of my practice is devoted to issues involving court-awarded
13 attorneys' fees. I have appeared as counsel in over 200 attorneys' fee applications in state and
14 federal courts, primarily representing other attorneys. I also have briefed and argued more than 40
15 appeals, at least 30 of which have involved attorneys' fees issues. I have won five cases in the
16 California Supreme Court involving court-awarded attorneys' fees: (1) *Maria P. v. Riles*, 43 Cal. 3d
17 1281 (1987), which upheld a C.C.P. section 1021.5 fee award based on a preliminary injunction
18 obtained against the State Superintendent of Education, despite the fact that the case ultimately was
19 dismissed under C.C.P. section 583; (2) *Delaney v. Baker*, 20 Cal. 4th 23 (1999), which held that
20 heightened remedies, including attorneys' fees, are available in suits against nursing homes under
21 California's Elder Abuse Act; (3) *Ketchum v. Moses*, 24 Cal. 4th 1122 (2001), which reaffirmed
22 that contingent risk multipliers are an essential consideration under California attorney fee law
23 (note that in *Ketchum*, I was primary appellate counsel in the Court of Appeal and "second chair" in
24 the California Supreme Court); (4) *Flannery v. Prentice*, 26 Cal. 4th 572 (2001), which held that
25 under California law, in the absence of an agreement to the contrary, statutory attorneys' fees
26 belong to the attorney whose services they are based upon; and (5) *Graham v. DaimlerChrysler*
27 *Corp.*, 34 Cal. 4th 553 (2004), which held, *inter alia*, that the "catalyst" theory of fee recovery
28 remained viable under California law and that lodestar multipliers could be applied to fee motion

1 work. In that case, I represented trial counsel in both the Court of Appeal (twice) and California
2 Supreme Court, as well as on remand in the trial court. I also represented and argued on behalf of
3 *amicus curiae* in *Conservatorship of McQueen*, 59 Cal. 4th 602 (2014), which held that attorneys’
4 fees incurred for appellate work were not “enforcement fees” subject to California’s Enforcement of
5 Judgments law; I presented the argument relied upon by the Court. Along with Richard Rothschild
6 of the Western Center on Law and Poverty, I also prepared and filed an *amicus curiae* brief in
7 *Vasquez v. State of California*, 45 Cal. 4th 243 (2009). An expanded list of reported decisions in
8 cases I have handled is set out in **Exhibit A** at pages 4-8.

9 6. I have been retained by various governmental entities, including the California
10 Attorney General’s office and the California Department of Fair Housing and Employment, to
11 consult with them and serve as their expert regarding their affirmative attorney fee claims. *See, e.g.*,
12 *In re Tobacco Cases I*, 216 Cal. App. 4th 570, 584 (2013); *Dep. of Fair Employ. and Hous. v. Law*
13 *Sch. Admission Council, Inc.*, 2018 WL 5791869 (N.D. Cal. No. 12-cv-08130, filed Nov. 5, 2018).

14 7. I am frequently called upon to opine about the reasonableness of attorneys’ fees, and
15 numerous federal and state courts have relied on my testimony on those issues. For example:

16 a. Most recently, in *Wit v. United Behavioral Health* (N.D. Cal. Jan. 5, 2022)
17 ___F.Supp.3d ___, 2022 WL 45057, at *7, the court’s fee Order states that “the Court places
18 significant weight on Pearl’s opinion that the rates charged by all of the timekeepers listed above
19 are reasonable and ‘in line with the standard hourly noncontingent rates charged by Bay Area law
20 firms that regularly engage in civil litigation of comparable complexity.’... Pearl has extensive
21 experience in the area of attorney billing rates in this district and has been widely relied upon by
22 both federal and state courts in Northern California (including the undersigned) in determining
23 reasonable billing rates.” (Citations omitted).

24 b. In *Human Rights Defense Center v. County of Napa*, 2021 U.S. Dist. LEXIS
25 59778 *; 2021 WL 1176640 (N.D. Cal. No. 20-cv-01296-JCS, Doc. 50, filed March 28, 2021), the
26 Court expressly stated that it had “place[d] significant weight on the opinion of Mr. Pearl that the
27 rates charged by all of the timekeepers listed above are reasonable and in line with the rates charged
28 by law firms that engage in federal civil litigation in the San Francisco Bay Area. Mr. Pearl has

1 extensive experience in the area of attorney billing rates in this district and has been widely relied
2 upon by both federal and state courts in Northern California [] in determining reasonable billing
3 rates.” 2021 U.S.Dist.LEXIS 59778, at *32.

4 c. Subsequently, in *Andrews v. Equinox Holdings, Inc.*, N.D. Cal. No. 20-cv-
5 00485-SK, Oder on Motion for Attorney Fees and Costs filed November 9, 2021 (Doc. 110), the
6 court quoted the above language from the *Human Rights Defense Center* case and concluded the
7 same: “This Court similarly finds Pearl’s opinions well supported and persuasive.” Order at p. 4:13-
8 19.

9 d. Similarly, in *Sonoma Land Trust v. Thompson, supra*, 63 Cal.App.5th 978,
10 986 (2021), the Court of Appeal expressly held that my expert declaration provided evidentiary
11 support for the trial court’s fee determination.

12 e. Lastly, my declaration was cited favorably by the Second District of the
13 Court of Appeal in *Wood v. Los Angeles County Waterworks Dist. No. 40 (Antelope Valley*
14 *Groundwater Cases)*, 2021 Cal.App. Unpub. LEXIS 5506 (2nd Dist., Div. 2021).

15 8. In addition to the *Sonoma Land Trust* and *Antelope Valley Groundwater* cases, the
16 following California appellate and reported trial court cases also have referenced my testimony
17 favorably:

- 18 • *Kerkeles v. City of San Jose*, 243 Cal.App.4th 88 (2015);
- 19 • *Laffitte v. Robert Half Int’l Inc.*, 231 Cal.App.4th 860 (2014), *aff’d* (2016) 1
20 Cal.5th 480;
- 21 • *Habitat and Watershed Caretakers v. City of Santa Cruz*, 2015 Cal. App. Unpub.
22 LEXIS 7156 (2015);
- 23 • *In re Tobacco Cases I*, 216 Cal.App.4th 570 (2013);
- 24 • *Heritage Pacific Financial, LLC v. Monroy*, 215 Cal.App.4th 972 (2013);
- 25 • *Wilkinson v. South City Ford*, 2010 Cal. App. Unpub. LEXIS 8680 (2010);
- 26 • *Children’s Hospital & Medical Center v. Bonta*, 97 Cal.App.4th 740 (2002);
- 27 • *Church of Scientology v. Wollersheim*, 42 Cal.App.4th 628 (1996).

- 1 • *Kaku v. City of Santa Clara*, No. 17CV319862, 2019 WL 331053, at *3 (Santa
- 2 Clara Cty. Super. Ct. Jan. 22, 2019), *aff'd* 59 Cal. App. 5th 385, 431 (2020);
- 3 • *Davis v. St. Jude Hosp.*, No. 30201200602596CUOECX, 2018 WL 7286170, at
- 4 *4 (Orange Cty. Super. Ct. Aug. 31, 2018);
- 5 • *Hartshorne v. Metlife, Inc.*, No. BC576608, 2017 WL 1836635, at §*10 (Los
- 6 Angeles Super. Ct. May 2, 2017).

7 Many other trial courts also have relied on my testimony in unreported fee awards.

8 9. In addition to the *Wit*, *Andrews*, and *Human Rights Defense Center* cases, the

9 following reported federal decisions also have referenced my testimony favorably:

- 10 • *Antoninetti v. Chipotle Mexican Grill, Inc.*, No. 08-55867 (9th Cir. 2012), Order
- 11 filed Dec. 26, 2012, at 6;
- 12 • *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455 (9th Cir. 2010) (the
- 13 expert declaration referred to is mine);
- 14 • *Independent Living Center of S. Cal. v. Kent*, 2020 U.S. Dist. LEXIS 13019 (C.D.
- 15 Cal. 2020);
- 16 • *Ridgeway v. Wal-Mart Stores, Inc.*, 269 F. Supp. 3d 975 (N.D. Cal. 2017), *aff'd*
- 17 269 F.3d 1066 (9th Cir. 2020);
- 18 • *Beaver v. Tarsadia Hotels*, 2017 U.S. Dist. LEXIS 160214 (S.D. Cal. 2017);
- 19 • *Notter v. City of Pleasant Hill*, 2017 U.S. Dist. LEXIS 197404, 2017 WL 5972698
- 20 (N.D. Cal. 2017);
- 21 • *Villalpondo v. Exel Direct, Inc.*, 2016 WL 1598663 (N.D. Cal. 2016);
- 22 • *State Compensation Insurance Fund v. Khan et al.*, Case No. SACV 12-01072-
- 23 CJC(JCGx) (C.D. Cal.), Order Granting in Part and Denying in Part the Zaks
- 24 Defendants' Motion for Attorneys' Fees, filed July 6, 2016 (Dkt. No. 408);
- 25 • *In re Cathode Ray Tube Antitrust Litig.*, Master File No. 3:07-cv-5944 JST,
- 26 MDL No. 1917 (N.D. Cal. 2016) 2016 U.S. Dist. LEXIS 24951 (Report And
- 27 Recommendation Of Special Master Re Motions (1) To Approve Indirect
- 28 Purchaser Plaintiffs' Settlements With the Phillips, Panasonic, Hitachi, Toshiba,

1 Samsung SDI, Technicolor, And Technologies Displays Americas Defendants,
2 and (2) For Award Of Attorneys' Fees, Reimbursement Of Litigation Expenses,
3 And Incentive Awards To Plaintiffs' Representative), Dkt. 4351, dated January
4 28, 2016, *adopted in relevant part*, 2016 U.S. Dist. LEXIS 88665;

- 5 • *Gutierrez v. Wells Fargo Bank*, 2015 U.S. Dist. LEXIS 67298 (N.D. Cal. 2015);
- 6 • *Holman v. Experian Information Solutions, Inc.*, 2014 U.S. Dist. LEXIS 173698
7 (N.D. Cal. 2014);
- 8 • *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. M 07-1827 SI, MDL No. 1827
9 (N.D. Cal.), Report and Recommendation of Special Master Re Motions for
10 Attorneys' Fees And Other Amounts By Indirect-Purchaser Plaintiffs' Plaintiffs
11 And State Attorneys General, Dkt. 7127, filed Nov. 9, 2012, adopted in relevant
12 part, 2013 U.S. Dist. LEXIS 49885 (N.D. Cal. 2013) ("*TFT-LCD (Flat Panel)*
13 *Report & Recommendation*");
- 14 • *Walsh v. Kindred Healthcare*, 2013 U.S. Dist. LEXIS 176319 (N.D. Cal. 2013);
- 15 • *A.D. v. California Highway Patrol*, 2009 U.S. Dist. LEXIS 110743, at *4 (N.D.
16 Cal. 2009), *rev'd on other grounds*, 712 F.3d 446 (9th Cir. 2013), *reaffirmed and*
17 *additional fees awarded on remand*, 2013 U.S. Dist. LEXIS 169275 (N.D. Cal.
18 2013);
- 19 • *Hajro v. United States Citizenship & Immigration Service*, 900 F.Supp.2d 1034,
20 1054 (N.D. Cal 2012);
- 21 • *Rosenfeld v. United States Dep't of Justice*, 904 F. Supp. 2d 988, 1002 (N.D. Cal.
22 2012);
- 23 • *Stonebrae, L.P. v. Toll Bros., Inc.*, 2011 U.S. Dist. LEXIS 39832, at *9 (N.D.
24 Cal. 2011) (thorough discussion), *aff'd* 2013 U.S. App. LEXIS 6369 (9th Cir.
25 2013);
- 26 • *Armstrong v. Brown*, 2011 U.S. Dist. LEXIS 87428 (N.D. Cal. 2011);
- 27 • *Lira v. Cate*, 2010 WL 727979 (N.D. Cal. 2010);

- 1 • *Californians for Disability Rights, Inc. v. California Dep't of Transportation*,
2 2010 U.S. Dist. LEXIS 141030 (N.D. Cal. 2010);
- 3 • *Nat'l Federation of the Blind v. Target Corp.*, 2009 U.S. Dist. LEXIS 67139
4 (N.D. Cal. 2009);
- 5 • *Prison Legal News v. Schwarzenegger*, 561 F.Supp.2d 1095 (N.D. Cal. 2008) (an
6 earlier motion);
- 7 • *Bancroft v. Trizechahn Corp.*, No. CV 02-2373 SVW (FMOx), Order Granting
8 Plaintiffs Reasonable Attorneys' Fees and Costs In the Amount of \$168,886.76,
9 Dkt. 278 (C.D. Cal. Aug. 14, 2006);
- 10 • *Willoughby v. DT Credit Corp.*, No. CV 05-05907 MMM (CWx), Order
11 Awarding Attorneys' Fees After Remand, Dkt. 65 (C.D. Cal. July 17, 2006);
- 12 • *Oberfelder v. City of Petaluma*, 2002 U.S. Dist. LEXIS 8635 (N.D. Cal. 2002),
13 *aff'd* 2003 U.S. App. LEXIS 11371 (9th Cir. 2003).

14 **Summary of Opinion and Overview of Declaration**

15 10. My review of Consumer Watchdog Counsel's declarations shows that their lodestar
16 is based on each attorney's requested 2022 hourly rate. See paragraph 11, *infra*. I have examined
17 each attorney's requested lodestar rate, along with each attorney's experience and background and
18 work product here. Based on that review, in my opinion the rates requested by Consumer Watchdog
19 Counsel are well within, if not at the low end of, the range of hourly rates charged by comparably
20 qualified attorneys in the Los Angeles Area performing similar work and with those that other San
21 Diego and Los Angeles area courts have found reasonable for attorneys with comparable litigation
22 experience performing similar services.²

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24
25 ² I have not been asked to express an opinion regarding the reasonableness of the number of hours,
26 the tasks performed, or the lodestar multiplier that are a component of Consumer Watchdog's fee
27 request because Consumer Watchdog Counsel do not believe expert opinion on those issues is
28 necessary. I agree, and the absence of any testimony from me on the reasonableness of the number
of hours spent, the tasks performed, or the requested lodestar multiplier does not in any way reflect
a negative view of their reasonableness.

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Consumer Watchdog Counsel’s Hourly Rates Are Reasonable.

11. I am aware that Consumer Watchdog Counsel request the following hourly rates for their work on appeal this matter:

Consumer Watchdog³

Harvey Rosenfield (admitted CA Bar in 1979)	\$695
Pamela M. Pressley (admitted CA Bar in 1995)	\$595

Strumwasser & Woocher LLP⁴

Michael J. Strumwasser (admitted CA Bar in 1973)	\$900
Bryce Gee (admitted CA Bar in 2002)	\$800
Julia Michel (admitted WA Bar in 2019/CA Bar in 2020)	\$495

12. Under California law, Consumer Watchdog Counsel’s hourly rates are reasonable if they are “within the range of reasonable rates charged by and judicially awarded comparable attorneys for comparable work.” *Children’s Hosp. & Med. Ctr. v. Bonta*, 97 Cal.App.4th 740, 783 (2002).

13. Through my writing and practice, I have become familiar with the non-contingent market rates charged by attorneys in California and elsewhere. This familiarity has been obtained in several ways: (a) by handling attorneys’ fee litigation; (b) by discussing fees with other attorneys; (c) by obtaining declarations regarding prevailing market rates in cases in which I represent attorneys seeking fees; and (d) by reviewing attorneys’ fees applications and awards in other cases, as well as surveys and articles on attorneys’ fees in the legal newspapers and treatises. I also have testified before trial courts and arbitrators on numerous occasions, and have submitted expert

³ These are discounted rates billed by Consumer Watchdog counsel in Proposition 103 matters before the Department of Insurance. In other civil matters, Consumer Watchdog counsel charge higher market rates commensurate with attorneys of comparable experience in civil litigation. It is my understanding that these are the same hourly rates that this Court found reasonable in 2020 for work performed in the trial court proceedings.

⁴ These rates are discounted from Strumwasser & Woocher LLP’s standard commercial rates in civil litigation. It is my understanding that the hourly rates requested for Strumwasser & Woocher’s attorneys are also based on the rates previously approved by this Court, adjusted only to account for inflation since the Court’s prior fee award was issued in 2020.

1 testimony by declaration on hundreds of occasions: each of those efforts require me to be aware of
2 the hourly rates being charged in the relevant community.

3 14. Here, I have reviewed Consumer Watchdog Counsel’s qualifications, backgrounds,
4 experience, work product, and the results they have achieved. Based on the information I have
5 gathered, some of which is set forth below, it is my opinion that the rates requested by Consumer
6 Watchdog Counsel are well within, if not at the low end of, the range of the non-contingent market
7 rates charged by Los Angeles area attorneys of reasonably comparable experience, skill, and
8 reputation for reasonably comparable services. Several factors support my opinion:

9 15. *First*, it is my understanding that Consumer Watchdog Counsel’s requested hourly
10 rates have been found reasonable and awarded in numerous cases. This is a highly probative fact.
11 See *Margolin v. Regional Planning Comm’n*, 134 Cal.App.3d 999, 1005 (1982).

12 16. *Second*, my opinion also is based on the numerous findings of reasonable hourly
13 rates made by San Diego Area and Los Angeles Area courts, which also are highly probative. See
14 *Children’s Hosp. & Med. Ctr. v Bontá*, 97 Cal.App.4th at 783. Those findings are summarized in
15 **Exhibits B (San Diego Area) and C (Los Angeles Area)** attached hereto. For example:

- 16 • In *Campbell v. Barnes*, Orange County Superior Court No. 30-2020-01141117-CU-
17 WM-CXC, Order Granting Petitioners’ Motion for an Award of Attorneys’ Fees,
18 filed January 20, 2022, a case challenging inadequacies in the County jail’s response
19 to the Covid epidemic, the court found the following hourly rates reasonable:

LAW SCHOOL GRADUATION YEAR	RATES
Munger, Tolles & Olson LLP	
2003	\$1,210
2013	\$850
2015	\$750
2016	\$700
2017	\$650
2018	\$550
Non-Attorneys	
Automated Litig. Analyst	
Litigation Analyst	\$250
Paralegals	\$250
ACLU	
1988, 2000, and 2003	\$1,210

2007	\$950
2009	\$900
2015	\$750
2016	\$700
2017	\$650
Non-Attorney	
Senior Investigator	\$250
Schonbrun, Seplow, Harris, Hoffman, And Zeldes LLP	
1976	\$1,000
2016	\$450
2016	\$600
2019	\$440
1975	\$1,025
1976	\$930
1979	\$995
2015	\$570

- In *Independent Living Center of S. Cal. v. Kent*, 2020 U.S. Dist. LEXIS 13019 (C.D. Cal. 2020), an action challenging the State’s right to alter reimbursement rates for Medi-Cal providers, the court found the following 2019 hourly rates reasonable (plus a 1.5 lodestar multiplier):

LAW SCHOOL GRADUATION YEAR	RATES
1975	\$1,025
1976	\$965
1979	\$1,025
2007	\$815
2011	\$800
2015	\$640
2016	\$600
2019	\$440
1975	\$1,025
1976	\$930
1979	\$995
2015	\$570

- In *The Kennedy Commission v. City of Huntington Beach*, Los Angeles County Superior Court No. 30-2015-00801675, Ruling on Submitted Matter filed July 8, 2021, a writ of mandate action challenging a land use amendment adopted by the City of Huntington Beach, the court found the following 2020 hourly rates reasonable (prior to application of a 1.4 lodestar multiplier):

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2020 Rates:

Years of Experience	Rates
38	\$910
40	\$900
26	\$815
23	\$750
16	\$710
14	\$680
10	\$565
7	\$500
6	\$475
5	\$450
2	\$365

- In an earlier ruling in the same case, the court found the following hourly rates reasonable for the Plaintiffs’ private *pro bono* law firm (prior to application of a 1.4 multiplier)⁵:

2016 Rates:

Bar Admission Year	Rates
2001	\$900
2014	\$450

2015 Rates:

Bar Admission Year	Rates
2001	\$875
2014	\$400

- In *Rea v. Blue Shield*, Los Angeles County Superior Court No. BC468900, Fee Order filed November 13, 2020, a class action challenging Blue Shield’s practices

⁵ The initial *Kennedy Commission* fee award was remanded in conjunction with the reversal of the merits. 2017 Cal.App.Unpub.LEXIS 7488 (2017).

1 regarding mental health claims, the court found that \$900 per hour was reasonable
2 for Plaintiffs' three lead attorneys, with 35, 37, and 44 years of experience. It also
3 applied a 1.5 multiplier.

4 Consumer Watchdog Counsel's hourly rates here are well within, if not at the low end of, the range
5 of rates found reasonable in these cases and the others set out in **Exhibits B and C**.

6 **Hourly Rates Charged by Other Law Firms**

7
8 17. *Third*, Consumer Watchdog Counsel's rates also are well within the range of the
9 standard hourly non-contingent rates charged by numerous Los Angeles Area law firms that
10 regularly engage in civil litigation of comparable complexity. A chart showing the hourly rates
11 charged by numerous Los Angeles area law firms, as stated in court filings, depositions, surveys, or
12 other reliable sources, is attached hereto as **Exhibit D**. The rates requested here are well in line with
13 those rates. For example, in 2021, Munger, Tolles & Olson billed a 31-year attorney at \$1,725 per
14 hour and a 12-year attorney at \$995 per hour. In 2019, Pearson Simon & Warshaw, a Plaintiffs'
15 class action firm, billed attorneys with 23-38 years of experience at \$1,150 per hour; rates have
16 generally increased at least 10-12% since 2019. Again, Consumer Watchdog's Counsel's rates are
17 well within this range.

18 **Hourly Rate Surveys and Articles**

19 18. Counsel's requested rates also are supported by several surveys and articles
20 describing legal rates, including the following:

- 21 • The 2020 Mid-Year Real Rate Report compiled by Wolters Kluwer surveyed the
22 hourly rates charged in the second quarter of 2020 by hundreds of Los Angeles area
23 attorneys, relevant excerpts of which are attached hereto as **Exhibit E**. The real
24 market rates of Los Angeles area attorneys who practice "litigation" are surveyed at
25 page 28, which describes the Second Quarter 2020 rates charged by 387 Los Angeles
26 partners and 478 associates who practiced "Litigation." For that category, the Third
27 Quartile rate was **\$940** per hour for "Partners" and **\$740** for "Associates". Likewise,
28 page 34 of the Report describes the rates charged by 365 Los Angeles partners with

1 “21 or more years of experience” and 199 attorneys with “Fewer than 21 years”. For
2 those categories, the Third Quartile Los Angeles rates were **\$1,047** per hour for
3 attorneys with 21 or more years of experience and **\$912** for attorneys with fewer
4 than 21 years. Moreover, in my experience, since the Second Quarter of 2020, most
5 Los Angeles Area firms have raised their rates by at least 3-6%.⁶ Given the
6 exceptional experience, expertise, and skills possessed by Consumer Watchdog
7 Counsel, it is my opinion that rates exceeding the Third Quartile figures are readily
8 justifiable and consistent with the Los Angeles legal marketplace.

- 9 • Consumer Watchdog Counsel’s rates also are consistent with the “Adjusted Laffey
10 Matrix” (laffeymatrix.com), which is based on a survey of hourly rates charged in
11 the Baltimore-Washington, D.C. area. This survey is frequently used across the
12 country, with adjustments for differences in cost of living, to evaluate the
13 reasonableness of hourly rates. For March 2022, the Adjusted Laffey Matrix lists a
14 current rate of **\$919** per hour attorneys who have been out of law school for 20+
15 years, **\$764** per hour for attorneys who have been out of law school for 11-19 years,
16 **\$676** for attorneys who have been out of law school for 8-10 years, **\$468** per hour
17 for attorneys who have been out of law school for 4-7 years, and **\$381** per hour for
18 attorneys who have been out of law school for 1-3 years. Measured under that
19 survey, counsel’s rates here, as adjusted for the Los Angeles Area market, would be
20 2.08% higher than these figures. See
21 <https://www.uscourts.gov/careers/compensation/judiciary-salary-plan-pay-rates> (as
22

23 ⁶ Listed billing rates, court awards, and published articles show that over the past four years, Los
24 Angeles area rates have risen an average of 4-6% per year. For example, in *Planned Parenthood*
25 *Federation of America, Inc. v. Center for Medical Progress*, 2020 U.S. Dist. LEXIS 241035, at *13
26 (N.D. Cal. Dec. 22, 2020), the district court applied a 25% rate increase for the period from 2016 to
27 2020. Similar rate increases in the legal marketplace have been observed by commentators. *See,*
28 *e.g., Aggressive Billing Rate Increases Appear Likely, but Can Clients Stomach It?* Maloney, *The*
American Lawyer (Jan. 24, 2022) (rates rose “nearly 4%” in 2021; Simons, *Big Law Should Raise*
Partner Billing Rates 10+ Percent Now, *The Recorder* (Nov. 15, 2018) at 3 (“In a normal year,
partner rates would go up around 5 or 6 percent”).

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of Jan. 2022, 2.08% differential between Washington D.C. Area and Los Angeles Area rates).

- The 2018 Peer Monitor Public Rates survey, attached hereto as **Exhibit F**, shows that Consumer Watchdog Counsel’s rates here are well within, if not below, the range of hourly rates billed by other top-flight Los Angeles area law firms. For example, 18 Los Angeles area attorneys were listed as billing from \$1,125 to \$1,475 per hour. And again, rates have increased at least 12-16% since 2018.

19. The preceding hourly rates data supports my opinion that Consumer Watchdog Counsel’s rates are well within, if not below, the range of non-contingent rates charged by comparably qualified Los Angeles Area attorneys for reasonably similar work.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 8th day of April, 2022, at Berkeley, California.

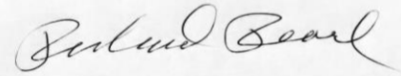

Richard M. Pearl, Esq.

EXHIBIT A

RESUME OF RICHARD M. PEARL

RICHARD M. PEARL

LAW OFFICES OF RICHARD M. PEARL

1816 Fifth Street
Berkeley, CA 94710
(510) 649-0810
(510) 548-3143 (facsimile)
rpearl@interx.net (e-mail)

EDUCATION

University of California, Berkeley, B.A., Economics (June 1966)
Berkeley School of Law (formerly Boalt Hall), Berkeley, J.D. (June 1969)

BAR MEMBERSHIP

Member, State Bar of California (admitted February 1970)
Member, State Bar of Georgia (admitted June 1970) (inactive)
Admitted to practice before all California State Courts; the United States Supreme Court; the United States Court of Appeals for the District of Columbia and Ninth Circuits; the United States District Courts for the Northern, Central, Eastern, and Southern Districts of California, for the District of Arizona, and for the Northern District of Georgia; and the Georgia Civil and Superior Courts and Court of Appeals.

EMPLOYMENT

LAW OFFICES OF RICHARD M. PEARL (April 1987 to Present): Civil litigation practice (AV rating), with emphasis on court-awarded attorney's fees, class actions, and appellate practice. Selected Northern California "Super Lawyer" in Appellate Law for 2005, 2006, 2007, 2008, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, and 2021.

QUALIFIED APPELLATE MEDIATOR, APPELLATE MEDIATION PROGRAM, California Court of Appeal, First Appellate District (October 2000 to 2013) (program terminated).

ADJUNCT PROFESSOR, HASTINGS COLLEGE OF THE LAW (January 1988 to 2014): Taught *Public Interest Law Practice*, a 2-unit course that focused on the history, strategies, and issues involved in the practice of public interest law.

PEARL, McNEILL & GILLESPIE, Partner (May 1982 to March 1987): General civil litigation practice, as described above.

CALIFORNIA RURAL LEGAL ASSISTANCE, INC. (July 1971 to September 1983) (part-time May 1982 to September 1983):

Director of Litigation (July 1977 to July 1982)

Responsibilities: Oversaw and supervised litigation of more than 50 attorneys in CRLA's 15 field offices; administered and supervised staff of 4-6 Regional Counsel; promulgated litigation policies and procedures for program; participated in complex civil litigation.

Regional Counsel (July 1982 to September 1983 part-time)

Responsibilities: Served as co-counsel to CRLA field attorneys on complex projects; provided technical assistance and training to CRLA field offices; oversaw CRLA attorney's fee cases; served as counsel on major litigation.

Directing Attorney, Cooperative Legal Services Center (February 1974 to July 1977) (Staff Attorney February 1974 to October 1975)

Responsibilities: Served as co-counsel on major litigation with legal services attorneys in small legal services offices throughout California; supervised and administered staff of four senior legal services attorneys and support staff.

Directing Attorney, CRLA McFarland Office (July 1971 to February 1974) (Staff Attorney July 1971 to February 1972)

Responsibilities: Provided legal representation to low income persons and groups in Kern, King, and Tulare Counties; supervised all litigation and administered staff of ten.

HASTINGS COLLEGE OF THE LAW, Instructor, Legal Writing and Research Program (August 1974 to June 1978)

Responsibilities: Instructed 20 to 25 first year students in legal writing and research.

CALIFORNIA AGRICULTURAL LABOR RELATIONS BOARD, Staff Attorney, General Counsel's Office (November 1975 to January 1976, while on leave from CRLA)

Responsibilities: Prosecuted unfair labor practice charges before Administrative Law Judges and the A.L.R.B. and represented the A.L.R.B. in state court proceedings.

ATLANTA LEGAL AID SOCIETY, Staff Attorney (October 1969 to June 1971)

Responsibilities: Represented low-income persons and groups as part of 36-lawyer legal services program located in Atlanta, Georgia.

PUBLICATIONS

Pearl, *California Attorney Fee Awards, Third Edition* (Cal. Cont. Ed. Bar 2010) and February 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, and March 2021 Supplements

Pearl, *California Attorney Fee Awards, Second Edition* (Cal. Cont. Ed. Bar 1994), and 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, and 2008 Supplements

Graham v. DaimlerChrysler Corp. and *Tipton-Whittingham v. City of Los Angeles*, Civil Litigation Reporter (Cal. Cont. Ed. Bar Feb. 2005)

Current Issues in Attorneys' Fee Litigation, California Labor and Employment Law Quarterly (September 2002 and November 2002)

Flannery v. Prentice: Shifting Attitudes Toward Fee Agreements and Fee-Shifting Statutes, Civil Litigation Reporter (Cal. Cont. Ed. Bar Nov. 2001)

A Practical Introduction to Attorney's Fees, Environmental Law News (Summer 1995)

Wrongful Employment Termination Practice, Second Edition (Cal. Cont. Ed. Bar 1997) (co-authored chapter on "Attorney Fees")

California Attorney's Fees Award Practice (Cal. Cont. Ed. Bar 1982) (edited), and 1984 through 1993 Supplements

Program materials on attorney fees, prepared as panelist for CEB program on Attorneys' Fees: Practical and Ethical Considerations in Determining, Billing, and Collecting (October 1992)

Program materials on Attorney's Fees in Administrative Proceedings: California Continuing Education of the Bar, prepared as panelist for CEB program on Effective Representation Before California Administrative Agencies (October 1986)

Program materials on Attorney's Fees in Administrative Proceedings: California Continuing Education of the Bar, prepared as panelist for CEB program on Attorneys' Fees: Practical and Ethical Considerations (March 1984)

Settlers Beware/The Dangers of Negotiating Statutory Fee Cases (September 1985) Los Angeles Lawyer

Program Materials on Remedies Training (Class Actions), sponsored by Legal Services Section, California State Bar, San Francisco (May 1983)

Attorneys' Fees: A Legal Services Practice Manual (Legal Services Corporation 1981)

PUBLIC SERVICE

Member, Attorneys' Fee Task Force, California State Bar

Member, Board of Directors, California Rural Legal Assistance Foundation

REPRESENTATIVE CASES

ACLU of N. Cal. v. DEA

(N.D. Cal. 2012) 2012 U.S. Dist. LEXIS 190389

Alcoser v. Thomas

(2011) 2011 Cal. App. Unpub. LEXIS 1180

Arias v. Raimondo

(2018) 2018 U.S. App. LEXIS 7484

Boren v. California Department of Employment

(1976) 59 Cal. App. 3d 250

Cabrera v. Martin

(9th Cir. 1992) 973 F.2d 735

Camacho v. Bridgeport Financial, Inc.

(9th Cir. 2008) 523 F.3d 973

Campos v. E.D.D.

(1982) 132 Cal. App. 3d 961

Center for Biological Diversity v. County of San Bernardino

(2010) 185 Cal. App. 4th 866

Children & Families Commission of Fresno v. Brown

(2014) 228 Cal. App. 4th 45

Committee to Defend Reproductive Rights v. A Free Pregnancy Center

(1991) 229 Cal. App. 3d 633

David C. v. Leavitt

(D. Utah 1995) 900 F. Supp. 1547

Delaney v. Baker

(1999) 10 Cal. 4th 23

REPRESENTATIVE CASES (cont.)

Dixon v. City of Oakland

(2014) 2014 U.S. Dist. LEXIS 169688

Employment Development Dept. v. Superior Court (Boren)

(1981) 30 Cal.3d 256

Environmental Protection Info. Ctr. v Department of Forestry & Fire Protection

(2010) 190 Cal.App.4th 217

Environmental Protection Information Center, Inc. v. Pacific Lumber Co.

(N.D. Cal. 2002) 229 F. Supp.2d 993, *aff'd* (9th Cir. 2004) 103 Fed. Appx. 627

Flannery v Prentice

(2001) 26 Cal. 4th 572

Graham v. DaimlerChrysler Corp.

(2004) 34 Cal. 4th 553

Guerrero v. Cal. Dept. of Corrections etc.

(2016) 2016 U.S. Dist. LEXIS 78796, *aff'd in relevant part*, (9th Cir. 2017) 701 Fed. Appx. 613

Heron Bay Home Owners Assn. v. City of San Leandro

(2018) 19 Cal.App.5th 376

Horsford v. Board of Trustees of Univ. of Calif.

(2005) 132 Cal.App.4th 359

Ketchum v. Moses

(2001) 24 Cal.4th 1122

Kievlan v. Dahlberg Electronics

(1978) 78 Cal.App.3d 951, *cert. denied* (1979)
440 U.S. 951

Lealao v. Beneficial California, Inc.

(2000) 82 Cal.App.4th 19

Lewis v. California Unemployment Insurance Appeals Board

(1976) 56 Cal.App.3d 729

REPRESENTATIVE CASES (cont.)

Local 3-98 etc. v. Donovan

(N.D. Cal. 1984) 580 F.Supp. 714,
aff'd (9th Cir. 1986) 792 F.2d 762

Mangold v. California Public Utilities Commission

(9th Cir. 1995) 67 F.3d 1470

Maria P. v. Riles

(1987) 43 Cal.3d 1281

Martinez v. Dunlop

(N.D. Cal. 1976) 411 F.Supp. 5,
aff'd (9th Cir. 1977) 573 F.2d 555

McQueen, Conservatorship of

(2014) 59 Cal.4th 602 (argued for *amici curiae*)

McSomebodies v. Burlingame Elementary School Dist.

(9th Cir. 1990) 897 F.2d 974

McSomebodies v. San Mateo City School Dist.

(9th Cir. 1990) 897 F.2d 975

Molina v. Lexmark International

(2013) 2013 Cal.App. Unpub. LEXIS 6684

Moore v. Bank of America

(9th Cir. 2007) 2007 U.S. App. LEXIS 19597

Moore v. Bank of America

(S.D. Cal. 2008) 2008 U.S. Dist. LEXIS 904

Mora v. Chem-Tronics, Inc.

(S.D. Cal. 1999) 1999 U.S. Dist. LEXIS 10752,
5 Wage & Hour Cas. 2d (BNA) 1122

Nadaf-Rahrov v. Nieman Marcus Group

(2014) 2014 Cal.App. Unpub. LEXIS 6975

Orr v. Brame

(9th Cir. 2018) 727 Fed.Appx. 265, 2018 U.S.App.LEXIS 6094

REPRESENTATIVE CASES (cont.)

Orr v. Brame

(9th Cir. 2019) 793 Fed.Appx. 485

Pena v. Superior Court of Kern County

(1975) 50 Cal.App.3d 694

Ponce v. Tulare County Housing Authority

(E.D. Cal 1975) 389 F.Supp. 635

Ramirez v. Runyon

(N.D. Cal. 1999) 1999 U.S. Dist. LEXIS 20544

Ridgeway v. Wal-Mart Stores, Inc., 269 F. Supp. 3d 975 (N.D. Cal. 2017), *aff'd on merits (fees not appealed)* 269 F.3d 1066 (9th Cir. 2020)

Robles v. Employment Dev. Dept.

(2019) 38 Cal.App.5th 191

Rubio v. Superior Court

(1979) 24 Cal.3d 93 (amicus)

Ruelas v. Harper

(2015) 2015 Cal.App. Unpub.LEXIS 7922

Sokolow v. County of San Mateo

(1989) 213 Cal. App. 3d. 231

S.P. Growers v. Rodriguez

(1976) 17 Cal.3d 719 (amicus)

Swan v. Tesconi

(2015) 2015 Cal.App. Unpub. LEXIS 3891

Tongol v. Usery

(9th Cir. 1979) 601 F.2d 1091,
on remand (N.D. Cal. 1983) 575 F.Supp. 409,
revs'd (9th Cir. 1985) 762 F.2d 727

Tripp v. Swoap

(1976) 17 Cal.3d 671 (amicus)

REPRESENTATIVE CASES (cont.)

United States (Davis) v. City and County of San Francisco
(N.D. Cal. 1990) 748 F.Supp. 1416, *aff'd in part*
and revs'd in part sub nom Davis v. City and County
of San Francisco (9th Cir. 1992) 976 F.2d 1536,
modified on rehearing (9th Cir. 1993) 984 F.2d 345

United States v. City of San Diego
(S.D.Cal. 1998) 18 F.Supp.2d 1090

Vasquez v. State of California
(2008) 45 Cal.4th 243 (*amicus*)

Velez v. Wynne
(9th Cir. 2007) 2007 U.S. App. LEXIS 2194

AUGUST 2021

EXHIBIT B

EXHIBIT B

Rates Found Reasonable by San Diego Area Courts

The following hourly rates have been found reasonable by various San Diego area courts for reasonably similar services in the San Diego area:

- (1) In *Herring v. Maddow*, 2021 U.S. Dist. LEXIS 23163 (S.D. Cal. 2021), an anti-SLAPP fee award, the court found the following 2020 hourly rates reasonable: \$1,050-1,150 per hour for attorneys with 30+ years of experience; \$720 per hour for a senior associate with 10+ years of experience; and \$470 per hour for associates with 3 years legal experience.
- (2) In *In re Easysaver Rewards Litigation*, 2020 U.S. Dist. LEXIS 77483 (S.D. Cal. 2020), a coupon class action settlement, the court found reasonable 2019 rates of \$850 and \$825 reasonable for partners at San Diego's Cohelan, Khoury and Singer; \$675 per hour for a Cohelan Khoury associate; and \$795 for partners at San Diego's Patterson Law Group.
- (3) In *Corona v. Remington Lodging & Hospitality, LLC*, 2019 U.S. Dist. LEXIS 68116 (S.D. Cal. 2019), a wage and hour class action, the court found that counsel's usual billing rates -- \$750 for 33-year attorney and \$550 for a 14-year attorney -- were reasonable.
- (4) In *San Diego Comic Convention v. Dan Farr Productions, No. 14cv1865-AJB-JMA*, 2019 U.S. Dist. LEXIS 64418 (S.D. Cal. Apr. 15, 2019) *attorney fees aff'd* by 807 F. App'x 674 (9th Cir. Apr. 20, 2020), a trademark infringement case, the court found reasonable the hourly rates of \$760 for partners with 28-29 years of experience, \$685 for a partner with 14 years of

experience, \$585 for attorney with 16 years of experience, and \$545 for an associate with 5 years of experience;,

- (5) In *Youngevity Int'l, Corp. v. Smith*, No. 16-CV-00704-BTMJLB, 2018 U.S. Dist. LEXIS 77659, 2018 WL 2113238, at *5 (S.D. Cal. May 7, 2018), the court found that "Courts in this district have held a range of rates from \$450-750 per hour reasonable for a senior partner in a variety of litigation contexts and specialties."
- (6) In *Weinstein v. Mortgage Contracting Services, LLC*, 2018 U.S. Dist. LEXIS 182718 (S.D. Cal. 2018), a wage and hour class action, the court found that \$750 was a reasonable rate for a 41-year attorney, \$625 per hour for 2005 Bar Admittees, and \$450 per hour for a 10-year attorney.
- (7) In *Lewis v. County of San Diego*, 2017 U.S. Dist. LEXIS 203457 (S.D. Cal. 2017), an unlawful search action against county social workers, the court awarded a 25-year attorney with 19 years of civil rights practice \$600 per hour, a 4-year attorney \$250 per hour, and \$100 per hour for paralegal work.
- (8) In *Beaver v. Tarsadia Hotels*, 2017 U.S. Dist. LEXIS 160214 (S.D. Cal. 2017), a consumer class action, the court approved, as part of the lodestar cross-check for a common fund award, hourly rates that included \$875 for a 40-year attorney, \$725 for a 25-year attorney, \$650 for a 16-year attorney, and \$400 for a seven year attorney.
- (9) In *Dilts v. Penske Logistic, LLC*, 2017 WL 2620664 (S.D. Cal. 2017), a wage and hour class action based in part on the UCL, the court awarded San Diego's Cohelen Khoury & Singer rates

of \$750 per hour for a 33-year attorney, \$550 for a 22-year attorney, and \$170-200 for paralegal work.

- (10) In *Makaef v. Trump University, LLC*, 2015 U.S. Dist. LEXIS 46749 (S.D. Cal. 2015), a fee award for a successful anti-SLAPP motion under California law and the subsequent appeals therefrom, the court found the following hourly rates reasonable for San Diego's Robins Geller Rudman & Dowd: \$825 for a 20-year attorney, \$660 for a 15-year attorney, and \$360 for an 8-year associate. For San Diego's Zeldes Haeggquist & Eck, it found \$600 and \$690 per hour reasonable for 20-year attorneys.
- (11) In *Hohnbaum v. Brinker Restaurants, Inc.*, San Diego County Superior Court No. GIC834348, Order and Judgment Granting Plaintiffs' Motion for Final Approval and Class Action Settlement and Motion for Award of Attorneys' Fees, Costs, Class Representative Service Payments, Claims Administration Exhibits, filed December 15, 2014, plaintiffs' requested hourly rates included rates of \$850 per hour for San Diego attorneys with as little as 24 years' experience and paralegal rates of up to \$195 per hour.
- (12) In *Beltran v. D III Transportation Corp.*, San Diego Superior Court No. 77-2012-00099241-CU-OE-CTL, Order Granting (1) Final Approval of Class Settlement and Entering Judgment; and (2) Award of Attorneys' Fees and Costs etc., filed June 20, 2014, the court found \$750 per hour reasonable for a 30-year San Diego attorney

- (13) In *Chaikin v. Lululemon USA Inc.*, 2014 WL 1245461 (S.D. Cal. 2014), a consumer class action, the court found the following hourly rates reasonable: 2000 Bar admittee - \$650; 2002 Bar admittee - \$500; 2007 Bar admittee - \$500; and 2011 Bar admittee - \$350.
- (14) In *Reed v. 1-800 Contacts, Inc.*, 2014 WL 29011 (S.D. Cal. 2014), a consumer class action alleging violations of Penal Code §630 *et seq.*, the court found that \$650 was a reasonable hourly rate for attorneys with 24 and 27 years of experience. It also found that a 2.9 lodestar multiplier was reasonable.
- (15) In *Johansson-Dohrmann v. CBR Sys.*, 2013 WL 3864341 (S.D. Cal. 2013), a representative action alleging invasion of privacy, the court found that lead class counsel's rate of \$695 per hour was reasonable for a 20-year attorney. It also found that a 2.07 multiplier was reasonable.
- (16) In *Hartless v. Clorox*, 273 F.R.D. 630, 644 (S.D. Cal. 2011), the Court found, *inter alia*, that class counsel's requested rates were consistent with the hourly rates found reasonable in numerous other class actions and with rates charged by other firms in the San Diego area, including rates of \$795 per hour for a 25-year attorney and \$675 per hour for an experienced partner. 273 F.R.D. at 644.
- (17) In *Shames v. Hertz Corp.*, 2012-2 Trade Case. (CCH) ¶¶78,120 (S.D. Cal. 2012), the Court, relying on *Hartless*, found that plaintiffs' San Diego Counsel there were comparable in skill and experience to the attorneys whose rates were found reasonable in *Hartless* at *59-61.

(18) In *Briarwood Capital LLC v. HCC Investors LLC*, San Diego Superior Court No. GIC877446, on March 30, 2011, the court found that the 2009 hourly rates charged by the San Diego office of Bernstein Litowitz Berger & Grossman LLP -- \$725 for partners, \$490-550 for associates -- were reasonable. Similarly, in the same case, the court found that the 2009 rates charged by the Century City office of O'Melveny & Myers LLP, including rates of \$860-950 for a 36-37 year attorney and \$700-710 for 16-18 year attorneys also were reasonable for San Diego litigation.

EXHIBIT C

Pearl Declaration - Exhibit C

Rates Approved by Los Angeles Area Courts

- In *Campbell v. Barnes*, Orange County Superior Court No. 30-2020-01141117-CU-WM-CXC, Order Granting Petitioners’ Motion for an Award of Attorneys’ Fees, filed January 20, 2022, a case challenging inadequacies in the County jail’s response to the Covid epidemic, the court found the following hourly rates reasonable:

LAW SCHOOL GRADUATION YEAR	RATES
Munger, Tolles & Olson LLP	
2003	\$1,210
2013	\$850
2015	\$750
2016	\$700
2017	\$650
2018	\$550
Non-Attorneys	
Automated Litig. Analyst	
Litigation Analyst	\$250
Paralegals	\$250
ACLU	
1988, 2000, and 2003	\$1,210
2007	\$950
2009	\$900
2015	\$750
2016	\$700
2017	\$650
Non-Attorney	
Senior Investigator	\$250
Schonbrun, Seplow, Harris, Hoffman, And Zeldes LLP	
1976	\$1,000
2016	\$450
2016	\$600
2019	\$440
1975	\$1,025
1976	\$930
1979	\$995
2015	\$570

- In *Alvarez, et al. v. XPO Logistics Cartage, LLC et al.*, United States District Court, Central District of California, No. 2:18-cv-03736-RGK-E, Order re: Motions for Attorneys’ Fees, Costs, and Incentive Awards, filed February 8, 2022, a wage and hour class action, the court found the following 2021 hourly rates reasonable as part of its lodestar cross-check:

YEARS OF EXPERIENCE	RATES
Sayas Law Firm	
35	\$900
17 (Sr. Associate)	\$695
Paralegals	\$225-\$350
Bush Gottlieb	
1980	\$975
1989	\$900
1994	\$850
2012	\$575
2014	\$525
2016	\$475
2018	\$425
2020	\$375
Law Clerks	\$225
Paralegals	\$225

- In *The Kennedy Commission v. City of Huntington Beach*, Los Angeles County Superior Court No. 30-2015-00801675, Ruling on Submitted Matter filed July 8, 2021, a writ of mandate action challenging a land use amendment adopted by the City of Huntington Beach, the court found the following hourly rates reasonable (prior to application of a 1.4 lodestar multiplier):

2020 Rates:	Years of	Rates
	38	\$910
	40	\$900
	26	\$815
	23	\$750

	16	\$710
	14	\$680
	10	\$565
	7	\$500
	6	\$475
	5	\$450
	2	\$365

In an earlier ruling in the same case, the court found the following hourly rates reasonable for the Plaintiffs' private *pro bono* law firm (prior to application of a 1.4 multiplier) ¹:

2016 Rates:	Bar Admission	Rates
	2001	\$900
	2014	\$450
2015 Rates:	Bar Admission	Rates
	2001	\$875
	2014	\$400

- In *Rea v. Blue Shield*, Los Angeles County Superior Court No. BC468900, Fee Order filed November 13, 2020, a class action challenging Blue Shield's practices regarding mental health claims, in which the court found that \$900 per hour was reasonable for plaintiffs' three lead attorneys, with 35, 37, and 44 years of experience. It also applied a 1.5 multiplier.
- In *Caldera v. State of California*, San Bernardino County Superior Court No. DS1000177, Ruling on Plaintiff's Motion for Attorney's

¹ The initial *Kennedy Commission* fee award was remanded in conjunction with the reversal of the merits. 2017 Cal.App.Unpub.Lexis 7488 (2017).

Fees filed October 23, 2020, an individual Fair Employment and Housing Act case, the court found that \$825 per hour was a reasonable hourly rate in the Los Angeles legal marketplace for 26-year attorney's appellate work (before applying a 1.65 lodestar multiplier).

- In *Independent Living Center of S. Cal. v. Kent*, 2020 U.S. Dist. LEXIS 13019 (C.D. Cal. 2020), an action seeking to enjoin the challenging the State's right to alter reimbursement rates for Medi-Cal providers, the court found the following hourly rates reasonable (before applying a 1.5 lodestar multiplier):

2019 Rates:	Law School Graduation Year	Rates
	1975	\$1,025
	1976	\$965
	1979	\$1,025
	2007	\$815
	2011	\$800
	2015	\$640
	2016	\$600
	2019	\$440
2018 Rates:	Law School Graduation Year	Rates
	1975	\$1,025
	1976	\$930
	1979	\$995
	2015	\$570

- In *Lavinsky v. City of Los Angeles*, Los Angeles County Superior Court No. BC542245, Fee Award filed October 9, 2019, a class action challenge to a municipal tax, the court found the following hourly rates reasonable (before applying a 3.8 lodestar multiplier for contingent risk, etc.):

YEARS OF EXPERIENCE	RATE
25	\$850
29	\$800
17	\$695
9	\$475
5-7	\$450
1	\$295
Paralegal	\$125

- In *Hadsell v. City of Baldwin Park*, Los Angeles County Superior Court No. BC 548 602, Notice of Ruling on Plaintiff's Motion for Attorneys' Fees filed June 25, 2019, the court found the following hourly rates reasonable (before applying a 1.5 multiplier):

CAL BAR ADMISSION DATE	RATE
1987	\$1,100
1990	\$1,100
2008	\$800
2008	\$650
2012	\$550
2016	\$500

- In *Pinter-Brown v. UCLA*, Los Angeles Superior Court No. BC624838, Fee Order filed August 3, 2018, the court found the following 2018 hourly rates reasonable:

CAL BAR ADMISSION DATE	RATE
1990	\$1,100
2008	\$675
2012	\$500
2016	\$400
2015	\$350
2016	\$325
2017	\$300

- In *Wishtoyo Foundation et al v. United Water Conservation Dist.*, 2019 U.S.Dist.LEXIS 39927 (C.D. Cal. 2019), an environmental action under the federal Endangered Species Act, the court found the following hourly rates reasonable:

	Bar Admittance or Law School Graduation	2018 Rates
	1986	\$840
		\$780
		\$735
		\$720
		\$670
		\$600
		\$425
		\$680
	Paralegals	\$200-250

- In *Monster, LLC, et al., v. Beats Electronics, LLC et al.*, Los Angeles Superior Court Case No. BC595235 (2017), Order Granting Defendant and Cross-Complainant Beats Electronics, LLC's Motion for Attorneys' Fees and Costs, filed June 27, 2018, a commercial dispute, the court found the following hourly rates reasonable for Beats' attorneys' work on the successful jury trial that

determined the amount of reasonable attorneys' fees Monster would be required to pay as damages:

Boies, Schiller & Flexner	Bar Admittance or Law School Graduation	2016/2017 Rates
Partners:	1986	\$960/\$1,049
	2006	\$920/\$972
	2000	\$880
	2001	\$880
	2002	\$830
	1999	\$830
	2004	\$740 (2015); \$760 (2016)
	2006	\$680
	2007	\$650/\$714
	2009	\$600/\$800
Associates:	2004	\$680
	2009	\$610
	2013	\$460/\$533
	2013	\$490
	2010	\$630
	2011	\$480/\$602
2014-2015	\$420	
Non-Attorneys Timekeepers:		\$190-284

<u>Gibson Dunn & Crutcher</u>	Bar Admittance or Law School Graduation	2017 Rates
	1987	\$852 (through Aug. 2017) \$956 (from Sept. 2017)
	2008	\$592 (through Aug. 2017) \$696 (from Sept. 2017)
	2013	\$404 (through Aug. 2017) \$600 (from Sept. 2017)
	2015	\$520
	2016	\$472
	1997	\$960
	2006	\$736
	1987	\$944
Non-Attorneys Timekeepers:		\$216-\$335

- In *Nozzi v. Housing Authority*, 2018 U.S.Dist.LEXIS 26049 (C.D.

Cal. 2018), tenant class action, the court approved the following hourly rates as reasonable:

Kaye McLane Bednarski & Litt	Bar Admittance or Law School Graduation	2017 Rates
	1969	\$1,150
	1992	\$750
	1993	\$765
	2008	\$730
	Sr. Paralegal	\$335
	Jr. Paralegal	\$150
	Law Clerk	\$200

- In *Monster, LLC, et al., v. Beats Electronics, LLC et al.*, Los Angeles Superior Court Case No. BC595235 (2017), the same commercial dispute listed above, the court found the following 2017 rates to be reasonable for Beats’s co-defendants who had obtained relief by summary judgment (see Order Granting Motions for Attorneys’ Fees, filed October 12, 2017, p. 2):

	Bar Admittance or Law School Graduation	2016 Rates (unless otherwise noted)
Partners:	1966	\$1,000 (2015); 1,245 (2016)
	1977	\$1,110 (2015)
	1981	\$910
	1985	\$995
	1992	\$875-885
	1995	\$910
	2002	\$750
Of Counsel:	1976	\$705
Associates:	2009	\$615 (2015); \$660 (2016)
Non-Attorneys Timekeepers:		\$380-90

- In *The Kennedy Commission v. City of Huntington Beach*, Los Angeles County Superior Court No. 30-2015-00801675, Order Granting Petitioners' Motion for Attorneys' Fees Pursuant to California Code of Civil Procedure § 1021.5, filed July 13, 2016, a writ of mandate action challenging a

land use amendment adopted by the City of Huntington Beach, the court found the following hourly rates reasonable for the Plaintiffs' private *pro bono* law firm (prior to application of a 1.4 multiplier)²:

2016 Rates:	Bar Admission	Rates
	2001	\$900
	2014	\$450
2015 Rates:	Bar Admission	Rates
	2001	\$875
	2014	\$400

- In *Willits et al v. City of Los Angeles*, No. CV 10-5782 CCBM (RZx) (C.D. Cal.), Order Granting Motion for Attorneys' Fees and Costs, filed August 25, 2016 (Dkt. No. 418), a class action lawsuit against the City of Los Angeles by persons with mobility disabilities under the Americans with Disabilities Act and the Rehabilitation Act of 1973 challenging the inaccessibility of the City's sidewalks, the court found the following 2015 hourly rates reasonable:

Law School	Rates
1976	\$1,115.60
1977 (associate)	700
1981	795
1987	680-775
1993	750
1999	644-695

² The *Kennedy Commission* fee award was remanded in conjunction with the reversal of the merits. 2017 Cal.App.Unpub.Lexis 7488 (2017).

2001	625
2003	550
2006	525 —
2007	450
2008	473
2009	450
2010	350-400
2011	300-385
2012	300
2013	300-325
Paralegals and Law	110-250
Case Assistants	220-230
Docket Clerk	230

- In *State Compensation Insurance Fund v. Khan et al*, Case No. SACV 12-01072-CJC(JCGx) (C.D. Cal.), Order Granting in Part and Denying in Part the Zaks Defendants' Motion for Attorneys' Fees, filed July 6, 2016 (Dkt. No. 408), a multi-defendant RICO action, the court found the following hourly rates reasonable:

Years of Experience	Rates
22	\$890
20	\$840
5	\$670
4	\$560
Paralegals	\$325-340
Case Assistants	\$220-230

Docket Clerk	\$230
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- In *ScriptsAmerica, Inc. Ironridge Global LLC et al*, Case No. CV 14-03962-SJO (AGRx) (C.D. Cal.), Order Granting Defendant Ironridge GlobalLLC, John Kirkland, Brendan O'Neill's Motion for Attorney's Fees, filed January 12, 2016 (Dkt. No. 50), a contract dispute, the court found the following 2015 hourly rates reasonable:

Years of Experience	Rates
37	\$950
11	\$700
4	\$450
Paralegals	\$200-350

- In *Perfect 10, Inc. v. Giganews, Inc.*, 2015 U.S. Dist. LEXIS 54063 (C.D. Cal. 2015), filed March 24, 2015, *affirmed* 847 F.3d 657 (9th Cir. 2017), a copyright infringement action, the court found the following 2015 hourly rates reasonable:

Years of Experience	2015 Rate
29	\$825-930
18	\$750
17	\$705-750
12	\$610-640
11	\$660-690

10	670
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9	660-690
8	470-525
7	640
5	375-560
4	350-410
3	505
2	450
1	360-370
Paralegals	240-345
Discovery Support	245-290

- In *Rodriguez v. County of Los Angeles*, 96 F.Supp.3d 990 (C.D. Cal. 2014), Order Granting Plaintiffs' Motion for Attorneys' Fees, filed December 29, 2014, *affirmed* 891 F.3d 779 (9th Cir. May 30, 2018), a civil rights action on behalf of five county jail prisoners, the district court found the following hourly rates reasonable, plus a 2.0 lodestar multiplier for merits work performed on the plaintiffs' California cause of action; the entire award was affirmed on appeal:

Years of Experience	Rate
45	\$975
28	700-775
26	775
10	600
6	500
Senior Paralegal	295
Other Paralegals	175-235
Law Clerk	250

- In *Doe v. United Healthcare Insurance Co., et al.*, No. SACV13-0864 DOC(JPRx) (C.D. Cal.), Order Granting Attorney's Fees and Costs, filed October 15, 2014, a multi-Plaintiff consumer action, the court found the following hourly rates reasonable:

Whatley Kallas

Years of Experience	Rate
36	\$950
27	900
32	800
33	750
21	700
10	600
4	400
2	375
Paralegal	225

Consumer Watchdog

Years of Experience	Rate
35	\$925
19	650
4	425

- In *Pierce v. County of Orange*, 905 F. Supp. 2d 1017 (C.D. Cal. 2012), a civil rights class action brought by pre-trial detainees, the court approved a lodestar based on the following 2011 rates:

Years of Experience	Rate
42	\$850

32	825
23	625
18	625
Law Clerks	250
Paralegals	250

EXHIBIT D

Pearl Decl. - Exhibit D
Rates Charged by Los Angeles Area Law Firms

Ahdoot & Wolfson		
2019 Rates	Years of Experience	Rate
	25	\$850
	29	\$800
	17	\$695
	9	\$475
	5-7	\$450
	1	\$295
	Paralegal	\$125

Arnold & Porter Kaye Scholar LLP		
2021 Rates	Level	Rates
	Partners	\$750-\$1,150
	Senior Counsel	\$910-\$1,280
	Associates	\$545-\$910
	Paralegals	\$390-\$405
2015 Rates:	Level	Rates
	Partners	Up to \$1,085
	Associates	Up to \$710

2014 Rates:	Years of Experience	Rates
	49	\$995
	45	\$720
	39	\$655
2013 Rates:	Level	Rates
	Average Partner	\$815
	Highest Partner	\$950
	Lowest Partner	\$670
	Average Associate	\$500
	Highest Associate	\$610
	Lowest Associate	\$345

The Arns Law Firm LLP		
2020 Rates:	Years of Experience	Rates
	1975	\$950
	2010	\$575
	2013	\$525

Bush Gottlieb		
2021 Rates:	Law School Graduation Date	Rates
	1980	\$975

	1989	\$900
	1994	\$850
	2012	\$575
	2014	\$525
	2016	\$475
	2018	\$425
	2020	\$375
	Law Clerks	\$225
	Paralegals	\$225
2019 Rates:	Class Year	Rates
Lawyers:	1980	\$900
	1989	\$900
	1974	\$850
	2002	\$725
	2006	\$625
	2013	\$450
	2014	\$425
	2015	\$400
	2016	\$375
Law Clerks/Support Staff:		\$200

Cooley LLP		
2021 Rates:	Years of Experience	Rates
	27 (Partner)	\$1,415
	27 (Special Counsel)	\$1,210
2020 Rates	Years of Experience	Rates
	26 (Partner)	\$1,275
	26 (Special Counsel)	\$1,140
	12 (Associate)	\$1,120
2017 Rates:	Years of Experience	Rates
	22	\$905
2014 Rates:	Years of Experience	Rates
	31	\$1,095
	17	\$770
	9	\$685
2013 Rates:	Years of Experience	Rates
	30	\$1,035
	16	\$710
	8	\$645
Crowell & Moring		
2020 Rate:	Years of Experience	Rate
	27	\$1,090

Law Offices of James DeSimone		
2020 Rate:	Years of Experience	Rate
	33	\$1,000
Dordick Law		
2019 Rates:	Bar Admission Year	Rates
	1987	\$1,100

Duane Morris LLP		
2018 Rates:	Bar Admission Year	Rates
	1973	\$1,005
	2008	\$605
	2011	\$450
	2017	\$355
	Sr. Paralegal	\$395
2016 Rates:	Years of Experience	Rates
	43	\$880
	41	\$880
	26	\$720
	25	\$695
Galipo, Law Offices of		
2019 Rates:	Bar Admission Year	Rates
	1989	\$1,000

Gibson Dunn & Crutcher LLP		
2021 Rates:	Years of Experience	Rates
	33	\$1,355
	29	\$1,185
	5	\$905
	Other Staff	\$280
2020 Rates:	Level	Rates
	Senior Partners	\$1,395 – 1,525
	Senior Associate	\$960
	Mid-level Associate	\$740
	Paralegals	\$480
2017 Rates:	Bar Admittance or Law School Graduation	Rates
	1987	\$956
	1987	\$944
	1997	\$960
	2006	\$736
	2008	*\$592/\$696
	2013	\$\$600
	2015	\$520
	2016	\$472
Non-Attorney		\$216-\$335
2016 Rates	Bar Admittance	Rates
	1987	\$852
	2010	\$540
	2013	\$404
2015 Rates	Years of Experience	Rates
	37	\$1,125

	23	\$955
	3	\$575

Hadsell, Stormer, Richardson & Renick		
2019 Rates:	Years of Experience	Rates
	46	\$1,150
	17	\$750
	10	\$575
	7	\$500
	6	\$475
2015 Rates:	Years of Experience/Level	Rates
	42	\$1,050
	20	\$750
	26	\$700
	16	\$650
	13	\$600
	5	\$425
	4	\$375
	Law Clerks	\$225
	Paralegals	\$175-250
2012 Rates:	Years of Experience	Rates
	38	\$825

	33	\$775
	22-23	\$625
	17	\$600
	12	\$525
	10	\$425
	4	\$275
	3	\$250

Hagens Berman Sobol Shapiro LLP		
2017 Rates:	Levels	Rates
	Senior Attorney	\$950
	Other Partners	\$578-\$760
	Associates	\$295-\$630

Hooper, Lundy & Bookman		
2019 Rates:	Law School Graduation Year	Rates
	1975	\$1,025
	1976	\$965
	1979	\$1,025
	2007	\$815

	2011	\$800
	2015	\$640
	2016	\$600
	2019	\$440
2018 Rates:	Law School Graduation Year	Rates
	1975	\$1,025
	1976	\$930
	1979	\$995
	2015	\$570

Jones Day		
2020 Rates:	Years of Experience e	Rates
	1 st	\$413.25
2018 Rates:		
	30+	\$1,025
2016 Rates:	Bar Admission Year	Rates
	2001	\$900
	2004	\$850 (partner)
	2004	\$657.70 (assoc.)
	2014	\$450
2015 Rates:	Bar Admission Year	Rates

	2001	\$875
	2014	\$400

Kaye, McLane, Bednarski & Litt		
2019 Rates:	Graduation Year	Rates
	1969	\$1,200
	1993	\$800
	2008	\$600-\$700
	2006	\$700
	Paralegals	\$125-360
	Law Clerks	\$225
2017 Rates:	Graduation Year	Rates
	1969	\$1,150
	1992	\$750
	1993	\$765
	2008	\$730
	Sr. Paralegal	\$335
	Jr. Paralegal	\$150
	Law Clerk	\$200
2014 Rates:	Years of Experience	Rates
	45	\$975
	28	\$700-775

	26	\$775
	10	\$600
	6	\$500
	Senior Paralegal	\$295
	Other Paralegal	\$175-235
	Law Clerk	\$250

Kirkland & Ellis		
2021 Rates:	Title	Rates
	Partners	\$1,085-\$1,895
	Associates	\$625-\$1,195
	Paraprofessionals	\$255-\$475
2020 Rates:	Title	Rates
	Partners	\$1,075-\$1,845
	Associates	\$610-\$1,165
	Paraprofessionals	\$245-\$460
2017 Rates:	Years of Experience	Rates
	20	\$1,165
	9	\$995
	8	\$965
	5	\$845
	4	\$845

	3	\$810
	2	\$555

Latham & Watkins		
2016 Rates:	Average Partner	\$1,185.83
	Highest Partner	\$1,595
	Lowest Partner	\$915
	Average Associate	\$754.62
	Highest Associate	\$1,205
	Lowest Associate	\$395

Michelman & Robinson LLP		
2018 Rates:	Bar Admission Date	Rates
	Partners	\$995
	Senior Associate	\$580
	Associate	\$480

Milbank, Tweed, Handley & McCloy LLP		
2016 Rates:	Bar Admission Date	Rates
	1983	\$1,025
	1984	\$1,350
	1992	\$1,350
	2002 (Associate)	\$915

Morrison Foerster LLP		
2021 Rates:	Law School Graduation Year	Rate
	2002	\$1,200
	2011	\$1,075
	2014	\$925
	2018	\$745
	Paralegal	\$295
2020 Rates:	Law School Graduation Year	Rate
	2002	\$1,125
	2011	\$975
	2014	\$810
	2018	\$640
	Paralegal	\$275
2018 Rates:	Years of Practice	Rates
	40	\$1,050
	22	\$950
	11	\$875
	3	\$550
	Paralegal	\$325
2017 Rates:	Bar Admission Date	Rates

	2007	\$608
	2012	\$575
2016 Rates:	Bar Admission Date	Rates
	1975	\$1,025
	1999	\$975
	1993	\$975
2013 Rates:	Level	Rates
	Average Partner	\$865
	Highest Partner	\$1,195
	Lowest Partner	\$595
	Average Associate	\$525
	Highest Associate	\$725
	Lowest Associate	\$230

Munger, Tolles & Olson		
2021 Rates	Law School Grad. Year	Rate
	1991	\$1,725
	2003	\$1,210
	2009	\$995
	2013	\$1,040
	2015	\$995
	2016	\$825

	2017	\$880
	2018	\$805
	Paralegal	\$420-475
	Automated Litig. Analyst	\$540-570
2020 Rates:		
	1991	\$1,610
	2001	\$950
	2009	\$920
	2016	\$725
	Paralegal (42 years' experience)	\$345
2016 Rates (unless otherwise noted):	Bar Admittance or Law School Graduation	Rates
Partners:	1966	\$1,000 (2015); 1,245 (2016)
	1977	\$1,110 (2015)
	1981	\$910
	1985	\$995
	1992	\$875-885
	1995	\$910
	2002	\$750
Of Counsel:	1976	\$705

Associates:	2009	\$615 (2015); \$660 (2016)
Non-Attorneys Timekeepers:		\$380-90

O'Melveny & Myers		
2019 Rates:	Level	Rate
	Senior Partner	\$1,250
	Partner (1998 Bar Admittee)	\$1,050
	3rd Year Associate	\$640
	2nd Year Associate	\$565
2016 Rates:	Bar Admission Date	Rates
	1985	\$1,175
	2004	\$895
	2005	\$780
	2007	\$775
	2010	\$725
	2011	\$700
	2012	\$655
	2013	\$585
	2014	\$515
2015	\$435	
2013 Rates:	Level	Rates

	Average Partner	\$715
	Highest Partner	\$950
	Lowest Partner	\$615

Orrick Herrington & Sutcliffe		
2014 Rates:	Level	Rates
	Average Partner	\$845
	Highest Partner	\$1,095
	Lowest Partner	\$715
	Average Associate	\$560
	Highest Associate	\$710
	Lowest Associate	\$375

Paul Hastings LLP		
2020 Rates:	Years of Experience	Rates
	25	\$1,425
	7	\$885
	5	\$775
	3	\$645
	Research assistant	\$335
2016 Rates:	Bar Admission Date	Rates
	1973	\$1,175
	1997	\$895
	1990	\$750
2014 Rates:	Level	Rates
	Average Partner	\$815
	Highest Partner	\$900
	Lowest Partner	\$750
	Average Associate	\$540
	Highest Associate	\$755
	Lowest Associate	\$350

Pearson Simon & Warshaw LLP		
2019 Rates:	Years of Experience	Rates
	23-38	\$1,150

	10	\$900
	Of Counsel	\$825
	6	\$500
	4	\$450
	Paralegals	\$225
2018 Rates:	Years of Experience	Rates
	22-37	\$1,050
	9	\$650
	Of Counsel	\$725
	5	\$450
	3	\$400
2017 Rates:	Years of Experience	Rates
	35-36	\$1,035
	8	\$520
	4	\$400
	2	\$350

Proskauer Rose LLP		
2016 Rates:	Bar Admission Date	Rates
	1974	\$1,475
	1983	\$1,025
	1979	\$950

	2007	\$850
	2013	\$495
	2015	\$440-445

Quinn Emanuel Urquhart & Sullivan		
2018 Rates:	Law School Graduation Yr.	Rates
	1980	\$1,135
	2016	\$630
2013 Rates:	Level	Rates
	Average Partner	\$915
	Highest Partner	\$1,075
	Lowest Partner	\$810
	Average Associate	\$410
	Highest Associate	\$675
	Lowest Associate	\$320

Reed Smith LLP		
2020 Rates:	Years of Experience	Rates
	22	\$930
	16	\$780
	14	\$840
	Paralegals	\$250

2014 Rates:	Years of Experience	Rates
	37	\$830
	18	\$695
	15	\$585
	6	\$485
	5	\$435
2013 Rates:	Years of Experience	Rates
	Partners	
	36	\$830
	30	\$805
	17	\$610-615
	14	\$570
	Associates	
	8	\$450-535
	6	\$495

Ropes & Gray		
2016 Rates:	Level	Rates
	Partner	\$880-1,450
	Counsel	\$605-1,425
	Associate	\$460-1050
	Paralegals	\$160-415

Schonbrun, DeSimone, Seplow, Harris & Hoffman		
2021 Rates:	Law School Grad. Yr.	Rates
	1975	\$1,025
	1976	\$1,000
	1976	\$930
	2016	\$600
	2016	\$450
	2019	\$440
2019 Rates:	Years of Experience	Rates
	43	\$1,050
2014 Rates:	Years of Experience	Rates
	29	\$750
	24	\$700
2012 Rates:	Years of Experience	Rates
	27	\$695
	22	\$630

Shegarian Law		
2018 Rates:	Years of Experience	Rate
	29	\$1,100
	10	\$675
	6	\$500

Skadden, Arps, Slate, Meagher & Flom		
2013 Rates:	Level	Rates
	Average Partner	\$1,035
	Highest Partner	\$1,150
	Lowest Partner	\$845
	Average Associate	\$620
	Highest Associate	\$845
	Lowest Associate	\$340

Law Office of Carol Sobel		
2020 Rate:	Years of Experience	Rate
	42	\$1,050
2019 Rate:	Years of Experience	Rate
	41	\$1,000
2015 Rates:	Years of Experience	Rate
	37	\$875

Wilson Sonsini Goodrich & Rosati PC		
2017 Rates:	Bar Admission Date	Rates
	2000	\$950

Winston & Strawn

2019 Rates:	Level	Rates
	Partners:	
		\$1,515
		\$1,245
		\$1,105
		\$1,025
	Associates:	
		\$825
		\$660
		\$615
2018 Rates:	Level	Rates
	Partners:	
		\$1,445
		\$1,185
		\$1,050
		\$820
	Associates:	
		\$765
		\$585
	Paralegals:	\$170-340
	Litigation Support Mgr.	\$275

	Review Attorneys	\$85
2017 Rates:	Level	Rates
	Partners:	
		\$1,365
		\$1,120
		\$990
	Associates:	
		\$760
		\$690
		\$645
		\$520
		\$495
		Paralegals: \$165-295
2016 Rates:	Level	Rates
	Partners:	
		\$1,290
		\$1,095
		\$965
		\$960
		\$885
	Associates:	
		\$715

		\$615
		\$575
		\$470
	Paralegals:	\$170-280
	Litigation Support Mgr.:	\$250

EXHIBIT E



*2020 Real
Rate Report*[®]
Mid-Year Update

The Industry's
Leading Analysis
of Law Firm Rates,
Trends, and Practices

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A Letter to Our Readers

Welcome to the Wolters Kluwer's ELM Solutions Real Rate Report®, the industry's leading data-driven benchmark report for lawyer rates.

Welcome to the Wolters Kluwer's ELM Solutions 2020 Mid-Year Real Rate Report®, the industry's leading data-driven benchmark report for lawyer rates. Our Real Rate Report has been a useful data analytics resource to the legal industry since its inception in 2010 and continues to evolve even in the current environment.

The Real Rate Report is powered by Wolters Kluwer's ELM Solutions LegalVIEW® data warehouse, the world's largest source of legal performance benchmark data, which has grown to include over \$140 billion in anonymized legal data.

As with past Real Rate Reports, all of the data analyzed are from corporations' and law firms' e-billing and time management solutions. We have included lawyer and paralegal rate data filtered by specific practice and sub-practice areas, metropolitan areas, and types of matters to give legal departments and law firms greater ability to pinpoint areas of opportunity.

So far, 2020 has been an unprecedented year with the global pandemic causing disruption to health, economies, and society. Many industry sectors have been impacted by COVID-19, and the legal industry is no exception. Our business intelligence experts have observed downward but uneven trends in law firm billing activity and intend to continue to track the legal industry response. We strive to make the Real Rate Report a valuable and actionable reference tool for legal departments and law firms.

In our current environment, the need for a reliable and comparative data source for rates has never been more important. As always, we welcome your comments and suggestions on what information would make this publication more valuable to you. We thank you for making Wolters Kluwer's ELM Solutions your trusted partner for legal industry domain expertise, data, and analytics and look forward to continuing to provide market-leading, expert solutions that deliver the best business outcomes for collaboration among legal departments and law firms.

Sincerely,



Jonah Paransky

Executive Vice President and General Manager
Wolters Kluwer's ELM Solutions

Report Use Considerations

2020 Mid-Year Real Rate Report

- Examines law firm rates over time
- Itemizes rates by location, experience, firm size, areas of expertise, industry, and timekeeper role (i.e., partner, associate, and paralegal)
- Identifies variables that drive rates up or down

All the analyses included in the report derive from the actual rates charged by law firm professionals as recorded on invoices submitted and approved for payment.

Examining real, approved rate information, along with the ranges of those rates and their changes over time, highlights the role these variables play in driving aggregate legal cost and income. The analyses can energize questions for both corporate clients and law firm principals.

Clients might ask whether they are paying the right amount for different types of legal services, while law firm principals might ask whether they are charging the right amount for legal services and whether to modify their pricing approach.

Some key factors¹ that drive rates²:

- **Geographic location** - Lawyers in urban and major metropolitan areas tend to charge more when compared with lawyers in rural areas or small towns.
- **Degree of difficulty** - The cost of representation will be higher if the case is particularly complex or time-consuming; for example, if there are a large number of documents to review, many witnesses to depose, and numerous procedural steps, the case is likely to cost more (regardless of other factors like the lawyer's level of experience).
- **Experience and reputation** - A more experienced, higher-profile lawyer is often going to charge more, but absorbing this higher cost at the outset may make more sense than hiring a less expensive lawyer who will likely take time and billable hours to come up to speed on unfamiliar legal and procedural issues.
- **Overhead** - The costs associated with the firm's support network (paralegals, clerks, and assistants), document preparation, consultants, research, and other expenses.

Additional analysis was performed to examine the impact of rates on law firm invoices relative to an e-billing providers' business model. It should be noted that there are several industry-standard business models that e-billing providers use to charge law firms and other legal service providers to submit invoices and perform other transactions through their systems. The three main model types are:

- Client pay, where the corporate client pays a subscription for the matter and spend solution.
- Law firm pay, where the law firm pays a subscription or usage fee based on the invoices submitted.
- Hybrid, which is a combination of a client pay and law firm pay.

¹ Source: 2018 RRR. Factor order validated in multiple analyses since 2010

² David Goguen, J.D., University of San Francisco School of Law (2017) Guide to Legal Services Billing Retrieved from <https://www.lawyers.com/legal-info/research/guide-to-legal-services-billing-rates.html>

Report Use Considerations

The data shows that the law firm pay model has become normative in the industry – 85%+ of Wolters Kluwer’s ELM Solutions clients’ law firms participate in a law firm pay or hybrid model. In addition, 99% of the Am Law 200 law firms participate in at least one law firm pay model paying 1% or more on the invoices submitted, and 97% of the Am Law 200 pay 2%.

The analysis performed then examined law firm rates from firms who participated in one of those law firm pay/hybrid models versus those who are in a client pay model. The analysis showed no statistical difference in rates, suggesting that the business model that the firm participates in does not impact the rates the firm charges to their corporate client.

Effects of COVID-19

Additional analyses were performed to assess any trends and potential effects of COVID-19 on rates and other measures. Across all industries, we see a decline of 7% in the number of new matters being opened. Legal spend is down 5%. Activity varies by industry with spend decreasing only 1% in the technology sector but up to 30% for consumer services.

In some instances, we see more than expected increases in attorney rates. Among the possible reasons for this are:

- Potential opportunistic billing created by the pandemic. Dislocations in the supply chain in some segments of the market which allow firms to charge more for services.
- Law firms may have reduced staff to cut expenses. The data in the mid-year report shows a slight increase in the number of billing partners and a decrease in billing paralegals. Be on guard for opportunistic pricing and weigh your outside counsel relationships accordingly.

Overall, the data in the 2020 Mid-Year Real Rate Report provides corporate counsel with an understanding of the rates they can expect to pay for a given matter type, division, industry, or practice area and offers in-depth analyses on key drivers of rates to help make informed selection decisions. For law firms, it provides a relative benchmark to ensure that pricing for legal services remains competitive.

Wolters Kluwer’s ELM Solutions research shows: you can evaluate these rates with confidence they are not affected by e-billing pricing models; you should stay sensitized to potential Covid influences on rates and activity in some markets and guard against overpaying.

Section I: High-Level Data Cuts

Cities

By Matter Type

Q2 2020 -- Real Rates for Partners and Associates

Trend Analysis (Mean)

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	Q2 2020	Q2 2019	Q2 2018
New York	Litigation	Partner	49	\$317	\$400	\$483	\$413	\$419	\$386
		Associate	35	\$190	\$251	\$321	\$264	\$268	\$264
		Senior Counsel	57	\$383	\$441	\$525	\$446	\$426	\$413
		Staff Counsel	31	\$236	\$262	\$301	\$276	\$263	\$269
New York	Corporate	Partner	57	\$319	\$353	\$385	\$368	\$344	\$338
		Associate	57	\$135	\$225	\$251	\$202	\$236	\$182
		Senior Counsel	28	\$297	\$353	\$483	\$375	\$347	\$350
New York	Real Estate	Partner	11	\$281	\$300	\$378	\$350	\$292	\$312
		Associate	12	\$145	\$208	\$404	\$265	\$225	\$248
		Senior Counsel	14	\$304	\$345	\$365	\$368	\$349	\$359
New York	Securities	Partner	82	\$373	\$443	\$514	\$456	\$454	\$409
		Associate	80	\$275	\$308	\$340	\$306	\$294	\$270
		Senior Counsel	109	\$385	\$430	\$532	\$458	\$445	\$443
		Staff Counsel	100	\$225	\$277	\$320	\$283	\$279	\$259
New York	Banking	Partner	15	\$150	\$150	\$150	\$170	\$170	\$206
		Associate	21	\$250	\$360	\$563	\$429	\$391	\$356
		Senior Counsel	19	\$247	\$280	\$313	\$284	\$273	\$261
New York	Insurance	Partner	27	\$300	\$400	\$495	\$432	\$490	\$482
		Associate	22	\$236	\$292	\$337	\$281	\$289	\$289
New York	Technology	Partner	11	\$235	\$250	\$250	\$272	\$286	\$268
		Associate	14	\$215	\$250	\$362	\$297	\$251	\$269
New York	M&A	Partner	387	\$425	\$660	\$940	\$694	\$673	\$650
		Associate	478	\$350	\$535	\$740	\$548	\$524	\$501
		Senior Counsel	583	\$564	\$795	\$1,085	\$837	\$803	\$771
		Staff Counsel	834	\$432	\$605	\$794	\$629	\$608	\$595
New York	Tax	Partner	17	\$301	\$349	\$391	\$351	\$348	\$340
		Associate	21	\$180	\$210	\$260	\$218	\$218	\$212
		Senior Counsel	14	\$223	\$245	\$250	\$237	\$204	\$221
New York	Restructuring	Partner	18	\$361	\$415	\$478	\$423	\$422	\$429
		Associate	16	\$290	\$365	\$425	\$360	\$344	\$351
New York	Banking	Partner	20	\$285	\$321	\$357	\$327	\$337	\$349
		Associate	12	\$195	\$213	\$225	\$215	\$235	\$229

Section I: High-Level Data Cuts

Cities

By Years of Experience

Q2 2020 -- Real Rates for Partners

Trend Analysis (Mean)

City	Years of Experience	n	First Quartile	Median	Third Quartile	Q2 2020	Q2 2019	Q2 2018
		31	\$300	\$329	\$400	\$346	\$337	\$343
		70	\$266	\$350	\$448	\$354	\$360	\$356
		14	\$390	\$455	\$495	\$460	\$438	\$414
		17	\$338	\$425	\$487	\$421	\$358	\$383
		39	\$424	\$502	\$730	\$561	\$525	\$482
		19	\$275	\$300	\$425	\$363	\$359	\$345
		73	\$502	\$675	\$828	\$691	\$673	\$652
		78	\$533	\$795	\$973	\$787	\$664	\$667
		32	\$297	\$384	\$420	\$367	\$366	\$338
		56	\$378	\$465	\$551	\$459	\$450	\$423
		22	\$296	\$342	\$357	\$330	\$322	\$303
		18	\$295	\$370	\$440	\$384	\$348	\$369
		11	\$300	\$325	\$460	\$384	\$333	\$360
		51	\$328	\$396	\$440	\$386	\$369	\$353
		68	\$411	\$500	\$600	\$511	\$500	\$449
		18	\$250	\$475	\$675	\$485	\$491	\$452
		12	\$230	\$250	\$275	\$273	\$266	\$278
		199	\$450	\$655	\$912	\$683	\$685	\$641
		365	\$528	\$731	\$1,047	\$797	\$743	\$723
		12	\$338	\$380	\$410	\$371	\$394	\$360
		11	\$286	\$290	\$365	\$317	\$303	\$311
		17	\$325	\$400	\$425	\$373	\$368	\$371
		44	\$375	\$508	\$615	\$479	\$471	\$390
		107	\$350	\$546	\$726	\$541	\$530	\$482
		20	\$260	\$343	\$439	\$410	\$372	\$366
		36	\$378	\$458	\$611	\$516	\$407	\$402
		60	\$416	\$520	\$599	\$506	\$465	\$430
		120	\$399	\$605	\$743	\$590	\$582	\$493
		22	\$360	\$409	\$457	\$398	\$361	\$353
		43	\$418	\$457	\$514	\$456	\$433	\$438
		34	\$301	\$348	\$442	\$367	\$341	\$327
		48	\$290	\$360	\$463	\$376	\$362	\$336
		514	\$630	\$1,010	\$1,273	\$965	\$939	\$889
		1126	\$598	\$949	\$1,330	\$977	\$964	\$929

Section I: High-Level Data Cuts

Cities

By Years of Experience

Q2 2020 -- Real Rates for Associates

Trend Analysis (Mean)

City	Years of Experience	n	First Quartile	Median	Third Quartile	Q2 2020	Q2 2019	Q2 2018
ALABAMA	0-5	25	\$272	\$300	\$325	\$295	\$290	\$247
	6-10	29	\$269	\$295	\$311	\$295	\$277	\$271
	11-15	17	\$250	\$288	\$330	\$285	\$282	\$286
ALASKA	0-5	47	\$397	\$476	\$581	\$483	\$479	\$455
	6-10	138	\$395	\$565	\$699	\$557	\$510	\$462
	11-15	207	\$350	\$536	\$811	\$585	\$573	\$549
ARIZONA	0-5	20	\$265	\$325	\$350	\$336	\$339	\$279
	6-10	39	\$240	\$381	\$491	\$383	\$373	\$306
	11-15	16	\$256	\$294	\$315	\$299	\$284	\$285
ARIZONA	0-5	16	\$295	\$364	\$403	\$354	\$361	\$435
	6-10	26	\$312	\$355	\$418	\$368	\$363	\$321
	11-15	29	\$295	\$378	\$508	\$379	\$384	\$331
ARIZONA	0-5	18	\$225	\$266	\$297	\$268	\$259	\$257
	6-10	20	\$226	\$253	\$305	\$261	\$244	\$236
	11-15	22	\$238	\$325	\$369	\$304	\$276	\$234
ARIZONA	0-5	153	\$385	\$513	\$647	\$536	\$501	\$517
	6-10	286	\$404	\$589	\$826	\$613	\$586	\$549
	11-15	564	\$410	\$693	\$945	\$697	\$702	\$678
ARIZONA	0-5	16	\$281	\$305	\$348	\$326	\$304	\$276
	6-10	60	\$300	\$325	\$395	\$342	\$329	\$339
	11-15	158	\$305	\$355	\$430	\$378	\$363	\$338
ARIZONA	0-5	170	\$310	\$450	\$514	\$449	\$429	\$397
	6-10	11	\$213	\$275	\$315	\$275	\$236	\$278
	11-15	21	\$251	\$335	\$393	\$320	\$297	
ARIZONA	0-5	36	\$275	\$355	\$425	\$345	\$327	\$317
	6-10	40	\$265	\$356	\$474	\$372	\$349	\$335
	11-15	14	\$251	\$285	\$309	\$277	\$264	\$299
ARIZONA	0-5	45	\$293	\$336	\$388	\$336	\$310	\$321
	6-10	51	\$332	\$415	\$458	\$389	\$359	\$366
	11-15	15	\$350	\$417	\$450	\$393	\$381	\$330
ARIZONA	0-5	15	\$200	\$224	\$245	\$222	\$203	\$185
	6-10	11	\$231	\$290	\$378	\$314	\$324	\$313
	11-15	33	\$288	\$365	\$545	\$412	\$419	\$453

EXHIBIT F

PEER MONITOR

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In a time when the legal market continues to face fluctuating demand and challenges containing expenses, it's critical that your firm stays on top of the latest billing trends and maintains fair, competitive rates while maximizing revenue.

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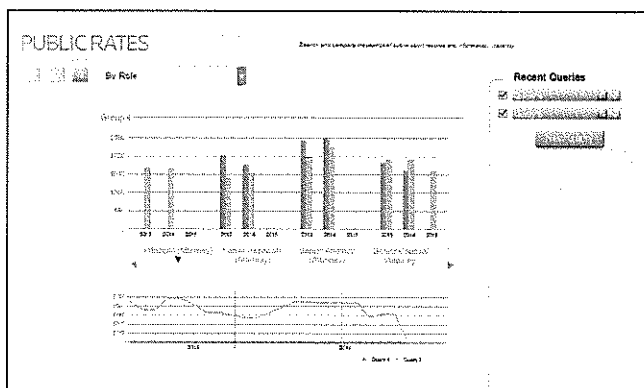
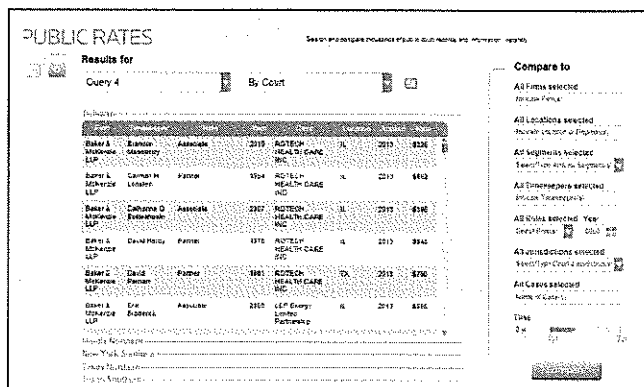
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- Firm
- Segment
- Location
- Jurisdiction
- Role
- Year of filing
- Case
- Historical records as far back as 7 years

California Rates (January–May 2018)
--

Title	Professional	Firm	Graduated	Admitted	State	Rate	Hours	Total
Partner	David M. Nemecek	Kirkland & Ellis LLP	2003	2003	CA	\$1,395	2.4	\$3,348.00
Partner	Leslie A. Plaskon	Paul Hastings LLP	1988	1988	CA	\$1,275	260	\$331,500.00
Partner	Thomas B. Walper	Munger Tolles & Olson LLC	1980	1980	CA	\$1,225	166.7	\$204,207.50
Partner	Jeffrey B Greenberg	Latham & Watkins LLP	1996	1996	CA	\$1,175	3.3	\$3,877.50
Partner	Mark E. McKane	Kirkland & Ellis LLP	1997	1997	CA	\$1,175	79.1	\$92,942.50
Partner	Paul D Tanaka	Kirkland & Ellis LLP	2003	2003	CA	\$1,145	1.1	\$1,259.50
Partner	Annie Kim	Proskauer Rose LLP	2004	2004	CA	\$1,125	22.1	\$24,862.50
Partner	Jonathan Benloulou	Proskauer Rose LLP	2006	2006	CA	\$1,125	2.9	\$3,262.50
Partner	Robert J Frances	Latham & Watkins LLP	2001	2001	CA	\$1,125	1.7	\$1,912.50
Partner	Dean A. Ziehl	Pachulski Stang Ziehl Young Jones &	1978	1978	CA	\$1,050	73.3	\$76,965.00
Partner	James I. Stang	Pachulski Stang Ziehl Young Jones &	1980	1980	CA	\$1,050	111.4	\$116,970.00
Partner	Alan J. Kornfeld	Pachulski Stang Ziehl Young Jones &	1987	1987	CA	\$1,025	78.9	\$80,872.50
Partner	Stephen D. Rose	Munger Tolles & Olson LLC	1991	1991	CA	\$1,025	63.9	\$65,497.50
Partner	Unger Sean	Paul Hastings LLP	2004	2004	CA	\$1,025	103.2	\$105,780.00
Partner	Stefanie I Gitler	Kirkland & Ellis LLP	2009	2009	CA	\$995	225.1	\$223,974.50
Partner	Tate Eric A.	Morrison & Foerster LLP	1995	1995	CA	\$990	0.3	\$297.00
Partner	Michael Esser	Kirkland & Ellis LLP	2009	2009	CA	\$965	542.6	\$523,609.00
Associate	Campbell Gavin	Kirkland & Ellis LLP	2012	2012	CA	\$950	227.7	\$216,315.00
Partner	David M. Bertenthal	Pachulski Stang Ziehl Young Jones &	1993	1989	CA	\$950	107.7	\$102,315.00
Associate	Olsen Katrina	Kirkland & Ellis LLP	2014	2014	CA	\$950	4.6	\$4,370.00
Partner	Janie F. Schulman	Morrison & Foerster LLP	1987	1987	CA	\$925	0.2	\$185.00
Associate	Jacob Johnston	Kirkland & Ellis LLP	2013	2013	CA	\$905	5	\$4,525.00
Partner	Kenneth H. Brown	Pachulski Stang Ziehl Young Jones &	1981	1977	CA	\$895	5.9	\$5,280.50
Partner	Kevin S. Allred	Munger Tolles & Olson LLC	1986	1986	CA	\$875	209.7	\$183,487.50
Partner	Knudsen Erik G.	Morrison & Foerster LLP	2007	2007	CA	\$875	269.4	\$235,725.00
Counsel	Adam Lin	Orrick, Herrington & Sutcliffe LLP	2004	2004	CA	\$850	3	\$2,550.00
Associate	Austin Klar	Kirkland & Ellis LLP	2013	2013	CA	\$845	173	\$146,185.00
Associate	Michael Saretsky	Kirkland & Ellis LLP	2015	2015	CA	\$835	237.2	\$198,062.00
Of Counsel	Harry D. Hochman	Pachulski Stang Ziehl Young Jones &	1987	1987	CA	\$825	69.1	\$57,007.50
Of Counsel	Lloyd W. Aubry	Morrison & Foerster LLP	1975	1975	CA	\$825	1.6	\$1,320.00
Partner	Seth Goldman	Munger Tolles & Olson LLC	2002	2002	CA	\$825	260.5	\$214,912.50
Of Counsel	Victoria A. Newmark	Pachulski Stang Ziehl Young Jones &	1996	1996	CA	\$825	1.6	\$1,320.00
Of Counsel	Yana S. Johnson	Morrison & Foerster LLP	1999	1999	CA	\$825	3.2	\$2,640.00
Associate	Austin Klar	Kirkland & Ellis LLP	2013	2013	CA	\$810	23.3	\$18,873.00
Associate	Cynthia Castillo	Kirkland & Ellis LLP	2015	2015	CA	\$810	178.8	\$144,828.00
Associate	Kevin Chang	Kirkland & Ellis LLP	2014	2014	CA	\$810	8.4	\$6,804.00
Of Counsel	Nardali Ali U.	Morrison & Foerster LLP	2008	2008	CA	\$795	4.4	\$3,498.00
Associate	Ramin Montazeri	Latham & Watkins LLP	2016	2016	CA	\$795	10.9	\$8,665.50
Associate	Lee Muhyung	Proskauer Rose LLP	2015	2015	CA	\$780	37.5	\$29,250.00
Of Counsel	Jeffrey L. Kandel	Pachulski Stang Ziehl Young Jones &	1984	1984	CA	\$750	10.7	\$8,025.00
Of Counsel	Bradley R. Schneider	Munger Tolles & Olson LLC	2004	2004	CA	\$735	88.9	\$65,341.50
Associate	Curtis Kelly M	Proskauer Rose LLP	2016	2016	CA	\$730	39.6	\$28,908.00
Associate	Cynthia Castillo	Kirkland & Ellis LLP	2015	2015	CA	\$725	30.3	\$21,967.50
Associate	Joanna A Gorska	Latham & Watkins LLP	2014	2014	CA	\$725	2.4	\$1,740.00
Counsel	Elissa A. Wagner	Pachulski Stang Ziehl Young Jones &	2001	2001	CA	\$695	5	\$3,475.00
Associate	Benjamin Butterfield	Morrison & Foerster LLP	2014	2014	CA	\$660	883.2	\$582,912.00
Partner	David M. Eaton	Kilpatrick Townsend & Stockton LLP	1996	1996	CA	\$660	5.3	\$3,498.00
Associate	Ankur Sharma	Kirkland & Ellis LLP	2016	2016	CA	\$645	16.4	\$10,578.00
Associate	Maxwell Coll	Kirkland & Ellis LLP	2016	2016	CA	\$630	15	\$9,450.00
Associate	Brashears Travis C	Proskauer Rose LLP	2016	2016	CA	\$595	8.3	\$4,938.50
Associate	Sadeghi Sam	Paul Hastings LLP	2016	2016	CA	\$585	22.9	\$13,396.50
Associate	Jenny Pierce	Kirkland & Ellis LLP	2016	2016	CA	\$555	1.2	\$666.00
Associate	Meg A Webb	Kirkland & Ellis LLP	2017	2017	CA	\$555	1.4	\$777.00

Associate	Peter E. Boos	Munger Tolles & Olson LLC	2014	2014	CA	\$550	88.05	\$48,427.50
Associate	Floyd Amani Solange	Morrison & Foerster LLP	2014	2014	CA	\$540	3.9	\$2,106.00
Associate	Glock Jana	Morrison & Foerster LLP	2015	2015	CA	\$540	22.2	\$11,988.00
Associate	Kerry C. Jones	Morrison & Foerster LLP	2014	2014	CA	\$540	11.5	\$6,210.00
Associate	Roumiantseva Dina	Morrison & Foerster LLP	2014	2014	CA	\$540	5	\$2,700.00
Associate	Scheinok Brittany	Morrison & Foerster LLP	2015	2015	CA	\$485	27.2	\$13,192.00
Associate	Coleman Matthew	Ropes & Gray LLP	2014	2014	CA	\$450	2.5	\$1,125.00
Associate	Tobyn Yael Aaron	Morrison & Foerster LLP	2016	2016	CA	\$435	26.4	\$11,484.00

California Rates (June–December 2018)
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Title	Professional	Firm	Graduated	Admitted	State	Rate	Hours	Total
Partner	Kenneth Klee	Klee, Tuchin, Bogdanoff & Stern, LLP	1975	1974	CA	\$1,475	46.4	\$68,440.00
Partner	Eric Reimer	Milbank Tweed Hadley & McCloy LLP	1987	1987	CA	\$1,465	7.9	\$11,573.50
Partner	Gregory A. Bray	Milbank Tweed Hadley & McCloy LLP	1984	1984	CA	\$1,465	234.1	\$342,956.50
Partner	Madden P.C. Rick C	Kirkland & Ellis LLP	1995	1995	CA	\$1,445	31.2	\$45,084.00
Partner	David M. Nemecek	Kirkland & Ellis LLP	2003	2003	CA	\$1,395	2.4	\$3,348.00
Partner	Browning P.C. Marc D	Kirkland & Ellis LLP	1998	1998	CA	\$1,375	4.2	\$5,775.00
Partner	Isaac M Pachulski	Pachulski Stang Ziehl Young Jones &	2014	2014	CA	\$1,295	0.7	\$906.50
Partner	Walker Elizabeth W	Sidley Austin LLP	1984	1984	CA	\$1,250	3.7	\$4,625.00
Partner	David Stern	Klee, Tuchin, Bogdanoff & Stern, LLP	1975	1975	CA	\$1,245	67.4	\$83,913.00
Partner	Michael Tuchin	Klee, Tuchin, Bogdanoff & Stern, LLP	1990	1990	CA	\$1,245	191.1	\$237,919.50
Partner	Richard M. Pachulski	Pachulski Stang Ziehl Young Jones &	1979	1979	CA	\$1,245	274.7	\$342,001.50
Partner	Dennis Arnold	Gibson Dunn & Crutcher, LLP	1976	1975	CA	\$1,210	65.2	\$78,892.00
Partner	Cromwell Montgomery	Gibson Dunn & Crutcher, LLP	1997	1997	CA	\$1,205	0.9	\$1,084.50
Partner	Oscar Garza	Gibson Dunn & Crutcher, LLP	1990	1990	CA	\$1,205	116.1	\$139,900.50
Partner	Austin V Schwing	Gibson Dunn & Crutcher, LLP	2000	2000	CA	\$1,155	0.7	\$808.50
Partner	Douglas Michael Fuchs	Gibson Dunn & Crutcher, LLP	2007	2007	CA	\$1,155	53.5	\$61,792.50
Partner	Annie Kim	Proskauer Rose LLP	2004	2004	CA	\$1,125	11.6	\$13,050.00
Partner	Jonathan Benloulou	Proskauer Rose LLP	2006	2006	CA	\$1,125	2.9	\$3,262.50
Partner	James I. Stang	Pachulski Stang Ziehl Young Jones &	1980	1980	CA	\$1,095	63.4	\$69,423.00
Partner	Farshad E. More	Gibson Dunn & Crutcher, LLP	2003	2003	CA	\$1,080	0.8	\$864.00
Partner	Jesse I. Shapiro	Gibson Dunn & Crutcher, LLP	2000	2000	CA	\$1,080	10.9	\$11,772.00
Partner	David Fidler	Klee, Tuchin, Bogdanoff & Stern, LLP	1998	1997	CA	\$1,075	237.9	\$255,742.50
Special	Brian Stern	Milbank Tweed Hadley & McCloy LLP	2003	2003	CA	\$1,065	7.5	\$7,987.50
Special	Haig Maghakian	Milbank Tweed Hadley & McCloy LLP	2002	2002	CA	\$1,065	264.8	\$282,012.00
Partner	Jesse A. Cripps Jr.	Gibson Dunn & Crutcher, LLP	2011	2011	CA	\$1,045	16.2	\$16,929.00
Partner	Mehta Anjna	Kirkland & Ellis LLP	2000	2000	CA	\$1,045	10.9	\$11,390.50
Of Counsel	Rehta J. Gruber	Pachulski Stang Ziehl Young Jones &	1982	1982	CA	\$1,025	9.1	\$9,327.50
Partner	Samuel Newman	Gibson Dunn & Crutcher, LLP	2001	2001	CA	\$1,010	326.5	\$329,765.00
Partner	Debra I. Grassgreen	Pachulski Stang Ziehl Young Jones &	1992	1992	CA	\$995	15.7	\$15,621.50
Associate	Jessica Dombroff	Milbank Tweed Hadley & McCloy LLP	2009	2009	CA	\$995	13.3	\$13,233.50
Partner	Katherine V.A Smith	Gibson Dunn & Crutcher, LLP	2015	2015	CA	\$995	0.6	\$597.00
Partner	Matthew B Dubeck	Gibson Dunn & Crutcher, LLP	2017	2017	CA	\$995	44.1	\$43,879.50
Partner	Robert J. Pfister	Klee, Tuchin, Bogdanoff & Stern, LLP	2001	2001	CA	\$995	123.3	\$122,683.50
Partner	David M. Bertenthal	Pachulski Stang Ziehl Young Jones &	1993	1989	CA	\$975	6.5	\$6,337.50
Partner	Jeffrey N. Pomerantz	Pachulski Stang Ziehl Young Jones &	1989	1989	CA	\$975	66.5	\$64,837.50
Associate	Campbell Gavin	Kirkland & Ellis LLP	2012	2012	CA	\$950	336.5	\$319,675.00
Partner	Henry C. Kevane	Pachulski Stang Ziehl Young Jones &	1986	1986	CA	\$950	4.8	\$4,560.00
Associate	Olsen Katrina	Kirkland & Ellis LLP	2014	2014	CA	\$950	4.6	\$4,370.00
Partner	Stanley E. Goldich	Pachulski Stang Ziehl Young Jones &	1980	1980	CA	\$925	7	\$6,475.00
Associate	Najeh Baharun	Milbank Tweed Hadley & McCloy LLP	2013	2013	CA	\$910	28.3	\$25,753.00
Partner	David M. Guess	Klee, Tuchin, Bogdanoff & Stern, LLP	2005	2005	CA	\$895	84.5	\$75,627.50
Partner	Maria Sountas	Klee, Tuchin, Bogdanoff & Stern, LLP	2006	2006	CA	\$895	23.2	\$20,764.00
Partner	Whitman L. Holt	Klee, Tuchin, Bogdanoff & Stern, LLP	2005	2005	CA	\$895	54.7	\$48,956.50
Associate	Allison Balick	Gibson Dunn & Crutcher, LLP	2009	2009	CA	\$875	5.4	\$4,725.00
Associate	Caldon Brendan W	Kirkland & Ellis LLP	2007	2007	CA	\$875	1.5	\$1,312.50
Associate	Daniel B. Denny	Gibson Dunn & Crutcher, LLP	2005	2005	CA	\$875	436.1	\$381,587.50
Associate	Douglas G. Levin	Gibson Dunn & Crutcher, LLP	2009	2009	CA	\$875	205.2	\$179,550.00
Associate	Genevieve G. Weiner	Gibson Dunn & Crutcher, LLP	2007	2007	CA	\$875	93.7	\$81,987.50
Partner	Maxim B. Litvak	Pachulski Stang Ziehl Young Jones &	1997	1997	CA	\$875	89.6	\$78,400.00
Associate	Melissa Leigh Barshop	Gibson Dunn & Crutcher, LLP	2006	2006	CA	\$875	5	\$4,375.00
Associate	Jonathan Schaefer	Gibson Dunn & Crutcher, LLP	2016	2016	CA	\$860	1.9	\$1,634.00
Partner	Joshua M. Fried	Pachulski Stang Ziehl Young Jones &	1995	1995	CA	\$850	74.1	\$62,985.00
Of Counsel	Guruie Julian I	Klee, Tuchin, Bogdanoff & Stern, LLP	2007	2007	CA	\$825	39.3	\$32,422.50

Associate	Ian T. Long	Gibson Dunn & Crutcher, LLP	2015	2015 CA	\$820	140	\$114,800.00
Associate	Goldberg Zachary	Milbank Tweed Hadley & McCloy LLP	2016	2016 CA	\$790	162.4	\$128,296.00
Associate	Lee Muhyung	Proskauer Rose LLP	2015	2015 CA	\$780	28.2	\$21,996.00
Partner	Jamie L. Edmonson	Venable LLP	1996	1996 CA	\$765	180.3	\$137,929.50
Associate	Tiffany X. Phan	Gibson Dunn & Crutcher, LLP	2013	2013 CA	\$760	8.7	\$6,612.00
Of Counsel	Erin Gray	Pachulski Stang Ziehl Young Jones &	1992	1991 CA	\$750	9.9	\$7,425.00
Partner	Justin D. Yi	Klee, Tuchin, Bogdanoff & Stern, LLP	2009	2009 CA	\$750	3.9	\$2,925.00
Associate	Chapple Catherine L.	Morrison & Foerster LLP	2012	2012 CA	\$725	4	\$2,900.00
Associate	Jonathan M. Weiss	Klee, Tuchin, Bogdanoff & Stern, LLP	2012	2012 CA	\$725	195.4	\$141,665.00
Of Counsel	William Ramseyer	Pachulski Stang Ziehl Young Jones &	1980	1980 CA	\$725	18.8	\$13,630.00
Associate	Sarah A. Carnes	Cooley LLP	2014	2014 CA	\$710	146.1	\$103,731.00
Associate	Latta R T	Jones Day	2011	2011 CA	\$700	194.5	\$136,150.00
Associate	Samuel M. Kidder	Klee, Tuchin, Bogdanoff & Stern, LLP	2012	2012 CA	\$675	88.6	\$59,805.00
Associate	Thomas H Alexander	Gibson Dunn & Crutcher, LLP	2015	2015 CA	\$660	23.7	\$15,642.00
Associate	Sasha M. Gurvitz	Klee, Tuchin, Bogdanoff & Stern, LLP	2014	2014 CA	\$625	114.9	\$71,812.50
Associate	Robert J. Smith	Klee, Tuchin, Bogdanoff & Stern, LLP	2016	2016 CA	\$600	35.8	\$21,480.00
Associate	Brashears Travis C	Proskauer Rose LLP	2016	2016 CA	\$595	8.3	\$4,938.50
Associate	Matthew S Coe-Odess	Gibson Dunn & Crutcher, LLP	2016	2016 CA	\$595	16.9	\$10,055.50
Associate	Katherine A Lau	Gibson Dunn & Crutcher, LLP	2017	2017 CA	\$525	97.7	\$51,292.50
Associate	Tran J L	Jones Day	2015	2015 CA	\$525	60.2	\$31,605.00
Associate	Nicholas A. Koffroth	Venable LLP	2012	2012 CA	\$515	94.9	\$48,873.50
Associate	Liu R Q	Jones Day	2015	2015 CA	\$475	34.2	\$16,245.00
Associate	Stuart B W	Jones Day	2013	2013 CA	\$475	208.6	\$99,085.00
Associate	Doyle A M	Jones Day	2017	2017 CA	\$450	6.5	\$2,925.00
Associate	Udenka Honieh	Brown Rudnick LLP	2017	2017 CA	\$375	1	\$375.00

EXHIBIT 3

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3 Benjamin Powell, SBN 311624
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14 Attorneys for CONSUMER WATCHDOG

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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of the Rate Application of
Interinsurance Exchange of the
Automobile Club,
Applicant.

File No.: 22-1466

**CONSUMER WATCHDOG'S
PETITION FOR HEARING,
PETITION TO INTERVENE, AND
NOTICE OF INTENT TO SEEK
COMPENSATION**

[Ins. Code §§ 1861.05 and 1861.10; Cal.
Code Regs, tit. 10, §§ 2653.1, 2661.2
and 2661.3]

1 Consumer Watchdog hereby requests that the Insurance Commissioner notice a public
2 hearing pursuant to Insurance Code sections 1861.05, subdivisions (a) and (c), and 1861.10,
3 subdivision (a), on the issues raised in this petition regarding the above-referenced Rate
4 Application of Interinsurance Exchange of the Automobile Club (“Applicant”), at which time
5 Applicant will be directed to appear and respond to the issues raised in this petition. Consumer
6 Watchdog also hereby requests that it be granted leave to intervene in the proceeding on the
7 Application. Consumer Watchdog intends to seek compensation in this proceeding, and, pursuant
8 to California Code of Regulations, title 10 (“10 CCR”), section 2661.3 subdivision (c),
9 Consumer Watchdog’s proposed budget is attached hereto as Exhibit A.

10 In support of its petition, Consumer Watchdog alleges:

11 **I. THE APPLICATION**

12 1. On or about May 31, 2022, Applicant filed a Rate Application with the California
13 Department of Insurance (“CDI”), seeking approval of an overall 6.9% rate increase to its private
14 passenger auto line of insurance (File No. 22-1466 [“the Application”]).

15 2. On or about June 17, 2022, the public was notified by the Department of the
16 Application.

17 **II. PETITIONER**

18 3. Petitioner Consumer Watchdog is a nonprofit, nonpartisan public interest
19 corporation organized to represent the interests of consumers and taxpayers. A core focus of
20 Consumer Watchdog’s advocacy is the representation of the interests of insurance consumers
21 and policyholders, particularly as they relate to the implementation and enforcement of
22 Proposition 103, in matters before the Legislature, the courts, and the CDI.

23 4. Consumer Watchdog’s founder authored Proposition 103 and led the successful
24 campaign for its enactment by California voters in 1988. Consumer Watchdog’s staff and
25 consultants include some of the nation’s foremost consumer advocates and experts on insurance
26 ratemaking matters.

27 5. Consumer Watchdog has served as a public watchdog with regard to insurance
28 rates and insurer rollback liabilities under Proposition 103 by: monitoring rollback settlements

1 and the status of the rollback regulations; reviewing and challenging rate filings made by insurers
2 seeking excessive rates; participating in rulemaking and adjudicatory hearings before the CDI;
3 and educating the public concerning industry underwriting and rating practices, their rights under
4 Proposition 103, and other provisions of state law. Consumer Watchdog has also initiated and
5 intervened in actions in state court and appeared as amicus curiae in matters involving the
6 interpretation and application of Proposition 103 and the Insurance Code.¹

7 6. Consumer Watchdog has initiated and intervened in numerous proceedings before
8 the CDI related to the implementation and enforcement of Proposition 103's reforms, including
9 over 125 such proceedings in the last nineteen years. In every proceeding in the last nineteen
10 years that has resulted in a final decision and in which Consumer Watchdog sought
11 compensation, the Commissioner found that Consumer Watchdog made a substantial
12 contribution, meaning that its participation was separate and distinct from any other party and
13 that it presented relevant issues, evidence, and arguments that resulted in more credible, non-
14 frivolous information being available to the Commissioner in making his final decision.

15 **III. EVIDENCE**

16 7. At the requested public hearing, Consumer Watchdog will present and elicit
17 evidence to show that the rates proposed in the Application are excessive and/or unfairly
18 discriminatory in violation of Insurance Code section 1861.05, subdivision (a), which provides
19 that “[n]o rate shall be approved or remain in effect which is excessive, inadequate, [or] unfairly
20 discriminatory.” Additionally, Consumer Watchdog will present and elicit evidence that
21 Applicant’s proposed rates violate 10 CCR § 2644.1, which provides that “[n]o rate shall be
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24 ¹ For example, *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805; *20th Century Ins. Co. v.*
25 *Garamendi* (1994) 8 Cal.4th 216; *Amwest Surety Ins. Co. v. Wilson* (1995) 11 Cal.4th 1243;
26 *Proposition 103 Enforcement Project v. Quackenbush* (1998) 64 Cal.App.4th 1473; *Spanish*
27 *Speaking Citizens’ Found. v. Low* (2000) 85 Cal.App.4th 1179; *Donabedian v. Mercury Ins. Co.*
28 *(2004) 116 Cal.App.4th 968; State Farm Mut. Auto. Ins. Co. v. Garamendi* (2004) 32 Cal.4th
1029; *The Found. for Taxpayer and Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th
1354; *Ass’n of Cal. Ins. Cos. v. Poizner* (2009) 180 Cal.App.4th 1029; *Mercury Cas. Co. v.*
Jones (2017) 8 Cal.App.5th 561; *Mercury Ins. Co. v. Lara* (2019) 35 Cal.App.5th 82; and *State*
Farm General Ins. Co. v. Lara (2021) 71 Cal.App.5th 197.

1 approved or remain in effect that is above the maximum permitted earned premium as defined in
2 section 2644.2.”

3 8. Based on Consumer Watchdog’s preliminary analysis and the information
4 contained in the Application and publicly available from the Department’s website, Consumer
5 Watchdog has identified the following issues with respect to the Application on which it intends
6 to present and elicit evidence as set forth in sections (a)–(g) below.

7 a) Excessive / Unfairly Discriminatory Rates (Ins. Code § 1861.05): Applicant has failed to
8 prove that its proposed overall 6.9% rate increase and rates currently in effect do not
9 result in rates that are excessive, unfairly discriminatory, or otherwise in violation of the
10 chapter under Insurance Code section 1861.05(a). Specifically, CDI Bulletin 2020-3,
11 issued on April 13, 2020, one month after California’s COVID-19 stay-at-home orders
12 were issued, unequivocally put Applicant and other property casualty insurance
13 companies on notice that their then-current rates were excessive:

14 The COVID-19 pandemic has severely curtailed activities of policyholders
15 in both personal and commercial lines. As a result, projected loss
16 exposures of many insurance policies have become overstated or
17 misclassified. This is especially true for policies where premiums are
based partly on measures of risk such as number of miles driven, revenue,
and payrolls which have all dropped significantly because of COVID-19.²

18 Accordingly, the Commissioner ordered auto insurance companies and other property
19 casualty insurers to issue premium refunds for the months of March and April 2020
20 within 120 days.³ The Commissioner issued additional Bulletins in May 2020, December
21 2020, and March 2021 extending this order by requiring insurers to provide further
22 premium refunds “in the affected lines of insurance where the projected loss exposures
23 have become overstated or misclassified” for May through December 2020 and beyond
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27 ² See Bulletin 2020-3, Apr. 13, 2020, p. 1 (http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/Bulletin_2020-3_re_covid-19_premium_reductions-2.pdf).

28 ³ *Id.* at p. 2.

1 as conditions warrant.⁴ Consumer Watchdog’s analysis based on information currently
2 available as posted on the CDI website shows that the private passenger auto COVID-19
3 refunds and/or credits provided by Applicant to date were inadequate and insufficient in
4 relation to the reduction in claims during the COVID-19 pandemic from March 2020
5 through at least June 2021 and, therefore, Applicant owes additional refunds.

6 b) Loss and Premium Trends (10 CCR § 2644.7): In the no variance indication, the selected
7 annual net trends for all coverages are among the highest of the possible twenty values
8 based upon the applicable regulation. The excessive net trends overstate the projected
9 loss ratios resulting in an inflated rate indication. Also, Applicant does not demonstrate
10 that the selected trend factors and trend data period used are the most actuarially sound.

11 c) Improper Loss Development (10 CCR § 2644.6): Applicant uses incurred loss
12 development in the rate templates. For the BI, PD, UM, and COLL coverages, incurred
13 development is materially higher than paid development. The developed incurred losses
14 are 18% higher than the developed paid losses for the most recent year for BI, about 6%
15 higher for both PD and COLL, and about 5% higher for UM. Applicant fails to explain
16 why there is such a large difference between the paid and incurred development. Nor
17 does Applicant prove that the much higher incurred development method is the most
18 actuarially sound.

19 d) Improper / Unsupported Excluded Expenses (10 CCR § 2644.10): Applicant has not
20 shown that the institutional advertising expenses listed on page 4.1 of the rate application
21

22 ⁴ See Bulletin 2020-4, May 15, 2020 (<http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/Bulletin-2020-4-Premium-Refunds-Credits-and-Reductions-in-Response-to-COVID-19-Pandemic.pdf>); Bulletin 2020-8,
23 Dec. 3, 2020 (http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/Bulletin-2020-8-Premium-Refunds-Credits-and-Reductions-in-Response-to-COVID-19-Pandemic-Amended-12_3_2020.pdf); and Bulletin 2021-3, March 11,
24 2021 (<http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/Bulletin-2021-03-Premium-Refunds-Credits-and-Reductions-in-Response-to-COVID-19-Pandemic.pdf>). The Bulletins directed insurance companies to report to
25 the Department how much premium they returned and whether it was a partial refund, dividend,
26 credit, or other form of payment.
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1 are appropriate. There may also be excluded expenses for other categories that should be
2 reflected in the rate calculation but were not adequately reflected in the filing.

3 e) Unsupported Variance 8D (10 CCR § 2644.27(f)(8D)): Applicant’s selected trend values
4 in the variance request are excessive and unsupported. The excessive net trend overstates
5 the projected loss ratios, resulting in an inflated rate indication.

6 f) Affinity Group Surcharges (10 CCR § 2632.5(d)): Applicant’s use of education and
7 occupation as rating factors violates sections 1861.05(a) and 1861.02(a), and 10 CCR
8 § 2632.5(d). The authorized optional rating factors that have been adopted by the
9 Commissioner are set forth in 10 CCR § 2632.5(d), and do not include education or
10 occupation. Applicant charges higher premiums to its “Non-Qualifying Policyholders”
11 group than its other two rating categories based on education and occupational status.
12 Specifically, Applicant applies a 0.921 rate multiplier (8% discount) to those in the
13 “Scientist, Educators, Engineers[,] Medical Professionals, CPAs, and Alumni
14 Associations” rating category, and a 0.985 rate multiplier (1.5% discount) to those in the
15 “Lawyers” rating category, as Rating Table 36 of Applicant’s Proposed Rating Manual in
16 the Application shows. (See Exhibit B attached.) Use of these rating factors to charge
17 rates and premiums based on education and occupational status results in excessive
18 and/or unfairly discriminatory rates in violation of sections 1861.02(a)(4) and 1861.05(a),
19 and the application of unauthorized rating factors is in violation of section 1861.02(a)(1)–
20 (3) and the auto rating factor regulations at 10 CCR §§ 2632.4 and 2632.5.

21 g) Other: The earned premiums contained in the Supplemental COVID-19 Premium
22 Exposure and Premium Template are gross of COVID-19 refunds when they should be
23 net of COVID-19 refunds.

24 9. This petition is based upon Consumer Watchdog’s preliminary analysis of the
25 Application. Thus, Consumer Watchdog reserves the right to modify, withdraw, and/or add
26 issues for consideration as more information becomes available, including but not limited to
27 violations of Insurance Code section 1859 for failure to disclose information in its filings that
28 will affect policyholders’ rates and premiums.

1 **IV. AUTHORITY FOR PETITION AND GRANTING REQUEST FOR A HEARING**

2 10. The authority for this petition for hearing is Insurance Code section 1861.10,
3 subdivision (a), which grants “any person” the right to initiate or intervene in a proceeding
4 permitted or established by Proposition 103 and the right to enforce Proposition 103.
5 Specifically, as stated above, Consumer Watchdog initiates this proceeding to enforce Insurance
6 Code sections 1861.05 and 1861.02 and the Commissioner’s regulations.

7 11. Additionally, a hearing is authorized pursuant to Insurance Code section 1861.05,
8 subdivision (c), which allows “a consumer or his or her representative” to request a hearing on a
9 rate application and 10 CCR § 2653.1, which provides that “any person, whether as an
10 individual, representative of an organization, or on behalf of the general public, may request a
11 hearing by submitting a petition for hearing.”

12 12. This petition is timely pursuant to Insurance Code section 1861.05, subdivision
13 (c), and 10 CCR § 2646.4(a)(1) because it is filed within forty-five (45) days of the June 17,
14 2022 public notice date.

15 **V. INTEREST OF PETITIONER**

16 13. Consumer Watchdog’s interest in the above-captioned proceeding is to ensure that
17 Applicant’s automobile insurance policyholders are charged rates and premiums that comply
18 with the provisions of Insurance Code sections 1861.05(a)’s requirement that “no rate shall be
19 approved or remain in effect which is excessive, inadequate, [or] unfairly discriminatory or
20 otherwise in violation of this chapter,” and the requirements contained in the regulations
21 promulgated thereunder. Pursuant to state law, drivers are required to purchase automobile
22 insurance. Consumers who are overcharged by insurers for this insurance coverage are part of
23 Consumer Watchdog’s core constituency.

24 14. As noted in paragraphs 3–6 above, Consumer Watchdog’s staff and consultants
25 have substantial experience and expertise in insurance rate matters, which Consumer Watchdog
26 believes will aid the CDI in its review of the Application and aid the Commissioner in making
27 his ultimate decision as to whether to approve or disapprove the requested rate. As noted in
28 paragraph 6 above, the Commissioner has found that Consumer Watchdog has made a

1 substantial contribution in all of the rate proceedings in which it has intervened in the last
2 nineteen years that have proceeded to a final decision wherein Consumer Watchdog has sought
3 compensation. If leave to intervene is granted, Consumer Watchdog will participate fully in all
4 aspects of this proceeding.

5 15. Consumer Watchdog also has an interest in assuring that Applicant, the CDI, and
6 the Insurance Commissioner comply with the laws enacted by the voters under Proposition 103,
7 and the rules and regulations that implement those laws, including that all information submitted
8 to the Department in connection with the Application is made publicly available.

9 **VI. AUTHORITY FOR PETITION TO INTERVENE**

10 16. The authority for Consumer Watchdog’s petition to intervene is Insurance Code
11 section 1861.10, subdivision (a), which grants “any person” the right to “initiate or intervene in
12 any proceeding permitted or established pursuant to this chapter [Chapter 9 of Part 2 of Division
13 1 of the Insurance Code] . . . and enforce any provision of this article.” This proceeding is a
14 proceeding to enforce Insurance Code sections 1861.05 and 1861.02 pursuant to Insurance Code
15 section 1861.10(a), and hence is a proceeding both “permitted” and “established” by Chapter 9.
16 This petition to intervene is also authorized by 10 CCR § 2661.1 et seq. Although consumer
17 presence in departmental proceedings typically results in significant reductions to policyholders’
18 rates, the amount of savings for each individual consumer is outweighed by the time and expense
19 of hiring individual counsel or an advocacy group to protect his or her rights. Thus, an
20 independent organization like Consumer Watchdog introduces a voice that otherwise would be
21 absent from this proceeding.

22 **VII. PARTICIPATION OF CONSUMER WATCHDOG**

23 17. Consumer Watchdog verifies, in accordance with 10 CCR § 2661.3, that it will be
24 able to attend and participate in this proceeding without unreasonably delaying this proceeding
25 or any other proceedings before the Insurance Commissioner.

26 **VIII. INTENT TO SEEK COMPENSATION**

27 18. The Commissioner has awarded Consumer Watchdog compensation for its
28 reasonable advocacy and witness fees and expenses in past departmental proceedings. The

1 Commissioner issued Consumer Watchdog’s latest Finding of Eligibility on July 26, 2022,
2 effective for two years as of July 12, 2022. Consumer Watchdog was previously found eligible to
3 seek compensation on August 25, 2020, effective as of July 12, 2020; July 12, 2018; July 14,
4 2016; July 24, 2014; July 24, 2012; July 2, 2010; August 25, 2008; July 14, 2006; July 2, 2004;
5 June 20, 2002; October 1, 1997; September 26, 1995; September 27, 1994; and September 13,
6 1993.

7 19. Consumer Watchdog intends to seek compensation in this proceeding. Pursuant to
8 10 CCR § 2661.3(c), Consumer Watchdog’s estimated budget in this proceeding is attached
9 hereto as Exhibit A. Consumer Watchdog has based its estimated budget on several factors
10 including: (1) the technical and legal expertise needed to address these issues; (2) its current best
11 estimate of the time needed to participate effectively in these proceedings, taking into account
12 the time already expended by Consumer Watchdog staff and its consulting actuary and an
13 estimate of time needed to complete remaining tasks through completion of a noticed evidentiary
14 hearing; and (3) past experience in similar rate proceedings before the CDI. The estimated
15 budget is reasonable and the staffing level is appropriate, given the expertise that Consumer
16 Watchdog and its consultants bring to these proceedings when the issues involved are issues at
17 the very core of its organizational mission and strike at the very heart of Proposition 103 itself.
18 The budget presented in the attached Exhibit A is a preliminary estimate, and Consumer
19 Watchdog reserves the right to amend its proposed budget as its expenses become more certain,
20 or in its request for final compensation. Consumer Watchdog will give notice of such
21 modifications as soon as practicable after it discovers the need to revise its estimates, and shall
22 comply with the budget revision requirements in the relevant intervenor regulations.

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1 WHEREFORE, Consumer Watchdog respectfully requests that the Insurance
2 Commissioner GRANT its petition for hearing and petition to intervene in the proceeding.

3
4 DATED: July 28, 2022

Respectfully submitted,
Harvey Rosenfield
Pamela Pressley
Benjamin Powell
Ryan Mellino
CONSUMER WATCHDOG

5
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9 By:



Benjamin Powell
Attorney for CONSUMER WATCHDOG

EXHIBIT A

**EXHIBIT A
PRELIMINARY BUDGET**

ITEMS

ESTIMATED COST

1. Consumer Watchdog Attorneys and Paralegal

Pamela Pressley (Senior Staff Attorney) @ \$595 per hour, 100 hours \$59,500

- Edit petition for hearing and petition to intervene; supervise Consumer Watchdog counsel; oversee preparation of legal documents; confer with Consumer Watchdog counsel and outside experts regarding legal and evidentiary issues; participate in discussions with CDI and Applicant’s counsel; assist in all phases of proceeding, evidentiary hearing, and preparation of post-hearing briefing; edit request for compensation and supporting attorney declaration.

Benjamin Powell (Staff Attorney) @ \$350 per hour, 200 hours \$70,000

- Draft and edit petition for hearing and petition to intervene; Confer with Consumer Watchdog counsel and outside experts regarding legal and evidentiary issues; participate in discussions with CDI and Applicant’s counsel; draft briefing of legal issues; conduct discovery and preparation for evidentiary hearing; participate in evidentiary hearing and post-hearing legal briefing; edit request for compensation.

Kaitlyn Gentile (Paralegal) @ \$200 per hour, 50 hours \$10,000

- Draft and edit petition for hearing and petition to intervene; assist with discovery and preparation of motions and briefs; prepare request for compensation.

Harvey Rosenfield (Of Counsel) @ \$695 per hour, 15 hours \$10,425

- Supervise Consumer Watchdog counsel and participate in strategy discussions.

2. Consumer Watchdog Expenses

Office expenses (photocopies, facsimile, telephone calls, postage, etc.)\$2,000

Travel (ground transportation; airfare; hotel)\$5,000

Consumer Watchdog Subtotal\$156,925

3. Expert Witness: AIS Risk Consultants, Inc.

Allan I. Schwartz, President of AIS Risk Consultants @ \$870 per hour, 200 hours \$174,000

- Lead actuary to review all discovery documents; prepare actuarial analysis; participate in meet and confers with the parties as needed; prepare written testimony; testify and assist attorneys in preparation for cross-examination of insurers’ expert witnesses.

Katherine Tollar @ \$395 per hour, 100 hours \$39,500

- Assist Mr. Schwartz in document review, rate level analysis, preparation of testimony.

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Marianne Dwyer @ \$350 per hour, 100 hours \$35,000
• Assist Mr. Schwartz in document review, rate level analysis, preparation of testimony.

4. Travel by Mr. Schwartz
Ground transportation; airfare to hearing; hotel \$5,000

AIS Risk Consultants Subtotal \$253,500

TOTAL ESTIMATED BUDGET: \$410,425

EXHIBIT B

**INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB
 PROPOSED RATES - CALIFORNIA**

GROUP PROGRAM MULTIPLIERS

	<u>BI</u>	<u>PD</u>	<u>MP</u>	<u>CP</u>	<u>CL</u>	<u>UC</u>	<u>RR</u>	<u>UM</u>
Scientist, Educators, Engineers Medical Professionals, CPAs, and Alumni Associations	0.921	0.921	0.921	0.921	0.921	0.921	0.921	0.921
Lawyers	0.985	0.985	0.985	0.985	0.985	0.985	0.985	0.985
Non-Qualifying Policyholders	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000

A description of the qualification criteria may be found in the Manual Rules.

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PROOF OF SERVICE
BY OVERNIGHT OR U.S. MAIL, FAX TRANSMISSION,
EMAIL TRANSMISSION AND/OR PERSONAL SERVICE

State of California, City of Los Angeles, County of Los Angeles

I am employed in the City and County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 6330 South San Vicente Boulevard, Suite 250, Los Angeles, California 90048, and I am employed in the city and county where this service is occurring.

On July 28, 2022, I caused service of true and correct copies of the document entitled

**CONSUMER WATCHDOG'S PETITION FOR HEARING, PETITION TO INTERVENE,
AND NOTICE OF INTENT TO SEEK COMPENSATION**

upon the persons named in the attached service list, in the following manner:

1. If marked FAX SERVICE, by facsimile transmission this date to the FAX number stated to the person(s) named.
2. If marked EMAIL, by electronic mail transmission this date to the email address stated.
3. If marked U.S. MAIL or OVERNIGHT or HAND DELIVERED, by placing this date for collection for regular or overnight mailing true copies of the within document in sealed envelopes, addressed to each of the persons so listed. I am readily familiar with the regular practice of collection and processing of correspondence for mailing of U.S. Mail and for sending of Overnight mail. If mailed by U.S. Mail, these envelopes would be deposited this day in the ordinary course of business with the U.S. Postal Service. If mailed Overnight, these envelopes would be deposited this day in a box or other facility regularly maintained by the express service carrier, or delivered this day to an authorized courier or driver authorized by the express service carrier to receive documents, in the ordinary course of business, fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 28, 2022 at Los Angeles, California.


Kaitlyn Gentile

Service List

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Alec Stone
Assistant Chief Counsel
Rate Enforcement Bureau
California Department of Insurance
1901 Harrison Street, 4th Floor
Oakland, CA 94612
Tel. (415) 538-4111
Fax (510) 238-7830
Alec.Stone@insurance.ca.gov

- FAX
- U.S. MAIL
- OVERNIGHT MAIL
- HAND DELIVERED
- EMAIL

Jamie Katz
Public Advisor
Rate Enforcement Bureau
California Department of Insurance
1901 Harrison Street
Oakland, CA 94612
Tel. (415) 538-4180
Fax (510) 238-7830
Jamie.Katz@insurance.ca.gov

- FAX
- U.S. MAIL
- OVERNIGHT MAIL
- HAND DELIVERED
- EMAIL

Lincoln Tomlin
Manager – Regulatory Affair
Interinsurance Exchange of the Automobile Club
3333 Fairview Road, A131
Costa Mesa, CA 92626
Tel. 714-885-2315
Tomlin.Lincoln@aaa-calif.com

- FAX
- U.S. MAIL
- OVERNIGHT MAIL
- HAND DELIVERED
- EMAIL

EXHIBIT 4

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

In the Matter of the Petition to Intervene of:

CONSUMER WATCHDOG,

Petitioner.

File # IP-2022-00003

RULING GRANTING CONSUMER
WATCHDOG’S PETITION TO INTERVENE in
the Application of Interinsurance Exchange of the
Automobile Club

Application(s):
22-1466

On July 28, 2022 Consumer Watchdog (“Petitioner”) filed its Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation (“Petition”) in connection with the above-referenced proceeding regarding the application of Interinsurance Exchange of the Automobile Club (“Applicant”).

California Insurance Commissioner Ricardo Lara (“Commissioner”) grants the Petition to Intervene and makes the following findings and determinations.

1. APPLICABLE LAW

In November 1988, California initiative measure Proposition 103 added §§ 1861.01, *et seq.*, to the California Insurance Code (“CIC”), governing the approval of premium rates for property and casualty lines of insurance in California.

Cal. Ins. Code § 1861.10 provides for consumer intervention in California Department of Insurance (“Department”) proceedings relating to Proposition 103:

(a) Any person may initiate or intervene in any proceeding permitted or established pursuant to this chapter, challenge any action of the commissioner under this article and enforce any provision of the article.

(b) The commissioner or a court shall award reasonable advocacy and witness fees and expenses to any person who demonstrates that (1) the person represents the interests of consumers, and (2) that he or she has made a substantial contribution to the adoption of any order, regulation or decision by the commissioner or a court.

The provisions of CIC § 1861.10 are implemented by California Code of Regulations, Title 10, §§ 2661.1, *et seq.*, governing the Department’s Intervenor Program.

1 Cal. Code Regs. § 2661.2 permits intervention if the intervenor’s issues are relevant to the issues
2 of the proceeding:

3 Any person shall be permitted to intervene in any proceeding on any rate application or in
4 any proceeding subject to Chapter 9 or Part 2 of Division 1 of the California Insurance
5 Code if the issues to be raised by the intervenor or participant are relevant to the issues of
6 the proceeding.

6 Cal. Code Regs. § 2661.2 and Cal. Code Regs. § 2661.3 set forth the procedures for such
7 intervention.

8 Cal. Code Regs. § 2661.3(d) requires that an amended budget be submitted as soon as possible
9 when the intervenor learns that the total estimated budget amount has increased by \$10,000 or more.

10 Cal. Code Regs. § 2653.4 allows an insurer to submit an answer to a Petition for Hearing within 5
11 business days of the service of the Petition for Hearing.

12 Cal. Code Regs. § 2661.3(f) allows any party to submit a response to a Petition to Intervene within
13 5 days of filing of the Petition to Intervene.

14 **2. RATE APPLICATION**

15 On May 31, 2022, Applicant filed a rate application (22-1466) with the Department, seeking an
16 overall 6.9% rate increase to its private passenger auto line of insurance. On June 17, 2022, the
17 Department notified the public of the pending application.

18 **3. PETITION**

19 On July 28, 2022, Petitioner submitted its verified Petition. Petitioner requested that the
20 Commissioner schedule a public hearing regarding the above-referenced application and grant it leave to
21 intervene in the proceedings.

22 Petitioner stated it would present and elicit evidence that Applicant’s application violates
23 provisions of the California Insurance Code and the implementing Regulations.

24 Petitioner also stated that it will “attend and participate in this proceeding without unreasonably
25 delaying this proceeding or any other proceedings before the Insurance Commissioner.”

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1 Petitioner stated that, based on its preliminary analysis and the information contained in the
 2 application and publicly available from the Department’s website, it has identified the following issues
 3 with respect to the application on which it intends to present and elicit evidence:

- 4 1. Failed to prove that proposed overall 6.9% rate increase and rates currently in effect do not result
 5 in rates that are excessive, unfairly discriminatory, or otherwise violate the law.
- 6 2. Selected annual net trends are among the highest of the possible 20 values based on the applicable
 7 regulation, overstate the projected loss ratios resulting in an inflated rate indication, and are not
 8 shown to be actuarially sound.
- 9 3. Uses incurred loss development in the rate templates, and incurred development is materially
 10 higher than paid development without showing why such a large difference between the two is
 11 actuarially sound.
- 12 4. Failed to show that the institutional advertising expenses listed on the rate application are
 13 appropriate, and may also have excluded expenses for other categories that should be reflected in
 14 the rate calculation but were not adequately reflected in the filing.
- 15 5. Selected trend values in the variance request are excessive and unsupported, and the excessive net
 16 trend overstates the projected loss ratios that results in an inflated rate indication.
- 17 6. Use of education and occupation as rating factors violates the law.
- 18 7. Earned premiums contained in the Supplemental COVID-19 Premium Exposure and Premium
 19 Template are gross of COVID-19 refunds when they should be net of COVID-19 refunds.

20 Petitioner stated that its Petition is based on a preliminary analysis of the rate application.
 21 Petitioner reserved the right to modify, withdraw, and/or add issues for consideration as more information
 22 becomes available.

23 Pursuant to CCR § 2661.3(c), Petitioner stated that it intends to seek compensation in this
 24 proceeding and submitted its Preliminary Budget for purposes of participation:

25	<u>CONSUMER WATCHDOG STAFF FEES</u>	Hours	Rates	Fees/Expenses
26	Harvey Rosenfield (Attorney)	15	\$695	\$10,425
27	Pamela Pressley (Attorney)	100	\$595	\$59,500
28	Benjamin Powell (Attorney)	200	\$350	\$70,000
29	Kaitlyn Gentile (Paralegal)	50	\$200	\$10,000
30	Consumer Watchdog Office and Travel Expenses			\$7,000
31	<u>EXPERT WITNESS FEES</u>			
32	Allan I. Schwartz, Actuary, AIS Risk Consultants, Inc.	200	\$870	\$174,000
33	Katherine Tollar, AIS Risk Consultants, Inc.	100	\$395	\$39,500
34	Marianne Dwyer, AIS Risk Consultants, Inc.	100	\$350	\$35,000
35	Expert Witness Travel Expenses			\$5,000
36	TOTAL ESTIMATED FEES and EXPENSES			\$410,425

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1 **4. APPLICANT DID NOT RESPOND TO PETITIONER'S PETITION**

2 As of the date of this Ruling, Applicant has not responded to Petitioner's Petition to Intervene.

3 **5. FINDINGS**

4 Petitioner has complied with Cal. Code Regs. §§ 2661.3 and 2661.4 and has met the requirements
5 set forth in Cal. Code Regs. §§ 2652.1 through 2652.4, inclusive. (See, Cal. Code Regs. section
6 2661.4(a).)

7 The Commissioner finds that Petitioner has raised and seeks to address issues that are relevant to
8 the ratemaking process. The Commissioner finds that the amount of compensation sought is not grounds
9 for denying intervention.

10 **6. ORDER**


11 For the foregoing reasons, Petitioner's Petition to Intervene is hereby **Granted**.

12 This Ruling grants only Petitioner's Petition to Intervene. The Petition for Hearing will be
13 determined in a separate Order.

14 This Ruling Granting the Petition to Intervene does not ensure compensation or compensation at
15 the rates sought. Petitioner must show substantial contribution to the proceedings and document and
16 substantiate the hourly rate being sought in the Request for Compensation, including but not limited to, the
17 attorneys' hourly rate, before compensation will be awarded. In order to receive compensation in this
18 matter, Petitioner must comply with all of the relevant provisions of Cal. Ins. Code § 1861.10 and Cal.
19 Code Regs. §§ 2661.1, *et seq.* A separate Decision regarding compensation, if any, will be issued on the
20 basis of Petitioner's substantial contribution to the proceeding.

21
22 Dated: August 11, 2022

RICARDO LARA
Insurance Commissioner

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25 By 
26 TERESA CAMPBELL
Deputy General Counsel

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PROOF OF SERVICE
In the Matter of the Petition to Intervene of:
CONSUMER WATCHDOG, Petitioner
Case No. IP-2022-00003

I am over the age of eighteen years and am not a party to the within action. I am an employee of the Department of Insurance, State of California, employed at 1901 Harrison Street, 4th Floor, Oakland, California 94612. On August 11, 2022, I served the following document(s):

RULING GRANTING CONSUMER WATCHDOG'S PETITION TO INTERVENE In the Application of Interinsurance Exchange of the Automobile Club – Application(s): 22-1466

on all persons named on the attached Service List, by the method of service indicated, as follows:

If **U.S. MAIL** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for mailing by U.S. Mail. Under that practice, outgoing items are deposited, in the ordinary course of business, with the U.S. Postal Service on that same day, with postage fully prepaid, in the city of Oakland and the county of Alameda, California.

If **OVERNIGHT SERVICE** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items for overnight delivery, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for overnight delivery. Under that practice, outgoing items are deposited, in the ordinary course of business, with an authorized courier or a facility regularly maintained by one of the following overnight services in the city of Oakland and the county of Alameda, California: Express Mail, UPS, Federal Express, or Golden State overnight service, with an active account number shown for payment.

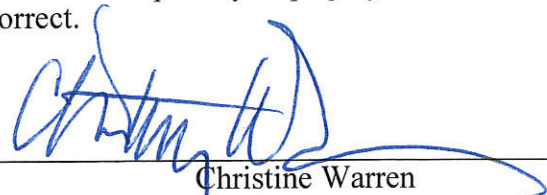
If **FAX SERVICE** is indicated, by facsimile transmission this date to fax number stated for the person(s) so marked.

If **PERSONAL SERVICE** is indicated, by hand delivery this date.

If **INTRA-AGENCY MAIL** is indicated, by placing this date in a place designated for collection for delivery by Department of Insurance intra-agency mail.

If **EMAIL** is indicated, by electronic mail transmission this date to the email address(es) listed.

Executed this date at Oakland, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



Christine Warren

SERVICE LIST
In the Matter of the Petition to Intervene of:
CONSUMER WATCHDOG, Petitioner
Case No. IP-2022-00003

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<u>Name/Address</u>	<u>Phone/Fax Numbers</u>	<u>Method of Service</u>
Harvey Rosenfield Pamela Pressley Benjamin Powell Ryan Mellino CONSUMER WATCHDOG 6330 San Vicente Blvd., Suite 250 Los Angeles, CA 90048 harvey@consumerwatchdog.org pam@consumerwatchdog.org ben@consumerwatchdog.org ryan.m@consumerwatchdog.org	Tel: (310) 392-0522 Fax: (310) 392-8874	Via EMAIL
Lincoln Tomlin Manager, Regulatory Affairs INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB 3333 Fairview Road, A131 Costa Mesa, CA 92626 Tomlin.Lincoln@aaa-calif.com	Tel: (714) 885-2315 Fax: N/A	Via EMAIL
Alec Stone, Asst. Chief Counsel CALIFORNIA DEPARTMENT OF INSURANCE 1901 Harrison Street, 6 th Floor Oakland, CA 94612 Alec.Stone@insurance.ca.gov	Tel: (415) 538-4111 Fax: (510) 238-7830	Via EMAIL

EXHIBIT 5



Interinsurance Exchange of the Automobile Club

P.O. Box 25001, Santa Ana, CA 92799-5001
(877) 422-2100

DELIVERED BY E-MAIL

August 25, 2022

Ken Allen
Deputy Commissioner, Rate Regulation Branch
California Department of Insurance
300 South Spring Street, 12th Floor
Los Angeles, California 90013

Re: Rate Filing 22-1466 and Matter PA-2022-00005

Dear Mr. Allen,

In response to the petition for intervention by Consumer Watchdog (“CW”), the Interinsurance Exchange of the Automobile Club (“Exchange”) is providing the following information to both the California Department of Insurance (“CDI”) and CW. We have included each objection raised by the petitioner and our response.

Preliminarily, I would note that the petition fails to raise any significant objections that would require the participation of an intervenor in the review of our filing. In fact, the lack of detail in the petition raises concern that the petitioner performed no more than a cursory assessment of the filing. CDI actuarial staff is quite capable of addressing all issues contained in the subject rate filing with the Exchange, and in fact much of what CW raises as issues relates to requests or methodologies set forth by or previously used with or for the CDI. The Exchange is prepared to immediately begin review of this filing with the CDI, and to address any concerns the CDI has with it. Given deteriorating financial results and clear support for a rate increase of no less than 6.9%, we request this CDI rate filing review process commence immediately.

Our response to the petition follows. Each of petitioner’s objections is summarized in the underlined text, followed by our response.

(1) Proposed rates are excessive due to inadequate COVID refunds

CW alleges the Exchange failed to provide adequate refunds during the COVID-19 pandemic. During 2020 and the first six months of 2021, the Exchange voluntarily returned nearly \$700 million to our California policyholders, which was among the highest returns in the industry. The issue of COVID 19- related refunds is a retroactive one – applicable to policyholders at that time and based upon circumstances during specific time

frames. This is a separate matter for the CDI to assess outside of the rate increase filing process, as rate increases are applicable to future business and time frames - our rate filing is prospective. Accordingly, COVID-19 refunds from 2020 and 2021 are not relevant to the review of the matter.

(2) Loss and premium trends are excessive in the no-variance indication

This allegation is moot, as the Exchange filed for a rate formula variance. In order to do so, the Exchange was required by the CDI to include a no-variance ratemaking template. The outcome of the no-variance template is meaningless, due to our variance request.

(3) Improper and unsupported choice of loss development methodology

The CDI's ratemaking regulations allow only two options, paid loss development and incurred loss development, using three-year average link ratios to project the historical data. The only choice is whether to select paid or incurred data as the basis.

We selected incurred loss development as the better methodology choice, as we have done in prior filings with the CDI. Incurred loss development provides more actual data and requires less projected data. For example, bodily injury and uninsured motorist coverages have very long payment tails and by using incurred data, we pick up both paid dollars and case reserve dollars. The extra information in the case reserves leads to more accurate projections.

CW states that we have failed to justify our choice of incurred data. A review with CDI staff would be simple and would result in our choice being allowed.

(4) Improper and unsupported excluded expenses

We are required by the CDI to provide a schedule of excluded expenses. Some of the categories in the schedule are pure formulas and other categories are contained in our annual statement data. In this filing, we are using methodology previously agreed upon with the CDI in other filings.

CW alleges that our excluded expense dollars "may also be" too low. They offer no evidence of any actual problems, simply an unsupported comment that something may be incorrect.

(5) Unsupported Variance 8D

The Exchange filed for a variance to the standard ratemaking formula. We used variance 8D, which allows for alternate premium and loss trend selections. CW alleges our choices are unsupported and excessive. The objection is only two sentences without a single example. Our variance request is twenty-six pages of narrative and supporting charts. The request is fully supported.

(6) Affinity Groups

CW objects to the use of affinity groups in our rating plan. The CDI most recently approved our group rating effective May 2018. Our current filing requests no changes to that approved rating plan.

The CDI is already reviewing the use of groups by the entire industry. This filing is not the proper forum for CW to bring this allegation, or for the resolution of an industry-wide issue.

(7) Supplemental COVID-19 template

Personal auto filings with the CDI require submission of a COVID data template, which was created by the CDI. This exhibit includes exposure, premium and refund data by calendar quarter. The template instructions require written premium gross of refunds and earned premium net of refunds. There is another column with the refund dollars. The numbers provided by the Exchange tie to a series of data calls we submitted to the CDI in 2020 and 2021.


CW alleges we improperly provided gross earned premiums. As our refunds were paid via policyholder dividends, there is no premium refund amount to remove from the earned premium dollars. CW's objection is both trivial and inaccurate. Our CDI data calls clearly stated that all COVID-19 refunds were paid in the form of policyholder dividends. We submitted an Excel version of the supplemental COVID-19 template, as required by the CDI. This is public information, so CW can easily download the file and perform any desired calculation with our data.

Any general or specific allegations in the CW petition not specifically addressed above are hereby denied.

We hope this letter will provide you with the necessary additional information to conclude consideration of the petition for intervention, complete your review and

approve our filing. If you have any further questions, please do not hesitate to contact Lincoln Tomlin at (714) 885-2315.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey Farr". The signature is fluid and cursive, with the first name "Jeffrey" written in a larger, more prominent script than the last name "Farr".

Jeffrey Farr, FCAS, MAAA
Vice President and Chief Actuary
On the behalf of Management Services Inc.
Attorney-in-Fact for the Interinsurance Exchange of the Automobile Club

cc: John Boyle (Exchange)
Kathy Sieck (Exchange)
Lincoln Tomlin (Exchange)
Ricardo Lara (CDI)
Kenneth Schnoll (CDI)
Cecilia Padua (CDI)
Lisbeth Landsman-Smith (CDI)
Jamie Katz (CDI)
Alec Stone (CDI)
Tina Warren (CDI)
Harvey Rosenfield (CW)
Pamela Pressley (CW)
Kaitlyn Gentile (CW)
Ryan Mellino (CW)

EXHIBIT 6

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**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

In the Matter of the Petition to Intervene of:

CONSUMER WATCHDOG,

Petitioner.

File # IP-2022-00003

SUPPLEMENTAL RULING GRANTING
CONSUMER WATCHDOG'S PETITION TO
INTERVENE in the Application of Interinsurance
Exchange of the Automobile Club

Application(s):
22-1466

PA-2022-00005

On July 28, 2022 Consumer Watchdog ("Petitioner") filed its Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation ("Petition") in connection with the above-referenced proceeding regarding the application of Interinsurance Exchange of the Automobile Club ("Applicant"). On August 11, 2022, California Insurance Commissioner Ricardo Lara ("Commissioner") granted the Petition to Intervene ("Initial Ruling"). Applicant did not file a response to the Petition before August 11, 2022. On August 25, 2022, Applicant filed a letter in response to the Petition to Intervene that included a number of objections; however, notwithstanding Applicant's untimely objections, as stated in the Initial Ruling, Petitioner has met the grounds to be granted intervention.

Dated: August 30, 2022

RICARDO LARA
Insurance Commissioner



By _____
TERESA CAMPBELL
Deputy General Counsel

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PROOF OF SERVICE
In the Matter of the Petition to Intervene of:
CONSUMER WATCHDOG, Petitioner
Case No. IP-2022-00003

I am over the age of eighteen years and am not a party to the within action. I am an employee of the Department of Insurance, State of California, employed at 1901 Harrison Street, 4th Floor, Oakland, California 94612. On August 30, 2022, I served the following document(s):

**SUPPLEMENTAL RULING GRANTING CONSUMER WATCHDOG'S
PETITION TO INTERVENE In the Application of Interinsurance Exchange
of the Automobile Club – Application(s): 22-1466 – PA-2022-00005**

on all persons named on the attached Service List, by the method of service indicated, as follows:

If **U.S. MAIL** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for mailing by U.S. Mail. Under that practice, outgoing items are deposited, in the ordinary course of business, with the U.S. Postal Service on that same day, with postage fully prepaid, in the city of Oakland and the county of Alameda, California.

If **OVERNIGHT SERVICE** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items for overnight delivery, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for overnight delivery. Under that practice, outgoing items are deposited, in the ordinary course of business, with an authorized courier or a facility regularly maintained by one of the following overnight services in the city of Oakland and the county of Alameda, California: Express Mail, UPS, Federal Express, or Golden State overnight service, with an active account number shown for payment.


If **FAX SERVICE** is indicated, by facsimile transmission this date to fax number stated for the person(s) so marked.

If **PERSONAL SERVICE** is indicated, by hand delivery this date.

If **INTRA-AGENCY MAIL** is indicated, by placing this date in a place designated for collection for delivery by Department of Insurance intra-agency mail.

If **EMAIL** is indicated, by electronic mail transmission this date to the email address(es) listed.

Executed this date at Oakland, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



Christine Warren

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SERVICE LIST
In the Matter of the Petition to Intervene of:
CONSUMER WATCHDOG, Petitioner
Case No. IP-2022-00003

<u>Name/Address</u>	<u>Phone/Fax Numbers</u>	<u>Method of Service</u>
5 Harvey Rosenfield 6 Pamela Pressley 7 Benjamin Powell 8 Ryan Mellino 9 CONSUMER WATCHDOG 10 6330 San Vicente Blvd., Suite 250 11 Los Angeles, CA 90048 harvey@consumerwatchdog.org pam@consumerwatchdog.org ben@consumerwatchdog.org ryan.m@consumerwatchdog.org	Tel: (310) 392-0522 Fax: (310) 392-8874	Via EMAIL
12 Lincoln Tomlin 13 Manager, Regulatory Affairs 14 INTERINSURANCE EXCHANGE 15 OF THE AUTOMOBILE CLUB 16 3333 Fairview Road, A131 17 Costa Mesa, CA 92626 Tomlin.Lincoln@aaa-calif.com	Tel: (714) 885-2315 Fax: N/A	Via EMAIL
18 Lisbeth Landsman-Smith 19 Legal Division 20 Rate Enforcement Bureau 21 CALIFORNIA DEPARTMENT 22 OF INSURANCE 23 300 Capitol Mall, 16 th Floor 24 Sacramento, CA 95814 Lisbeth.Landsman@insurance.ca.gov	Tel: (415) 538-4111 Fax: (510) 238-7830	Via EMAIL

EXHIBIT 7

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**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

In the matter of the rates of Interinsurance
Exchange of the Automobile Club

Applicant.

File No. PA-2022-00005

DECISION DENYING PETITIONER'S
PETITION FOR HEARING

The Commissioner has considered the Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation submitted by Consumer Watchdog ("Petitioner"). The Commissioner granted the Petition to Intervene on August 30, 2022. For the reasons stated below, the Commissioner denies the Petition for Hearing.

**I.
FACTUAL SUMMARY**

On or about May 31, 2022, the Department of Insurance (the "Department") received the following rate application (the "Application") from Interinsurance Exchange of the Automobile Club ("Applicant").

<u>Filing Number</u>	<u>Requested Rate</u>	<u>Line of Insurance</u>
22-1466/PA-2022-00005	6.9%	Private Passenger Automobile

The Application is subject to California Insurance Code §1861.05.
On or about June 17, 2022, the Department notified the public of the Application.
On July 28, 2022, the Commissioner received Petitioner's timely Petition for Hearing regarding the Application (the "Petition").

1 On August 11, 2022, the Department granted the Petition to Intervene.
2 On August 25, 2022, Applicant responded to the Petition.
3 On August 30, 2022, the Department issued a supplemental ruling granting the Petition to
4 Intervene.

5 **II.**

6 **REASONS FOR DENYING PETITION FOR HEARING**

7 Petitioner stated in the Petition that at the requested public hearing it would present and
8 elicit evidence to show that the rates Applicant proposed are excessive and/or unfairly
9 discriminatory in violation of [Ins.] Code section 1861.05 [(a)], which provides that “[n]o rate
10 shall be approved or remain in effect which is excessive, inadequate, [or] unfairly
11 discriminatory.” Additionally, Petitioner stated it would present and elicit evidence that
12 Applicant’s proposed rates violate 10 CCR § 2644.1, which provides that “[n]o rate shall be
13 approved or remain in effect that is above the maximum permitted earned premium as defined in
14 section 2644.2.” In the Petition, Petitioner specifically alleged the following:¹
15

- 16
- 17 1. Applicant has failed to prove that its proposed overall 6.9% rate increase in this
18 Application, as well as its rates currently in effect, that have been impacted by
19 COVID-19 stay-at-home orders will not result in excessive or unfairly discriminatory
20 rates in violation of Ins. Code section 1861.05(a).

21 Department Response

22 To determine prospective rates in this Application, the Department’s analysis
23 under the prior approval regulations has confirmed that the proposed 6.9% rate
24 increase will not result in excessive rates in violation of Ins. Code section
25 1861.05(a). The Applicant’s additional refund obligations are distinct from this
26 Application and have no impact on the Department’s analysis of this Application.

- 27 2. Applicant selected among the highest values for net trends, which inflate rate need and
28 have not been shown to be actuarially sound.

29 Department Response

30 Department analysis consisted of selecting lower, reasonable net trend values, and
31 that analysis resulted in a maximum rate indication above the 6.9% rate change
32 request proposed by the Applicant.

¹ Petitioner’s allegations are paraphrased for purposes of this Decision. See Petition at pp. 4-6, ¶8(a)-(g).

- 1 3. Applicant failed to explain why there is a large difference between the paid and
2 incurred loss development and failed to prove why the higher incurred loss
3 development is actuarially sound.

4 Department Response

5 Applicant provided sufficient evidence that the paid development method was
6 biased low, rendering it less reliable than the incurred development method, all
7 else equal.

- 8 4.
9 a. Applicant's failed to show that institutional advertising expenses are
10 appropriate.

11 Department Response

12 Applicant provided examples of institutional and non-institutional advertising that
13 were consistent with the regulatory requirements. The Department has determined
14 that the effect of removing the institutional advertising expense is negligible
15 because the Department's indication remains above Applicant's proposed
16 indication.

- 17 b. There may be excluded expenses for other categories that should be reflected
18 in the rate calculation but were not adequately reflected in the rate filing.

19 Department Response

20 The only other expense that Petitioner has contended should be excluded is
21 management fees. Petitioner bases its contention upon the profit derived from the
22 management fees and fairness. Petitioner's use of profit is not appropriate to
23 determine fair market value. Fair market value in the open market is the going rate
24 for arms-length transactions and has nothing to do with profit or fairness.
25 Accordingly, it has not provided evidence to exclude management fees.

- 26 5. Applicant's selected trend values in its variance request are excessive and
27 unsupported.

28 Department Response

The Department determined that the Applicant's use of a trend variance is
necessary and appropriate due to the impact of the COVID-19 stay-at-home
orders. The Department's analysis of loss trends and premium trends resulted in
net trends that were lower than the Applicant's in nearly all coverages, yet resulted
in a rate indication that remains above the proposed indication on a combined
basis.

6. Applicant improperly used education and occupation to create "affinity groups."

Department Response

The Commissioner continues to monitor group discounts, including those offered
by Applicant, to ensure that the discounts are offered in a fair and compliant
manner. To the extent Petitioner urges the Commissioner to enact changes to
longstanding policy within the limited context of this Application, the

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Commissioner declines to do so. Any action the Commissioner takes to address this issue will be on an industry-wide basis.

- 7. The earned premiums contained in the Supplemental COVID-19 Premium Exposure and Premium Template are gross of COVID-19 refunds when they should be net of COVID-19 refunds.

Department Response

Applicant updated the template and corrected this error. With this update, the Department’s rate indication remains unchanged.

Applicant, Petitioner, and the Department (collectively “the Parties”) have exchanged correspondence, participated in teleconferences, and considered all evidence that was presented by the Parties. The Department is satisfied that the allegations raised in the Petition have been satisfactorily resolved as set forth above and is prepared to approve a rate increase of 6.9%. The Parties have been unable to resolve the Application by stipulation.

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III.

ORDER

For the reasons set forth above, the Petitioner’s request for hearing in this matter IS DENIED.

IT IS SO ORDERED this 17th day of February 2023.

RICARDO LARA
Insurance Commissioner

By 
Kenneth Allen
Deputy Commissioner

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PROOF OF SERVICE
In the Matter of the Rate Application of
Interinsurance Exchange of the Automobile Club, Applicant.
(Consumer Watchdog's Petition for Hearing)
CDI File No. PA-2022-00005

I am over the age of eighteen years and am not a party to the within action. I am an employee of the Department of Insurance, State of California, employed at 1901 Harrison Street, 4th Floor, Oakland, CA 94612. On February 17, 2023, I served the following document(s):

DECISION DENYING PETITIONER'S PETITION FOR HEARING
- RRB App. No. 22-1466

on all persons named on the attached Service List, by the method of service indicated, as follows:

If **U.S. MAIL** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for mailing by U.S. Mail. Under that practice, outgoing items are deposited, in the ordinary course of business, with the U.S. Postal Service on that same day, with postage fully prepaid, in the city and county of San Francisco, California.

If **OVERNIGHT SERVICE** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items for overnight delivery, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for overnight delivery. Under that practice, outgoing items are deposited, in the ordinary course of business, with an authorized courier or a facility regularly maintained by one of the following overnight services in the city and county of San Francisco, California: Express Mail, UPS, Federal Express, or Golden State overnight service, with an active account number shown for payment.

If **FAX SERVICE** is indicated, by facsimile transmission this date to fax number stated for the person(s) so marked.

If **PERSONAL SERVICE** is indicated, by hand delivery this date.

If **INTRA-AGENCY MAIL** is indicated, by placing this date in a place designated for collection for delivery by Department of Insurance intra-agency mail.

If **EMAIL** is indicated, by electronic mail transmission this date to the email address(es) listed.

Executed this date at San Francisco, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Cecilia Padua

Cecilia Padua

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SERVICE LIST
In the Matter of the Rate Application of
Interinsurance Exchange of the Automobile Club, Applicant.
(Consumer Watchdog's Petition for Hearing)
CDI File No. PA-2022-00005

<u>Name/Address</u>	<u>Phone/Fax Numbers</u>	<u>Method of Service</u>
Harvey Rosenfield, Esq. Pamela Pressley, Esq. Benjamin Powell, Esq. Ryan Melino, Esq. Attorneys for Intervenor CONSUMER WATCHDOG 6330 San Vicente Blvd., Suite 250 Los Angeles, CA 90048 harvey@consumerwatchdog.org pam@consumerwatchdog.org ben@consumerwatchdog.org ryan.m@consumerwatchdog.org	Tel: (310) 392-0522 Fax: (310) 392-8874	Via EMAIL

Lincoln Tomlin Vice President Public and Government Affairs INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB 3333 Fairview Road, A131 Costa Mesa, CA 92626 Tomlin.Lincoln@aaa-calif.com	Tel: (213) 680-2800 Fax: (213) 614-7399	Via EMAIL
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NON PARTIES

Kenneth Allen Deputy Commissioner Rate Regulation Branch CALIFORNIA DEPARTMENT OF INSURANCE 300 South Spring Street, 14 th Floor Los Angeles, CA 90013 Ken.allen@insurance.ca.gov	Tel: (213) 346-6783 Fax: (213) 897-9051	Via EMAIL
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Jamie Katz, Esq.
Staff Counsel & Public Advisor
Office of the Public Advisor
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INSURANCE**
1901 Harrison Street, 4th Floor
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Via EMAIL

Service List

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Alec Stone
Lisbeth Landsman-Smith
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- FAX
- U.S. MAIL
- OVERNIGHT MAIL
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- FAX
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- EMAIL

1 Harvey Rosenfield, SBN 123082
2 Pamela Pressley, SBN 180362
3 Benjamin Powell, SBN 311624
4 Ryan Mellino, SBN 342497
5 CONSUMER WATCHDOG
6 6330 San Vicente Blvd., Suite 250
7 Los Angeles, CA 90048
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11 pam@consumerwatchdog.org
12 ben@consumerwatchdog.org
13 ryan.m@consumerwatchdog.org

14 Attorneys for CONSUMER WATCHDOG

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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

14 In the Matter of the Rate Application of
15 Interinsurance Exchange of the
16 Automobile Club,
17 Applicant.

File No.: PA-2022-00005

**DECLARATION OF ALLAN I. SCHWARTZ IN
SUPPORT OF CONSUMER WATCHDOG'S
REQUEST FOR COMPENSATION**

1 I, Allan I. Schwartz, declare:

2 1. I am an actuary with over 40 years consulting actuarial experience currently employed
3 by and President of AIS Risk Consultants, Inc., an actuarial consulting firm I founded in 1984, located
4 in Freehold, New Jersey. I have provided actuarial consulting services to Consumer Watchdog
5 (“CWD”) in this matter and numerous other Proposition 103 proceedings, administrative and civil, for
6 more than 20 years. This declaration is submitted in support of Consumer Watchdog’s Request for
7 Compensation. I have firsthand knowledge of the matters set forth herein, and if called as a witness, I
8 could and would testify competently to the facts stated in this declaration.

9 2. The type of survey of fees that CWD presented for legal services through the Declaration
10 of Richard M. Pearl in support of its Request for Compensation is not available for consulting actuarial
11 services, to the best of my knowledge. Reasons for this are discussed in ¶¶ 11–13 below. Given that
12 situation, other information will be provided to support the actuarial hourly rates used in CWD’s
13 Request for Compensation.

14 3. AIS Risk Consultants, Inc. has entered into agreements to provide actuarial services with
15 several entities in various places, including cities / states with medium and large populations, where the
16 applicable hourly rates for work in 2021 were \$835 for me and \$380 for my associate, Katherine Tollar,
17 and for work in 2022 were \$870 for me and \$395 for Katherine Tollar.

18 4. AIS Risk Consultants, Inc. was compensated by these clients for work done by me in
19 2021 and 2022 at the hourly rates of \$835 and \$870, respectively. AIS Risk Consultants, Inc. has also
20 been compensated by clients for work done by Ms. Tollar at the hourly rate of \$380 in 2021 and \$395 in
21 2022.

22 5. As mentioned above in ¶ 2, there are no public surveys of the hourly rates charged for
23 consulting actuarial services. Public information regarding the hourly rates charged for actuarial work
24 by specific actuaries is equally limited. One instance where such information is available is from an
25 administrative hearing in California in 2015–2016 concerning an application for a homeowners
26 insurance rate increase by State Farm General Insurance Company (“SFGIC”) (File No. PA-2015-

1 00004).¹ SFGIC’s expert witnesses in that case charged hourly rates of \$685 (Dr. David Appel) and
2 \$700 (Ms. Nancy Watkins). (See true and correct copies of excerpts of the testimony in that proceeding
3 attached as Exh. 1.) Nancy Watkins is based in San Francisco and Dr. Appel is based in New York
4 City, and both are with Milliman, Inc. Ms. Watkins and Dr. Appel have comparable experience to
5 mine. (See <https://us.milliman.com/en/consultants/watkins-nancy> and
6 <https://us.milliman.com/en/consultants/appel-david> with links to download bios.)² Consumer
7 Federation of California (“CFC”) also participated in that case as an intervenor and billed at an hourly
8 rate of \$650 for its two FCAS experts—Mr. Mark Priven and Ms. Nina Gau. (A true and correct copy
9 of CFC’s attorney declaration in support of its request for compensation in that matter is attached as
10 Exh. 2, which includes the hourly rates of Mr. Priven and Ms. Gau [at p. 10] and their CVs attached
11 thereto.) I have been an FCAS for a considerably longer period of time than either Mr. Priven or
12 Ms. Gau.³

13 6. My hourly rate for that proceeding was \$695. That \$695 value falls within the range of
14 the hourly rates used by other expert witnesses in that case with similar or less actuarial experience than
15 me. Consumer Watchdog requested compensation for my fees and expenses at that hourly rate. The
16 Commissioner approved my hourly rate in that case, notwithstanding State Farm’s objections, and
17 ordered compensation in full for my fees and expenses, finding “that the hourly rates requested for the
18 attorney, advocates and experts who worked on this matter are within the reasonable market range that
19 attorneys, advocates and experts with similar skills and experience in San Francisco and Los Angeles
20 charged in 2016....CW’s requested hourly rates are within the range of rates previously approved by the
21 Department for attorneys, and experts of similar professional background and experience in recent,
22 similar matters.” (Amended Decision Awarding Compensation to Consumer Watchdog, June 22, 2017,
23

24 ¹ SFGIC made the filing in December 2014. The evidentiary portion of the hearing took place in 2015 to
25 2016. The Order Adopting the Revised Proposed Decision was dated November 6, 2016.

26 ² I am a Fellow of the Casualty Actuarial Society (“FCAS”) and Dr. Appel has a Ph.D. These are
27 considered comparable educational achievements. I have been an FCAS since 1981 and Ms. Watkins
28 has been an FCAS since 1991. (This information is accessible at
<https://netforum.casact.org/eWeb/DynamicPage.aspx?webcode=CASActuaryDirectory>.)

³ I have been an FCAS since 1981, Mr. Priven has been an FCAS since 1995, and Ms. Gau has been an
FCAS since 2009. (This information is accessible at
<https://netforum.casact.org/eWeb/DynamicPage.aspx?webcode=CASActuaryDirectory>.)

1 *In the Matter of the Rate Application of State Farm General Insurance Company*, Prior Approval File
2 No. PA-2015-00004, p. 8; a true and correct copy of this decision is attached as Exh. 3.)

3 7. Adjusting a \$695 hourly rate in 2016 by 4.0% a year over a period of seven years gives a
4 value of \$915 in 2023 ($\$915 = \695×1.040^7).⁴

5 8. The Commissioner awarded Consumer Watchdog compensation for my actuarial
6 consulting services based on my 2022 hourly rate of \$870 in prior proceedings (Decision Awarding
7 Compensation, June 29, 2022, *In the Matter of the Rate Applications of Farmers Insurance Exchange,*
8 *Fire Insurance Exchange, and Mid-Century Insurance Company*, File No. PA-2021-00007, p. 10;
9 Decision Awarding Compensation, March 8, 2023, *In the Matter of the Rulemaking Hearing Re: Risk in*
10 *Mitigation Plans and Wildfire Risk Models*, File Nos. REG-2020-00015 and REG-2020-00016, pp. 25–
11 26). My 2023 rate of \$915 per hour is an increase of 5.2% from my 2022 rate of \$870 per hour.⁵ The
12 Commissioner also awarded Consumer Watchdog compensation for my actuarial consulting services
13 based on my 2021 hourly rate of \$835 in three proceedings. In the decisions awarding compensation in
14 these matters issued in 2021 for work performed in 2020–2021, the Commissioner found that the hourly
15 rates requested for Consumer Watchdog’s attorneys and experts were reasonable. (See Decision
16 Awarding Compensation, Oct. 6, 2021, *In the Matter of the Rate Applications of Farmers Insurance*
17 *Exchange, Fire Insurance Exchange, and Mid-Century Insurance Company*, File No. PA-2020-00006,
18 p. 10; Decision Awarding Compensation, Feb. 14, 2022, *In the Matter of the Rate Application of*
19 *Homesite Insurance Company of California*, File No. PA-2020-00003, p. 9; Decision Awarding
20 Compensation, Feb. 16, 2022, *In the Matter of the New Program Applications of Farmers Insurance*
21 *Exchange and Fire Insurance Exchange*, File No. PA-2020-00004, p. 9;⁶ true and correct copies of these
22 decisions are attached as Exh. 4.)⁷

23 9. I also have personal knowledge of some rates charged by expert witnesses in other
24 insurance litigation cases. My hourly rate is generally consistent with those other rates, being neither the

25 ⁴ The regulations base the market rate on when the Commissioner issues a decision, not when the work
26 was performed. (See Cal. Code of Regs., tit. 10, § 2661.1(c).)

27 ⁵ Inflation, as measured by the All items in U.S. city average, all urban consumers, not seasonally
28 adjusted (Series Id: CUUR0000SA0) was 8.0% from 2021 to 2022.

⁶ The request for compensation decisions in the *Homesite* matter (File No. PA-2020-00003) and the
Farmers matter (File No. PA-2020-00004) also awarded Consumer Watchdog compensation for
actuarial services performed by my associate, Ms. Tollar, at the rate of \$380 per hour.

⁷ Ms. Tollar’s rate of \$415 per hour for 2023 is an increase of 5.1% from \$395 in 2022.

1 highest nor the lowest. Because of confidentiality and proprietary issues, discussed further below, I am
2 not able to provide more details regarding those other hourly rates

3 10. In evaluating hourly rates, the regulation indicates that it should reflect the hourly rates
4 of “experts with similar experience, skill and ability.” While it is difficult to make an exact
5 comparison, I would like to point out some examples of my “experience, skill and ability.” I have over
6 40 years of consulting actuarial experience. I have also served as Assistant Commissioner of the New
7 Jersey Department of Insurance and as Chief Actuary for the North Carolina Department of Insurance. I
8 am a Fellow of the Casualty Actuarial Society, an actuarial designation earned by completing a
9 rigorous system of actuarial examinations, and also hold numerous professional designations from the
10 Insurance Institute of America. My CV is attached as Exh. 5. Three court proceedings where my work
11 was relied upon by the court, and which saved millions to hundreds of millions of dollars, are:

12 (i) *Cleveland v. Bur. of Workers’ Comp.*, 2018-Ohio-846, (ii) *Del. Comp. Rating Bureau, Inc. v. Ins.*
13 *Comm’r of Del.*, 2009 Del. Ch. LEXIS 133, and (iii) *State ex. rel. Comm’r of Ins. v. N.C. Rate Bureau*,
14 248 N.C. App. 602. Additionally, my actuarial consulting services to CWD in over 100 insurance rate
15 proceedings in California since 2003 alone have substantially contributed to over \$3.4 billion in savings
16 to consumers. Ms. Tollar has assisted me in Proposition 103 rate matters since joining AIS Risk
17 Consultants, Inc. in 1999. Ms. Tollar’s CV is attached as Exh. 6.⁸

18 11. I previously mentioned the difficulty in obtaining a survey of consulting actuarial hourly
19 rates similar to that presented by CWD for legal fees. There are at least two reasons for this.

20 12. First, the hourly rates charged for consulting actuarial work are generally considered to
21 be proprietary and confidential. Exceptions could be when actuarial work involves court proceedings or
22 work paid for with public funds. However, that would be a small part of overall actuarial consulting.
23 Hence, obtaining a compilation of hourly rates for actuarial consulting is difficult.

24 13. Second, the number of actuaries providing consulting services is much smaller than the
25 number of lawyers performing work for which their fees would be disclosed. According to the Casualty
26 Actuarial Society, the number of consulting actuaries with locations in San Francisco and Los Angeles
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⁸ Ms. Dwyer has similar experience to that of Ms. Tollar. Her CV is attached as Exh. 7.

1 are 16 and 12, respectively.⁹ Even expanding this to all of California gives a total of 83 actuaries.¹⁰
2 Segmenting these by “experience, skill and ability” would lead to even smaller groups to choose from.
3 For instance, limiting the California number to FCAS would decrease the number from 81 to just 57.¹¹

4 14. AIS Risk Consultants’ billing records in this matter are attached to this declaration as
5 Exh. 8. The attached time records were maintained contemporaneously and reflect the actual time spent
6 and actual work performed by myself and others at AIS Risk Consultants.

7 15. In summary, the hourly rates billed by AIS Risk Consultants, Inc. are supported by
8 consulting agreements used by AIS Risk Consultants, Inc. elsewhere, are consistent with the limited
9 information available regarding the hourly charges by other insurance consultants with similar
10 experience doing this type of work, and are supported based upon the hourly rate approved by the
11 Commissioner in other cases.

12 I declare under penalty of perjury under the laws of the State of California that the foregoing is
13 true and correct.

14 Executed on March 20, 2023, at Freehold, New Jersey.

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17 _____
18 Allan I. Schwartz

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26 _____
27 ⁹ <https://netforum.casact.org/eWeb/DynamicPage.aspx?webcode=CASActuaryDirectory> (selecting for
28 employment type: “consultant” and city: “San Francisco” or “Los Angeles”, respectively); accessed
Feb. 2, 2023.

¹⁰ *Ibid.*

¹¹ *Ibid.*

EXHIBIT 1

FILED

SEP 21 2015

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11 Attorneys for Applicant
 STATE FARM GENERAL
 12 INSURANCE COMPANY

BEFORE THE INSURANCE COMMISSIONER

OF THE STATE OF CALIFORNIA

15 In the Matter of the Rate Application of
 16 STATE FARM GENERAL
 INSURANCE COMPANY,
 17 Applicant.

File No PA-2015-00004

PRE-FILED DIRECT TESTIMONY OF
 EXPERT WITNESS DAVID APPEL IN
 SUPPORT OF STATE FARM GENERAL
 INSURANCE COMPANY RATE
 APPLICATION

Hearing Date: November 16, 2015

HOGAN LOVELLS US
 LLP
 ATTORNEYS AT LAW
 MENLO PARK

PRE-FILED DIRECT TESTIMONY OF DAVID APPEL, FILE NO. PA-2015-00004

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publication, and public speaking on issues of current interest in insurance economics. I also served for twelve years, an Adjunct Professor of Economics at Rutgers University.

4. My curriculum vitae, listing my refereed publications and expert testimony, is included as Exhibit DA-1 to this Prefiled Direct Testimony.

5. In addition to my academic and professional experience, I have also frequently served as an expert witness in insurance rate proceedings or insurance related civil litigation. During the course of my career I have testified in well over 100 such matters, including at least 25 in the state of California. My testimony has covered a wide variety of issues, including such diverse topics as the impact of economic and demographic factors on insurance costs; the use of econometric and statistical models in insurance forecasting; and the use of modern financial theory in developing insurance prices. This testimony has covered most of the major lines of property casualty insurance, including automobile, homeowners, workers compensation, medical malpractice, reinsurance, and title insurance. In addition, I have served as an arbitrator on more than 25 occasions, as a member of the Panel of Neutrals of the AAA and a Certified Arbitrator and Umpire with ARIAS, the international insurance and reinsurance arbitration society.

6. I am being compensated for my work in this matter at my standard hourly rate of \$685. My compensation does not depend in any way on the opinions I express or the outcome of this case.

II. NATURE OF ASSIGNMENT AND SUMMARY OF OPINIONS

7. I have been asked to provide my analysis and opinions in connection with three specific issues arising from the recent homeowners (HO) insurance rate filing made by State Farm General Insurance Company (SFG). While I understand that there are other issues in dispute between SFG and the California Department of Insurance (CDI), the questions I have been

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Attorneys for Applicant
STATE FARM GENERAL
INSURANCE COMPANY

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

In the Matter of the Rate Application of
**STATE FARM GENERAL
INSURANCE COMPANY,**
Applicant.

File No PA-2015-00004

**PRE-FILED DIRECT TESTIMONY OF
EXPERT WITNESS NANCY WATKINS**

Hearing Date: November 16, 2015

PUBLIC REDACTED VERSION

FILED

SEP 22 2015

ADMINISTRATIVE HEARING BUREAU

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residual market exposure. I presented the results of both analyses to a North Carolina legislative panel.

- In 2010, I served on a panel of three actuaries appointed to conduct the resolution of a dispute regarding a commutation of FHCF recoverables between a Florida insurance company and the Florida State Board of Administration (SBA).
- In 2012, Citizens hired me in support of their 2013 rate filings. I attended pre-filing meetings between Citizens and the Florida Office of Insurance Regulation (OIR) and served as an expert witness for Citizens' OIR rate hearing.
- In 2013 I served as the actuarial thought leader on property pricing at a "National Cat Solutions" roundtable organized by the Property Casualty Insurers Association of America (PCI) and the Wharton School. Attendees included insurance commissioners, insurance company executives, rating agency analysts, catastrophe modelers, reinsurers and brokers. I am currently leading a joint work group including PCI members, regulators and actuaries from the AAA Extreme Events Committee to draft a "Best Practices in Property Ratemaking" document as one of the proposed solutions.
- In 2014 I presented on assessing and integrating risk into actuarial practices at the Climate Risk Forum. The forum was held at Stanford University, and co-sponsored by Stanford, the California Insurance Commissioner, Risky Business project, AAA and Sandia National Laboratories.
- I have presented on Homeowners pricing and predictive modeling at professional conferences such as the CAS Ratemaking & Product Management conference and the CAS Spring Meeting.

8. I meet the Qualification Standards of the American Academy of Actuaries to render the opinions contained herein.
9. My 2015 billable rate is \$700 per hour payable to Milliman, Inc. for my actuarial consulting services, including expert witness support. My payment is not dependent on the outcome of this matter.

EXHIBIT 2

1 Richard Holober
2 Douglas Heller
3 Aaron Lewis (SBN 285526)
4 CONSUMER FEDERATION OF CALIFORNIA
5 1107 9th Street, Suite 625
6 Sacramento, CA 95814
7 Tel.: 916-498-9608
8 Fax: 916-498-9611
9 holober@consumercal.org
10 douglasheller@ymail.com
11 alewis@consumercal.org

12 Attorneys and Advocates for CONSUMER FEDERATION OF CALIFORNIA

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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of the Rates Application of
STATE FARM GENERAL INSURANCE
COMPANY,
Applicant.

File No. PA-2015-00004

**DECLARATION OF AARON LEWIS IN
SUPPORT OF CONSUMER
FEDERATION OF CALIFORNIA'S
REQUEST FOR COMPENSATION**

I, Aaron Lewis, declare:

1. I am over eighteen years of age and counsel for the Consumer Federation of California ("CFC") in this matter. This declaration is submitted in support of CFC's Request for Compensation in the above captioned matter. I have personal knowledge of the information set forth herein and, if called as a witness, I could and would testify competently to the facts stated in this declaration.

2. Consumer Federation of California is a California-based non-profit 501(c)(4) federation of individual consumer members and several organizational members that are comprised of California consumers, including consumer groups, senior citizen groups, labor and other organizations.

1 **Consumer Federation of California’s Billed Hours Are Reasonable and in**
2 **Compliance with the Regulations**

3 3. Attached hereto as Attachment 1 are the true and correct billing records of CFC’s
4 advocates and attorneys in this matter, including Douglas Heller, Richard Holober, and Aaron
5 Lewis.

6 4. Pursuant to 10 CCR section 2662.6, CFC has requested compensation at the
7 prevailing market rates. The Department of Insurance has consistently awarded, and rate
8 applicants have consistently paid, market hourly rates in fee awards.

9 5. I have reviewed the timesheets and believe that the hours expended were
10 reasonable and necessary in order to make the substantial contribution detailed in the Request for
11 Compensation.

12 6. Based upon the time-billing records of the entire team, CFC’s advocates and
13 attorney spent 701.51 hours on this matter through December 5, 2016. For Compensation, the
14 hourly rates sought for each advocate and attorney are as follows: \$295 for Douglas Heller, \$250
15 for Richard Holober, and \$315 for Aaron Lewis, Esq. These rates comport with what I expect
16 would be charged in the private market for these or comparable services in Los Angeles and San
17 Francisco, in accordance with 10 CCR section 2661.1(c).

18 7. In this matter, CFC’s advocates and attorneys performed the following tasks:

- 19 • Drafted and edited CFC’s Petition for Hearing and Petition to Intervene;
- 20 • Conferred regarding analysis, strategy and overall position;
- 21 • Conferred with CFC’s actuarial experts during all phases of the proceeding;
- 22 • Participated and contributed to informal discussions among the parties;
- 23 • Propounded discovery requests and responded to Applicant's discovery
24 request;
- 25 • Drafted and edited a Motion to Compel and motions to strike and defended
26 against Applicant's motions to strike;
- 27 • Prepared for and participated in evidentiary hearings, including direct and
28 cross-examination of witnesses;

- Drafted and edited post-evidentiary hearing briefing in the matter;
- Drafted and edited briefing on refund interest rates;
- Reviewed and responded to communications and questions of the parties to the matter;
- Participated in hearing and status conferences ordered by the ALJ;
- Reviewed and edited timesheets and billing records;
- Drafted, reviewed and edited the Request for Compensation, including the supporting declaration and exhibits.

In addition to fees, CFC incurred \$16,262.69 in other expenses related to travel, printing, and hearing-related costs. These expenses are “reasonable, actual out-of-pocket costs,” pursuant to 10 CCR Section 2661.1 and are detailed in Attachment 2, appended hereto.

Douglas Heller

8. Douglas Heller is an independent consultant and insurance expert with particular expertise in California property-casualty insurance ratemaking, and has served as Consumer Federation of California’s lead advocate in this matter. He holds a Master of Public Administration degree and has seventeen years of experience as a consumer advocate focusing on property-casualty insurance rates and policies. He has participated and intervened in several rulemaking and ratemaking proceedings before the Department of Insurance since 1999, with a particular focus on matters related to, or governed by, Proposition 103. Between 1997 and 2013, he worked in various capacities for the nonpartisan, nonprofit organization Consumer Watchdog, including serving as its Executive Director from 2004 until 2012, and was its lead insurance advocate during most of his 16 years with the organization. Examples of his ratemaking, rulemaking and other insurance advocacy include:

- *In the Matter of the Rate Applications of Wawanesa General Insurance Company*, file number PA-2015-00011, in which he served as lead advocate and subject matter expert for Consumer Federation of California.
- *In the Matter of the Rate Applications of Safeco Insurance Company of America, First National Insurance Company of America, American States Preferred*

- 1 *Insurance Company*, file number PA 2015-00007, in which he served as lead
2 advocate and subject matter expert for Consumer Federation of California.
- 3 • *In the Non-Compliance Matter Regarding GEICO Insurance Company*, file
4 number NC-2015-00001, in which he served as lead advocate and subject matter
5 expert for Consumer Federation of California.
 - 6 • *In the Matter of the Rate Application of Hartford Underwriters Insurance
7 Company and Trumbull Insurance Company*, file number PA-2014-00011, in
8 which he served as lead advocate and subject matter expert for Consumer
9 Federation of California;
 - 10 • *In the Matter of the Rate Application of Infinity Insurance Company*, file number
11 PA-2014-00002, in which he served as lead advocate and subject matter expert
12 for Consumer Federation of California;
 - 13 • *In The Matter Of The Rate And Rating Plan Application Of AIG Property
14 Casualty Company*, file number PA-2013-00013, in which he served as lead
15 advocate and subject matter expert for Consumer Federation of California;
 - 16 • *In the Matter of the Rate Application of State Farm General Insurance Company*,
17 file number IP-2013-00014, in which he served as lead advocate and subject
18 matter expert for Consumer Federation of California;
 - 19 • *In the Matter of the Rate Application of Progressive West Insurance Company*,
20 file number IP-2012-00011, in which he served as an advocate and subject matter
21 expert for Consumer Watchdog;
 - 22 • *In re proposed amendments to Subchapter 4.9, Title 10 of the California Code of
23 Regulations, Chapter 5, Subchapter 4.7, Section 2632.5 (Pay as you Drive, Usage
24 Based Auto Insurance Regulations)*, file number IP-2008-00043, in which he
25 served as an advocate for Consumer Watchdog; and
 - 26 • *In re RH 03 02 6431 and RH 03 02 6432, Low Cost Automobile Insurance Rates*,
27 file number IC 03 03 3218, in which he served as an advocate for Consumer
28 Watchdog.

9. In each of the above matters, the Commissioner approved compensation for the
time he billed. In the 2003 matter, Mr. Heller’s discounted billing rate was \$150 per hour.
Beginning with the Pay as you Drive rulemaking of 2008, his rate, which was found to be
reasonable by the Commissioner, was \$225 per hour and identified as “discounted” in the
Request for Compensation relative to market rates. In the 2013 and 2014 matters, the
Commissioner approved compensation at the billing rate of \$275 per hour. In the 2015 matters,
the Commissioner approved compensation at the billing rate of \$295 per hour.

10. In addition to the above selection of matters in which Mr. Heller served as an
advocate and expert, he serves as an appointed Consumer Representative to the California
Automobile Assigned Risk Plan Advisory Board; he was a featured speaker at a May 16, 2013

1 symposium regarding the regulation of California's insurance industry presented for MCLE
2 credit by The Insurance Law Committee of the California State Bar; and he is the co-author of a
3 2013 report entitled *What Works: A Review of Auto Insurance Rate Regulation in America and*
4 *How Best Practices Save Billions of Dollars.*

5 11. Given Mr. Heller's unique expertise and the Commissioner's prior approval of
6 this rate, \$295 per hour is reasonable and the market rate required under 10 CCR section
7 2661.1(c) and 2662.6 (b).

8 **Richard Holober**

9 12. Richard Holober is the Executive Director of Consumer Federation of California,
10 a nonprofit, nonpartisan organization dedicated to protecting the interests of California
11 consumers. Mr. Holober has served in this role since 2001. Mr. Holober served on the California
12 Department of Insurance's Consumer Advisory Board established by former Insurance
13 Commissioner Steve Poizner and has advocated on behalf of insurance consumers before
14 regulators, lawmakers and in public campaigns.

15 13. Mr. Holober served as an advocate *In the Non-Compliance Matter Regarding*
16 *GEICO Insurance Company*, file number NC-2015-00001; *In the Matter of the Rate Application*
17 *of AIG Property Casualty Company*, file number PA-2013-00014; *In the Matter of the Rate*
18 *Application of State Farm General Insurance Company*, file number IP-2013-00013; and *In the*
19 *Matter of the Rate Application of Farmers Insurance Exchange, Fire Insurance Exchange, and*
20 *Mid-Century Insurance Company*, file number PA-2013-00011.

21 14. As the Executive Director of CFC, Mr. Holober is responsible for making
22 strategic decisions on behalf of the organization, which includes assessing the facts of
23 ratemaking, rulemaking and noncompliance matters to determine the appropriateness of
24 decisions related to such choices as whether to file a petition for hearing, agree to a proposed
25 settlement or stipulation, and how to deploy organizational resources in order to most effectively
26 advocate for consumers. In addition to his work for CFC, Mr. Holober has served as an elected
27 member of the Board of Trustees of the San Mateo Community College District since 1997 and
28 served as an elected member of the Milbrae School Board between 1993 and 1997.

1 15. Given Mr. Holober’s tenure leading a consumer advocacy organization, his role
2 representing consumers in the legislative and regulatory setting, and his extensive experience
3 with public governance, I believe that Mr. Holober’s hourly rate of \$250 is appropriate,
4 reasonable, and the market rate under 10 CCR section 2661.1(c) and 2662.6 (b). In the 2015
5 matter identified above (¶ 13), the Commissioner approved compensation at the billing rate of
6 \$250 per hour for Mr. Holober.

7 **Aaron Lewis**

8 16. I am a staff attorney with the Consumer Federation of California. I am a 2008
9 graduate of Columbia University and a 2012 graduate of the University of California, Hastings
10 College of the Law, where I focused my studies in civil litigation and graduated with recognition
11 for Outstanding Achievement in Pro Bono. I also served as Senior Managing Editor of the
12 Hastings Race and Poverty Law Journal, twice received the Wiley W. Manuel Award for Pro
13 Bono Legal Services from the State Bar of California, and worked as a summer extern for the
14 Honorable Thelton E. Henderson of the U.S. District Court for the Northern District of
15 California.

16 17. I have worked as an attorney and lobbyist for CFC since July 2014, including
17 work on various insurance-related issues ranging from an enforcement action before the
18 Department of Insurance (*In the Non-Compliance Matter Regarding GEICO Insurance*
19 *Company*, file number NC-2015-00001) challenging auto insurance discrimination based on
20 gender, education level, marital status, and occupation in online quotation tools resulting in \$6
21 million settlement, to legislative advocacy.

22 18. Prior to working at CFC, I was employed as an attorney by the National Asian
23 American Coalition (NAAC), a 501 (c)(3), U.S. Department of Housing and Urban Development
24 approved home counseling agency which advocates on behalf of communities of color, in
25 particular Asian American communities and immigrant communities. While at the NAAC, I was
26 lead attorney for the organization’s intervention *In the Matter of the Rate Application of Mercury*
27 *Casualty Company*, PA-2013-00004, a prior approval rate case before the CDI.

1 19. While at NAAC, I also worked on a number of rulemakings and rate applications
2 before the California Public Utilities Commission including, Rulemaking 09-07-027, 2011 Cal.
3 PUC LEXIS 276 (Cal. PUC 2011); Application 10-11-015, 2012 Cal. PUC LEXIS 379 (Cal.
4 PUC 2012); Application 10-12-005, 2013 Cal. PUC LEXIS 283 (Cal. PUC 2013); Application
5 12-11-009, 2013 Cal. PUC LEXIS 145 (Cal. PUC 2013); Application 11-10-002, 2011 Cal. PUC
6 LEXIS; Application 12-03-001, et al., 2013 Cal. PUC LEXIS 644 (Cal. PUC 2013); and
7 Investigation 12-10-013, 2012 Cal. PUC LEXIS 483 (Cal PUC 2012).

8 20. I have been a member of the California Bar since December 2012, and have been
9 practicing in administrative and regulatory settings, including before the Department of
10 Insurance, since then. In 2015, *In the Matter of the Rates Charged, Rating Plan, Rating*
11 *Systems, Rates and Underwriting Rules of Government Employees Insurance Company*, NC-
12 2015-00001, I was awarded a rate of \$315. In the past, the Commissioner has awarded an hourly
13 rate of \$325 to attorneys with one to three years of experience. *See In the Non-Compliance*
14 *Matter Regarding Mercury Insurance Company*, IC-2007-00020; *In the Matter of the Rate*
15 *Application of Mercury Casualty Company*, PA-2013-00004. Accordingly, I believe that my rate
16 of \$315 is consistent with compensation awards granted by the Commissioner and with
17 prevailing market rates in the private sector for attorneys of comparable skill, qualifications and
18 experience.

19 **CFC's Actuarial Experts' Billed Hours Are Reasonable and in Compliance with the**
20 **Regulations**

21 21. In order to effectively advocate on behalf of consumers, CFC retained the
22 consulting firm Bickmore to provide actuarial consulting and expert testimony in this
23 proceeding. CFC incurred \$437,281 for its consulting actuaries, who spent 838.4 hours providing
24 expert analysis, testimony, and consultation during the proceeding. As is more thoroughly
25 detailed in the billing records attached here as Attachment 3, Bickmore's actuaries provided the
26 following services in support of CFC's challenge to Applicant's rates:

- 1 • Reviewed the filing and supplemental documents, including a detailed review
- 2 of the premium and loss trends, catastrophe adjustment, projected yield, and
- 3 information related to variance requests;
- 4 • Conferred with advocates regarding analysis of Application;
- 5 • Prepared actuarial memos and rate templates;
- 6 • Participated in discussions with parties regarding the filing, data, and questions
- 7 related to actuarial soundness and regulatory compliance of the filing;
- 8 • Analyzed the impact of various settlement alternatives and proposed
- 9 stipulations and advised CFC with respect to the actuarial soundness of same;
- 10 • Advised and assisted CFC in preparation of discovery requests;
- 11 • Produced information in response to discovery requests;
- 12 • Reviewed and analyzed information and data produced by Applicant in
- 13 discovery;
- 14 • Reviewed testimony of other parties' witnesses;
- 15 • Prepared pre-filed direct and pre-filed rebuttal testimony;
- 16 • Prepared exhibits;
- 17 • Provided oral testimony on direct, cross-examination, and rebuttal during
- 18 hearing;
- 19 • Advised CFC advocates and attorney during evidentiary hearing; and
- 20 • Advised and assisted CFC during preparation of post-hearing briefing.

21

22 22. I am informed and believe that the rates charged by Bickmore are 2016 market

23 rates for actuaries with their experience and expertise, pursuant to 10 CCR sections 2661.1 and

24 2662.6. Mark Priven, FCAS, MAAA served as CFC's expert witness in the proceeding,

25 analyzing Applicant's rate filing and related material, consulting with CFC on actuarial matters

26 related to the proceeding, and providing written and oral testimony during the evidentiary phase

27 of the proceeding. Mr. Priven began his actuarial career in 1988, has been a credentialed actuary

28 for 23 years, and has been a Fellow of the Casualty Actuarial Society for 21 years. He is

1 President of Regulatory & Alternative Risk Consulting at Bickmore, a subsidiary of York
 2 Insurance Services and one of the largest independent risk consulting firms in the Western
 3 United States. Mr. Priven serves on the California Workers' Compensation Insurance Rating
 4 Bureau Actuarial Committee and is Past President of Casualty Actuaries of the Bay Area. His
 5 rate of \$650 per hour is seven percent lower than the 2015 rate of the Applicant's consulting
 6 actuary. (Watkins PDT 3:25, Exhibit Z) Becky Richard, ACAS, MAAA, also of Bickmore,
 7 provided extensive actuarial analysis to CFC throughout the proceeding and worked closely with
 8 Mr. Priven in all aspects of his participation in this matter. Ms. Richard began her actuarial
 9 career in 1992, has been a credentialed actuary for 20 years, and has served as CFC's actuarial
 10 expert in at least ten rate challenges. Nina Gau, FCAS, MAAA, is Bickmore's Director of
 11 Property and Casualty Actuarial Services, and provided additional actuarial analysis to assist in
 12 the development of Mr. Priven's testimony. Ms. Gau has more than 20 years of experience in the
 13 actuarial field and a Master of Science in Applied Mathematics. Their curriculum vitae are
 14 appended hereto as Attachment 4.

15 23. In addition to fees, CFC incurred \$4,081.26 in other expenses related to
 16 Bickmore's travel costs. These expenses are "reasonable, actual out-of-pocket costs," pursuant
 17 to 10 CCR Section 2661.1 and are detailed in the appended Attachment 5.

18 **Consumer Federation of California's Fees, Inclusive of Actuarial Consultants**

19 24. In order to calculate the requested fees for its advocates, attorneys, and consulting
 20 experts, CFC used the standard "lodestar" methodology of recording the amount of time worked
 21 on a project for each person and multiplying these billed hours by the market rate for that person.
 22 Consumer Federation of California's total lodestar for this matter is \$649,119.92 as is shown
 23 below. Below is a summary of expenses:

CFC Fees and Expenses			
Advocate/Attorney	Total Hours	Hourly Rate	Total Lodestar
Douglas Heller	428.43	\$295	\$126,386.85
Richard Holober	8.7	\$250	\$2,175.00

Aaron Lewis, Esq.	264.38	\$315	\$83,279.70
<i>Sub-Total</i>	<i>701.51</i>		<i>\$211,841.55</i>
Expenses	Total		
Travel - Transportation			\$2,036.01
Travel - Lodging			\$3,202.37
Travel - Meals			\$582.15
Transcripts			\$9,759.80
Printing			\$115.21
Postage			\$566.75
<i>Sub-Total</i>			<i>\$16,262.29</i>
TOTAL			\$228,103.84

Bickmore Fees and Expenses			
Actuary	Total Hours	Hourly Rate	Total Lodestar
Mark Priven, FCAS, MAAA	277.2	\$650	\$180,180.00
Becky Richard, ACAS, MAAA	552.2	\$455	\$251,251.00
Nina Gau, FCAS, MAAA	9	\$650	\$5,850.00
<i>Sub-Total</i>	<i>838.4</i>		<i>\$437,281.00</i>
Expenses - First Evidentiary Hearing (11/16/15-11/23/15)	Total		
Travel - Transportation			387.92

Travel - Lodging	1,800.32
Travel - Meals	206.59
Expenses - Rebuttal Hearing (1/5/16-1/13/16)	
Travel - Transportation	333.96
Travel - Lodging	1,101.98
Travel - Meals	250.49
<i>Sub-Total</i>	<i>\$4,081.26</i>
TOTAL	<i>\$441,362.30</i>

Avoidance of Duplication

25. At the outset of this proceeding, CFC and intervenor Consumer Watchdog delineated the issue areas each organization would focus on in order to avoid duplication. CFC primarily addressed the catastrophe load, while Consumer Watchdog devoted its testimony and briefing principally to State Farm’s variance requests and projected yield. Where it believed it had unique expertise or arguments on issues related to variance requests, projected yield, and other aspects of the Proceeding than the catastrophe load, CFC and its experts provided it.

Facts Concerning This Proceeding and Consumer Federation of California’s

Substantial Contribution

26. On or about December 4, 2014, State Farm filed its rate application with the California Department of Insurance seeking a 6.9 percent rate increase across its three lines of homeowners insurance. State Farm subsequently revised its requested rate increase to 6.4 percent.

27. On January 26, 2015, CFC filed its Petition for Hearing and Petition to Intervene, in which it alleged a multiplicity of deficiencies in State Farm’s rate application. (Exhibit A) The Commissioner granted CFC’s Petition to Intervene in this proceeding on February 10, 2015 and CFC has been found eligible to seek compensation pursuant 10 CCR Section 2662.2. (Exhibit AA) I am informed and believe that over the next few months, CFC engaged with State

1 Farm, Consumer Watchdog, and the Department of Insurance in an attempt to resolve the
2 outstanding issues. In addition to teleconferences and exchanging information with all parties,
3 CFC's engagement during this phase of the proceeding included conferring with its actuarial
4 experts, analyzing additional data provided by Applicant, and providing all parties with its
5 experts' actuarial analysis of the rate filing and rate templates that they deemed more actuarial
6 sound than those provided by the Applicant.

7 28. CDI issued a Notice of Hearing on June 22, 2015. (Notice of Hearing, Exhibit B)
8 State Farm filed its answer and the parties continued their discussions to narrow the issues that
9 would potential be addressed in any subsequent hearing. In the course of these conversations,
10 State Farm provided updates to their application. CFC and the other parties agreed on certain
11 values and data that would be used for the purposes of evaluating the rate application. These
12 items are detailed in three separate joint stipulations submitted by the parties on September 16,
13 2015, October 7, 2015, and November 13, 2015. (Joint Statement of Undisputed Facts and
14 Disputed Issues, September 16, 2015; Supplemental Joint State of Undisputed Issues, October 7,
15 2015; Second Supplemental Joint Statement of Undisputed Issues, November 13, 2015; Exhibits
16 C - E)

17 29. On July 13, 2015, Applicant propounded discovery on CFC (Exhibit F), to which
18 CFC responded on August 11, 2015 (Exhibit G). On July 24, 2015, CFC propounded discovery
19 on State Farm (Exhibit H). In response, State Farm produced numerous documents, some of
20 which were responsive to some of CFC's requests. CFC and State Farm met and conferred as to
21 the status of certain outstanding discovery requests but a resolution was not achieved, and CFC
22 filed its Motion to Compel Discovery on September 8th, 2015. (Consumer Federation of
23 California's Motion to Compel Discovery, Exhibit I)

24 30. CFC and State Farm were eventually able to reach agreement on outstanding
25 discovery issues and CFC withdrew its motion to compel, on the understanding State Farm
26 would provide such information. (Notice of Consumer Federation of California's Withdrawal of
27 Motion to Compel Discovery, September 15, 2015, Exhibit J)

1 31. On September 25, 2015, CFC moved to strike parts of State Farm’s expert witness
2 testimony on the grounds that they contained legal conclusions and several passages constituted
3 impermissible relitigation of the regulations applicable to the ratemaking process. (Consumer
4 Federation of California's Motion to Strike Applicant's Pre-Filed Direct Testimony, Exhibit K)
5 The ALJ granted in part and denied in part CFC’s motion. (Final Rulings on Motions to Strike
6 Applicant’s Pre-Filed Direct Testimony, October 14, 2015, Exhibit L)

7 32. CFC and its actuaries reviewed the documents provided by State Farm during
8 discovery and CFC’s designated actuarial witness, Mark Priven, used these documents to prepare
9 pre-filed direct testimony, which was filed on October 15, 2015. (Pre-Filed Direct Testimony of
10 Mark Priven, Exhibit M) Mr. Priven’s testimony primarily addressed the catastrophe adjustment
11 proposed by the Applicant and its witnesses and presented an alternative method for calculating
12 the adjustment that he believed to be more actuarial sound. He included six separate exhibits that
13 reflected his analysis of State Farm’s application and the documents that were produced in
14 response to CFC's and other parties' discovery requests.

15 33. CFC successfully argued against Applicant’s October 23rd motion to strike
16 portions of Mr. Priven’s pre-filed direct testimony (Exhibit N), with the ALJ rejecting all
17 efforts to strike those contested paragraphs.

18 34. The evidentiary hearing began on November 16 and finished on November 23,
19 2015, over the course of which the parties’ witnesses provided oral testimony and were made
20 available for cross-examination. These included Mr. Priven, whose testimony focused primarily
21 on the catastrophe adjustments in State Farm’s rate filing. Mr. Priven provided additional direct
22 testimony as to the purported leveraging effect of Applicant's fixed-dollar catastrophe threshold,
23 the mixing of calendar and accident year data sets, the appropriate use of certain types of
24 credibility tests for actuarial analysis, and the validity of Cal Fire data, among other items. (Tr.,
25 pp. 781-808, Exhibit NN) Mr. Priven also responded to cross-examination questions posed by
26 other parties. During the evidentiary hearing CFC's advocate Douglas Heller and I elicited
27 additional information from other parties' witnesses through cross-examination. CFC’s actuarial
28 team was present throughout the hearing to advise on technical matters.

1 35. On December 22, 2015, CFC, along with the other parties, submitted its pre-filed
2 rebuttal testimony in response to issues that arose during the November evidentiary hearing.
3 (Pre-Filed Rebuttal Testimony of Mark Priven, Exhibit O) On December 30, 2015, CFC filed a
4 motion to strike certain testimony of Applicant witness Nancy Watkins, with Applicant filing a
5 concurrent motion to strike certain testimony of CFC witness Mark Priven. On January 5th, at
6 the commencement of the rebuttal phase of the evidentiary hearing, I defended CFC's witness's
7 rebuttal against said motion, in which Applicant moved to strike approximately nine pages of
8 Mr. Priven's 23-page rebuttal. The ALJ allowed all but one paragraph of the testimony into
9 evidence. (Tr. 1510:8 - 1512:6, Exhibit P). Thereafter, Mr. Priven provided additional rebuttal
10 testimony and was made available for cross-examination. Mr. Priven's testimony addressed
11 issues that had arisen during the evidentiary hearing, including issues raised by State Farm, such
12 as the suitability of using Fast Track data and Cal Fire data as relevant experience, the
13 appropriateness of unadjusted CAT/AIY ratios in determining the credibility of catastrophe
14 trend, and the use of certain statistical tests (such as R-squared, T-statistic, and P-value). In
15 addition, Mr. Priven responded to cross-examination questions and CFC cross-examined other
16 parties' witnesses.

17 36. During much of the initial evidentiary hearing and rebuttal hearing, CFC's
18 actuarial experts from Bickmore attended the hearings and consulted with CFC regarding the
19 proceeding and, in particular, the actuarial and rate filing related matters before the Court. I
20 believe that Applicant also had actuarial experts and analysts, including witnesses and others not
21 designated as witnesses, in attendance during most days of these hearings.

22 37. In response to the ALJ's January 22, 2016 Order (Amendment to Order
23 Scheduling Motions to Admit Exhibits and Designate Evidence Confidential Under Seal, Exhibit
24 Q), CFC and its actuaries prepared a series of rate templates reflecting various rate calculation
25 methodologies and provided descriptions of the assumptions its actuarial experts made to prepare
26 these template calculations on January 27. CFC and its actuaries developed eight different
27 templates pursuant to this Order and worked with all parties to provide a joint submission of
28

1 template calculations on February 17, 2016. (Parties' Joint Submission of Template
2 Calculations, February 17, 2016, Exhibit QQ)

3 38. On February 12, 2016, CFC filed its Opposition to State Farm's February 4
4 Renewed motion to seal (its initial motion was filed October 4, 2015). CFC's opposition argued
5 for the applicability of Insurance Code section 1861.07, which mandates broad public disclosure
6 during the prior approval rate application process. (Consumer Federation of California's
7 Opposition to State Farm's Motion to Seal, February 12, 2016, Exhibit R) The ALJ subsequently
8 denied State Farm's motion. (Final Rulings on Motion to Seal, Admission of Exhibits, Closing
9 Evidentiary Hearing, and Briefing; March 3, 2016, Exhibit S)

10 39. On April 11, 2016, CFC, along with the other parties, filed its post-hearing
11 opening brief in which it renewed its contention that State Farm's catastrophe load was not
12 actuarially sound, as evidenced by, among other things, a lack of support for the number of years
13 selected to calculate the average ratio, the reliance on countrywide and Cal Fire data to support a
14 California catastrophe trend, and the unsupported use of a Beta factor in the calculation of earned
15 premium. (Consumer Federation of California's Post-Hearing Opening Brief, April 11, 2016,
16 Exhibit T) CFC submitted a reply brief on May 18, 2016, responding to errors and unsupported
17 allegations in Applicant's opening brief as well as providing new argument related to the
18 effective date for any rate change resulting from this proceeding. (Consumer Federation of
19 California's Post-Hearing Reply Brief, May 18, 2016, Exhibit U)

20 40. The ALJ closed the record on June 8, 2016, and subsequently submitted his
21 proposed decision to the Commissioner. (Order Closing Record, June 8, 2016, Exhibit V) On
22 August 8, the Commissioner declined to adopt the ALJ's proposed decision, ordering the record
23 re-opened to take additional evidence relevant to determining the appropriate interest rate for
24 policyholder refunds of excess premium charged. (Notice of Non-Adoption of Proposed
25 Decision, August 8, 2016, Exhibit W) The ALJ directed the parties to submit evidence and
26 concurrently file briefs on the issue. (Order Regarding Taking Evidence, August 12, 2016,
27 Exhibit X) CFC, along with the other parties, submitted opening and reply briefs on August 29
28 and September 20, respectively. (Consumer Federation of California's Opening Brief in Support

1 of Refund Interest Rates, August 29, 2016; Consumer Federation of California’s Reply Brief in
2 Support of Refund Interest Rates, September 20, 2016, Exhibit XX)

3 41. On October 6, 2016, ALJ Larsen issued a Revised Proposed Decision that was
4 received by the Commissioner on October 7, 2016. On November 7, 2016, the Commissioner
5 adopted the ALJ’s Revised Proposed Decision, which found State Farm’s existing rates to be
6 excessive and ordering a 7.0 percent reduction, effective July 15, 2015. The decision also
7 ordered refunds plus interest to be paid for excessive premiums charged after the effective date.
8 (Order Adopting Revised Proposed Decision, November 7, 2016, Exhibit Y)

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12 I declare under penalty of perjury under the laws of the State of California that the
13 foregoing is true and correct.

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15 Executed on December 6, 2016, at Sacramento California.

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Aaron Lewis

ATTACHMENT 1

Hours for Douglas Heller

Date	Time (Hrs)	Activity
1/5/2015	0.42	Call with B Richard about SF filing, including discussion of investment income and CAT load selections
1/21/2015	0.15	call with B Richard re State Farm filing
1/22/2015	0.24	Reviewing analysis of rate filing by B Richard and evidence that rate is excessive; emailing with B Richard re evidence (.1)
1/22/2015	0.32	hearing
1/22/2015	0.32	Preparing Petition for hearing
1/26/2015	1.05	Preparing petition for hearing; emailing with M Varvais re Service of Petition (.1)
2/2/2015	0.27	reviewing SF response to dual petitions.
2/9/2015	0.10	emailing with P Pressley re SF response
2/13/2015	0.47	reviewing SF response to CFC petition
3/19/2015	0.27	Reviewing SF responsive material (to CDI request)
3/23/2015	0.20	Email conference with B Richard re SF's 3/17 SERRF submission
3/31/2015	0.06	Reviewing March 31 SERFF update by State Farm
4/2/2015	0.10	Emailing with B Richard re new SF data
4/3/2015	0.35	Call w B Richard regarding new data provided by SF
4/3/2015	0.10	Email conference with All Parties re scheduling
4/9/2015	0.20	Emails with B Richard, N McKennedy re new material on WARRF
5/18/2015	0.10	emailing B Richard regarding the filing and CFC's memo regarding the indication.
5/20/2015	0.30	variance
5/26/2015	0.24	Call with B Richard re analysis of filing and rate indication
5/26/2015	0.14	Reviewing all parties emails and emailing All Parties regarding apparent exclusion of CFC from recent emails
5/27/2015	0.10	call with N McKennedy regarding emails not sent to CFC
5/27/2015	0.60	reviewing Bickmore memo on rate indications; emailing with B Richard re same.
5/27/2015	0.17	Call with B Richard regarding Cat Load and rate indications memo
5/27/2015	0.22	template
5/27/2015	0.14	parties
5/28/2015	0.17	reviewing material regarding NDA proposed by State Farm
5/29/2015	0.26	reviewing CDI rate indication comparison chart; emailing with B Richard re rate indications
5/29/2015	0.20	emailing with T Foreman, P Pressley re catastrophe adjustment
6/1/2015	0.26	Pre-call with with B Richard regarding All-Parties Call

6/1/2015	0.87	All Parties Call
6/5/2015	0.30	call with R Holober regarding V Wells note on inability to resolve and implications for going forward, including staffing needs.
6/10/2015	0.10	emailing with CFC Team re preparing for hearing
6/10/2015	0.18	Call with R Holober regarding staffing the impending hearing and State Farm's variance requests
6/17/2015	0.17	Call with B Richard, R Holober, M Priven re distribution of responsibilities in SF hearing
6/17/2015	0.72	B Richard, M Priven re coordinating State Farm hearing responsibilities
6/18/2015	0.38	call with A Lewis discussing State Farm's view of variance requests, CAT load and Yield issues
6/22/2015	0.10	emailing with P Pressley re likely hearing
6/23/2015	0.10	Reviewing notice of hearing and amended discovery from CDI
6/25/2015	0.33	Call with T Foreman regarding CDI Discovery request and views on use of Q1 2015 data
6/25/2015	0.39	reviewing CDI's discovery request
6/25/2015	0.31	call with N McKennedy about stipulation concerning a date certain cut-off for data in the matter (Q1)
6/26/2015	0.20	preparing email to CFC/Bickmore team updating them on possible data stipulation as well as review of the content of the Notice of hearing and discovery request.
7/2/2015	0.10	emailing with parties re discovery
7/2/2015	0.13	AHB
7/6/2015	0.10	call with A Lewis to prepare for State Farm scheduled mtg on discovery production and AHB scheduled call
7/6/2015	0.39	reviewing proposed confidentiality stipulation presented by V Wells
7/7/2015	0.56	conference call set up by State Farm with All Parties regarding discovery procedures
7/8/2015	0.92	All Parties Telephonic Status Conference noticed by AHB
7/9/2015	0.10	emailing team re discovery
7/9/2015	0.09	discussing confidentiality stip and discovery with A Lewis
7/10/2015	0.28	call with M Priven, B Richard, A Lewis regarding discovery request
7/10/2015	0.26	request
7/10/2015	0.15	call with T Foreman about discovery (non-duplication and preserving rights to compel) and protective order
7/10/2015	0.27	Call with A Lewis regarding proposed protective order
7/13/2015	0.21	call with N McKennedy regarding SF PO and discovery
7/13/2015	0.47	call w P Pressley, T Foreman and A Lewis regarding Protective Order and ageeing on who will make first draft of response and discussion of proposed data cutoff

7/13/2015	0.19	call and emails with B Richard regarding recorded period stip and discovery request
7/13/2015	0.51	reviewing SF discovery request of CFC and notice of Defense; reviewing and responding to related emails from parties
7/13/2015	0.30	reviewing and responding to emails from team, other parties re confidentiality, NOD, updated templates
7/14/2015	0.13	request
7/14/2015	0.60	reviewing CW's proposed alternate Protective Order and providing CFC's comments
7/14/2015	0.25	call with T Foreman regarding proposed Prot Order
7/14/2015	0.25	call with Becky Richard regarding response to discovery and our discovery
7/14/2015	0.20	call with A Lewis regarding request of SF that discovery response be delayed.
7/15/2015	0.15	call with N McKennedy regarding discovery response timeline, yield, CAT load
7/16/2015	0.11	reviewing emails from all parties re status conference, stipulation and timelines
7/16/2015	0.41	Discovery and possible stipulation regarding certain aspects of filing
7/16/2015	0.36	reviewing discovery request items from Bickmore
7/17/2015	0.80	call with A Lewis regarding discovery request, SF's NOD and response to SF's Discovery request
7/17/2015	0.24	reviewing SF letter to ALJ Larsen; reviewing emails from all parties
7/20/2015	0.94	call with B Richard, M Priven, A Lewis re CFC discovery request items of SF
7/20/2015	0.39	call with A Lewis regarding status conference and All Parties call to discuss timeframe and stipulations.
7/20/2015	0.95	All Parties call to discuss timeline and upcoming status conference
7/21/2015	0.39	reviewing SF proposed changes to Protective Order
7/23/2015	0.63	Reviewing CFC's draft Discovery Request for State Farm
7/23/2015	0.18	call w/ A Lewis regarding Discovery request
7/23/2015	0.24	Reviewing proposed Joint Scheuling Conference Statement
7/24/2015	0.72	Telephone Status Conference
7/24/2015	0.20	Emailing with all parites re Joint Statement
7/27/2015	0.10	Emailing with team re new SF data
7/28/2015	0.34	call with B Richard regarding new State Farm filing data
7/28/2015	0.44	call with R Holober about hearing schedule, impending State Farm proposal on non-key issues and legal questions that will be in focus during the hearing.

7/28/2015	0.09	reviewing email from C Mammen regarding SF objections to most recent draft of Protective Order
7/29/2015	0.52	call with R Holober, B Nussbaum, A Lewis regarding Bill's responsibilities in the matter - motions, prepping witnesses, hearing
7/29/2015	0.25	Reviewing department's Proposed Joint Scheduling Statement
7/30/2015	0.17	call with N McKennedy, A Lewis about July15 2015 effective date of rate
7/31/2015	1.08	AHB Scheduling Conference - appearing telephonically
8/3/2015	0.81	reviewing SF proposed settlement items and emailing with B Richard regarding questions, emailing all parties
8/3/2015	0.47	call with Aaron Lewis regarding discovery response to SF
8/3/2015	0.57	call with A Lewis, B Richard regarding discovery
8/4/2015	0.10	discussions
8/7/2015	0.20	reviewing discover related emails from various parties and data sent by Matt Frank
8/17/2015	0.35	call with A Lewis regarding SF discovery response, failure to link responses to questions and reviewing response 00018915
8/17/2015	0.18	designation
8/17/2015	0.59	call with A Lewis, B Richard, M Priven about discovery responses from SF and settlement negotiations regarding trend and othe items
8/17/2015	0.10	Email conference with All Parties re scheduling
8/18/2015	0.20	Reviewing CFC responses to SF discovery request in preparation for State Farm requested meet and confer call.
8/18/2015	0.26	Meet and Confer call with State Farm regarding CFC's response to discovery
8/21/2015	0.93	reviewing emails from all parties re discovery, settlement (.1), reviewing SF response to CFC discovery
8/24/2015	0.50	reviewing emails, docs re designation of witnesses
8/24/2015	0.12	call with N McKennedy re SF discovery
8/27/2015	0.22	discussing impending SF meet and confer with A Lewis
8/28/2015	0.08	reviewing CDI letter to ALJ related to SF discovery
8/28/2015	0.29	reviewing SF discovery responses Vol. # 5
8/31/2015	0.26	Reviewing materials for Meet and Confer with SF re SF discovery responses.
8/31/2015	0.35	prepping for Meet and Confer with SF re SF discovery responses
8/31/2015	0.85	Farm)
9/1/2015	0.36	preparing notes for A Lewis in response to ALJ requested submission regarding disputed discovery items; email conference with team re critical docs needed in discovery (.1)
9/2/2015	0.44	editing pleading regarding discovery disputes
9/2/2015	0.14	call with A Lewis regarding SF's production of load files

9/2/2015	0.75	Call with T Foreman, J Phenix and A Lewis regarding upcoming settlement discussion as well as division of labor regarding Cat Load, Yield and Leverage factor
9/2/2015	0.10	emailing Bickmore with thoughts on dividing up pre-filed direct as well as preparatory notes regarding Thursday settlement call
9/3/2015	0.69	Call with B Richard and A Lewis to prepare for all parties settlement discussion
9/3/2015	0.10	call with A Lewis regarding SF's discovery reference document and his conversation with C Mammen about how to use it.
9/3/2015	0.31	call with B Richard re Variance 2A in advance of settlement call
9/3/2015	1.63	All parties call regarding settlement of certain rate matters; emailing parties re settlement issues (.1)
9/3/2015	0.33	call with A Lewis regarding Exhibit 14 discovery request and SF contention that it is irrelevant
9/3/2015	0.38	call with B Richard regarding relevance of Exhibit 14D to our Cat load analysis for drafting of motion to compel and in advance of ALJ hearing on discovery questions.
9/4/2015	0.12	call with A Lewis in advance of ALJ meeting re discovery
9/4/2015	0.02	Preliminary discovery conference (by phone) with ALJ
9/7/2015	0.25	reviewing Motion to Compel
9/8/2015	0.40	reviewing motion to compel
9/8/2015	0.63	call with A Lewis re Motion to compel
9/8/2015	0.51	reviewing email from Vanessa Wells re CFC motion to Compel and responding with offer to focus on requests 40-42 regarding Cat adjustment
9/9/2015	0.10	emailing with B Richard re Exh. 14
9/10/2015	0.08	call with A Lewis re Motion to Compel items concerning Ex. 14
9/10/2015	0.17	Researching differences between Exhibit 14 and Ex. 9 for purposes of motion to compel
9/10/2015	0.27	call with C Mammen and A Lewis re CFC's motion to Compel
9/14/2015	0.16	reviewing and providing input to ALewis via email regarding joint statement of issues in dispute
9/14/2015	0.17	call with A Lewis regarding SF's request that we withdraw motion to compel
9/14/2015	0.19	documents in response to Requests 40-42 from CFC request for discovery
9/15/2015	0.22	Call with Aaron Lewis regarding SF's request that we withdraw MTC and on Statement of Issues.
9/15/2015	0.12	Call with A Lewis regarding the CAT load aspect of the Joint Statement on issues
9/15/2015	0.18	Reviewing items in Joint Statement of undisputed facts

9/16/2015	0.10	Reviewing all parties emails on Joint Statement
9/16/2015	0.11	call with N McKennedy regarding Joint Statement of Issues
9/18/2015	0.30	exhibits
9/21/2015	0.10	intervenors
9/21/2015	0.50	call with A Lewis, B Richard and M Priven about SF PDT and key issues for M Priven's PDT
9/24/2015	1.01	call with A Lewis, B Richard, M Priven, T Foreman, A Schwartz about parceling out the Pre-filed Direct Testimony issues and research on Catastrophe adjustment
9/24/2015	0.31	call with A Lewis re Motion To Strike State Farm Testimony
9/24/2015	0.19	call with B Richard re non-actuarial issues in SF PDT for inclusion in our motion to strike
9/24/2015	2.57	reviewing PDT of Terry, Chau & Watkins
9/24/2015	0.23	call with B Richard re problems with SF PDT
9/24/2015	0.37	call with Aaron Lewis regarding motion to strike
9/24/2015	0.33	Reviewing Draft Motion to Strike SF testimony
9/25/2015	0.13	call with Becky Richard regarding settlement options for FFEQ and Variance 2A
9/25/2015	0.07	emailing all parties regarding an effort to settle remaining issues outside of the the Big Three issues
9/28/2015	0.20	reviewing emails, exhibit, and letter to counsel sent by State Farm
9/29/2016	0.20	reviewing and responding to emails with CW and CDI and CFC team re FFEQ, Advertising expenses
9/30/2015	0.18	regarding possibility of settling Var 2A, FFEQ and excluded expenses
10/1/2015	0.29	calls with A Lewis (6 minutes) and B Richard regarding State Farm's discovery documents and items that do not appear to have been produced despite promises to produce; emails with team re same, and re coordinating with SF/C Mammen re discovery
10/2/2015	0.41	reviewing B Richard's memo on items still missing from discovery, 7 minute call with B Richard, and emailing request for responsive documents to C Mammen (5 minutes)
10/5/2015	0.24	call with A Lewis regarding Motion to Strike, issues related to use of AIY and prep for call with Chris Mammen
10/5/2015	0.27	call with Chris Mammen and A Lewis re discovery request #19
10/5/2015	0.29	reviewing V Wells email re settlement matters and particularly SF's rejection of CFC's Variance 2A offer; emailing all parties in response (2 minutes)
10/6/2015	0.16	call with B Richard regarding V Wells commentary on Variance 2A proposal

10/6/2015	0.44	call with N McKennedy regarding Variance 2A, motion to strike and updated joint statement
10/7/2015	0.26	conversation with A Lewis regarding Motion to Strike hearing, Variance 2a discussion at CW motion to Compel hearing, and confidentiality hearing.
10/7/2015	0.49	call with V Wells regarding Variance 2A
10/7/2015	0.20	call with N McKennedy re Variance 2A
10/7/2015	0.22	call with T Foreman re Variance 2A
10/7/2015	0.15	Call with C Mammen and A Lewis regarding SF production of CAT loss data from 1980-89 and from 90-2014 on Accident Year basis
10/7/2015	0.25	call with B Richard regarding SF's production of CAT loss data from 1980-89 and from 90-2014 on an accident year basis; discussion of Variance 2a.
10/7/2015	0.18	facts
10/7/2015	0.18	emailing C Mammen about the failure of SF to provide CAT data on AY basis despite assurance that the data were provided.
10/8/2015	0.16	call with N McKennedy regarding CDI's views on Variance 2A and their ability to settle.
10/8/2015	0.94	Call with A Lewis to prepare for Motion to Strike hearing
10/8/2015	0.16	reviewing MTS tentative ruling
10/9/2015	0.15	Call With A Lewis regarding MTS hearing and Variance 2A settlement discussions
10/12/2015	0.17	call with B Richard regarding PDT of Mark Priven
10/13/2015	0.46	Reviewing PDT of Mark Priven
10/13/2015	0.34	regarding State Farm's willingness to accept 0.5% Variance 2A adjustment
10/13/2015	2.44	Reviewing M Priven PDT including review of Cal-Fire website and related documents cited in Watkins testimony to support use of Cal-Fire data.
10/13/2015	0.54	call with M Priven, B Richard to discuss Cat Adjustment and Fast Track data used in PDT; emailing with team regarding questions about SF's witnesses PDT (5 min)
10/13/2015	0.24	reviewing CSAA Hearing matters related to credibility weighting of CAT adjustment
10/13/2015	0.25	call with B Richard regarding use of CalFire data
10/13/2015	0.09	call with A Lewis regarding confidentiality agreements
10/13/2015	0.40	call with V Wells to confirm settlement of Variance 2A matter and discuss confidentiality agreement
10/14/2015	0.57	reviewing Priven PDT draft 2
10/14/2015	0.76	PDT
10/14/2015	1.03	reviewing PDT draft and exhibits

10/15/2015	0.34	Fast Track Data exhibit, discussion of Confidential documents in SF PDT
10/15/2015	1.22	Reviewing final draft of M Priven's PDT
10/15/2015	0.10	emailing B Richard, T Foreman re Fast Track data
10/16/2015	0.25	three related calls with A Lewis regarding finalizing PDT, including issues of redaction and edits.
10/16/2015	0.27	call with B Richard, M PRiven, A Lewis regarding final edits to PDT and questions about SF switch from calendar year to accident year basis in its 35 year analysis
10/16/2015	0.26	call with B Richard regarding SF indicated trend or 1.6% vs. 2.0% selection and how M PRiven's testimony might address it.
10/20/2015	0.20	Reviewing emails from various parties and associated docs (SF discovery response, CDI ltr to ALJ)
10/20/2015	0.27	call with A Lewis regarding confidentiality-related motion and discussing strategy for hearing
10/21/2015	0.17	reviewing objections to confidentiality designations; 4 minute call with A Lewis regarding pleading
10/23/2015	0.88	call with T Foreman, N McKennedy, S Volkmer, D Gooddell, A Lewis regarding
10/26/2015	0.54	call with M PRiven, B Richard, A Lewis regarding SF MTS Priven testimony; preparatory call for hearing.
10/27/2015	0.90	reviewing emails from T Warren and ltr to ALJ (.1), from L Baltodano and motion to seal and related decs (.8)
10/29/2015	0.85	Reviewing PDT of Karen Terry in prep for hearing
10/29/2015	0.65	reviewing and editing response to SF's MTS Priven testimny
10/29/2015	0.47	call with A Lewis regarding response to SF's MTS Priven testimony
10/30/2015	0.15	call with A Lewsi regarding state farm motion to seal
10/30/2015	0.37	Reviewing testimony of K Terry in preparation for hearing
11/2/2015	0.25	reviewing Bickmore notes on SF testimony in preparation for examination of witnesses
11/2/2015	0.88	Watkins testimony and problems with her Cal-FIRE data set and regarding potential items that SF attys might ask of Priven at hearing
11/4/2015	0.45	conversation with A Lewis regarding MTS hearing and issues related to credibility of State Farm CAT data.
11/6/2015	0.15	call with a lewis about notice of rate filing instructions as requested by ALJ, as well as other issues related to scheduling of witnesses.
11/6/2015	0.20	emailing with B Richard re CDI CAT tutorial
11/10/2015	0.33	call with A Lewis re planning for hearing
11/10/2015	2.13	reviewing testimony of K Terry, D APpel and N Watkins and preparing questions for hearing

11/11/2015	0.20	reviewing joint statement as edited by SF; reviewing and responding to emails re same
11/12/2015	0.67	call with T Foreman and A Lewis regarding CAT losses and Watkins cross
11/12/2015	1.01	reviewing testimony of Nancy Watkins and exhibits.
11/13/2015	2.79	preparing for cross exam of N Watkins
11/13/2015	0.43	California data, AIY as a base and othe matters related to testimony of N Watkins
11/13/2015	0.65	Call with B Richard to discuss Watkins smoothing techniques for determining trends and use of California data
11/14/2015	1.08	questions
11/14/2015	0.41	questions
11/15/2015	4.67	Preparing testimony questions for N Watkins
11/16/2015	0.92	preparing testimony questions for N Watkins and opening statement for hearing
11/16/2015	2.54	representing CFC at state farm evidentiary hearing
11/16/2015	3.37	Watkins
11/17/2015	2.08	Watkins
11/17/2015	2.60	Participating in SF hearing (examination of K Terry)
11/17/2015	1.57	Review of testimony of Dr. Hemphill and M Priven in advance of witness testimony
11/18/2015	2.64	Participating in hearing, including additional questions of Ms. Terry
11/18/2015	4.00	SF evidentiary hearing
11/18/2015	1.00	conferring with B Richard regarding hearing issues and preparing for testimony of M Priven
11/19/2015	0.50	mtg with B Richard and M Priven in preparation for hearing
11/19/2015	2.75	SF evidentiary hearing
11/19/2015	4.27	SF evidentiary hearing
11/20/2015	3.10	SF hearing, including cross of Dr. Appel
11/20/2015	2.48	SF hearing
11/24/2015	0.19	Call with A Lewis regarding transcripts and possibility of a declaration from fire personnel
11/25/2015	0.10	emails with team re rebuttal planning, emails with T Foreman re rebuttal topics
11/30/2015	0.20	reviewing B Richard's write up of Cal Fire call and research
12/1/2015	0.65	call with Priven Richard & Lewis regarding rebuttal testimony
12/1/2015	0.33	reviewing budget in preparation for submitting amended budget.
12/3/2015	0.10	email conference with team re Fast Track Data
12/7/2015	0.94	Priven
12/8/2015	0.45	testimony
12/9/2015	0.67	testimony

12/9/2015	0.67	Call with B Richard and A Lewis regarding rebuttal testimony
12/9/2015	0.58	expert.
12/11/2015	0.10	reviewing emails/letters to ALJ from N McKenedy
12/14/2015	0.43	testimony
12/15/2015	0.40	testimony
12/17/2015	1.66	researching Cal-Fire practices and draft declaration
12/17/2015	0.35	call with Becky Richard regarding rebuttal testimony
12/18/2015	0.44	reviewing Fast Track data email from N McKennedy and reviewing Wildland Fire Data Reporting Initiative meeting report related to use of NFIRS property loss data
12/18/2015	0.10	call with B Richard regarding new fast Track data
12/19/2015	0.16	Reviewing CDI discovery response regarding Oakland Hills Fire
12/19/2015	1.71	Reviewing rebuttal testimony of M. Priven
12/20/2015	1.01	reviewing rebuttal testimony of M Priven.
12/21/2015	0.25	call with A Lewis regarding rebuttal testimony and appropriateness of use of hearsay evidence.
12/21/2015	0.68	Call with A Lewis, B Richard, and M Priven regarding rebuttal testimony and outstanding questions to be addressed
12/21/2015	3.54	reviewing revised rebuttal testimony
12/22/2015	0.17	Reviewing AM Best reports produced by SF
12/22/2015	0.21	call with A Lewis to discuss rebuttal testimony, and AM BEst reports produced by SF
12/22/2015	1.26	Reviewing final draft of rebuttal; email conference with team regarding same (.2)
12/24/2015	2.51	Reviewing State Farm Rebuttal testimony
12/28/2015	0.84	reviewing letter from Wells re rebuttal witnesses, reviewing SF rebuttal testimony
12/28/2015	1.05	reviewing testimony of Karen Terry, researching structures burned in 2015
12/29/2015	0.23	Call with B Richard regarding Coverage A issues addressed by Terry and CalFire issues addressed by Watkins
12/29/2015	0.17	reviewing SF discovery production, emailing SF requesting production of Supplemental Ex14 cited in Watkins Exhibit 109
12/29/2015	0.18	call with Aaron Lewis regarding Motion to Strike
12/29/2015	0.20	call with N McKennedy re ITV and Terry testimony
12/30/2015	0.33	review of CFC MTS rebuttal testimony, and conversation with A Lewis about MTS (5 minutes)
12/31/2015	0.16	Reviewing SF MTS CFC testimony
12/31/2015	0.10	emailing with B Richard re rebuttal preparation
1/3/2016	0.51	Preparing for MTS hearing related to SF's motion to strike Priven testimony

1/3/2016	1.78	preparing examination questions for N Watkins
		calculation of 2014- 2016 trend among other aspects of Watkins
1/4/2016	0.71	rebuttal
1/4/2016	0.34	researching WUI and demographics changes related to wildfire risk
1/4/2016	2.33	preparing cross examination of N Watkins
1/4/2015	0.10	email conference with team re rebuttal preparation
1/5/2016	1.33	preparing for hearing
		experts to discuss motions to Strike, and other matters related to the hearing.)
1/5/2016	7.50	
1/5/2016	2.18	preparing cross examination of Watkins
1/6/2016	1.30	Preparing for Examination of witnesses and hearing
		Hearing (including 1.25 working lunch meeting with M Priven and B Richard)
1/6/2016	7.45	
1/6/2016	1.89	preparing cross exam day 2 of Watkins.
1/7/2016	8.50	Hearing, including a working lunch with Priven, Richard
1/8/2016	7.33	Hearing, including a working lunch with A Lewis and M Priven
		Discussion with T Foreman regarding hearing, witnesses and other hearing related matters.
1/8/2016	1.00	
		preparing additional rebuttal questions for Mark Priven, Reviewing Hemphill testimony
1/12/2016	0.58	
1/12/2016	2.89	Hearing -morning
1/12/2016	3.78	Hearing - afternoon
1/12/2016	0.50	preparing additional oral rebuttal questions for M Priven
1/13/2016	8.13	Rebuttal hearing, including working lunch meeting.
1/15/2016	0.38	Reviewing ALJ order re confidentiality
1/19/2016	0.10	call with A Lewis regarding filing of template and joint exhibit list
		Call with B Richard, A Lewis regarding ALJ request for alternative templates.
1/25/2016	0.13	
		call with A Lewis regarding submission of template description and discussion of confidentiality issues
1/27/2016	0.23	
1/27/2016	0.29	Fires
1/28/2016	0.19	call with N McKennedy re Wells Declaration and proposed exhibits
		preparing for Status Conference (15 minutes); Status Conference with ALJ Larsen
1/28/2016	3.56	
1/28/2016	0.15	emailing with team re hearing and rate templates needed
1/29/2016	0.33	reviewing rebuttal hearing transcripts
1/29/2016	0.77	Call with A Lewis re Confidentiality brief and opening briefs
		call with A Lewis regarding objections to motion requesting official notice and motion regarding CFC exhibits.
1/29/2016	0.18	
2/1/2016	0.45	templates

2/2/2016	0.13	call with A Lewis regarding confidentiality motion and other procedural matters
2/2/2016	0.11	reviewing Bickmore weighting methodology
2/2/2016	0.10	emails with N McKennedy, BRichard re templates
2/3/2016	0.48	reviewing templates produced by Bickmore on order of ALJ
2/3/2016	0.46	Editing Joinder to CDI motion to Strike exhibits 204-206
2/4/2016	0.15	Call with Richard Holober regarding timeframe of hearing briefing for planning purposes
2/5/2016	0.21	reviewing confidentiality declaration of R Barlin.
2/10/2016	0.13	call with A Lewis regarding confidentiality reply brief
2/10/2016	0.46	reviewing parties' rate templates, responding to CDI question about our templates
2/11/2016	1.32	Reviewing Confidentiality reply brief
2/12/2016	0.33	call w/ A Lewis re confidentiality reply brief
2/16/2016	0.26	call with N McKennedy about rate template calculations
2/17/2016	0.17	call with B Richard regarding revised rate templates for all parties
2/17/2016	0.20	templates
2/17/2016	0.58	parties explaining change as well as other matters concerning our templates.
2/18/2016	0.51	call with A Lewis re SF Memo for Judicial Estoppel and preparation for hearing tomorrow.
2/18/2016	0.67	reviewing confidentiality briefs in preparation for Friday hearing
2/18/2016	0.44	Reviewing tentative ruling on confidentiality
2/18/2016	0.16	Reviewing SF motion for leave to present sur-rebuttal...
2/19/2016	0.18	call with R Holober regarding SF plan to file ex parte relief
2/19/2016	1.70	Hearing re confidentiality (morning)
2/19/2016	0.47	call with CDI and CW regarding a stay on the ruling
2/19/2016	2.25	Hearing re confidentiality motion (afternoon)
2/19/2016	1.11	drafting post-hearing brief
2/26/2016	0.11	call with A Lewis regarding SF request for increased # of pages in briefing
3/3/2016	0.21	call with Aaron Lewis regarding drafting of briefing.
3/3/2016	0.45	Drafting post-hearing brief
3/4/2016	0.17	reviewing Watkins testimony transcripts
3/8/2016	1.48	drafting post-hearing briefs
3/8/2016	0.61	drafting post-hearing briefs
3/9/2016	0.94	drafting post-hearing briefs
3/11/2016	0.90	drafting post-hearing brief
3/15/2016	1.02	drafting post hearing brief
3/15/2016	0.13	call with B Richard about Cat to non-Cat vs. Cat to AIY
3/15/2016	1.26	drafting post hearing brief

3/17/2016	1.12	drafting post hearing brief
3/17/2016	0.97	drafting post hearing brief
3/18/2016	1.89	drafting post hearing brief
3/22/2016	1.91	drafting post-hearing opening brief
3/23/2016	0.95	darfting post-hearing brief
3/24/2016	0.15	Call with A Lewis regarding yield and leverage factor.
3/24/2016	3.61	drafting post-hearing brief
3/24/2016	0.07	drafting post-hearing briefs
3/24/2016	0.15	call with N McKennedy regarding catastrophe adjustment
3/25/2016	1.98	drafting post-hearing briefing
3/28/2016	1.35	drafting post-hearing briefing
3/28/2016	1.84	drafting post-hearing briefing
3/29/2016	1.50	drafting post-hearing brief
3/29/2016	1.34	drafting post-hearing brief
3/29/2016	0.41	calculation.
3/30/2016	0.44	discussion with Pam Pressley regarding briefs including questions related to July 15 date, cat load and other items.
3/30/2016	3.79	drafting post-hearing brief
3/31/2016	5.92	drafting post-hearing brief
4/1/2016	3.15	drafting post-hearing opening brief
4/1/2016	1.89	drafting post-hearing opening brief
4/2/2016	2.17	drafting post-hearing opening brief
4/4/2016	2.29	drafting post-hearing opening brief
4/4/2016	2.40	drafting post-hearing opening brief
4/4/2016	2.34	drafting post-hearing opening brief
4/5/2016	0.92	drafting post-hearing opening brief
4/5/2016	0.08	Call with N McKennedy regarding CAT load, Cal Fire, weighting
4/5/2016	2.35	Drafting post-hearing opening brief
4/5/2016	0.30	Call with A Lewis re opening brief
4/5/2016	1.27	drafting opening brief
4/5/2016	5.52	opening brief - drafting
4/6/2016	1.01	integrating comments from actuaries to catastrophe load section
4/6/2016	0.22	call with B Richard regarding cat load-related questions
4/6/2016	1.80	integrating comments from actuaries to catastrophe load section
4/6/2016	1.69	drafting opening brief
4/7/2016	0.16	call with A Lewis regarding SF request for Official notice items, yield issue for briefing
4/7/2016	0.25	brief
4/7/2016	0.51	reviewing Opening brief sections on Yield and leverage
4/7/2016	0.78	Call with Aaron Lewis and N McKennedy (for 11 minutes of call) regarding yield and leverage issues

4/7/2016	0.63	reviewing yiled and leverage sections
4/7/2016	1.00	reviewing B Richard's notes on Countrywide and CalFire sections
4/8/2016	0.34	Reviewing M PRiven's notes on cat section
4/8/2016	1.31	Call with B Richard and M Priven and A Lewis regarding cat load section
4/8/2016	4.69	incorporating comments and suggestions of B Richard and MPriven {including call with A Lewis 9 min and B Richard 12 min)
4/9/2016	4.02	reviewing brief, including sections on Priop 103 and effective date
4/10/2016	7.01	Editing brief
4/11/2016	0.28	call with A Lewis regarding final edits to the opening brief...
4/11/2016	2.95	Reviewing Final draft
4/11/2016	0.03	discussing final edits with Aaron Lewis
4/11/2016	1.23	discussing final edits with Aaron Lewis
4/13/2016	1.07	reviewing CDI Opening Brief
4/15/2016	2.86	reviewing state farm brief, taking notes; reviewing RON exhibits
4/15/2016	0.67	reviewing CW brief
4/18/2016	1.03	drafting reply brief
4/19/2016	0.23	call with Aaron Lewis re Reply Brief
4/19/2016	0.45	reviewing SF brief; taking notes in preparation for Reply brief;emailing Bickmore
4/20/2016	0.20	brief
4/21/2016	1.08	call with A Lewis, T Foreman, N McKennedy et al to discuss Reply Briefs and questions stemming from Opening Briefs
4/21/2016	0.39	reviewing Bickmore notes on State Farm brief and emailing additional questions to Bickmore
4/25/2016	0.88	reviewing Bickmore comments on SF brief and drafting reply brief
4/26/2016	0.48	drafting reply brief (notes on SF opening brief)
4/27/2016	0.47	Call with N McKennedy re SF Request for Official Notice, ALJ Official Notice, and Cat trend issues in SF Opening brief
4/28/2016	1.99	reply brief (+25 minute call with N McKennedy on issues of insurer vs. insurers)
5/2/2016	1.72	Reply Brief and reviewing ALJ's proposed items for Official Notice
5/3/2016	1.98	Reply Brief
5/3/2016	0.18	call with Becky Richard re exhibits 508, 514
5/3/2016	0.65	Reply Brief
5/3/2016	0.08	call with N McKennedy re ALJ Order
5/3/2016	0.10	emails with team re ALJ order's discussion of Catastrophe and reply brief
5/3/2016	0.35	Reviewing ALJ order, apprising CFC and Bickmore
5/4/2016	0.21	call with A Lewis regarding ALJ Order, reply brief and SF Request for Official Notice

5/5/2016	1.55	Drafting Reply Brief
5/5/2016	1.82	Drafting Reply Brief
5/6/2016	3.39	Drafting Reply Brief
5/9/2016	1.52	Drafting Reply Brief
5/10/2016	3.53	Drafting Reply Brief
5/11/2016	2.07	Drafting Reply Brief
5/12/2016	0.88	Drafting Reply Brief
5/12/2016	0.25	call with A Lewis re Reply brief, motion to strike and opposition to request for official notice
5/12/2016	0.33	CALL WITH N McKennedy regarding Cat trends and 2015 data in SF brief
5/12/2016	6.60	Drafting Reply Brief
5/13/2016	1.67	Drafting Reply Brief
5/13/2016	0.29	Incorporating Aaron Lewis's edits
5/13/2016	1.59	Reply brief final sections...
5/13/2016	0.35	call w/ N McKennedy re effective date; email with N McKennedy re same + other aspects of SF opening brief
5/13/2016	0.14	call with aaron lewis re motion to strike/oppo to RON
5/15/2016	0.69	Drafting Reply Brief
5/16/2016	0.33	Call with Becky Richard re SF's three part trend and CAT provision per AIY
5/16/2016	2.70	Bickmore
5/16/2016	0.11	reviewing Motion to Strike
5/16/2016	0.17	Call with A Lewis regarding motion to Strike
5/17/2016	1.60	making final edits to brief
5/24/2016	0.74	reviewing SF Reply brief
5/25/2016	0.93	reviewing CDI and CW briefs
6/1/2016	0.10	emailing B Richard re rate template calculations
6/1/2016	0.12	Reviewing ALJ orders re RON, MTS and request for additional evidence
6/1/2016	0.41	call with N McKennedy regarding rate templates
6/2/2016	0.10	clarification/reconsideration
6/3/2016	0.49	reviewing SF's templates in response to ALJ order
6/3/2016	0.25	call with N McKennedy regarding templates ordered by ALJ
6/3/2016	0.18	ALJ
6/3/2016	0.41	reviewing ALJ order re templates and preparing and sending email to all parties regarding CFC templates in response to order
6/3/2016	0.17	reviewing and responding to emails from VWells, T Foreman regarding joint stipulation of rate templates
6/3/2016	0.20	reviewing and responding to V Wells emails about SFG's selected trend and the templates

6/3/2016	0.20	call with N McKennedy regarding weighting methodology
6/6/2016	0.32	two calls with A Lewis re template calculations for joint stip
6/6/2016	0.25	call with N McKennedy regarding templates for joint stipulation
6/6/2016	0.55	reviewing emails, templates and drafts of stipulation re templates
6/29/2016	0.36	Reviewing pleadings in Mercury V Jones related to SF request for judicial notice of material from State Farm rate hearing
7/21/2016	0.42	Reviewing series of SF emails about redacted, public versions of declarations
8/8/2016	0.34	reviewing SF letter to Commissioner Jones (including 3 minute call with A Lewsi)
8/9/2016	0.33	conversation with T Foreman regarding Commissioner Decision
8/9/2016	0.19	call with A Lewis regarding briefing of interest rate issue
8/9/2016	0.10	call with A Lewis to coordinate briefing process
8/9/2016	1.90	reviewing ALJ decision
8/10/2016	0.43	call with R Holober regarding ALJ proposed decision, Jones non-adoption and next steps
8/11/2016	0.51	Call with CDI, CW and CFC to discuss ALJ order on investment briefing
8/11/2016	0.21	call with A Lewis re drafting of brief
8/11/2016	2.02	Researching interest rates and Drafting brief on interest rates
8/12/2016	0.17	REviewing ALJ 8/12/16 order regarding taking evidence
8/12/2016	0.14	evidence
8/12/2016	0.27	call with T Foreman re order regarding evidence
8/15/2016	0.11	call with A Lewis regarding Wells letter to ALJ regarding interest rate questions
8/16/2016	0.25	call with A Lewis regarding submission of evidence regarding interest rates.
8/16/2016	0.28	reviewing V Wells email regarding stipulations and responding to all parties with proposed Meet and Confer time
8/17/2016	0.55	researching consumer interest rates
8/17/2016	0.08	call with A Lewis regarding document exchange re interest rates
8/18/2016	0.38	reviewing documents on interest rate standard and revising cover letter for document exchange.
8/19/2016	0.39	reviewing parties submissions regarding interest rates
8/19/2016	0.12	call with A Lewis regarding meet and confer re interest rates
8/22/2016	1.09	Meet and Confer call with all parties re interest rates
8/22/2016	0.75	rates
8/22/2016	0.00	post meet and confer call with A Lewis regarding interest rates and possible stipulation.
8/22/2016	0.28	call with todd foreman re stipulation
8/24/2016	0.73	Call with parties - reconvened meet and confer call re interest rates

8/24/2016	0.13	stipulations
8/24/2016	0.08	call with A Lewis re interest rates brief
8/26/2016	0.93	researching consumer finance issues for interest rate brief (including 4 minute call with A Lewis on subject)
8/26/2016	0.54	editing interest rate brief
8/26/2016	0.12	call with A Lewis regarding final edits to interest rate briefs
8/30/2016	1.19	reviewing SF Brief and declarations on Interest rates
8/31/2016	0.08	call with A Lewis regarding hearing order re interest rates
8/31/2016	0.08	Call with T Foreman regarding hearing order re interest rates
8/31/2016	0.40	reviewing ALJ order re interest rate hearing, parties' emails re same, and exhibits cited in ALJ Order
8/31/2016	0.20	Drafting telephonic appearance request
8/31/2016	0.00	reviewing CDI and CWD briefs on interest rates
9/1/2016	0.27	conversation with A Lewis to prepare for interest rate hearing
9/1/2016	0.21	call with N McKennedy re interest hearing
9/2/2016	0.07	reviewing CDI motion to object to SF briefing
9/2/2016	2.12	Interest rate status conference and hearing on submission of evidence; joined by telephone
9/6/2016	0.08	call with A Lewis regarding whether or not CFC needs to file a reply brief
9/7/2016	0.17	call with R Holober regarding reply brief on interest rates
9/8/2016	0.11	call with A Lewis about legal research concerning interest rates for reply brief
9/8/2016	0.25	Call with A Lewis regarding ALJ order for conference on interest rate reply briefs.
9/8/2016	0.35	Call with N McKennedy re ALJ order on Monday conference
9/9/2016	0.43	call w N McKennedy and Todd Foreman (12 min) re interest rate timing issue
9/12/2016	0.08	Call with A Lewis to prepare for Conference on interest rate timing
9/12/2016	0.48	reviewing relevant CCR and 20th century/Calfarm for interest rate timing issues
9/12/2016	0.63	ALJ-ordered conference regarding additional questions about interest rate on refunds
9/12/2016	0.13	Call with A Lewis to debrief on ALJ's interest rate conference
9/13/2016	0.11	call with A Lewis regarding interest rate reply brief
9/13/2016	0.94	call with A Lewis regarding interest rate conference (with N McKennedy for 30 min)
9/14/2016	0.24	Reviewing Exhibit List
9/15/2016	0.39	call with N McKennedy about the interest rate reply briefs
9/15/2016	0.44	editing interest rate brief
9/16/2016	2.86	editing interest rate reply brief

9/16/2016	0.08	call with A Lewis regarding 103 refund and interest issues
9/16/2016	0.44	call with N McKennedy regarding interest rate reply briefs
9/19/2016	0.25	reviewing reply brief and 9 minute call with A Lewis regarding interest rate reply brief
9/20/2016	0.61	editing Reply Brief on interest rates
9/20/2016	0.47	initial review of SF reply briefs
9/21/2016	0.14	call with A Lewis regarding reply briefs
9/22/2016	0.33	reviewing Reply briefs in interest hearing
9/26/2016	0.22	call with A Lewis regarding calculation of savings for SF customers and ALJ order re closing hearing
10/4/2016	0.20	reviewing SF calculation of refund amount (Terry Declaration) and comparing with Bickmore calculations
10/4/2016	0.14	call with N McKennedy re calculation of refunds
10/5/2016	1.23	Call with Holober and A Lewis re prospects of SF request for reconsideration and also challenge to Commissioner decision
10/6/2016	0.65	Call with T Foreman about ensuring the correct refund calculation
11/1/2016	0.50	5 minute call with R Holober, 5 minutes with N McKennedy re same.
11/7/2016	1.60	Reviewing final decision
11/7/2016	0.50	steps
11/7/2016	0.15	Call with N McKennedy re final decision
11/8/2016	0.26	call with R Holober about decision and next steps
11/9/2016	0.80	Summarizing SF decision and impact on consumers for R Holober
11/14/2016	0.47	call with A Lewis regarding fee request
11/15/2016	0.57	Preparing Request for Compensation (drafting section on initial petition and pre-hearing negotiation)
11/17/2016	2.24	Preparing Request for Compensation (drafting sections on hearings)
11/18/2016	0.96	Preparing Request for Compensation
11/18/2016	1.69	Preparing request for compensation (drafting hearing section)
11/21/2016	0.22	call with A Lewis re ALJ decision and preparation of Request for compensation
11/21/2016	2.53	Preparing request for compensation
11/22/2016	0.67	Preparing request for compensation
11/22/2016	0.48	Editing A Lewis sections of request for compensation
11/22/2016	0.41	call with A Lewis re Request For Comp.
11/23/2016	3.67	Preparing request for compensation
11/25/2016	0.37	Preparing request for petition
11/28/2016	0.22	call with A Lewis regarding Request for compensation and drafting of declaration
11/28/2016	3.29	editing Request for Compensation summary of proceeding, drafting section IV

11/29/2016	0.70	Drafting section for A Lewis declaration
11/29/2016	0.50	Reviewing Timesheet records
11/29/2016	0.23	compensation
11/30/2016	0.97	reviewing A Lewis declaration; adding info pre-hearing phase, hearings, Heller bio
12/1/2016	0.58	Reviewing Bickmore timesheets; editing A Lewis declaration
12/1/2016	1.50	Reviewing declaration of A Lewis, Request for compensation
12/2/2016	0.25	Reviewing expenses
12/2/2016	1.19	Final review and editing of Request for Compensation, Declaration of A Lewis

TOTAL 428.43

Hours for Richard Holober

Date	Work Performed	Hours	Fee
6/6/2015	call with Doug Heller regarding likelihood of hearing in SF challenge and strategy going forward	0.3	\$ 73
6/11/2015	Call with Doug Heller concerning hearing variance requests	0.2	\$ 50
6/18/2015	Call with Doug Heller and Bickmore to discuss hearing	0.2	\$ 50
6/18/2015	call with team and Consumer Watchdog team to discuss coordinating State Farm hearing responsibilities	0.7	\$ 175
7/29/2015	call with Doug Heller about hearing, possible stipulations, and key issues that may remain in dispute	0.4	\$ 100
7/30/2015	call with Doug Heller and CFC staff regarding attorney and advocate responsibilities in hearing	0.5	\$ 125
11/20/2015	Attend evidentiary hearing	2.6	\$ 650
2/5/2016	Call with Doug Heller regarding hearing	0.1	\$ 25
2/20/2016	call with Doug Heller re State Farm challenge	0.2	\$ 50
8/11/2016	call with Doug Heller: ALJ and Jones decisions, next steps	0.4	\$ 100
9/8/2016	call with Doug Heller regarding interest rates brief	0.2	\$ 50
10/6/2016	Call with team to prepare for possible request for reconsideration, other actions by SF	1.2	\$ 300
11/2/2016	Call with Doug Heller regarding timing of decision	0.1	\$ 25
11/8/2016	Call with team: SF Decision and next steps	0.5	\$ 125
11/9/2016	call with Doug Heller about decision	0.3	\$ 75
11/10/2016	Call with Doug Heller to discuss SF decision	0.8	\$ 200

8.7 \$ 2,173

Hours for Aaron Lewis

Date	Work Performed	Hours	Fee
6/17/2015	Call with Heller, Pressley, Foreman, Schwartz, Richard, Priven on avoiding duplication	0.7	\$ 221
6/18/2015	Review CFC filings	1.4	\$ 441
6/18/2015	Call with Heller on issues in dispute	0.35	\$ 110
7/2/2015	Call with Heller on status conference	0.1	\$ 32
7/6/2015	Call with Heller on status conference and discovery	0.1	\$ 32
7/7/2015	All parties call on discovery process	0.5	\$ 158
7/8/2015	Status conference with all parties	0.9	\$ 284
7/9/2015	Call with Heller on confidentiality	0.1	\$ 32
7/9/2015	Draft notice of appearance	0.2	\$ 63
7/10/2015	Call with Heller, Richard and priven on discovery request	0.3	\$ 95
7/10/2015	Call with Heller on protective order	0.2	\$ 63
7/13/2015	Call with Pressley, Foreman, Heller on discovery and protective order	0.5	\$ 158
7/13/2015	Review State Farm discovery requests	0.6	\$ 189
7/14/2015	Review draft protective order from CW	0.5	\$ 158
7/14/2015	Call with Heller on extra time for State Farm discovery request	0.2	\$ 63
7/17/2015	Call with Heller on State Farm notice of defense and discovery	0.8	\$ 252
7/20/2015	Call with Richard, Priven, Heller on Discovery	0.9	\$ 284
7/20/2015	Call with Heller on Status conf	0.35	\$ 110
7/20/2015	Review State Farm edits to protective order	0.2	\$ 63
7/20/2015	All-party call on schedule	0.9	\$ 284
7/20/2015	Draft discovery request	0.9	\$ 284
7/21/2015	Read and review emails re; protective order	0.1	\$ 32
7/21/2015	Review stipulated protective order draft	0.3	\$ 95
7/22/2015	Read and review emails re discovery draft	0.1	\$ 32
7/22/2015	Draft discovery request	1.4	\$ 441
7/23/2015	Call with Heller on discovery request	0.2	\$ 63
7/23/2015	Read and review emails re: protective order drafts	0.1	\$ 32
7/23/2015	Prepare and edit discovery request	1.6	\$ 504
7/24/2015	Read and review emails on status conference stmt	0.1	\$ 32

7/24/2015	All-party call on protective order	1.2	\$	378
7/24/2015	Telephone Status Conference	0.7	\$	221
7/27/2015	Review further State Farm edits on protective order	0.3	\$	95
7/27/2015	Read and review emails on revised State Farm data	0.1	\$	32
7/28/2015	Read and review emails on protective order	0.2	\$	63
7/29/2015	All-party call on protective order	0.9	\$	284
7/29/2015	Call w/ Holober, Nussbaum and Heller on case status	0.5	\$	158
7/29/2016	Review joint scheduling conf statement	0.3	\$	95
7/30/2016	Review State Farm edits to joint scheduling conf statement	0.3	\$	95
7/31/2015	Scheduling conference	1	\$	315
8/3/2015	Call with Heller and Richards on discovery	0.55	\$	173
8/3/2015	Call with Heller on discovery	0.5	\$	158
8/3/2015	Draft and prepare discovery response to State Farm	2.6	\$	819
8/4/2015	Draft and prepare discovery response to State Farm	1.1	\$	347
8/4/2015	Call with C. Mammen on disc. production issue	0.1	\$	32
8/5/2015	Review produced documents form State Farm	0.6	\$	189
8/9/2015	Draft and edit discovery response to State Farm	0.6	\$	189
8/10/2015	Draft and edit discovery response to State Farm	1.7	\$	536
8/17/2015	Call with Heller, Priven, Richard on discovery review	0.6	\$	189
8/17/2015	Call with Heller on witness designation	0.2	\$	63
8/17/2015	Call with Heller on State Farm discovery production/format	0.4	\$	126
8/18/2015	Meet and confer with State Farm counsel Stacy Hovan	0.2	\$	63
8/21/2015	Review State Farm responses to CFC disc	0.6	\$	189
8/27/2015	Call with Heller on meet and confer	0.2	\$	63
8/31/2015	Meet and confer with Heller and Chris Mammen	0.75	\$	236
9/2/2015	Call with Heller on State Farm load files	0.2	\$	63
9/2/2015	Call with Heller, Foreman, Phenix on settlement discussion and nonduplication of work	0.7	\$	221
9/3/2015	Call with Heller on discovery reference doc	0.1	\$	32
9/3/2015	Call with Heller on State Farm discovery contentions	0.3	\$	95
9/3/2015	Call with Heller and Richards on potential settled issues	0.7	\$	221
9/3/2015	All parties call re: settlement	1.6	\$	504
9/4/2015	Review for dicoverly conference	0.4	\$	126
9/4/2015	Call with heller, prep for discovery conference	0.1	\$	32
9/4/2015	Discovery conference	1	\$	315
9/4/2015	Review Mammen email re Exh 14	0.2	\$	63
9/8/2015	Review motion to compel	0.6	\$	189

9/8/2015	Review Mammen email re dicover responsive to CDI	0.3	\$	95
9/8/2015	Review CW MTC	0.5	\$	158
9/8/2015	Call with Heller on MTC	0.6	\$	189
9/10/2015	Call with Heller on MTC	0.1	\$	32
9/10/2015	Call with Heller and Chris Mammen on MTC	0.25	\$	79
9/14/2015	Call with Heller discussing possible withdrawal of motion to compel	0.2	\$	63
9/14/2015	Call with Heller and CM on discovery	0.2	\$	63
9/14/2015	Draft notice of withdrawal	0.5	\$	158
9/15/2015	Call with Heller on withdrawing motion to compel	0.2	\$	63
9/15/2016	Review State Farm oppo to CW MTC	0.5	\$	158
9/15/2015	Call with Heller on joint statement	0.1	\$	32
9/21/2015	Call with Heller, Priven, and Richards on issues to raise in Priven prefiled direct testimony	0.5	\$	158
9/22/2016	Review State Farm responses to CFC disc	0.6	\$	189
9/23/2015	Draft and edits motion to strike	0.9	\$	284
9/23/2015	Review State Farm pre-filed direct testimony	1.9	\$	599
9/24/2015	Call with Heller, Priven, Richards, and Todd Foreman, Allan Schwartz on non-duplication	1	\$	315
9/24/2015	Call with Heller on motion to strike	0.4	\$	126
9/29/2015	hearing on Motions to Compel	4	\$	1,260
10/1/2015	Call with heller on discovery docs	0.1	\$	32
10/5/2015	Call with heller on Motion to strike	0.2	\$	63
10/5/2015	Call with Heller and Chris Mammen on discovery	0.25	\$	79
10/6/2015	Review statement of undisputed issues	0.4	\$	126
10/7/2015	Call with heller on Motion to strike hearing	0.2	\$	63
10/7/2015	Call with Heller and Mammen on cat loss data production	0.1	\$	32
10/8/2015	Call with Heller on tentative decision	0.1	\$	32
10/8/2015	Call with Heller on prep for motion to strike hearing	1	\$	315
10/9/2015	Call with Heller on Hearing	0.15	\$	47
10/9/2015	Motion to strike hearing	2.6	\$	819
10/13/2015	Call with Heller on confidentiality	0.1	\$	32
10/14/2015	Call with Heller, Priven, Richards on prefiled direct testimony	0.5	\$	158
10/14/2015	Review Priven prefiled direct testimony	1.6	\$	504
10/15/2015	Review and incorp Heller edits	1.1	\$	347
10/15/2015	Call with Heller on exhibits	0.3	\$	95
10/15/2015	review and incorporate Priven edits to prefiled direct testimony	0.7	\$	221
10/15/2015	Review and edit prefiled direct testimony	0.6	\$	189
10/16/2015	Edit prefiled direct testimony	1.9	\$	599

10/16/2015	Call with Heller, Priven, and Richards on prefiled direct testimony edits	0.25	\$	79
10/17/2015	Review filed prefiled direct testimony	1.7	\$	536
10/20/2015	Review State Farm discovery response	0.5	\$	158
10/20/2015	Call with Heller on hearing prep	0.3	\$	95
10/23/2015	Call with Heller, CDI and consumer watchdog on hearing	0.9	\$	284
10/26/2015	Call with Heller, Richards, and Priven on State Farm motion	0.5	\$	158
10/27/2015	Call with Richards on motion to strike	0.15	\$	47
10/29/2015	Draft and edit opposition to motion to strike	1	\$	315
10/29/2015	Call with Heller on motion to strike response	0.5	\$	158
10/30/2015	Call with Heller on State Farm motion	0.15	\$	47
11/2/2015	Call with Heller, Richards, Priven on State Farm testimony	0.9	\$	284
11/4/2015	Call with Heller on hearing prep	0.45	\$	142
11/6/2015	Review watkind and terry testimony	0.55	\$	173
11/6/2015	Call with Heller on witness schedule	0.2	\$	63
11/6/2015	Review and research cross q's for Terry	1.6	\$	504
11/10/2015	Review CDI hemphill testimony	0.4	\$	126
11/10/2015	Call with Heller on hearing prep	0.3	\$	95
11/12/2015	Status conference with all parties	1	\$	315
11/12/2015	Call with Richards on cross exam q's	0.7	\$	221
11/12/2015	Call with Heller and Foreman on Watkins cross	0.6	\$	189
11/13/2015	Review consumer watchdog exhibits	0.4	\$	126
11/13/2015	Review all testimony for hearing	2	\$	630
11/13/2015	Review watkins testimony	0.5	\$	158
11/14/2015	Review all testimony for hearing	1.1	\$	347
11/15/2015	Review for hearing incl Terry cross	1.2	\$	378
11/15/2015	Review for Terry cross	0.7	\$	221
11/16/2015	Prep for and attend evidentiary hearing	7.5	\$	2,363
11/17/2015	Prep for and attend evidentiary hearing	7.3	\$	2,300
11/18/2015	Prep for and attend evidentiary hearing	8.3	\$	2,615
11/19/2015	Prep for and attend evidentiary hearing	8.2	\$	2,583
11/20/2015	Prep for and attend evidentiary hearing	7.1	\$	2,237
11/23/2015	Prep for and attend evidentiary hearing	6.5	\$	2,048
11/24/2015	Call with Heller on Cal Fire Decl	0.2	\$	63
12/1/2015	Call with Heller, Richards and Priven on testimony	0.65	\$	205
12/7/2015	Review Richards possible rebuttal topics	0.5	\$	158
12/9/2015	Call with Heller and Richards on testimony	0.65	\$	205
12/15/2015	Call with Heller, Richards and Priven on testimony	0.4	\$	126
12/16/2015	Draft and edit possible cal fire declaration	1.6	\$	504

12/17/2015	Draft and edit potential cal fire decl	0.5	\$	158
12/18/2015	Review rebuttal testimony draft	1	\$	315
12/21/2015	Call with Heller on testimony	0.2	\$	63
12/21/2015	Call with Heller, Richards and Priven on rebuttal testimony	0.65	\$	205
12/21/2015	Review rebuttal draft	0.9	\$	284
12/22/2015	Review rebuttal draft	0.5	\$	158
12/22/2015	Call with Heller on rebuttal testimony	0.2	\$	63
12/22/2015	Review rebuttal testimony	1.2	\$	378
12/29/2015	Review rebuttal testimony	0.8	\$	252
12/29/2015	Call with Heller on motion to strike	0.2	\$	63
12/30/2015	Review and edit motion to strike	0.5	\$	158
12/30/2015	Review exhib list	0.3	\$	95
1/2/2016	Review testimony and prep for evidentiary hearing	1.7	\$	536
1/4/2016	Review cross X q's and hearing prep	0.6	\$	189
1/5/2016	Prep for and attend evidentiary hearing	7.5	\$	2,363
1/5/2016	Review for hearing re: watkins cross q's	0.3	\$	95
1/6/2016	Prep for and attend evidentiary hearing	7.7	\$	2,426
1/7/2016	Prep for and attend evidentiary hearing	8.6	\$	2,709
1/8/2016	Prep for and attend evidentiary hearing	7.9	\$	2,489
1/10/2016	Prep for hearings, review of proceeding	1.2	\$	378
1/11/2016	Prep for and attend evidentiary hearing	7.8	\$	2,457
1/12/2016	Prep for and attend evidentiary hearing	8.5	\$	2,678
1/19/2016	Call with Heller on templates and exhibit list	0.1	\$	32
1/21/2016	All party call on exhibits	1.1	\$	347
1/22/2016	Review revised exhibit list	0.3	\$	95
1/25/2016	Call with Heller and Richards on template	0.1	\$	32
1/27/2016	Call with Heller on template submission	0.2	\$	63
1/28/2016	Status conference w/all parties	3.2	\$	1,008
1/29/2016	Call with Heller on confidentiality motion	0.7	\$	221
1/29/2016	Call with Heller on official notice objection	0.2	\$	63
2/2/2016	Draft and edit joinder	0.8	\$	252
2/2/2016	Call with Heller on confidentiality motion	0.1	\$	32
2/10/2016	Call with Heller on confidentiality brief	0.1	\$	32
2/12/2016	Call with Heller on confidentiality brief	0.3	\$	95
2/17/2016	Read State Farm reply to objections	0.3	\$	95
2/18/2016	Review tentative	0.3	\$	95
2/19/2016	Hearing on confidentiality (morning and PM)	3.9	\$	1,229
2/26/2016	Call with Heller on State Farm briefing request	0.2	\$	63

3/8/2016	Review and edits joint exhibit list	0.3	\$	95
3/9/2016	Review and edit re-filed Priven PRT	0.4	\$	126
3/21/2016	Review and edit brief	1	\$	315
3/29/2016	Review discovery documents for Heller	0.3	\$	95
4/1/2016	Review and edit brief	0.8	\$	252
4/5/2016	Call with Heller on brief	0.3	\$	95
4/7/2016	Call with Heller on yield and leverage	0.7	\$	221
4/7/2016	Call with Heller on request for official notice	0.15	\$	47
4/8/2016	Draft and edit opening brief	1.1	\$	347
4/8/2016	Call with Heller, Priven, and Richard on cat load portion of brief	1.3	\$	410
4/8/2016	Edit opening brief	0.6	\$	189
4/9/2016	Edit opening brief	0.7	\$	221
4/10/2016	Review and edit draft of Brief	1.1	\$	347
4/10/2016	Review and edit draft of Brief	1.8	\$	567
4/11/2016	Review brief for final edits	0.7	\$	221
4/11/2016	Call with heller on final edits	0.3	\$	95
4/13/2016	Read filed briefs	0.8	\$	252
4/14/2016	Read filed briefs	1	\$	315
4/14/2016	Review brief for redaction	0.9	\$	284
4/19/2016	Call with Heller on reply brief	0.3	\$	95
4/21/2016	Call with heller, Foreman and McKennedy on reply brief	1.1	\$	347
4/21/2016	Review briefs	1.2	\$	378
4/26/2016	Research official notice for legislative hearings	0.2	\$	63
5/2/2016	Draft and edit reply brief section	1.1	\$	347
5/4/2016	Call with Heller on ALJ order re: reply briefs	0.18	\$	57
5/5/2016	Draft and edit motion to strike	0.7	\$	221
5/11/2016	Draft and edit motion to strike	1	\$	315
5/12/2016	Call with Heller on reply brief and MTS	0.2	\$	63
5/13/2016	Review Reply brief Draft	1	\$	315
5/13/2016	Call with Heller on Reply Brief	0.15	\$	47
5/13/2016	Review Reply brief Draft	0.5	\$	158
5/15/2016	Call with Heller on reply brief	0.1	\$	32
5/16/2016	Review and edit Reply Brief Draft	1.3	\$	410
5/16/2016	Call with heller on motion to strike	0.2	\$	63
5/16/2016	Review motion to strike	1.1	\$	347
5/17/2016	Review and edit Reply Brief Draft	0.9	\$	284
5/17/2016	Call with Heller on reply brief	0.1	\$	32
5/18/2016	Edit Reply brief	0.7	\$	221

5/18/2016	Citation check for brief	0.5	\$	158
5/19/2016	Read and review reply briefs	1.9	\$	599
5/19/2016	Read and review reply briefs	0.6	\$	189
5/20/2016	Review Reply brief for redaction	0.8	\$	252
5/23/2016	Discussion with Heller on timeline	0.1	\$	32
6/1/2016	Review State Farm filings	0.6	\$	189
6/2/2016	Discussion with Heller on State Farm filings	0.1	\$	32
6/2/2016	Review State Farm letter	0.3	\$	95
6/2/2016	Discussing with Heller on response to State Farm filing	0.1	\$	32
6/3/2016	Draft letter objecting to State Farm motion	0.3	\$	95
6/3/2016	Review template correspondence	0.3	\$	95
6/6/2016	call with Heller on templates	0.2	\$	63
6/6/2016	All party call on templates	0.3	\$	95
8/8/2016	Review State Farm ltr to Commisisoner	0.5	\$	158
8/8/2016	Call with Heller on Ltr	0.1	\$	32
8/9/2016	Call with Heller on briefing	0.1	\$	32
8/9/2016	Call with Heller on ALJ order re: reply briefs	0.1	\$	32
8/10/2016	Review refund portions of briefs	0.5	\$	158
8/10/2016	Review Proposed Decision	0.4	\$	126
8/11/2016	Call with CW and CDI on additional briefing	0.6	\$	189
8/11/2016	Call with Heller on briefing	0.2	\$	63
8/11/2016	Caselaw research on interest rates	1	\$	315
8/12/2016	Draft interest rate brief	1.2	\$	378
8/12/2016	Review new Order and discussion with Heller on Order	0.2	\$	63
8/15/2016	Call with Heller	0.1	\$	32
8/15/2016	Review Wells email re: M&C	0.2	\$	63
8/16/2016	Call with Heller on consumer interest rate and M&C	0.25	\$	79
8/17/2016	Research consumer interest rates	0.3	\$	95
8/18/2016	Draft and edit brief on interest rates	1	\$	315
8/19/2016	Call with heller on meet and confer for interest rates	0.2	\$	63
8/22/2016	Meet and confer	1.1	\$	347
8/22/2016	Call with Heller on M+C	0.15	\$	47
8/23/2016	Review edits on brief	0.2	\$	63
8/24/2016	Further M+C	0.7	\$	221
8/26/2016	Call with Heller on consumer rate evidence	0.1	\$	32
8/31/2016	Revie state farm interest rate submissions	0.5	\$	158
9/1/2016	Call with Heller on status conference	0.2	\$	63
9/2/2016	Prepare for and attend status conference	2.3	\$	725

9/6/2016	Call with Heller on need for reply brief	0.1	\$	32
9/7/2016	Research case law for treatment of consumer interest/refund standard across JXs	0.8	\$	252
9/8/2016	Research case law and regs per new ALJ order	0.8	\$	252
9/8/2016	Call with Heller on interest rate research	0.1	\$	32
9/8/2016	Call with Heller on new ALJ order	0.2	\$	63
9/12/2016	Review refund timing caselaw	1	\$	315
9/12/2016	All parties status conference	0.7	\$	221
9/12/2016	Call with Heller post conference	0.15	\$	47
9/13/2016	Call with Heller on reply brief	0.1	\$	32
9/13/2016	Call with Heller and N. McKennedy on Sept 12 conf	0.9	\$	284
9/14/2016	Review exhibit list for errors	0.2	\$	63
9/14/2016	Draft and edit reply brief	0.8	\$	252
9/16/2016	Call with Heller on reply brief	0.1	\$	32
9/16/2016	Draft and edit reply brief	0.7	\$	221
9/21/2016	Call with Heller on reply briefs	0.1	\$	32
9/21/2016	Review filed briefs	1	\$	315
10/4/2016	Call with Heller on refund percentage rates	0.2	\$	63
10/5/2016	Call with Heller and Holober on case status and potential mtn for reconsideration from State	1.2	\$	378
10/10/2016	Review docket for purposes of compensation claim	0.5	\$	158
10/11/2016	Prepare and draft compensation claim	1	\$	315
11/14/2016	Call with heller on compensation claim	0.5	\$	158
11/18/2016	Draft and edit compensation claim	2.3	\$	725
11/21/2016	Draft and edit compensation claim	1.3	\$	410
11/21/2016	Call with Heller on compensation claim	0.2	\$	63
11/22/2016	Call with Heller on compensation claim	0.4	\$	126
11/28/2016	Draft and edit Lewis Decl	0.9	\$	284
11/29/2016	Draft and edit Lewis Decl	1.6	\$	504
12/1/2016	Call with Heller on compensation claim	0.1	\$	32
12/1/2016	Call with Heller on compensation claim	0.3	\$	95
12/2/2016	Call with Heller on compensation claim	0.1	\$	32
12/5/2016	Compile exhibits for ocmp clam	0.9	\$	284
12/5/2016	final edit of claim	1.1	\$	347

264.38 \$ 83,280

ATTACHMENT 2

		Submitted	
Date	Category	by	Amount
9/10/2016	Postage	Lewis	\$ 26.60
9/2/2016	Parking	Lewis	\$ 33.00
9/12/2016	Parking	Lewis	\$ 32.00
8/29/2016	Postage	Lewis	\$ 22.67
5/18/2016	Postage	Lewis	\$ 22.29
11/16/2015	Meals	Holober	\$ 32.27
5/27/2016	Postage	Lewis	\$ 58.77
6/3/2016	Postage	Lewis	\$ 28.51
5/16/2016	Postage	Lewis	\$ 28.22
3/10/2016	Postage	Lewis	\$ 24.84
1/27/2016	Postage	Lewis	\$ 22.61
2/19/2016	Parking	Lewis	\$ 34.00
2/12/2016	Postage	Lewis	\$ 18.59
1/5/2016	Parking	Lewis	\$ 33.00
1/6/2016	Parking	Lewis	\$ 32.00
1/7/2016	Parking	Lewis	\$ 32.00
1/8/2016	Parking	Lewis	\$ 32.00
1/11/2016	Parking	Lewis	\$ 32.00
1/12/2016	Parking	Lewis	\$ 32.00
1/13/2016	Parking	Lewis	\$ 32.00
1/8/2016	Meals	Lewis	\$ 4.89
1/5/2016	Meals	Lewis	\$ 7.80
1/12/2016	Meals	Lewis	\$ 10.75
1/7/2016	Meals	Lewis	\$ 5.71
1/5/2016	Meals	Lewis	\$ 3.80
1/12/2016	Meals	Lewis	\$ 10.55
1/12/2016	Printing & Reproduction	Lewis	\$ 14.94
1/12/2016	Printing & Reproduction	Lewis	\$ 6.20
2/4/2016	Postage	Lewis	\$ 22.35
1/4/2016	Airfare	Heller	\$ 335.96
1/4/2016	Lodging	Heller	\$ 988.20
1/4/2016	Meals	Heller	\$ 16.11
1/4/2016	Ground transportation	Heller	\$ 69.50
1/5/2016	Meals	Heller	\$ 7.37
1/5/2016	Meals	Heller	\$ 22.90
1/5/2016	Meals	Heller	\$ 11.90
1/6/2016	Meals	Heller	\$ 14.84
1/6/2016	Meals	Heller	\$ 30.45
1/6/2016	Meals	Heller	\$ 6.23
1/7/2016	Meals	Heller	\$ 10.66
1/7/2016	Meals	Heller	\$ 4.78
1/7/2016	Meals	Heller	\$ 27.75
1/8/2016	Meals	Heller	\$ 4.38
1/8/2016	Meals	Heller	\$ 10.55
1/10/2016	Airfare	Heller	\$ 228.98
1/12/2016	Meals	Heller	\$ 10.94
1/12/2016	Meals	Heller	\$ 16.41
1/12/2016	Lodging	Heller	\$ 506.33
1/12/2016	Ground transportation	Heller	\$ 10.20
1/12/2016	Meals	Heller	\$ 11.17
1/13/2016	Airfare	Heller	\$ 228.98
1/13/2016	Parking	Heller	\$ 36.08
1/13/2016	Meals	Heller	\$ 14.54

1/13/2016	Meals	Heller	\$	16.41
1/13/2016	Meals	Heller	\$	5.98
1/13/2016	Ground transportation	Heller	\$	10.20
1/5/2016	Legal Expenses	Transcript	\$	542.50
1/6/2016	Legal Expenses	Transcript	\$	681.70
1/7/2016	Legal Expenses	Transcript	\$	809.30
1/8/2016	Legal Expenses	Transcript	\$	690.40
1/11/2016	Legal Expenses	Transcript	\$	757.10
1/12/2016	Legal Expenses	Transcript	\$	849.90
1/3/2016	Legal Expenses	Transcript	\$	774.50
11/17/2015	Legal Expenses	Transcript	\$	684.60
11/16/2015	Legal Expenses	Transcript	\$	813.40
11/23/2015	Legal Expenses	Transcript	\$	614.60
11/16/2015	Legal Expenses	Transcript	\$	670.60
11/18/2015	Legal Expenses	Transcript	\$	791.00
11/20/2015	Legal Expenses	Transcript	\$	656.60
9/29/2015	Legal Expenses	Transcript	\$	423.60
7/27/2015	Postage	Lewis	\$	22.83
9/4/2015	Parking	Lewis	\$	34.00
9/15/2015	Postage	Lewis	\$	34.73
8/6/2015	Postage	Lewis	\$	33.20
10/9/2015	Parking	Lewis	\$	34.00
10/16/2015	Postage	Lewis	\$	28.42
10/20/2015	Postage	Lewis	\$	23.74
10/21/2015	Postage	Lewis	\$	23.74
10/30/2015	Postage	Lewis	\$	23.74
11/3/2015	Postage	Lewis	\$	24.08
9/29/2015	Parking	Lewis	\$	34.00
9/30/2015	Postage	Lewis	\$	23.91
11/19/2015	Parking	Lewis	\$	33.00
11/18/2015	Parking	Lewis	\$	34.00
11/20/2015	Parking	Lewis	\$	33.00
11/23/2015	Parking	Lewis	\$	34.00
11/16/2015	Parking	Lewis	\$	34.00
11/17/2015	Parking	Lewis	\$	34.00
11/19/2015	Meals	Lewis	\$	6.53
11/16/2015	Meals	Lewis	\$	4.00
11/19/2015	Meals	Lewis	\$	2.00
11/19/2016	Meals	Lewis	\$	6.00
11/20/2016	Meals	Lewis	\$	8.16
11/16/2016	Printing & Reproduction	Lewis	\$	78.11
11/16/2016	Printing & Reproduction	Lewis	\$	15.96
12/14/2015	Postage	Lewis	\$	24.08
12/22/2015	Postage	Lewis	\$	28.83
10/23/2015	Lodging	Heller	\$	297.18
10/23/2015	Lodging	Heller	\$	1,076.34
10/26/2015	Airfare	Heller	\$	366.96
11/5/2015	Lodging	Heller	\$	334.32
11/15/2015	Ground transportation	Heller	\$	55.00
11/15/2015	Ground transportation	Heller	\$	20.00
11/15/2015	Meals	Heller	\$	16.76
11/16/2015	Meals	Heller	\$	76.80
11/16/2015	Meals	Heller	\$	2.81
11/17/2015	Meals	Heller	\$	27.72
11/17/2015	Meals	Heller	\$	9.67

11/17/2015 Meals	Heller	\$	14.23
11/18/2015 Meals	Heller	\$	10.66
11/19/2015 Meals	Heller	\$	6.50
11/19/2015 Ground transportation	Heller	\$	12.10
11/19/2015 Meals	Heller	\$	8.06
11/19/2015 Meals	Heller	\$	10.88
11/20/2015 Ground transportation	Heller	\$	10.10
11/20/2015 Ground transportation	Heller	\$	23.95
11/20/2015 Meals	Heller	\$	13.59
11/20/2015 Meals	Heller	\$	21.42
1/11/2016 Meals	Holober	\$	3.24
1/13/2016 Meals	Holober	\$	6.99
1/16/2016 Meals	Holober	\$	6.99

ATTACHMENT 3

<u>Name</u>	<u>Date</u>	<u>Qty</u>	<u>Notes</u>
Becky Richard	1/3/2015	1.0	State Farm HO 14-8381 14-8381 filing review
Becky Richard	1/5/2015	0.4	Call with Doug Heller
Becky Richard	1/5/2015	3.6	State Farm HO 14-8381 14-8381 Filing Review,
Becky Richard	1/21/2015	0.2	Call with Doug Heller to dicuss State Farm HO 14-8381 14-831 filing intervention
Becky Richard	1/22/2015	3.7	State Farm HO 14-8381 14-8381 Filing Intervention memo
Becky Richard	1/22/2015	0.3	Call with Doug Heller to discuss petition evidence
Becky Richard	4/3/2015	0.3	Call with Doug Heller to discuss new data
Becky Richard	5/19/2015	4.9	Review State Farm HO 14-8381 Data Submissions and determining Bickmore State Farm Indication
Becky Richard	5/20/2015	4.0	Review State Farm HO 14-8381 Data Submissions and determining Bickmore State Farm Indication
Becky Richard	5/21/2015	3.8	Review State Farm HO 14-8381 Data Submissions and determining Bickmore State Farm Indication
Becky Richard	5/26/2015	0.2	Call with Doug Heller at CFC to discuss State Farm HO 14-8381 Indication memo
Becky Richard	5/27/2015	5.6	State Farm HO 14-8381 Indications and memo preparation
Becky Richard	5/27/2015	0.4	Calls with Doug Heller to discuss State Farm 14-8381 indication memo
Mark Priven	5/27/2015	1.5	Review indication memo regarding State Farm HO 14-8381 filing
Becky Richard	5/29/2015	0.5	Review CDI State Farm HO 14-8381 Indication
Becky Richard	6/1/2015	1.2	Pre-Call with Doug Heller for State Farm HO 14-8381
Becky Richard	6/17/2015	0.2	call with CFC to discuss State Farm HO 14-8381
Becky Richard	6/17/2015	0.9	call with CFC, CW to discuss State Farm Hearing
Mark Priven	6/17/2015	0.2	call with CFC to discuss State Farm HO 14-8381
Mark Priven	6/17/2015	0.9	call with CFC, CW to discuss State Farm Hearing

Becky Richard	7/10/2015	0.3	Call with CFC to discuss State Farm HO 14-8381 hearing discovery requests
Mark Priven	7/10/2015	0.3	Call with CFC to discuss State Farm HO 14-8381 hearing discovery requests
Becky Richard	7/13/2015	0.2	Call with Doug Heller to discuss discovery issues
Becky Richard	7/13/2015	4.8	Prepare State Farm HO 14-8381 Discovery Request
Becky Richard	7/14/2015	0.2	Call with Doug Heller to discuss discovery
Becky Richard	7/14/2015	6.5	Prepare State Farm HO 14-8381 Discovery Request
Becky Richard	7/15/2015	5.5	Prepare State Farm HO 14-8381 Discovery Request
Becky Richard	7/16/2015	6.0	Prepare State Farm HO 14-8381 Discovery Request
Mark Priven	7/16/2015	2.0	Review State Farm HO 14-8381 Discovery Request
Becky Richard	7/17/2015	2.5	Researching investment strategies for State Farm HO 14-
Becky Richard	7/20/2015	0.9	State Farm HO 14-8381 Hearing Discovery conference
Becky Richard	7/20/2015	6.1	Prepare State Farm HO 14-8381 Hearing Discovery
Mark Priven	7/20/2015	0.9	State Farm HO 14-8381 Hearing Discovery conference
Becky Richard	7/21/2015	7.9	Preparing State Farm HO 14-8381 Hearing Discovery
Becky Richard	7/22/2015	3.0	State Farm HO 14-8381 Hearing discovery request
Becky Richard	7/23/2015	0.5	State Farm HO 14-8381 Hearing Discovery Request
Becky Richard	7/26/2015	4.0	State Farm HO 14-8381 12/31/14 Revised template and exhibit analysis
Becky Richard	7/27/2015	6.7	State Farm HO 14-8381 12/31/14 Revised template and exhibit analysis
Becky Richard	7/28/2015	0.3	Call with Doug Heller to discuss new data
Becky Richard	8/3/2015	0.6	call with CFC to discuss submission and email proposal
Becky Richard	8/3/2015	3.4	Review State Farm's HO 14-8381 new data submission and proposal email from 7/31/15
Mark Priven	8/3/2015	1.0	Review State Farm HO 14-8381 new data submission and proposal email from 7/31/15
Becky Richard	8/4/2015	0.7	Call with CFC to discuss State Farm HO 14-8381 data submissions on disk and confidentiality concerns; completing protective order for Mark Priven and myself.

Mark Priven	8/4/2015	0.7	Call with CFC to discuss State Farm HO 14-8381 data submissions on disk and confidentiality concerns; completing protective order for Becky Richard and myself.
Becky Richard	8/10/2015	2.5	Review State Farm HO 14-8381 response to CW 2nd discovery request, Review State Farm HO 14-8381 data submission, particularly movement from 24 pt to 8 pt to 24 pt and new severity base
Mark Priven	8/10/2015	0.9	Review State Farm HO 14-8381 response to CW 2nd discovery request, Review State Farm HO 14-8381 data submission, particularly movement from 24 pt to 8 pt to 24 pt and new severity base
Becky Richard	8/11/2015	2.9	Working with IT to get software loaded onto system to download State Farm HO 14-8381 data from disk and actual downloading data and organizing it
Becky Richard	8/17/2015	0.6	Call with CFC to discuss strategy for tackling the massive State Farm HO 14-8381 data submission in regards to CDI discovery request
Mark Priven	8/17/2015	0.6	Call with CFC to discuss strategy for tackling the massive State Farm HO 14-8381 data submission in regards to CDI discovery request
Becky Richard	8/31/2015	2.0	Downloading State Farm HO 14-8381 response to CFC discovery request #1
Becky Richard	9/1/2015	0.5	State Farm HO 14-8381 Filing; Exhibit 14 review
Becky Richard	9/3/2015	0.7	Calls with CFC to discuss settlement call
Becky Richard	9/3/2015	0.3	Calls with CFC to discuss settlement call and Variance
Becky Richard	9/3/2015	1.6	Call with State Farm, CDI and CFC to discuss
Becky Richard	9/3/2015	0.4	Call with Doug Heller to discuss Exhibit 14
Becky Richard	9/3/2015	1.2	State Farm HO 14-8381: Summarize outstanding Issues; review FFE data and load, Exhibit 14
Becky Richard	9/10/2015	0.5	Review State Farm HO 14-8381 response to our request for Exhibit 14 data compared to Exhibit 9
Becky Richard	9/15/2015	1.5	Review State Farm HO 14-8381 DRAFT Joint Statement of Undisputed Facts and Disputed Issues
Becky Richard	9/15/2015	0.5	mail back the State Farm HO 14-8381 CDs at their

Becky Richard	9/18/2015	1.5	Downloading revised State Farm HO 14-8381 response to CFC request for discovery disks
Becky Richard	9/21/2015	0.5	Discuss with CFC Hearing strategy on CAT loads and efficiency standard
Becky Richard	9/21/2015	0.2	Review CDI Efficient Standard calculation and State Farm's 2013 calculated expenses factor
Mark Priven	9/21/2015	0.5	State Farm HO 14-8381: Call with CFC to discuss State Farm Hearing strategy on CAT loads and efficiency standard
Becky Richard	9/23/2015	3.0	Summarizing our discovery request to State Farm HO 14-8381 with the documents State Farm submitted in response to our discovery request
Becky Richard	9/24/2015	1.0	State Farm HO 14-8381 call re State Farm with CW
Becky Richard	9/24/2015	0.4	2 calls with Doug Heller to discuss State Farm
Becky Richard	9/24/2015	9.6	Efficiency standard variance analysis, Review Nancy Watkins Testimony, Research R-Squared papers, ISO CAT calculations and ISO California CAT data, Review HO 14-8381 Mao and Karen Terry Testimony for "Motion to Strike"
Mark Priven	9/24/2015	1.0	State Farm HO 14-8381 call re State Farm with CW
Becky Richard	9/25/2015	0.1	Call with Doug Heller to discuss FFEQ, etc
Becky Richard	9/25/2015	8.9	State Farm HO 14-8381 California and Countrywide trends; ISO trends; credibility of trends
Becky Richard	9/28/2015	2.7	Download new State Farm documents and summarize by CFC discovery requests
Nina Gau	9/28/2015	3.0	State Farm intervention - analysis of cat. load trending procedure, review of expert witness testimony, review of related actuarial literature.
Becky Richard	9/29/2015	3.5	State Farm Mark Priven Testimony write-up on CAT adjustment.
Becky Richard	9/29/2015	0.5	Discussion of critical weaknesses of State Farm assumptions with Nina Gau
Nina Gau	9/29/2015	2.5	State Farm intervention - analysis of cat. load trending procedure. Calculation of alternative trending method HO 14-8381ds.

Nina Gau	9/29/2015	0.5	Discussion of State Farm assumptions with Becky Richard.
Becky Richard	9/30/2015	8.0	State Farm Mark Priven Testimony write-up on CAT adjustment
Becky Richard	10/1/2015	8.7	Separating our State Farm CAT data submission for remainder of data submission; summarizing what issues have been taken off the table for the hearing and what issues are still outstanding; researching credibility of trend papers; Mark Priven testimony write-up, HO 14-8381urs summary to date
Becky Richard	10/1/2015	0.2	Call with Doug Heller and Aaron Lewis to discuss discovery documents
Becky Richard	10/2/2015	8.5	Mark Priven testimony write-up
Becky Richard	10/3/2015	2.5	Mark Priven testimony write-up
Becky Richard	10/4/2015	2.9	Mark Priven testimony write-up
Becky Richard	10/5/2015	9.5	Mark Priven testimony write-up
Becky Richard	10/6/2015	0.2	Call with Doug Heller to discuss Var 2A
Becky Richard	10/6/2015	1.8	Mark Priven State Farm Testimony; NAII Fast Track ordering
Mark Priven	10/6/2015	9.0	work on written testimony re State Farm HO 14-8381 filing
Becky Richard	10/7/2015	0.3	Call with Doug Heller to discuss CAT loss data, etc/
Becky Richard	10/7/2015	4.7	Updating analysis with NISS data received and Meeting with Mark Priven to discuss State Farm Testimony
Mark Priven	10/7/2015	5.4	work on written testimony re State Farm HO 14-8381 filing
Becky Richard	10/8/2015	5.9	Made revisions to exhibits and testimony after meeting with Mark Priven to discuss State Farm Testimony
Mark Priven	10/8/2015	3.0	work on written testimony re State Farm HO 14-8381 filing
Becky Richard	10/9/2015	3.5	Made revisions to exhibits and testimony after meeting with Mark Priven to discuss State Farm Testimony
Mark Priven	10/9/2015	4.0	work on written testimony re State Farm HO 14-8381 filing

Becky Richard	10/12/2015	0.1	discussed testimony with Doug Heller
Becky Richard	10/12/2015	5.1	State Farm testimony - researching sources for Fast Track; contacting ISS and ISO; revising exhibits on new fast track data found
Becky Richard	10/13/2015	0.4	discuss testimony with Doug Heller and Mark Priven
Becky Richard	10/13/2015	6.6	revised testimony and exhibits on using 20 years of Fast Track data, Review/research CalFire data that Watkins used, Revise testimony based on feedback from Doug Heller and Mark Priven.
Mark Priven	10/13/2015	2.6	Review written testimony State Farm HO 14-8381 filing
Mark Priven	10/13/2015	0.4	Call with Doug Heller and Becky Richard regarding testimony
Becky Richard	10/14/2015	0.8	Call with Doug Heller, Aaron Lewis and Mark Priven to discuss testimony
Becky Richard	10/14/2015	0.3	Call with Mark Priven regarding changes
Becky Richard	10/14/2015	4.9	Revised testimony and exhibits on Doug Heller and Mark Priven's comments to Version #2 of testimony
Mark Priven	10/14/2015	0.8	Call with Doug Heller, Aaron Lewis and Becky Richard to discuss testimony
Mark Priven	10/14/2015	0.3	call with Becky Richard regarding changes
Mark Priven	10/14/2015	1.4	Reviewed written testimony and exhibits
Becky Richard	10/15/2015	0.2	Call with Mark Priven to discuss revisions to testimony
Becky Richard	10/15/2015	6.8	Revised testimony and exhibits on Doug Heller and Mark Priven's comments to Version #3 of testimony
Mark Priven	10/15/2015	4.3	Review written testimony State Farm HO 14-8381 filing
Mark Priven	10/15/2015	0.2	Call with Becky Richard regarding revisions
Becky Richard	10/16/2015	0.3	Call with Doug Heller to discuss State Farm trend
Becky Richard	10/16/2015	0.3	Call with Doug Heller, Aaron Lewis and Mark Priven regarding testimony changes
Becky Richard	10/16/2015	6.4	Final testimony and exhibits changes and review

Mark Priven	10/16/2015	0.3	Con Call with Doug Heller, Aaron Lewis and Becky Richard regarding testimony changes
Mark Priven	10/16/2015	1.7	Final testimony and exhibits review
Nina Gau	10/16/2015	3.0	Peer review of written testimony. Verification of Bickmore calculations and exhibits in support of our testimony. Produced alternative calculations to support our case. Research of Catastrophe Load trending techniques.
Becky Richard	10/19/2015	0.7	reviewing Mark Priven testimony exhibits
Becky Richard	10/20/2015	0.5	reviewing Mark Priven testimony exhibits with Aaron Lewis for confidentiality
Becky Richard	10/22/2015	2.0	reading through direct testimony of Allan Swartz
Becky Richard	10/26/2015	0.6	call with Doug Heller, Aaron Lewis and Mark Priven to discuss timing/structure of hearing week and process needed to review direct testimony in preparation for hearing
Becky Richard	10/26/2015	1.9	reviewing Nancy Watkins
Mark Priven	10/26/2015	0.6	Call with CFC, review & prepare questions regarding my testimony, review State Farm filings & documents
Mark Priven	10/26/2015	2.4	Prepare for oral testimony
Becky Richard	10/27/2015	3.5	Meeting with Mark Priven going over his testimony
Becky Richard	10/27/2015	2.9	Review Bickmore testimony for potential objections
Mark Priven	10/27/2015	4.0	Prepare for oral testimony: review State Farm rate filings, Bickmore written testimony, CAS Basic Ratemaking text
Becky Richard	10/28/2015	8.0	Review Bickmore testimony for potential objections and prepare responses

Becky Richard	10/29/2015	6.0	Review prepare responses to potential questions on direct testimony, Review Nancy Watkins testimony for hearing questions, Review response to State Farm Motion to Strike
Mark Priven	10/29/2015	6.0	Prepare for oral testimony: review Fast Track information, Actuarial Standards of Practice, Nancy Watkins written testimony
Becky Richard	10/30/2015	6.2	Review prepare responses to potential questions on direct testimony, Review Nancy Watkins testimony for hearing questions, Review response to State Farm Motion to Strike
Mark Priven	10/30/2015	7.0	Prepare for oral testimony: review initial CF intervention, Bickmore written testimony, "Classical Partial Credibility with Application to Trend" (Venter), "A Statistical Note on Trend Factors: The Meaning of R-Squared" (Barclay), written testimony Karen Terry
Becky Richard	11/2/2015	0.9	Call with Consumer Federation
Becky Richard	11/2/2015	2.1	CDI Direct Testimony review
Mark Priven	11/2/2015	0.9	Call with Consumer Federation
Mark Priven	11/2/2015	2.1	Call with Consumer Federation, Review Testimony: Karen Terry, Review Fast Track filings
Becky Richard	11/3/2015	3.0	Karen Terry Direct Testimony review
Mark Priven	11/3/2015	4.0	Review testimony Rachel Hemphill, Isabel Spiker
Becky Richard	11/6/2015	1.5	Review missing page from CDI CAT tutorial
Mark Priven	11/9/2015	0.9	review "Basic Ratemaking" info related to testimony
Becky Richard	11/10/2015	2.0	Reviewed newly submitted State Farm Documents
Becky Richard	11/12/2015	0.7	State Farm Hearing prep of Karen Testimony questions with Aaron Lewis
Becky Richard	11/13/2015	0.7	Conference call with Aaron Lewis, Mark Priven regarding testimony

Becky Richard	11/13/2015	0.4	Call with Doug Heller to discuss Watkins testimony
Becky Richard	11/13/2015	2.9	Review testimony of Consumer Federation, Venter paper, State Farm filings, CDI "catastrophe and modeled losses" powerpoint
Mark Priven	11/13/2015	0.7	Conference call with Aaron Lewis, Becky Richard regarding testimonies
Mark Priven	11/13/2015	3.3	Review testimony of Consumer Federation, Venter paper, State Farm filings, CDI "catastrophe and modeled losses" powerpoint
Becky Richard	11/16/2015	8.0	6.0 State Farm HO 14-8381 Hearing, 2 hours prep
Becky Richard	11/16/2015	3.0	State Farm HO 14-8381 Hearing
Mark Priven	11/16/2015	8.0	state farm Homeowners, 4 hours court, 2 hours travel, 2 hours prep
Becky Richard	11/17/2015	7.0	State Farm HO 14-8381 Hearing. 3.0 hours travel
Mark Priven	11/17/2015	10.0	state farm Homeowners, 6 hours court, 2 hours travel, 2 hours prep
Becky Richard	11/18/2015	8.5	6.0 State Farm HO 14-8381 Hearing, 2.5 hours travel
Mark Priven	11/18/2015	11.0	state farm Homeowners, 6 hours court, 2 hours travel, 3 hours prep
Becky Richard	11/19/2015	9.0	6.0 State Farm HO 14-8381 Hearing, 3.0 additional prep for Mark Priven testimony
Mark Priven	11/19/2015	8.0	state farm HO 14-8381, 6 hours court, 2 hours travel
Becky Richard	11/20/2015	3.0	State Farm hearing
Mark Priven	11/20/2015	8.0	state farm HO 14-8381:6 hours court, 2 hours travel
Becky Richard	11/23/2015	8.0	State Farm hearing
Becky Richard	11/23/2015	6.0	State Farm hearing
Becky Richard	11/30/2015	2.0	1.5 Researching the Cal Fire data, 0.5 call with CalFire
Mark Priven	11/30/2015	0.5	State Farm HO 14-8381, Prepare written testimony for
Becky Richard	12/1/2015	0.7	call with CFC to discuss rebuttal testimony process,
Becky Richard	12/1/2015	0.8	Reviewing and compiling billing for CFC budget update

Mark Priven	12/1/2015	0.7	Call regarding rebuttal testimony
Becky Richard	12/2/2015	1.5	researching R-Squared reliability and writing up rebuttal
Becky Richard	12/3/2015	8.0	Mark Priven rebuttal testimony
Becky Richard	12/4/2015	8.0	Mark Priven rebuttal testimony
Becky Richard	12/7/2015	8.0	Mark Priven rebuttal testimony
Becky Richard	12/8/2015	2.5	Mark Priven rebuttal testimony; researching r-square
Becky Richard	12/9/2015	0.2	call with Mark Priven to discuss rebuttal testimony,
Becky Richard	12/9/2015	0.7	Conference call to discuss rebuttal testimony with CFC
Becky Richard	12/9/2015	0.6	rebuttal testimony revisions
Mark Priven	12/9/2015	0.2	Call with Becky Richard to discuss rebuttal testimony
Mark Priven	12/14/2015	4.0	Prepare rebuttal written testimony
Becky Richard	12/15/2015	0.4	conference call regarding rebuttal written testimony
Mark Priven	12/15/2015	0.4	conference call regarding rebuttal written testimony
Mark Priven	12/15/2015	5.6	Prepare rebuttal written testimony
Becky Richard	12/16/2015	8.0	Mark Priven Rebuttal Testimony
Mark Priven	12/16/2015	2.0	Prepare rebuttal written testimony
Becky Richard	12/17/2015	0.4	Call with Doug Heller to discuss rebuttal testimony
Becky Richard	12/17/2015	7.6	Mark Priven Rebuttal Testimony
Mark Priven	12/17/2015	5.0	Prepare rebuttal written testimony
Becky Richard	12/18/2015	0.1	Call with Doug Heller to discuss Fast Track data
Becky Richard	12/18/2015	9.4	Mark Priven Rebuttal Testimony
Mark Priven	12/18/2015	5.0	Prepare rebuttal written testimony
Becky Richard	12/21/2015	0.7	Call with CFC to discuss testimony
Becky Richard	12/21/2015	11.3	Mark Priven rebuttal testimony
Mark Priven	12/21/2015	0.7	Call with CFC regarding testimony
Mark Priven	12/21/2015	6.8	Prepare written rebuttal: State Farm HO 14-
Becky Richard	12/22/2015	10.0	Mark Priven Rebuttal Testimony
Mark Priven	12/22/2015	7.0	Prepare written rebuttal: State Farm HO 14-
Becky Richard	12/27/2015	1.5	Review Watkins Rebuttal testimony
Becky Richard	12/28/2015	4.0	Review Watkins Rebuttal Testimony
Mark Priven	12/28/2015	2.0	review rebuttal testimony of Watkins, Terry, Appel, Hemphill
Becky Richard	12/29/2015	0.2	Call with Doug Heller to discuss Terry and Watkins rebuttals
Becky Richard	12/29/2015	8.8	Review rebuttal testimony of Watkins, Terry, Appel, Hemphill

Mark Priven	12/29/2015	6.0	review rebuttal testimony of Watkins, Terry, Appel, Hemphill
Becky Richard	12/30/2015	8.0	Review rebuttal testimony of Watkins, Terry, Appel, Hemphill
Mark Priven	12/30/2015	8.0	review rebuttal testimony of Watkins, Terry, Appel, Hemphill
Becky Richard	12/31/2015	5.0	review rebuttal testimony of Watkins, Terry, Appel, Hemphill. Prepare questions for rebuttal
Becky Richard	12/31/2015	3.5	Prepare for Mark Priven rebuttal oral testimony, Review Watkins rebuttal testimony, Review Terry rebuttal testimony
Mark Priven	12/31/2015	8.0	review rebuttal testimony of Watkins, Terry, Appel, Hemphill. Prepare questions for rebuttal
Becky Richard	1/4/2016	0.7	Calls with Doug Heller to discuss Watkins rebuttal
Becky Richard	1/4/2016	3.3	Watkins Rebuttal exhibits and testimony review
Mark Priven	1/4/2016	8.0	State Farm HO 14-8381meowners prep rate hearing
Becky Richard	1/5/2016	8.0	State Farm Rate Hearing
Becky Richard	1/5/2016	3.5	State Farm Rate Hearing
Mark Priven	1/5/2016	8.0	State Farm Homeowners rate hearing & Prep
Becky Richard	1/6/2016	8.0	State Farm Rate Hearing
Mark Priven	1/6/2016	10.0	State Farm Homeowners rate hearing & Prep
Becky Richard	1/7/2016	8.0	State Farm Homeowners rate hearing & Prep
Mark Priven	1/7/2016	10.0	State Farm Homeowners rate hearing & Prep
Becky Richard	1/8/2016	5.0	State Farm Rate Hearing
Becky Richard	1/8/2016	3.5	State Farm Rate Hearing
Mark Priven	1/8/2016	8.0	State Farm Homeowners rate hearing & Prep
Mark Priven	1/9/2016	4.0	State Farm Homeowners rate hearing prep
Mark Priven	1/10/2016	4.0	State Farm Homeowners rate hearing prep
Mark Priven	1/11/2016	11.0	State Farm Homeowners rate hearing & Prep
Becky Richard	1/12/2016	8.0	State Farm Hearing
Becky Richard	1/12/2016	3.5	State Farm Hearing
Mark Priven	1/12/2016	11.0	State Farm Homeowners rate hearing & Prep
Becky Richard	1/13/2016	7.0	State Farm Hearing
Becky Richard	1/13/2016	3.5	State Farm Hearing
Mark Priven	1/13/2016	7.0	State Farm Homeowners rate hearing

Becky Richard	1/19/2016	0.9	Preparing updated State Farm HO 14-8381 templates for
Becky Richard	1/20/2016	0.5	Preparing updated State Farm HO 14-8381 templates for
Becky Richard	1/25/2016	0.1	Call with CFC to discuss potential alternative
Becky Richard	1/29/2016	0.5	SF ALJ template indications
Becky Richard	2/2/2016	2.0	ALJ indications
Becky Richard	2/3/2016	5.0	ALJ Indications
Mark Priven	2/3/2016	0.5	Review options for ALJ
Becky Richard	2/9/2016	1.5	ALJ template calculations
Becky Richard	2/10/2016	1.5	ALJ template calculations; review other party templates
Becky Richard	2/17/2016	0.2	Call with Doug Heller to discuss revised templates
Becky Richard	2/26/2016	0.7	State Farm Revised Billing Estimate
Becky Richard	3/15/2016	0.1	Call with Doug Heller to discuss exposure bases
Becky Richard	3/15/2016	1.3	SF HO summary questions answered for Doug Heller
Becky Richard	3/18/2016	1.5	Review SF HO summary for Doug Heller
Becky Richard	4/4/2016	8.0	Review of State Farm HO brief
Becky Richard	4/6/2016	0.2	Call with Doug Heller to discuss Cat Load
Becky Richard	4/6/2016	0.8	SF opening brief review
Becky Richard	4/7/2016	0.3	Call with Doug Heller to discuss rate calculation
Becky Richard	4/7/2016	2.7	SF HO opening Brief Review
Mark Priven	4/7/2016	3.0	review of "opening brief"
Becky Richard	4/8/2016	1.3	Call with CFC to discuss Cat Load
Becky Richard	4/8/2016	1.2	Review SF HO Brief
Mark Priven	4/8/2016	1.3	Call with CFC regarding Cat Load
Mark Priven	4/8/2016	1.7	Review of "opening brief" and conference call
Becky Richard	4/11/2016	1.5	SF HO Brief review
Mark Priven	4/13/2016	2.0	review State Farm opening brief
Mark Priven	4/20/2016	3.0	review and comment on SF initial closing argument
Becky Richard	4/21/2016	6.0	SF HO Brief review
Becky Richard	5/3/2016	0.2	Call with Doug Heller to discuss exhibits for brief
Becky Richard	5/3/2016	0.3	SF HO Brief review
Becky Richard	5/13/2016	2.0	SF HO reply brief
Becky Richard	5/16/2016	0.3	Call with Doug Heller to discuss SF cat trend
Becky Richard	5/16/2016	3.7	reviewing SF reply brief
Mark Priven	5/16/2016	2.0	review of written reply brief
Becky Richard	6/1/2016	1.5	SF HO Revised Rate Indications
Becky Richard	6/3/2016	0.2	Call with Doug Heller to discuss templates
Becky Richard	6/3/2016	3.3	SF HO Revised Rate Indications

Becky Richard	6/6/2016	2.0	SF HO Revised Rate Indications
Becky Richard	9/26/2016	0.2	Calculating State Farm Decision Impact per CFC
Becky Richard	11/16/2016	0.5	Reviewing Hours

ATTACHMENT 4

Mark Priven, FCAS, MAAA

President, Regulatory & Alternative Risk Consulting

As President, Regulatory & Alternative Risk Consulting, Mark Priven is responsible for managing and promoting the development and expansion of this service area, while continuing to perform actuarial and risk financing studies for his current clients. Mark is an actuary with extensive experience serving both public and private agencies and pools over the last 15 years. Active in the risk management industry, he currently serves on the California Workers' Compensation Insurance Rating Bureau Actuarial Committee, the Associate Member Council of the International Association of Industrial Accident Boards and Commissions (IAIABC), is a Member of the National Academy of Social Insurance, and is Past President of Casualty Actuaries of the Bay Area (CABA).

Mark is a frequent speaker at industry conferences, such as RIMS, Institutional Investor, PARMA, CAJPA, and ASSE. He has presented on a variety of topics, including the following Enterprise Risk Management, insurance regulation, impact of workers' compensation reform, total cost of risk, actuarial reserving, insurance versus gambling, benchmarking, and measuring the effectiveness of risk control.

Mark also taught a class for several years to actuaries on retrospective rating, pricing individual accounts, excess loss pricing, and risk classification.

EXPERIENCE

Prior to joining Bickmore, for five years Mark was Vice President supporting retail brokerage clients at one of the largest international brokerage firms. He provided risk managers and brokers with loss forecasts, reserve studies, cost allocation plans, program comparisons, risk retentions analyses, benchmarking, and price negotiations, and assisted in program design and feasibility studies for finite risk, captives, and self-insurance.

As a Senior Reserving Analyst for one of California's largest insurance companies, Mark was responsible for special studies of \$1 billion in workers' compensation reserves and claims handling costs. He also served as lead actuary supporting captives and franchise/association accounts.

EDUCATION

Bachelor of Arts, Philosophy & Mathematics – University of Pennsylvania

Junior Year of Undergraduate Studies – University of Bristol

PUBLICATIONS

Claims Liabilities and Liability Reporting, IAIABC Journal, Fall, 2009

Actuarial Issues in Mergers and Acquisitions, Co-author, 1999

An Introduction to Capitation and Healthcare Provider Excess Insurance, Co-author, 1997 – Winner of CAS Michelbacher Prize

Bringing Actuarial Science to the Risk Management Process, Co-author, 1995

A decorative graphic at the bottom of the page consisting of overlapping, wavy shapes in shades of blue and yellow.

PROFESSIONAL AFFILIATIONS

Fellow of the Casualty Actuarial Society (FCAS)

Member of the American Academy of Actuaries (MAAA)

HONORS

Selected by *Workers' Comp Executive* as one of the "Most Influential People in Workers' Comp for 2010"



Becky Richard, ACAS, MAAA

Senior Actuarial Analyst, Property & Casualty Actuarial Services

Becky Richard provides actuarial and risk management consulting services to public entity pools and self-insured organizations. She has several years of experience in the property/casualty insurance industry, specializing in ratemaking and reserving.

EXPERIENCE

Prior to joining Bickmore in 2010, Becky was a Commercial Lines Pricing Actuary for Cal Farm Insurance. She was primarily responsible for developing competitive rates for new business auto programs. Becky's previous experience also includes working at California Casualty Management Company as a Loss Reserve Analyst where she performed semi-annual reviews of case and bulk reserves.

EDUCATION

Bachelor of Science, Mathematics – California State University, Chico

PROFESSIONAL AFFILIATIONS

Associate of the Casualty Actuarial Society (ACAS)

Member of the American Academy of Actuaries (MAAA)



Nina Gau, FCAS, MAAA

Director, Property & Casualty Actuarial Services

Nina Gau provides actuarial and risk management consulting services to public entity pools and self-insured organizations. She joined Bickmore in 2008 and brings over 15 years of experience in the actuarial field, including ratemaking, reserving, financial modeling, and predictive modeling. Nina has also served on the Examination Committee of the Casualty Actuarial Society.

EXPERIENCE

Prior to joining Bickmore, Nina worked for Nationwide Insurance Company as a Pricing Director. Throughout her career at Nationwide, she worked in different capacities in Commercial Lines pricing, Corporate Reserving and Planning and Forecasting departments. In her most recent role she managed a research and development unit for Commercial Lines Pricing and carried primary responsibility for the Pricing Segmentation initiative.

From August of 1999 through July 2000, Nina worked as Management Analyst for the CSAC Excess Insurance Authority. Her responsibilities included policy control and statistical data reporting. She also served as a primary liaison between member counties and excess insurance brokers.

Nina served as an Actuarial Analyst for CalFarm Insurance Company from August 1996 to August of 1999. Her primary responsibilities there included rate reviews for the Personal Auto and Homeowners lines of business. She also performed various ad-hoc analyses for Personal Lines profitability and planning studies, as well as assisted in the development of a Personal Lines data warehouse.

EDUCATION

Master of Science, Applied Mathematics – Moscow State University, Moscow, Russia

PROFESSIONAL AFFILIATIONS

Fellow of the Casualty Actuarial Society (FCAS)

Member of the American Academy of Actuaries (MAAA)

A decorative graphic at the bottom of the page consists of several overlapping, curved shapes in shades of blue and yellow, creating a modern, abstract design.

ATTACHMENT 5

Project Name	User Name	Expense Code	Incurred Date	Amount
Consumer Federation - P&C				
	Priven, Mark	Meals	11/17/2015	\$6.25
	Priven, Mark	Meals	1/7/2016	\$8.32
	Priven, Mark	Meals	1/8/2016	\$6.80
	Priven, Mark	Meals	1/11/2016	\$21.19
	Priven, Mark	Personal Car Mileage	2/9/2016	\$82.08
	Priven, Mark Total			\$124.64
	Richard, Becky	Meals	11/16/2015	\$14.13
	Richard, Becky	Travel-Taxi/Train/Tips/Etc	11/16/2015	\$20.00
	Richard, Becky	Meals	11/17/2015	\$21.34
	Richard, Becky	Travel-Taxi/Train/Tips/Etc	11/17/2015	\$15.00
	Richard, Becky	Meals	11/18/2015	\$66.29
	Richard, Becky	Meals	11/19/2015	\$82.23
	Richard, Becky	Hotel	11/20/2015	\$1,800.32
	Richard, Becky	Personal Car Mileage	11/20/2015	\$218.88
	Richard, Becky	Travel-Taxi/Train/Tips/Etc	11/20/2015	\$17.00
	Richard, Becky	Meals	11/23/2015	\$16.35
	Richard, Becky	Personal Car Mileage	11/23/2015	\$103.74
	Richard, Becky	Travel-Taxi/Train/Tips/Etc	11/23/2015	\$13.30
	Richard, Becky	Meals	1/5/2016	\$22.89
	Richard, Becky	Personal Car Mileage	1/5/2016	\$102.60
	Richard, Becky	Meals	1/6/2016	\$63.79
	Richard, Becky	Meals	1/7/2016	\$77.59
	Richard, Becky	Hotel	1/8/2016	\$763.51
	Richard, Becky	Meals	1/8/2016	\$5.40
	Richard, Becky	Travel-Taxi/Train/Tips/Etc	1/8/2016	\$23.40
	Richard, Becky	Meals	1/12/2016	\$28.04
	Richard, Becky	Personal Car Mileage	1/12/2016	\$103.68
	Richard, Becky	Travel-Taxi/Train/Tips/Etc	1/12/2016	\$17.20
	Richard, Becky	Hotel	1/13/2016	\$338.47
	Richard, Becky	Meals	1/13/2016	\$16.47
	Richard, Becky	Travel-Taxi/Train/Tips/Etc	1/13/2016	\$5.00
	Richard, Becky Total			\$3,956.62
	Grand Total			\$4,081.26

EXHIBIT 3

1
2 **BEFORE THE INSURANCE COMMISSIONER**
3
4 **OF THE STATE OF CALIFORNIA**

5
6 In the Matter of the Request for Award of
7 Compensation of

8
9 Consumer Watchdog,

10
11 Intervenor.

File No. IP-2015-00003

AMENDED DECISION AWARDING
COMPENSATION TO CONSUMER
WATCHDOG

*In the Matter of the Rate Application of State
Farm General Insurance Company*

Rate Application No.14-8381 (homeowners)

Prior Approval File No. PA-2015-00004

12
13
14 **1. SUMMARY**

15 State Farm General Insurance Company ("State Farm") filed a rate application with the
16 California Insurance Commissioner. The Insurer requested a 6.9%% rate increase for their
17 homeowners line of insurance. A consumer advocacy group, Consumer Watchdog ("CW"),
18 petitioned to intervene. The Department granted the petition. CW contended that the rate
19 application violated the Insurance Code.

20 Following discussions among the parties and a rate hearing before an Administrative Law
21 Judge, the Commissioner ordered State Farm to lower their rates by -7.0%.

22 CW requested compensation of \$1,952,149.06 in advocate, attorney and expert fees for its
23 participation and contribution to the decision. CW supported the application with a declaration
24 by Pamela Pressley, an attorney for CW.

25 The Insurer objected to CW's fee request.

26 The Commissioner concludes: (1) CW made a "substantial contribution" to the rate
27 decision (Ins. Code § 1861.10(b)), (2) the contribution was "separate and distinct" from that of
28

1 the Department (10 CCR § 2661.1(k)), (3) CW charged appropriate market rates (*id.* § 2661.1(c)),
2 and (4) except for the fees listed in Section 6.C. of this Decision, the requested fees are
3 reasonable (Ins. Code § 1861.10(b)).

4 Accordingly, the Commissioner approves CW's fee request in the reduced amount of
5 \$1,928,469.52. The Insurer shall pay the award. Ins. Code § 1861.10(b).

6 **2. CONSUMER WATCHDOG'S PARTICIPATION IN THE PROCEEDING**

7 **A. CW's Petition to Intervene**

8 On December 4, 2014, State Farm filed a prior approval rate application seeking to
9 increase the premiums for their homeowners line of insurance by 6.9% - the maximum rate
10 increase allowed by law without automatically triggering a rate hearing. The public was duly
11 notified of State Farm's filing of said rate application on December 19, 2014.

12 On January 26, 2015, CW filed a Petition to for Hearing, to Intervene and Notice of Intent
13 to Seek Compensation. CW stated as grounds for the Petition, numerous issues it found with
14 State Farm's rate application, including large underwriting profits and income from previous
15 years which may suggest that the proposed rate increase would result in excessive rates, excessive
16 and unsupported provision for fire following an earthquake, improper and unsupported
17 catastrophe adjustment, failure to support or provide data for its loss and premium trends,
18 unsupported values for excluded expenses, failure to properly calculate the projected yield,
19 improper request for a variance from the efficiency standard, and unsupported request for a
20 variance from the leverage factor. In light of these issues that CW in consultation with their
21 actuarial experts found with the rate application, they determined that the 6.9% rate increase
22 sought by State Farm would violate provisions of the Insurance Code, the Insurance Code's
23 implementing regulations, and the statutes implemented by the passage of Proposition 103.

24 On February 2, 2015, State Farm filed an objection to CW's Petition. State Farm
25 generally denied the allegations in CW's Petition and objected to the fact that another consumer
26 advocate had also found issues in State Farm's rate application and thus also sought to intervene.
27 The Commissioner found that CW raised important issues pertinent to the prior approval rate
28 process and granted CW's Petition to Intervene only, on February 10, 2015. CW's Petition for a

1 Hearing would be considered at a later date.

2 Another consumer advocacy group, Consumer Federation of California, also Petition to
3 Intervene in the same rate application. Consumer Federation of California's Petition to Intervene
4 was also granted.

5 **B. CW's Participation in the Pre-Hearing Process**

6 CW began review of State Farms rate application before the filing of their Petition to
7 Intervene. CW's consulting actuarial experts identified serious issues with State Farm's rate
8 application and issues why it should not be approved.

9 During the pre-hearing process, CW provided all of the parties with a detailed written
10 analysis of the issues they found in State Farm's rate application. The written analysis was
11 prepared by CW's consulting actuarial expert.

12 On June 1, 2015, CW's advocate and actuarial expert participated in an all-parties
13 conference call where CW presented their argument supported by actuarial analysis regarding
14 issues they identified in the rate application.

15 **C. CW's Contribution to the Administrative Hearing**

16 The parties were unable to resolve the issues identified in State Farm's rate application.
17 using the pre-hearing process. On June 22, 2015, the Commissioner ordered that an
18 administrative hearing be held to resolve the issues. A Notice of Hearing was served on the
19 parties on that date.

20 During the pre-hearing process, CW propounded its own discovery on State Farm and
21 defended the discovery requests. CW's discovery requests lead to the production of thousands of
22 pages of additional data and documents that were not previously provided by State Farm.

23 The actuarial experts retained by CW submitted pre-filed direct expert testimony to be
24 considered by the Administrative Law Judge. CW also analyzed and moved to strike portions of
25 State Farm's experts' pre-filed direct testimony. CW also defended its own expert pre-filed direct
26 testimony against motions to strike portions of it from State Farm.

27 At the administrative hearing that began on November 16, 2015, CW actively participated
28 throughout the multi-day, multi-part hearing. CW presented direct evidence through its actuarial

1 expert on pertinent issues before the Administrative Law Judge and cross-examined State Farm's
2 expert witnesses.

3 After the conclusion of the administrative hearing CW provided expert pre-filed rebuttal
4 testimony, moved to strike portions of State Farm's expert pre-filed rebuttal testimony and
5 defended its own experts pre-filed rebuttal testimony.

6 CW actively participated in the rebuttal hearing which began on January 5, 2016. During
7 the rebuttal hearing CW's experts provided rebuttal testimony and examined State Farm's rebuttal
8 witnesses.

9 CW also submitted post hearing briefs that provided unique actuarial analysis of the issues
10 that were argued before the Administrative Law Judge.

11 Throughout the hearing process CW actively participated and contributed to the rate
12 process by providing expert testimony and actuarial analysis on pertinent issues before the
13 Administrative Law Judge such as the catastrophe trend.

14 **D. The Commissioner's Decision**

15 On October 6, 2016, the Commissioner's adopted the Administrative Law Judge's
16 Revised Proposed Decision which ordered an overall decrease of -7.0% effective July 15, 2015,
17 with retroactive excessive premium refunds for policyholders beginning from that date.

18 **3. STANDARDS FOR INTERVENOR COMPENSATION**

19 Intervenor's that have been granted a Finding of Eligibility to Seek Compensation are
20 entitled to submit a request for compensation for their intervention in property and casualty
21 insurance rate making matters before the Commissioner. 10 CCR § 2662.3(a).

22 Intervenor's may seek compensation for time, additional fees and costs spent and or
23 incurred after submitting an initial fee request. 10 CCR § 2662.4.

24 Intervenor's who make a showing in their request of an award for compensation that they
25 made a substantial contribution to the rate making decision of the Commissioner (10 CCR §
26 2662.5(a)(1)) and represented the interests of consumers (*id.* § 2662.5(a)(2)) are entitled to
27 reasonable advocacy and witness fees. Ins. Code § 1861.10(b).

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1 Intervenors must show substantial contribution by contributing as a whole to the
2 decision of the commissioner resulting in more relevant, credible, and non-frivolous information
3 being available for the Commissioner to make a decision than would have been available had the
4 intervenor not participated. 10 CRR § 2661.1(k).

5 Intervenor compensation can be reduced to the extent that the intervenor's substantial
6 contribution duplicates the substantial contribution of another party. 10 CCR § 2662.5(b). In
7 determining whether there was duplication, the Commissioner considers whether the intervenor
8 presented relevant issues, evidence or arguments which were separate and distinct from those
9 presented by another party. *Id.* §§ 2661.1(k) and 2662.5(b).

10 The request for compensation must be verified (10 CCR § 2662.3(b)) and include
11 detailed descriptions of the services and expenditures (*id.* § 2662.3(b)(1)), legible time and billing
12 records (*id.* § 2662.3(b)(2)), and a description of the intervenor's substantial contribution (*id.* §
13 2662.3(b)(3)).

14 **4. STATE FARM'S OBJECTION TO CW'S FEE REQUEST**

15 On December 22, 2016, State Farm filed an Opposition to CW's Request for
16 Compensation. State Farm argued that some of CW's did not make a substantial contribution,
17 CW's work was duplicative of the efforts of CDI, CW's fee request is excessive, CW's actuarial
18 expert charged hourly rates that were beyond his true market rate, and that CW should wait until
19 the conclusion of State Farm's civil court appeal/court actions before seeking compensation for
20 their over two years of work and participation in thirteen days of trial at the administrative level.

21 **5. CW's REPLY IN-SUPPORT OF THEIR FEE REQUEST**

22 On January 10, 2017, CW filed a Reply In-Support of their fee request. CW's stated
23 reasons why they meet the standards for substantial contribution, and defended the reasonableness
24 of their rates and the rates of their outside experts.

25 CW also filed a supplemental fee request to include the time and additional expenses
26 incurred in responding to State Farm's Objection to the fee request. 10 Cal. Code Regs. § 2662.4.

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1 **6. CW MEETS THE REQUIREMENTS FOR COMPENSATION**

2 **A. CW Represents the Interests of Consumers and Is Eligible to Seek**
3 **Compensation**

4 The Commissioner previously approved a finding of eligibility for CW. Finding of
5 Consumer Federation of California's Eligibility to Seek Compensation, effective May 1, 2016-
6 April 30, 2018. That finding determined that CW "represents the interests of consumers" (Ins.
7 Code § 1861.10(b) & 10 CCR § 2661.1(j)) and may seek compensation.

8 **B. CW Made a Substantial Contribution to the Commissioner's Decision**

9 CW provided written analysis of relevant issues presented in the rate application and data
10 provided by the Insurers. CW engaged in discussions regarding the rate application with the
11 Insurers and the Department during the pendency of the rate application. CW's allegations led
12 the Insurers to provide additional data.

13 During the pre-hearing phase of the proceeding, CW propounded and defended discovery,
14 which led to the provision of additional data.

15 During the hearing CW provided expert actuarial testimony, cross examined State Farm's
16 experts and actively participated in the proceedings.

17 After the conclusion of the hearing, CW continued to provide written analysis of issues
18 discussed during the rebuttal phase. At the rebuttal hearing CW again provided expert testimony,
19 cross examined witnesses and actively participated in the proceedings.

20 CW's active participation during all phases of the proceeding led to more relevant
21 information being made available for consideration by the Administrative Law Judge in rendering
22 a proposed decision that was ultimately adopted by the Commissioner as his own decision after
23 revisions.

24 **C. CW's Contribution Was Separate and Distinct from That of the Department**

25 CW's contribution and participation in the proceedings was separate and distinct from that
26 of the Department. CW provided an unique perspective and original actuarial analysis of the data
27 that was provided by State Farm before, during and after the hearing. While CW and the
28 Department worked on the same set of data that was being considered by the Administrative Law

1 Judge, CW provided an analysis of the data which resulted in a different conclusion and led to
2 provide to the court arguments and analysis on important issues before the court that were entirely
3 different from that of the Department.

4 Just one example of which was CW's original analysis of the data in calculating the
5 projected yield. CW's analysis of this particular issue led to an original conclusion, wholly
6 different from that of the Department. CW's analysis of this one exemplary issue was directly
7 considered by the ALJ in the rendering of the proposed decision which was ultimately adopted by
8 the Commissioner.

9 CW's active participation through all phases of the proceeding that spanned almost two
10 years, and thirteen days of trial provided unique analysis and overall the provisioning of
11 additional data for the ALJ's consideration and rendering of a proposed decision that was
12 ultimately adopted as the Commissioner's own decision. CW satisfied the requirement of making
13 a separate and distinct contribution.

14 **D. CW'S Fee Request is Timely**

15 Intervenors may seek compensation within 30 days after the service of the order of the
16 Commissioner in the proceeding for which an intervenor is intervening. 10 CCR § 2662.3. There
17 is no requirement that intervenors wait until the conclusion of any civil court appeals or actions
18 before a fee request may be submitted after an order of the Commissioner has been served in the
19 proceeding the intervenor is intervening in.

20 **E. State Farm Did Not Disclose Its Fees and Expenses as Required by Regulation**

21 State Farm opposes the fee request submitted by CW and questioned both the amount and
22 reasonableness of the fees sought by CW. Any party questioning the reasonableness of any
23 amount set forth in a fee request shall provide a statement setting forth the fees, rates and costs it
24 expects to expend in the proceeding. 10 Cal. Code Regs. § 2662.3(g).

25 State Farm did not disclose any of its fees, rates or costs in their opposition to CW's fee
26 request.

27 //

28 //

1 **7. AWARD**

2 **A. CW's Hourly Rates Are Reasonable**

3 The Commissioner finds that the hourly rates requested for the attorney, advocates and
4 experts who worked on this matter are within the reasonable market range that attorneys,
5 advocates and experts with similar skills and experience in San Francisco and Los Angeles
6 charged in 2016.

7 Intervenors are allowed to bill for attorney and advocate time at prevailing market rates at
8 the time of the submission of the Request for Compensation for attorneys and advocates
9 providing similar services in the private sector in the Los Angeles and San Francisco areas. 10
10 Cal. Code Regs. § 2661.1(c).

11 CW bills for its attorney's and outside legal counsels time from \$300 per hour for an
12 attorney with over 1 year of professional experience to \$675 per hour for an attorney with over 30
13 years of professional experience.

14 CW's outside expert consultants billed from \$150 per hour for an individual with over 30
15 years of experience in insurance regulation to \$695 per hour for an actuary with over 30 years of
16 actuarial experience.

17 CW's requested hourly rates are within the range of rates previously approved by the
18 Department for attorneys, and experts of similar professional background and experience in
19 recent, similar matters.

20 The Commissioner grants CW its requested hourly rates for its attorney, advocates and
21 experts.

22 **B. The Total Hours CW Spent on This Matter Were Almost All Reasonable**

23 The Commissioner finds that CW's attorney's and experts' time charges were reasonable.
24 CW billed contemporaneously and only for activities directly related to their intervention in this
25 rate matter. None of the time charges recorded in the billing statements was excessive for the
26 type, quality and nature of the work completed.

27 **C. CW's Outside Legal Counsel Submitted Inappropriate Billing Entries**

28 On numerous occasions CW's outside legal counsel billed for travel time; time spent---

1 traveling to and from the hearing, separate from actual travel costs. The regulations specifically
 2 allow for billing and compensation for actual travel costs, but not for travel time. CW's in-house
 3 legal counsel and CW's actuarial expert witness did not bill for travel time. Billing at an
 4 attorney's market rate for time spent solely on travel is not a reasonable expense.

5 CW's legal counsel also billed for miscellaneous reading material identified as a mass
 6 circulation newspaper and for subscriptions to Westlaw (a general topic legal research/library
 7 service). These expenses cannot be identified as being specific to the work conducted on this
 8 particular rate application and thus are not reasonable expenses.

9 CW's legal counsels' compensation is reduced by 2.5%.

10 **D. CW Is Entitled to a reduced Award of \$1,928,469.51**

11 Accordingly, CW is awarded the following fees and expenses:

	Hours	Hourly Rate	Amount
Pamela Pressley, Esq., CW	302.6	\$575	\$173,995.00
Harvey Rosenfeld, Esq., CW	183.2	\$675	\$123,660.00
Jonathan Phenix, Esq., CW	443.40	\$300	\$133,020.00
Jonathan Phenix, Law Clerk, CW	169.1	\$150	\$25,365.00
Expenses for CW			\$13,034.83
TOTAL FOR CW			\$469,074.83
Daniel Zohar, Esq., Zohar Firm	506.3	\$600	\$303,780.00
Todd Foreman, Esq., Zohar Firm	1,240.3	\$500	\$620,150.00
Expenses for Zohar Firm			\$23,251.65
<i>SUB-TOTAL FOR ZOHAR FIRM</i>			<i>\$947,181.65</i>
2.5% REDUCTION			-\$23,679.54
TOTAL FOR ZOHAR FIRM			\$923,502.11
Allen Schwartz, Actuary, AIS	665.4	\$695	\$462,453.00
Katherine Tollar, Actuary, AIS	166.4	\$320	\$53,248.00
Maryanne Dwyer, Actuary, AIS	19.1	\$290	\$5,539.00
Expenses for AIS			\$10,602.58
TOTAL FOR AIS			\$531,842.58
Raymond K. Conover, Insurance Consultant	27.0	\$150	\$4,050.00
TOTAL FOR RAYMOND CONOVER			\$4,050.00
Total Fees Compensated			\$1,928,469.52

26 //

1 **8. FINDINGS AND CONCLUSIONS**

2 The Commissioner finds and determines that Consumer Watchdog made a substantial
3 contribution to the Commissioner's decision to approve the applications; that Consumer
4 Watchdog's contribution was separate and distinct from that of the CDI; and that Consumer
5 Watchdog's participation resulted in more relevant, credible, and non-frivolous information being
6 available to the Commissioner than would otherwise have been available.

7 Consumer Watchdog is hereby awarded \$1,928,469.52 in reasonable advocacy, legal
8 counsel and expert fees¹.

9 The Insurers shall pay the award. Ins. Code § 1861.10(b).

10 Applicants shall make payment no later than 30 days from the date of this Decision and
11 shall notify the CDI's Office of the Public Advisor² when they have made the payment.

12
13 Date: June 22, 2017

DAVE JONES
Insurance Commissioner

14
15
16 By: 

Susan Stapp
Deputy General Counsel

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27 ¹ Consumer Watchdog, 2701 Ocean Park Blvd. #112, Santa Monica, CA 90405

28 ² Edward Wu, 300 South Spring Street, 12th Floor, Suite 12700, Los Angeles, CA 90013 or
edward.wu@insurance.ca.gov.

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PROOF OF SERVICE
In the Matter of the Request for Award of Compensation of
CONSUMER WATCHDOG, Intervenor
Case No. IP-2015-00003

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I am over the age of eighteen years and am not a party to the within action. I am an employee of the Department of Insurance, State of California, employed at 45 Fremont Street, 19th Floor, San Francisco, California 94105. On June 22, 2017, I served the following document(s):

AMENDED DECISION AWARDING COMPENSATION TO CONSUMER WATCHDOG In the Matter of the Rate Application of State Farm General Insurance Company - Rate Application No. 14 -8381 (homeowners) - Prior Approval File No. PA-2015-00004

on all persons named on the attached Service List, by the method of service indicated, as follows:

If **U.S. MAIL** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for mailing by U.S. Mail. Under that practice, outgoing items are deposited, in the ordinary course of business, with the U.S. Postal Service on that same day, with postage fully prepaid, in the city and county of San Francisco, California.

If **OVERNIGHT SERVICE** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items for overnight delivery, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for overnight delivery. Under that practice, outgoing items are deposited, in the ordinary course of business, with an authorized courier or a facility regularly maintained by one of the following overnight services in the city and county of San Francisco, California: Express Mail, UPS, Federal Express, or Golden State overnight service, with an active account number shown for payment.

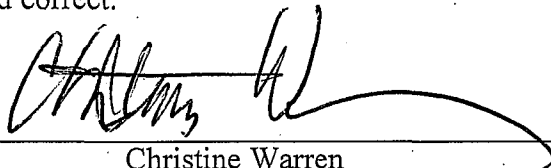
If **FAX SERVICE** is indicated, by facsimile transmission this date to fax number stated for the person(s) so marked.

If **PERSONAL SERVICE** is indicated, by hand delivery this date.

If **INTRA-AGENCY MAIL** is indicated, by placing this date in a place designated for collection for delivery by Department of Insurance intra-agency mail.

If **EMAIL** is indicated, by electronic mail transmission this date to the email address(es) listed.

Executed this date at San Francisco, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



Christine Warren

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SERVICE LIST
In the Matter of the Request for Award of Compensation of
CONSUMER WATCHDOG, Intervenor
Case No. IP-2015-00003

<u>Name/Address</u>	<u>Phone/Fax Numbers</u>	<u>Method of Service</u>
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EXHIBIT 4

notified the public of Farmers Applications.

On August 16, 2021, Consumer Watchdog filed a Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation (Petition), regarding Farmers Applications. The Petition asserted that the Applications resulted in rates that were excessive and/or unfairly discriminatory in violation of Insurance Code section 1861.05, subdivision (a).¹ Specifically, Consumer Watchdog alleged Farmers used a single model for its Fire Following Earthquake provision, which, it contended, was unreasonably high. Additionally, Consumer Watchdog alleged Farmers failed to provide the required formulas for Catastrophe Adjustment; failed to explain large differences between paid and incurred loss development; overstated the projected losses in its excessive net trend, resulting in an inflated rate indication; calculated the excluded expense factor and the projected yield using outdated financial statement data only through 2019; failed to disclose or provide any support or justification for its FireLine Score factors applied to its fire premiums or its Special Hazard Interface Area (SHIA) scoring system used to determine eligibility for new business, potentially resulting in unfairly discriminatory rates and premiums; and used outdated financial statement data in the Reconciliation, Program Detail, and Statutory sheets of the Applications.²

On September 27, 2021, the Commissioner granted Consumer Watchdog's Petition to Intervene, finding that Consumer Watchdog "has raised and seeks to address issues that are relevant to the ratemaking process."³ The Ruling specifically reserved for a later date any findings on the Petition for Hearing.

On October 1, 2021, the Department raised each of the concerns outlined by Consumer Watchdog in an Objection Letter, seeking responses and additional information from Farmers by

¹ Petition, pp.4-6.

² Request for Compensation, pp. 3-4.

³ Ruling Granting Consumer Watchdog's Petition to Intervene, p. 4.

October 22, 2021.⁴

On January 27, 2022, Consumer Watchdog's Actuary, Allan I. Schwartz, submitted a written analysis of Farmers' Applications' Loss Trend, Loss Development, and Modeled Catastrophe Losses, finding them improper or unsupported. According to Schwartz's analysis, Farmers deviated from the commonly accepted practice of considering the results from more than one catastrophe model in a rate calculation by utilizing only a single model to estimate the losses used in the catastrophe provision for the fire coverage. Schwartz's analysis resulted in different rate indications in all categories.

On January 31, February 3, and February 15, 2022, the parties and the Department met by teleconference in order to discuss outstanding issues and exchange additional information. On February 18 and 25, 2022, the parties met to discuss settlement.

On March 3, 2022, the parties reached an agreement, to wit, that Farmers would adopt an overall rate increase of 2.3%. This agreement was memorialized in a final settlement stipulation on March 17, 2022

On April 12, 2022, the Commissioner approved the filing via SERFF. In accordance with the Stipulation, on April 22, 2022, Consumer Watchdog withdrew its Petition.

On May 11, 2022, Consumer Watchdog filed a Request for Compensation for advocacy and witness fees for work performed by Consumer Watchdog employees and consultants for a total of \$65,615.00. Consumer Watchdog supported the Request for Compensation with a declaration by Pamela Pressley, and Allan I. Schwartz. The hours billed are limited to time spent on Farmers Applications, including preparation of the Request for Compensation.⁵

⁴ Request for Compensation, Exh. B.

⁵ Pressley Decl. at ¶¶ 20-22.

Pressley is a Senior Staff attorney for Consumer Watchdog.⁶ She has been Consumer Watchdog's Litigation Director for 16 years, with a focus primarily on matters before the California Department of Insurance, particularly on the enforcement and implementation of Proposition 103.⁷ Benjamin Powell is Staff Attorney for Consumer Watchdog with six years of professional experience in litigation and advocacy.⁸ Kaitlyn Gentile is a Paralegal for Consumer Watchdog with over fourteen years of professional experience in litigation matters, including drafting pleadings and motions.⁹ The Request for Compensation seeks compensation for Legal fees in the amount of 33.4 hours of Pressley's time at the rate of \$595 per hour, 10.9 hours of Powell's time at the rate of \$350 per hour, 10.0 hours of Gentile's time at \$200 per hour;

Schwartz is an actuary with over 40 years of experience in consulting actuarial experience, including numerous Proposition 103 proceedings.¹⁰ Schwartz founded and is currently employed by and President of AIS Risk Consultants, Inc, a New Jersey consulting firm.¹¹ Katherine Tollar is an Actuarial Assistant with over 20 years of actuarial experience.¹² Marianne Dwyer is an Actuarial Assistant with over 20 years of actuarial experience.¹³ The Request for Compensation seeks compensation for expert witness fees in the amount of 33.1 hours of Schwartz's time at the rate of \$870 per hour, 21.0 hours of Tollar's time at the rate of \$395 per hour, and 8.1 hours of Dwyer's time at the rate of \$350 per hour.¹⁴

⁶ Pressley Decl. at ¶ 1.

⁷ Pressley Decl. at ¶ 9.

⁸ Pressley Decl. at ¶ 12.

⁹ Pressley Decl. at ¶ 16, Exh 1b.

¹⁰ Schwartz Decl. Exh. 5.

¹¹ Schwartz Decl. at ¶ 1.

¹² Schwartz Decl. at ¶ 10, Exh. 6.

¹³ Schwartz Decl. at ¶ 10, Exh. 7.

¹⁴ Pressley Decl. at ¶ 8; Schwartz Decl. ¶ 14, Exhibit 8.

APPLICABLE LAW

I. Prior Approval Framework

In 1988, California's voters approved Proposition 103, which added Article 10 "Reduction and Control of Insurance Rates"¹⁵ (Article 10) to Division 1, Part 2, Chapter 9 of the Insurance Code. Article 10 governs automobile, home, and other property-casualty insurance rates. It requires that the Commissioner approve the rates insurers charge prior to use, so as to prevent "excessive, inadequate, [or] unfairly discriminatory" rates.¹⁶ Insurers wishing to change their rates must file complete rate applications with the Commissioner.¹⁷ All application information must be available for public inspection.¹⁸ Public hearings may be held on the applications.¹⁹

II. Compensation for Public Participation

To promote enforcement of the rate control laws, Insurance Code section 1861.10, subdivision (a) authorizes consumers and their representatives to initiate and intervene in rate proceedings and to enforce Article 10's provisions. The Insurance Code and the intervenor regulations (Regulations)²⁰ provide that intervenors must be compensated for their participation if various substantive and procedural requirements are met.

A. Substantive Requirements

Insurance Code section 1861.10, subdivision (b) provides that the Commissioner "shall award reasonable advocacy and witness fees and expenses" to persons demonstrating that (1) they "represent the interests of consumers," and (2) they have "made a substantial contribution to

¹⁵ Ins. Code, § 1861.01 et seq.

¹⁶ Ins. Code, §§ 1861.01, subd. (c), 1861.05, subd. (a).

¹⁷ Ins. Code, §1861.05(b).

¹⁸ Ins. Code, § 1861.07.

¹⁹ Ins. Code, §1861.05, subd. (c).

²⁰ Cal. Code Regs., tit. 10, §§ 2662.1—2662.8

the adoption of any order, regulation, or decision by the commissioner[.]” The Regulations contain substantially identical requirements.²¹

An intervenor “represents the interests of consumers” if it “represents the interests of individual insurance consumer[s], or the intervenor is a group organized for the purpose of consumer protection as demonstrated by, but is not limited to, a history of representing consumers in administrative, legislative or judicial proceedings.”²²

An intervenor makes a “substantial contribution” if the intervenor “substantially contributed, as a whole, to a decision, order, regulation, or other action of the Commissioner by presenting relevant issues, evidence, or arguments which were separate and distinct from those emphasized by the Department of Insurance staff or any other party, such that the intervenor’s participation resulted in more relevant, credible, and non-frivolous information being available for the Commissioner to make his or her decision than would have been available to a Commissioner had the intervenor not participated. A substantial contribution may be demonstrated without regard to whether a petition for hearing is granted or denied.”²³

B. Procedural Requirements

The Regulations set forth various procedural requirements for claiming intervenor compensation. The intervenor must obtain the Commissioner’s approval of a petition to intervene.²⁴ The intervenor must be found eligible to seek compensation by the Commissioner’s Public Advisor.²⁵ And the intervenor must submit a request for an award of compensation within 30 days after the Commissioner’s decision or action in the proceeding for which intervention was

²¹ Cal. Code Regs., tit. 10, § 2662.5, subd. (a).

²² Cal. Code Regs., tit. 10, § 2661.1, subd. (j).

²³ Cal. Code Regs., tit. 10, § 2661.1, subd. (k).

²⁴ Cal. Code Regs., tit. 10, § 2662.3.

²⁵ *Ibid.*

sought, or within 30 days after conclusion of the entire proceeding.²⁶ The request for compensation must be verified and include detailed descriptions of the services and expenditures, legible time and billing records, and a description of the intervenor's substantial contribution.²⁷

C. Payment and Amount of Compensation Award

Where an intervenor's advocacy occurs in response to an insurer's rate application, the insurer must pay the intervenor's reasonable advocacy fees, witness fees and expenses.²⁸ Time spent preparing the intervenor's request for compensation may be included in those amounts.²⁹

The intervenor's advocacy and witness fees must not exceed "the prevailing rate for comparable services in the private sector in the Los Angeles and San Francisco Bay Areas at the time of the Commissioner's decision awarding compensation for attorney advocates, non-attorney advocates, or experts with similar experience, skill and ability."³⁰

DISCUSSION

I. Consumer Watchdog Satisfied the Requirements for Compensation

Consumer Watchdog's Request for Compensation satisfies both the statutory and regulatory substantive and procedural requirements for intervenor compensation. In addition, Consumer Watchdog's advocacy and expert witness fees are reasonable. Accordingly, the Request for Compensation must be granted.

A. Consumer Watchdog Represented the Interests of Consumers and Made a Substantial Contribution to the Commissioner's Decision

Consumer Watchdog satisfied the requirements of Insurance Code section 1861.10,

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ Ins. Code, § 1861.10, subd. (b).

²⁹ Cal. Code Regs., tit. 10, § 2661.1(d).

³⁰ Cal. Code Regs., tit. 10, § 2661.1(c).

subdivision (b) and Regulations section 2662.5 to “represent[] the interests of consumers” and to make “a substantial contribution” to the Commissioner’s decision or action in connection with Farmers’ Applications. Consumer Watchdog has a long history of participation in Department proceedings. In addition, on August 25, 2020, the Commissioner issued Consumer Watchdog a Finding of Eligibility stating “Consumer Watchdog represents the interests of consumers, and on those grounds, the Commissioner hereby finds Consumer Watchdog eligible to seek compensation in Department proceedings pursuant to [Insurance Code section] 1861.02 *et seq.*”³¹

As to substantial contribution, Consumer Watchdog’s Petition initiated the proceeding and raised a number of issues with the Applications, including (1) Farmers’ use of just one model for its Fire Following Earthquake provision; (2) Farmers’ failure to provide the required formulae for Catastrophe Adjustment; (3) Farmers’ failure to explain large differences between the paid and incurred loss development; (4) Farmers’ excessive net trend’s overstatement of the projected loss, resulting in an inflated rate indication; (5) Farmers’ use of outdated financial statement data only through 2019 in the calculation of the excluded expense factor and the projected yield; (6) Farmers’ failure to disclose or provide any support or justification for its FireLine Score factors applied to its fire premiums or its Special Hazard interface Area (SHIA) scoring system used to determine eligibility for new business, potentially resulting in unfairly discriminatory rates and premiums in violation of Insurance Code section 1861.05; and (7) Farmers’ use of outdated financial statement data in the Reconciliation, Program Detail, and Statutory sheets of the Applications.³² On September 27, 2021, the Department found that Consumer Watchdog “has raised and seeks to address issues that are relevant to the ratemaking

³¹ Finding of Consumer Watchdog’s of Eligibility to Seek Compensation, dated Aug. 25, 2020, File No. IE-2020-0002, p. 4. Consumer Watchdog’s eligibility is effective until July 2022.

³² Request for Compensation at p. 9; Pressley Decl. at ¶ 32.

process.³³

Consumer Watchdog's actuary submitted written analyses to Farmers and the Department's actuaries and rate regulation team on January 27 and February 15, 2022. This, in turn, caused Farmers to file additional justification for its decisions regarding liability trend, loss development, and model usage.³⁴

Consumer Watchdog's presentation of relevant issues, evidence and arguments which were separate and distinct from those emphasized by the Department of Insurance staff or any other party, resulted in more relevant, credible information being available for these proceedings. As such, Consumer Watchdog made a substantial contribution to the Commissioner's ultimate decision.³⁵

B. Consumer Watchdog Met the Procedural Requirements for Compensation

The Commissioner approved Consumer Watchdog's Petition to Intervene on September 27, 2021, and the Public Advisor found Consumer Watchdog eligible to seek compensation.³⁶ Consumer Watchdog submitted a timely request for compensation and the request was verified.³⁷ It included detailed descriptions of the services and expenditures, legible time and billing records, and a description of Consumer Watchdog's substantial contribution.³⁸ Accordingly, Consumer Watchdog met the procedural requirements for compensation.

C. Consumer Watchdog's Requested Fees Are Reasonable

Consumer Watchdog billed 33.4 hours at the hourly rate of \$595 for Pressley, an attorney with over 25 years of consumer advocacy experience; 10.9 hours at the hourly rate of \$350 for

³³ Pressley Decl. at ¶ 27, quoting Ruling Granting Consumer Watchdog's Petition to Intervene, Sept. 27, 2021, at 4:7-8.

³⁴ Pressley Decl. at ¶ 26.

³⁵ Cal. Code Regs, tit. 10, § 2661.1(k).

³⁶ Finding of Consumer Watchdog's of Eligibility to Seek Compensation, Aug. 25, 2020, File No. IE-2020-0002.

³⁷ Cal. Code Regs., tit. 10, § 2662.3(a).

³⁸ Request for Compensation at pp. 9-13; Pressley Decl., Exh. 1a.

Powell, at attorney with six years' experience, and 10.0 hours at the hourly rate of \$200 for Gentile, a paralegal with over 14 years of litigation experience.³⁹ These rates are consistent with the current prevailing private sector rates for advocates in Los Angeles with similar experience, skill and ability.⁴⁰

In addition, Consumer Watchdog billed 33.1 hours at the hourly rate of \$870 for Schwartz, an actuary with over 40 years' experience; 21.0 hours at the rate of \$395 per hour for Tollar, an actuarial assistant with over 20 years' experience, and 8.1 hours at \$350 per hour for Dwyer, an actuarial assistant with over 20 years' experience.⁴¹

That time is reasonable for the work Consumer Watchdog performed reviewing the Applications, preparing the Petition and their detailed Responses, preparing the Compensation Request, and engaging in related conferences, calls, correspondence and negotiations over several months. None of Consumer Watchdog's advocacy or witness fees were excessive for the nature and quality of work performed. Nor did that work duplicate the Department's participation, since Consumer Watchdog first raised the issues and arguments regarding Farmers' underwriting changes. As such, Consumer Watchdog's advocacy and witness fees are reasonable.⁴²

II. Conclusions

For the foregoing reasons, the Commissioner concludes and determines that Consumer Watchdog is entitled to advocacy and witness fees in the amount of \$65,615.00, pursuant to Insurance Code section 1861.10, subdivision (b) and the regulations thereunder. Because Consumer Watchdog's advocacy was in response to Farmers' Applications, Farmers must pay

³⁹ Pressley Decl. at pp. 3-12.

⁴⁰ See Pressley Decl., Exh. 2 [fee expert declaration].

⁴¹ Schwartz Decl. at ¶ 10, Exhibits 5-7.

⁴² Cal. Code Regs, tit. 10, § 2661.1(a) and (l).

the award.⁴³

ORDER

1. Consumer Watchdog is hereby awarded \$65,615.00 in advocacy and expert witness fees in connection with Farmers' rule and form change Application (Prior Approval File No. PA-2021-00007).

2. Farmers shall pay the award no later than 30 days after the date of this Decision and shall notify the Department's Office of the Public Advisor⁴⁴ upon making payment.

Date: June 29, 2022

RICARDO LARA
Insurance Commissioner

By: 
ALICIA A. CLEMENT
Administrative Law Judge

⁴³ Ins. Code, § 1861.10, subd. (b).

⁴⁴ Edward Wu, 300 South Spring Street, 12th Floor, Suite 12700, Los Angeles, CA 90013 or edward.wu@insurance.ca.gov.

PROOF OF SERVICE

Case Name/Number: In the Matter of the Request for Compensation of
CONSUMER WATCHDOG
File No. **RFC-2022-001**

I, Florinda Cristobal, declare that:

I am employed by the California Department of Insurance, Administrative Hearing Bureau, in the City of Oakland and County of Alameda. I am over the age of eighteen (18) years and not a party to this action. My business address is 1901 Harrison Street, 3rd Floor, Oakland, CA 94612.

I am readily familiar with the business practices of the California Department of Insurance for collecting and processing correspondence for mailing, electronic filing and electronic mail. On June 29, 2022, I served **DECISION AWARDING COMPENSATION** regarding the **Matter of the Request for Compensation of CONSUMER WATCHDOG**.

 X **(By U.S. Mail)** on those identified parties in said action, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013.

 (By Intra-Agency Mail) on those identified parties in said action, by placing this correspondence in a place designated for collection for delivery by Department of Insurance intra-agency mail.

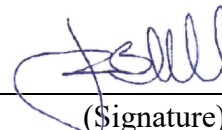
 (By facsimile transmission) on those identified parties in said action, by transmitting said document(s) from our office by facsimile machine Fax Number to facsimile machine number(s) shown below. Following the transmission, I received a "Transmission Report" from our fax machine indicating that the transmission had been transmitted without error.

 X **(By Email)** on those identified parties in said action, in accordance with Code of Civil Procedure §1013, by emailing true copies thereof at the address set forth below.

SEE ATTACHED PARTY SERVICE LIST

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed in Oakland, California, on June 29, 2022.

FLORINDA CRISTOBAL
(Print Name)


(Signature)

PARTY SERVICE LIST

Name/Address

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2022, and became operative on the same day. The process of drafting the new regulation took place over the course of approximately 24 months, throughout which, Consumer Watchdog (CW) was a constant participant. CW now seeks compensation for its efforts.

PROCEDURAL HISTORY

On September 16, 2020, the California Department of Insurance (CDI or Department) issued a public “Invitation to Investigatory Hearing on Homeowners’ Insurance and Affordability” to be held on October 19, 2020.

On November 5, 2020, the Commissioner issued a public “Invitation to Virtual Meeting regarding Home Hardening Standards and Wildfire Catastrophe Modeling” for December 10, 2020.

On February 23, 2021, CDI issued a public “Invitation to Prenotice Public Discussions on Mitigation in Rating Plans and Wildfire Risk Models and Draft Text of Regulation.”

On October 11, 2021, CDI issued a public “Invitation to Prenotice Public Discussions on Mitigation in Rating Plans and Wildfire Risk Models,” to be held on November 10, 2021.

On February 25, 2022, CDI issued a public “Notice of Proposed Action and Notice of Public Hearing on Mitigation in Rating Plans and Wildfire Risk Models” to be held on April 13, 2022.

On June 15, 2022, CDI issued a public “Notice of Availability of Amended Text” of proposed regulations.

On July 26, 2022, CDI’s Public Advisor renewed CW’s Finding of Eligibility to seek compensation for their participation in Proposition 103 proceedings.¹

On September 7, 2022, CDI submitted its final regulations to the Office of Administrative Law (OAL) for approval. OAL subsequently approved the regulations on

¹ CW’s Request for Compensation, p. 2, fn. 1.

October 14, 2022.

On November 7, 2022, less than 30 days after OAL approved the new regulations, CW filed its Request for Compensation. Included with its request are Declarations from attorney Pamela Pressley, actuary Allan I. Schwartz, and itemized billing records for Pressley, Schwartz, and attorney Harvey Rosenfield.

FINDINGS OF FACT²

Consumer Watchdog is a nonprofit, tax-exempt consumer research, education, litigation, and advocacy organization. Consumer Watchdog advocates on behalf of consumers before regulatory agencies, the Legislature, and the courts.³

Pamela Pressley is a Senior Staff attorney for CW, with over 26 years of professional experience.⁴ For the last 16 years, Pressley has worked for CW where her focus has been insurance regulatory and litigation matters before the California Department of Insurance and the courts, with an emphasis on enforcement and implementation of Proposition 103.⁵

Harvey Rosenfield is an attorney with over 40 years of professional experience in insurance regulatory and litigation matters.⁶ He is the author and proponent of Proposition 103.⁷ Rosenfield has been involved in multiple major lawsuits and administrative hearings to enforce Proposition 103.⁸ He has also been involved in numerous rulemaking proceedings implementing Proposition 103.⁹

² CW's Request was unopposed. The facts set forth in this Proposed Decision are derived from the public record and CW's filings, supported by declarations. Because CW's filings were unopposed and filed under penalty of perjury, they are accepted as true and correct. This recital of facts includes those facts essential to providing context to the findings herein, and may not include all the facts recited in the filings.

³ Declaration of Pamela Pressley, ¶ 2.

⁴ Declaration of Pamela Pressley, ¶¶ 1, 9.

⁵ *Ibid.*

⁶ Declaration of Pamela Pressley, ¶ 12.

⁷ *Ibid.*

⁸ Declaration of Pamela Pressley, ¶¶ 12-13.

⁹ Declaration of Pamela Pressley, ¶ 13.

Allan Schwartz is an actuary who has provided actuarial consulting services to CW in this matter and numerous other matters involving Proposition 103.¹⁰ Schwartz has over 40 years of consulting actuarial experience, and is the founder and President of AIS Risk Consultants, Inc. an actuarial consulting firm in Freehold, New Jersey.¹¹ He has also served as the Assistant Commissioner of the New Jersey Department of Insurance and as the Chief Actuary for the North Carolina Department of Insurance.¹²

In response to Commissioner Lara's September 16, 2020 invitation for public participation in the Investigatory Hearing on Homeowners' Insurance and Affordability, CW's attorneys began researching the topics for discussion listed in the invitation. Those topics include:

- Why are insurers declaring their own rates to be 'inadequate' and refusing to renew many homes in the wildland-urban interface, while at the same time these same insurers seek rate increases that are lower than California's law permits?
- Why are insurance companies reluctant to take homeowner wildfire mitigation efforts into account when pricing residential property insurance?
- How will climate change, including extreme heat events, continue to effect future homeowners' insurance rates, availability of insurance and financial health of our insurance market?
- How – if at all – would the use of catastrophe modeling in ratemaking help to make homeowners' insurance more affordable and more widely available to homeowners?
- What other rules should the Commissioner adopt to obligate insurers to spread risk and sell more policies to show homeowners in the wildland-urban interface who seek to purchase and maintain homeowners' insurance?¹³

In October 2020, insurance companies argued at the investigatory hearing that the Insurance Commissioner lacked authority to promulgate the proposed regulations. Rosenfield

¹⁰ Declaration of Allan I. Schwartz.

¹¹ Declaration of Allan I. Schwartz, ¶ 1.

¹² Declaration of Allan I. Schwartz, ¶10.

¹³ See Exhibit 3, attached to Declaration of Pamela Pressley.

participated in the Investigatory Hearing on October 19, 2020, by providing commentary, as well as rebuttal to the arguments by insurers.¹⁴

On November 5, 2020, Commissioner Lara issued an “Invitation to Virtual Meeting regarding Home Hardening Standards and Wildfire Catastrophe Modeling,” to be held on December 10, 2020.¹⁵ CDI staff sought input and participation in the upcoming meeting from CW’s consulting actuary, Schwartz.¹⁶ In the e-mail to CW, CDI staff suggested that Schwartz’s presentation cover Catastrophe modeling, with a specific focus on how the actuarial standards of practice apply to the use of wildfire models.¹⁷ Schwartz subsequently testified at the December 10, 2020 meeting, in accordance with CDI’s suggestion.¹⁸

On January 21, 2021, Schwartz provided an additional 27 pages of written comments on the topics discussed at the December 10, 2020 meeting.¹⁹ Schwartz’s written statement addressed the use of catastrophe modeling in ratemaking, and the impact of wildfire mitigation measures to reduce the spread and risk of future wildfires. In brief, Schwartz’s written statement explained that the use of wildfire mitigation credits in the insurance rating system can incentivize homeowners to implement home hardening measures that will, in turn, reduce the spread and risks of future wildfires.²⁰ Schwartz’s written statement went on to explain that the use of wildfire mitigation credits in the rating system is actuarially sound. By Schwartz’s estimation, the use of mitigation credits in setting wildfire premiums would “serve a useful societal purpose by decreasing the expected frequency and severity of wildfires.”²¹ Schwartz’s written statement

¹⁴ Declaration of Pamela Pressley, at ¶ 20.

¹⁵ Exhibit 4, attached to the Declaration of Pamela Pressley.

¹⁶ Exhibit 4, attached to the Declaration of Pamela Pressley.

¹⁷ Exhibit 4, attached to the Declaration of Pamela Pressley.

¹⁸ CW’s Request for Compensation, pp. 4-5.

¹⁹ Declaration of Pamela Pressley at ¶ 23.

²⁰ Statement of Allan I. Schwartz in Connection with California Department of Insurance Virtual Meeting Regarding Home Hardening and Wildfire Catastrophe Modeling, pp. 1-2.

²¹ *Id.*, at p. 5.

then proposed a method for calculating wildfire credit values, using both complex catastrophe modeling (CCM) and historical insurance data. Schwartz recognized that the current preference for CCM in wildfires presents a number of challenges to the affordability and availability of wildfire insurance and concludes that use of CCM for wildfire ratemaking procedures should be “fully documented” and “transparent,” and the burden of proof should be on the proponents of changes, to show that its use would constitute “an improvement.”

On February 23, 2021, CDI issued an “Invitation to Prenotice Public Discussions on Mitigation in Rating Plans and Wildfire Risk Models,” for a discussion scheduled on March 30, 2021. A draft text of the regulation was attached to the invitation.²² The March 30 meeting was postponed and ultimately held in November 2021.

Meanwhile, on May 26, 2021, in response to the position taken by the insurance industry that the Commissioner has no legal authority to promulgate new wildfire regulations, CW published a legal memo refuting the insurers’ position.²³ Among the topics covered by this memo are the lack of any countervailing case law; the authority under Proposition 103 to protect consumers against unjustified and unreasonable rates; Supreme Court affirmation of the Commissioner’s broad regulatory authority under Proposition 103; and the prior adoption of similar regulations governing auto insurance premiums.²⁴

The May 26, 2021 memo contains 16 pages of legal analysis with citations to California statute and case law. It also contains comments on and proposed edits to CDI’s April 5 Draft Regulations.²⁵ Among the edits suggested by CW are the removal and replacement of ambiguous language; replacing permissive terms with mandatory terms; standardizing usage of

²² Declaration of Pamela Pressley, ¶ 24.

²³ Exhibit 6 attached to the Declaration of Pamela Pressley.

²⁴ Declaration of Pamela Pressley, ¶25 and Exhibit 6, attached to the Declaration of Pamela Pressley.

²⁵ See Exhibit 7, attached to Declaration of Pamela Pressley.

terms and phrases; adding language to require disclosures of formulae used by insurers; and other suggestions based on historical contextual information.²⁶

Based on CW's analysis of the law, it argued that the Insurance Commissioner has the legal authority to require insurance companies to consider homeowners' actual risk of loss when setting rates and premiums and to prevent insurance companies from arbitrarily withdrawing from specific neighborhoods and communities across the state.²⁷ CW argued that the Commissioner could accomplish this type of oversight by virtue of the statutory authority vested in the Commissioner to prevent unfair rate discrimination.²⁸

On October 11, 2021, CDI issued an "Invitation to Prenotice Public Discussions on Mitigation in Rating Plans and Wildfire Risk Models," to be held on November 10, 2021.²⁹ A draft of the proposed regulations was attached.³⁰ Notably, several of the edits proposed by CW in May were incorporated in CDI's draft of regulation 2644.9.³¹

On November 10, 2021, CW provided additional written comments to the Draft Regulations.³² In its written comments, CW raises six points: 1) mitigation discounts incentivize homeowners to make mitigation efforts thereby reducing overall wildfire damage; 2) regulations should require that wildfire risk scores that are generated from computer models be subject to the same eligibility guidelines that apply when an insurer performs a rate analysis, to ensure that the insured's eligibility has a substantial relationship to an insured's loss exposure; 3) public disclosure and transparency of all Wildfire Risk Models used in Rate Applications should be mandated; 4) Wildfire Risk Models should not be allowed for projecting losses under

²⁶ *Ibid.*

²⁷ Exhibit 6 attached to the Declaration of Pamela Pressley.

²⁸ *Ibid.*

²⁹ Exhibit 7 attached to the Declaration of Pamela Pressley.

³⁰ Declaration of Pamela Pressley, ¶ 26.

³¹ *Ibid.*

³² Exhibit 8 attached to the Declaration of Pamela Pressley.

regulations 2644.4 and 2644.5; 5) Regulations should standardize use of or replace phrases like, “take into account,” “reflect,” “accord consideration,” and “include consideration”; and 6) provisions regulating Wildfire Risk Scores and appeals thereof should be strengthened, giving consumers a meaningful process to understand and challenge their risk classification.³³ Pamela Pressley, who was one of the authors of CW’s written comments, also made public statements at the meeting on November 10, 2021.³⁴

CW’s November 10 written comments were accompanied by a fresh round of proposed edits to the Draft Regulations.³⁵ A recurring theme in these proposed edits was CW’s insistence that the proposed regulations should make clear that they do not allow use of catastrophe models for overall rates. Additional edits were recommended to enhance consumers’ knowledge of and access to appellate review of an insurer’s decision regarding risk scores and non/renewal decisions.

On February 25, 2022, CDI issued a “Notice of Proposed Action and Notice of Public Hearing on Mitigation in Rating Plans and Wildfire Risk Models” for April 13, 2022.³⁶ In response to CDI’s Notice and Proposed Regulations, CW provided written comments urging additional measures by the Commissioner in addition to those already proposed. Primarily, CW urged CDI to refine its language in order to minimize ambiguity and strengthen enforcement.³⁷ Pressley also made comments at the April 13 meeting.³⁸ The 11 pages of written comment were accompanied by 23 pages of proposed edits to the Proposed Regulations.³⁹

On June 15, 2022, CDI issued a “Notice of Availability of Amended Text.” Two weeks

³³ Declaration of Pamela Pressley, ¶ 27, and Exhibit 8 attached to Declaration of Pamela Pressley.

³⁴ Declaration of Pamela Pressley, ¶28.

³⁵ Exhibit 8 attached to Declaration of Pamela Pressley.

³⁶ Declaration of Pamela Pressley, ¶29.

³⁷ See Exhibit 10 attached to Declaration of Pamela Pressley.

³⁸ Declaration of Pamela Pressley, ¶31.

³⁹ Exhibit 9 attached to Declaration of Pamela Pressley.

later, CW submitted three pages of written comments and proposed edits in response.⁴⁰

On July 12, 2020, CW's August 25, 2020 finding of eligibility to seek compensation in departmental proceedings was renewed through July 22, 2022.⁴¹

CDI's final version of Regulation section 2644.9 was filed with the Office of Administrative Law (OAL) on September 7, 2022, along with a summary of all public comments. In its final form, Regulation section 2644.9 states:

(a) Applicability.

(1) An insurer that applies or uses a rate that is developed with, determined by or relies upon, in whole or in part, a rating plan that segments, creates a rate differential, or surcharges the premium based upon a policyholder or applicant's wildfire risk shall comply with this Section 2644.9. If a rate that is developed with, determined by or relies upon a rating plan that complies with this section is approved, in whole or in part, and thereafter such rating plan is replaced, or modified in any manner, including but not limited to, the inclusion of new factors, or different criteria or algorithms, the insurer shall, prior to implementing the new or modified rating plan, file a new rate application, which shall include the new or modified rating plan. No such new or modified rating plan shall be used unless and until the new rate application is approved.

(2) A rating plan shall satisfy the requirements of subdivision (d)(1) of this Section 2644.9 only if the rating plan taken as a whole, including the operation of any Wildfire Risk Models that may be incorporated into the rating plan, takes into account and reflects the factors described in subdivisions (d)(1)(A) and (d)(1)(B) of this section. Nothing in this section shall be construed to require the use of a Wildfire Risk Model.

(b) Definitions.

As used in this section, each of the following terms has the meaning set forth below:

(1) Building Being Evaluated.

The term "Building Being Evaluated" means the residential or commercial structure in question, and includes decks that are attached to or abut the structure.

(2) Class-A Fire Rated Roof.

The term "Class-A Fire Rated Roof" has the same meaning as in the Chapter 7A California Building Code (2019) as modified by

⁴⁰ Exhibit 11, attached to Declaration of Pamela Pressley.

⁴¹ CW's Request for Compensation, p. 2, fn. 1.

the July 2021 supplement thereto, codified at Section 705A.1 of Part 2 of Title 24.

(3) Enclosed Eaves.

“Enclosed Eaves” are roof eaves that have either (1) boxed-in roof eave soffits with a horizontal underside or (2) an exterior covering applied to the underside of the rafter tails supporting the eaves, which covering is sloped corresponding to the slope of the rafter tails. Enclosed Eaves are thus distinguishable from open roof eaves, whose rafter tails are exposed.

(4) Fire-Resistant Vents.

The term “Fire-Resistant Vents” has the same meaning as in the Chapter 7A California Building Code (2019) as modified by the July 2021 supplement thereto, codified at Sections 706A.1 and 706A.2 of Part 2 of Title 24.

(5) Firewise USA Site in Good Standing.

A “Firewise USA Site in Good Standing” is a community that, at the time the Building Being Evaluated is rated, is recognized as such by the National Fire Protection Association, a Massachusetts 501(c)(3) corporation.

(6) Wildfire Risk Model.

(A) The term “Wildfire Risk Model” means any tool, instrumentality, means or product, including but not limited to a map-based tool, a computer-based tool or a simulation, that is used by an insurer, in whole or in part, to measure or assess the wildfire risk associated with a residential or commercial structure for purposes of:

1. Classifying individual structures according to their wildfire risk; or
2. Estimating losses corresponding to such wildfire risk classifications.

(B) The term “Wildfire Risk Model” does not include models used for purposes of projecting aggregate losses under Section 2644.4 or 2644.5.

(c) Wildfire Risk Models to be provided to the Commissioner.

Pursuant to Insurance Code section 1861.05, subdivision (b), any Wildfire Risk Model, as defined in subdivision (b)(6) of this section, that is used, in whole or in part, in an insurer's rating plan shall be provided to the Commissioner as part of an insurer's complete rate application.

(d) Mandatory factors.

(1) No insurer shall use a rating plan that does not take into account and reflect the following mandatory factors:

(A) Community-level mitigation designations: The rating plan shall reflect, and the rate offered to the applicant or insured shall be based in part on, the reduced wildfire risk associated with each and every community-level mitigation designation listed below in

this subdivision (d)(1)(A) that is applicable to the community in which the Building Being Evaluated is located. Community-level mitigation designations include:

1. Fire Risk Reduction Community listed by the Board of Forestry pursuant to Public Resources Code section 4290.1; and
2. Firewise USA Site in Good Standing.

(B) Property-level mitigation efforts.

The rating plan shall reflect, and the rate offered to the applicant or insured shall be based in part on, the reduced wildfire risk resulting from each and every property-level wildfire risk mitigation effort listed in subdivisions (d)(1)(B)1.a. through (d)(1)(B)1.e. and (d)(1)(B)2.a. through (d)(1)(B)2.e., below, that is undertaken with respect to an individual property being assessed for risk. Individual property-level wildfire risk mitigation efforts include:

1. Measures addressing the immediate surroundings of the Building Being Evaluated, including:
 - a. Clearing of vegetation and debris from under decks,
 - b. Clearing of vegetation, debris, mulch, stored combustible materials, and any and all movable combustible objects, from the area within five (5) feet of the Building Being Evaluated,
 - c. Incorporation of only noncombustible materials into that portion of any improvements to the property on which the Building Being Evaluated is located, including fences and gates, which is situated within five (5) feet of the Building Being Evaluated,
 - d. Removal or absence of combustible structures, including sheds and other outbuildings, from the area within thirty (30) feet of the Building Being Evaluated or, in the event that the applicant or insured does not control the entirety of the area extending thirty feet from the Building Being Evaluated, removal of combustible structures from as much of such area as is under the control of the applicant or policyholder, and
 - e. Whether the property upon which the Building Being Evaluated is situated complies with Section 4291 of the Public Resources Code, and any applicable local ordinances, governing defensible space; and
2. Building hardening measures, including provision of the following:
 - a. Class-A Fire Rated Roof,
 - b. Enclosed Eaves,
 - c. Fire-Resistant Vents,
 - d. Multipane windows, including dual pane windows, or functional shutters, which when closed, cover the entire window and do not have openings, and
 - e. At least six (6) inches of noncombustible vertical clearance at the bottom of the exterior surface of the building, measured from the ground up.

(2) No later than one hundred eighty (180) days following the date this section is filed with the Secretary of State, each insurer shall file a rate application that incorporates a rating plan that includes the factors described in subdivision (d)(1) of this section.

(e) Optional factors.

An insurer may use a rating plan which incorporates other factors that the insurer demonstrates are substantially related to risk of wildfire loss, and do not result in rates that are excessive, inadequate or unfairly discriminatory. These optional factors may include, but are not limited to:

(1) Fuel: This factor shall take into account the various types of combustible materials, and the density of those materials, in the vicinity of the Building Being Evaluated, including the location of trees, grass, brush, and other vegetation relative to the structure. The fuel factor shall take into account the fact that different fuels burn at different rates and intensities, resulting in different levels of wildfire risk. If used, this factor shall reflect the historic and estimated impact on losses related to fuel, as described in this subdivision (e)(1).

(2) Slope: This factor shall take into account the position of the Building Being Evaluated on a slope relative to potential sources of ignition, and the steepness of the slope between those potential sources of ignition and the structure. If used, this factor shall reflect the historic and estimated impact on losses related to slope, as described in this subdivision (e)(2).

(3) Access: Access reflects the ease or difficulty with which firefighting personnel and equipment can reach structures at risk of wildfire. The access factor shall include consideration of the presence of dead-end roads, road width, shoulders, and availability of multiple access points with respect to the Building Being Evaluated. If used, this factor shall reflect the historic and estimated impact on losses related to access, as described in this subdivision (e)(3).

(4) Aspect: The aspect factor shall reflect the direction the slope upon which the Building Being Evaluated is located faces. If used, this factor shall reflect the historic and estimated impact on losses related to aspect, as described in this subdivision (e)(4).

(5) Structural characteristics: The structural characteristics factor shall reflect the materials used in the construction, and may reflect such items as the design, of the Building Being Evaluated. The structural characteristics factor shall not reflect the construction materials or any other item the insurer is required to take into account pursuant to subdivision (d) of this section. If used, the structural characteristics factor shall reflect the historic and estimated impact on losses related to structural characteristics, as described in this subdivision (e)(5).

(6) Wind: The wind factor shall take into account the degree to which wind speed and direction in the vicinity of the Building Being Evaluated may impact a wildfire's progression. If used, the wind factor shall reflect the historic and estimated impact on losses related to wind, as described in this subdivision (e)(6).

(7) Other community-level or property-level mitigation efforts, or designations, not specified in subdivision (d) of this section as recommended by a state or local fire safety agency or organization as reducing wildfire risk.

(f) Availability for public inspection.

Any rating plan, or Wildfire Risk Model submitted to the Commissioner in connection with a complete rate application pursuant to subdivision (c) of this section, or any additional documentation relating to such rating plan or model as may be requested by the Commissioner during the review of any such application, including any records, data, algorithms, computer programs, or any other information used in connection with the rating plan or Wildfire Risk Model used by the insurer which is provided to the Commissioner, shall be available for public inspection pursuant to Insurance Code sections 1861.05, subdivision (b), and 1861.07, regardless of the source of such information, or whether the insurer or the developer of the rating plan or Wildfire Risk Model claims the rating plan or Wildfire Risk Model is confidential, proprietary, or trade secret. Pursuant to Insurance Code section 1855.5, subdivision (a), a Wildfire Risk Model as defined in subdivision (b)(6) of this section that is made available by an advisory organization to its members for use in California shall be filed with the Commissioner and made available for public inspection.

(g) Credible data.

Any rate application shall incorporate the insurer's own California wildfire loss data to the extent that it is credible to support each segment, rating differential, or surcharge being requested. To the extent the insurer's own California data is not fully credible, the insurer shall credibility-weight its data with an appropriate complement of credibility to support each segment, rating differential, or premium surcharge. If the Commissioner aggregates California premium-and-loss data by wildfire risk to create a fire and wildfire exposure risk manual pursuant to Insurance Code section 929.2, an insurer may rely on the then-current version of the manual as support for each segment, rating differential, or surcharge being requested in connection with a residential property rate application, either directly or as a complement of credibility to the insurer's own California wildfire loss data.

(h) Provision of wildfire risk score or other wildfire risk

classification to policyholder or applicant.

An insurer utilizing a Wildfire Risk Model, or rating factor, to segment, create a rate differential, or surcharge the premium based upon the policyholder or applicant's wildfire risk shall, within one hundred eighty (180) days after the date this section is filed with the Secretary of State, implement a written procedure to provide, in writing, to each such policyholder or applicant for property insurance the wildfire risk score or other wildfire risk classification used by the insurer to segment, create a rate differential, or surcharge the premium based upon the policyholder or applicant's wildfire risk. The insurer shall provide to the policyholder or applicant such wildfire risk score or classification at the following times:

- (1) No later than fifteen (15) days following the submission to the insurer of the applicant's completed application;
- (2) At least forty-five (45) days prior to each renewal;
- (3) At least seventy-five (75) days prior to any nonrenewal; and
- (4) In the event that the policyholder or applicant has completed a mitigation measure on the subject property since the time of the last application to or renewal by the insurer, no later than thirty (30) days following the submission to the insurer of the policyholder or applicant's request that the insurer provide a revised wildfire risk score or wildfire risk classification.

(i) Policyholder or applicant's right to appeal.

The procedure described in subdivision (h) of this section shall permit a policyholder under, or applicant for, a policy of property insurance who disagrees with the assignment of the wildfire risk score, or other wildfire risk classification, provided to the policyholder or applicant pursuant to that subdivision the right to appeal orally or in writing that assignment directly to the insurer. The insurer shall notify the policyholder or applicant in writing of this right to appeal the wildfire risk score or other wildfire risk classification whenever such score or classification is provided to the policyholder or applicant as set forth in subdivision (h) of this section. If the policyholder or applicant appeals the wildfire risk score or other wildfire risk classification, the insurer shall acknowledge receipt of the appeal in writing within ten (10) calendar days of receipt of the appeal. The insurer shall respond to the appeal in writing with a reconsideration and decision within thirty (30) calendar days after receiving the appeal. In the event that an appeal is denied, the insurer shall, upon request by the Department, forward a copy of the appeal, and the insurer's response, to the Department.

(j) Representation by broker or agent.

If the policyholder or applicant is represented by a broker, or the insurer is represented by an insurance agent with respect to the

policyholder's policy or the applicant's application, the policyholder or applicant may appeal orally or in writing to the agent or broker the assignment of wildfire risk score or other wildfire risk classification, who shall then forward that appeal to the insurer no later than five (5) calendar days after receiving the appeal from the policyholder or applicant. The insurer shall acknowledge receipt of the appeal in writing to the policyholder or applicant and the agent or broker no later than five (5) calendar days after receipt of the appeal from the broker or agent. The insurer shall respond to the appeal to the policyholder or applicant and the agent or broker with a written reconsideration and decision of the appeal within thirty (30) calendar days after receiving the appeal from the broker or agent. In the event that an appeal is denied, the insurer shall, upon request by the Department, forward a copy of the appeal, and the insurer's response, to the Department.

(k) Explanation of wildfire risk score or other wildfire risk classification.

Whenever a wildfire risk score, or other wildfire risk classification used by the insurer to segment, create a risk differential or surcharge the premium for a particular policyholder or applicant, is identified or provided to the policyholder or applicant pursuant to subdivision (h) of this section, the insurer shall also provide in writing:

- (1) The range of such scores or classifications that could possibly be assigned to any policyholder or applicant;
- (2) The relative position of the score or classification assigned to the policyholder or applicant in question within that range of possible scores or classifications, and the impact of the score or classification on the rate or premium; and
- (3) A detailed written explanation of why the policyholder or applicant received the assigned score or classification; the explanation shall make specific reference to the features of the property in question that influenced the assignment of the score or classification.

The insurer shall provide, in addition, the following information:

- (A) Which mitigation measure or measures can be taken by the policyholder or applicant to lower the wildfire risk score or classification; and
- (B) The amount of premium reduction the policyholder or applicant would realize as a result of performing each such measure under the insurer's rating plan that is in effect at the time.
- (l) Notification to policyholder or applicant of right to contact Department in connection with insurer's response to appeal.

When an insurer responds to the applicant or policyholder in connection with an appeal pursuant to subdivision (i) or (j) of this section, it shall also notify the policyholder or applicant in writing

that the policyholder or applicant may contact the Department of Insurance for assistance if the policyholder or applicant disagrees with the insurer's written reconsideration and decision. In any event, the insurer shall provide the policyholder or applicant with the Department of Insurance toll-free consumer hotline and web address of the Department's Consumer Complaint Center.

(m) No curtailment of applicant or policyholder's rights.

Nothing in this section shall be construed to limit the right of an applicant or policyholder to complain directly to the Commissioner at any time or to pursue any other remedy or other action allowed under California or federal law.

(n) Inapplicability to certain commercial policies.

This section shall not apply to a commercial policy insuring multiple locations, none of whose wildfire risk is considered in rating the policy.”⁴²

As noted in its September 1, 2022 Final Statement of Reasons, some, but not all, of CW’s comments and proposed edits were incorporated into the final draft.⁴³ For example, regulation section 2644.9, subdivision (b)(6)(B) states that “the term Wildfire Risk Model” does not include models used for purposes of projecting aggregate losses under Section 2644.4 or 2644.5.” This language was recommended by CW in its October 11, 2021 comments to the written draft.

CW also specifically recommended public disclosure and transparency of all Wildfire Risk Models. Regulation section 2644.9, subdivision (c) states, “Pursuant to Insurance Code section 1861.05, subdivision (b), any Wildfire Risk Model, as defined in subdivision (b)(6) of this section, that is used, in whole or in part, in an insurer’s rating plan shall be provided to the Commissioner as part of an insurer’s complete rate application.” And Regulation section 2644.9, subdivision (f) states, “Any rating plan, or Wildfire Risk Model submitted to the Commissioner . . . shall be available for public inspection pursuant to Insurance Code sections 1861.05, subdivision (b), and 1861.07....” In the comments included with the draft regulations, CDI states that sections 2644.9, subdivisions (c) and (f) work together to ensure that the models used

⁴² Cal. Code Regs. tit. 10, § 2644.9

⁴³ See Exhibit 13, attached to the Declaration of Pamela Pressley.

by insurers are made public.

With its November 7, 2022 Request for Compensation, CW included bills for the work of Pressley, Rosenfield, and Schwartz in this matter. In total, CW is seeking \$372,737.88 in fees and expenses.⁴⁴ Detailed breakdowns of the hours spent by each of these professionals is included.

Schwartz provides a breakdown of his billable hours in an attachment to his Declaration. In total, he spent 21.8 hours at his billable rate of \$870 per hour. The largest concentrations of his time were spent in preparation for and attendance at the December 10, 2020 Virtual Hearing convened by CDI.⁴⁵

Schwartz's rate of \$870 per hour is an increase from the \$835 per hour he charged in 2021.⁴⁶ His previous rates have been approved by CDI, going back to 2015-2016, when he was billing \$695 per hour for his time.⁴⁷ His rates have increased at a rate of approximately 4 percent per year.⁴⁸ As Schwartz points out, comparison rates for actuaries are difficult to ascertain, as most actuaries' consulting rates are considered private and proprietary.⁴⁹ This is especially true in Schwartz's case because he has more experience and a deeper curriculum vitae than other consulting actuaries in the San Francisco and Los Angeles markets.⁵⁰

Rosenfield spent a total of 217.7 hours on this matter, at his billable rate of \$695 per hour.⁵¹ Notably, some of the largest concentrations of billable time were spent on or near dates when CDI hosted hearings or meeting to gather testimony from CW and other members of the public. In particular, Rosenfield spent over eight hours on October 15, 2020 preparing testimony

⁴⁴ Exhibit A, attached to the Request for Compensation.

⁴⁵ Exhibit 8, attached to the Declaration of Allan I. Schwartz.

⁴⁶ Schwartz Declaration, ¶ 8.

⁴⁷ Schwartz Declaration, ¶¶ 5-6.

⁴⁸ Schwartz Declaration, ¶ 8.

⁴⁹ Schwartz Declaration, ¶ 5.

⁵⁰ Schwartz Declaration, ¶ 10.

⁵¹ Exhibit 1a, attached to the Declaration of Pamela Pressley.

for the October 19, 2020 Investigatory Hearing. Rosenfield spent another 6 hours prepping for the October 19 hearing on October 18, followed by his October 19 attendance, for which he billed an additional 5.6 hours.⁵² On January 21, 2021, Rosenfield billed seven hours of his time reviewing and editing Schwartz's January 21 written testimony. Rosenfield also appears to have spent several larger blocks of time on this matter in early April 2021.⁵³ The remainder of the entries on Rosenfield's time log are for smaller increments of time, peppered throughout the relevant period from September 2020 until October 2022.⁵⁴

Rosenfield's rate of \$695 per hour for an attorney with over 40 years' experience in insurance litigation and regulatory law is consistent with the current prevailing private sector rates for advocates in Los Angeles with similar experience, skill and ability.⁵⁵ For example, in 2019, a court found that an attorney with 33 years of experience was charging a reasonable rate of \$750 per hour.⁵⁶ Indeed, Pressley provides numerous examples of attorneys with less experience charging more than Rosenfield.⁵⁷

Pressley provided detailed records of her own 338.8 hours spent on this matter at her billable rate of \$595 per hour.⁵⁸ As with Rosenfield's time log, Pressley appears to have spent larger concentrations of time immediately prior to her public appearances and/or written testimony.⁵⁹ For example, in early March 2021 there are entries for 3.5 and 4.5 hours, respectively.⁶⁰ There are also larger blocks of Pressley's time billed in the third week of April

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ Exhibit 1a attached to Declaration of Pamela Pressley, ¶ 7.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

⁵⁸ Exhibit 1a attached to Declaration of Pamela Pressley, pp. 8-15.

⁵⁹ *Ibid.*

⁶⁰ Exhibit 1a attached to Declaration of Pamela Pressley, p. 9

2021, and in the first three weeks of May 2021.⁶¹ These entries correlate to the meeting that was scheduled for March 30 but later postponed, as well as to Pressley's May 26, 2021 memo containing legal analysis and proposed edits to the latest draft regulations. Larger increments of billable hours are also seen on Pressley's log in late October and early November 2021, in the lead-up to the November 10, 2021 Prenotice Public Discussions.⁶² Another concentration of time was spent by Pressley in the third week of October 2022 in preparation for the submission of the November 2022 Request for Compensation.⁶³ As with the entries for Rosenfield, additional smaller increments of Pressley's time are logged throughout the relevant period.

Pressley's rate of \$595 per hour for an attorney with over 26 years of legal experience is also within the market rates charged by attorneys with similar experience level and skill. Pressley's data regarding comparable hourly rates for legal services is based on a related declaration filed by attorney Richard M. Pearl.⁶⁴

Pressley also provides a breakdown of CW's expenses. It includes phone and internet charges, travel expenses for the April 2022 Rulemaking Hearing, and charges for photocopies.⁶⁵

DISCUSSION

I. Prior Approval Framework and Public Participation

The 1988 approval of Proposition 103 by California's voters added Article 10, "Reduction and Control of Insurance Rates" to Division 1, Part 2, Chapter 9 of the Insurance Code. Proposition 103 establishes a system of "prior approval" for changes to insurance rates in automobile, home, and other property-casualty policies.⁶⁶ The application for rate change and

⁶¹ Exhibit 1a attached to Declaration of Pamela Pressley, pp. 10-11

⁶² Exhibit 1a attached to Declaration of Pamela Pressley, pp. 12-13.

⁶³ Exhibit 1a attached to Declaration of Pamela Pressley, pp.14-15.

⁶⁴ Exhibit 2, attached to Declaration of Pamela Pressley.

⁶⁵ Declaration of Pamela Pressley, ¶ 17.

⁶⁶ Cal. Code Regs., tit. 10, § 1861.05, subd. (b).

any hearings arising therefrom are subject to public notice and scrutiny.⁶⁷ Thus, as of November 8, 1989, “insurance rates . . . must be approved by the Commissioner prior to their use.”⁶⁸

Insurance Code section 1861.05(a) prohibits the Commissioner from approving any rate that is “excessive, inadequate, unfairly discriminatory, or otherwise in violation of this chapter.” Section 1861.05(b) requires an insurer, at a minimum, to provide a complete rate application that includes specified data demonstrating that the requested rate change is justified and meets the requirements of this article. Once a complete rate change application has been filed, section 1861.05, subdivisions (c) and (d) provide the procedural mechanism used by the Commissioner to approve or disapprove of the application.

II. Compensation for Public Participation

In order to encourage consumer participation, Section 1861.10 of the Insurance Code authorizes any person to initiate a proceeding to enforce any provision of Proposition 103.⁶⁹ To that end, the Commissioner has promulgated regulations setting forth the substantive and procedural requirements for those seeking compensation under the code.⁷⁰ Given the statute’s purpose to encourage public participation, the regulations should be liberally construed in favor of compensation.⁷¹ Intervenors who represent the interests of consumers and make a substantial contribution to the adoption of any order, regulation, or decision by the Commissioner are to be compensated for reasonable advocacy and witness fees.⁷²

The intervenor must submit a request for an award of compensation within 30 days after the Commissioner’s decision or action in the proceeding for which intervention was sought, or

⁶⁷ Cal. Code Regs., tit. 10, § 1861.05, subd. (c), and §§ 1861.06 – 1861.07.

⁶⁸ Cal. Code Regs., tit. 10, § 1861.01, subd. (c).

⁶⁹ Cal. Ins. Code, § 1861.10, and *State Farm Insurance Co. v. Lara* (2021) 71 Cal.App.5th 197

⁷⁰ Cal. Code Regs., tit. 10, §§ 2661.3 – 2661.4.

⁷¹ *State Farm Insurance Co. v. Lara, supra*, 71 Cal.App.5th 197.

⁷² Cal. Ins. Code, § 1861.10, and Cal. Code Regs., tit. 10, § 2662.5.

within 30 days after conclusion of the entire proceeding.⁷³ A “proceeding” is any action conducted pursuant to Proposition 103, including a rate proceeding established upon the submission of a petition for hearing pursuant to Insurance Code, section 1861.05 and section 2653.1 of Title 10 of the California Code of Regulations.

If the Commissioner determines that the intervenor has made a substantial contribution to the proceedings, a written decision will issue, specifying the amount of compensation to be paid, which shall be served on all parties.⁷⁴

The primary concern that prompted the adoption of regulation 2644.9 was that insurers were charging different premiums to similarly situated homeowners in fire prone areas of California without consideration of risk mitigation measures, in violation of Insurance Code section 679.71.⁷⁵ CW represented the interests of consumers at the rulemaking hearings in this matter and, as discussed at greater length below, made a substantial contribution to the adoption of regulation 2644.9. As such, CW is eligible for compensation for its reasonable advocacy and fees.

A. CW Represents the Interests of Consumers

Before an intervenor may file a request for compensation, they must first obtain a finding from the Commissioner’s Public Advisor that they are eligible to seek compensation—i.e., that they represent the interests of the consumer.⁷⁶ An intervenor is found to represent the interests of the consumer if it represents the interests of individual insurance consumer(s), or the intervenor is a group organized for the purpose of consumer protection as demonstrated by, but is not limited to, a history of representing consumers in administrative, legislative or judicial

⁷³ Cal. Code Regs., tit. 10, § 2662.3, subd. (a).

⁷⁴ Cal. Code Regs., tit. 10, § 2662.6.

⁷⁵

⁷⁶ Cal. Code Regs., tit. 10, § 2662.3.

proceedings.⁷⁷

Once granted, a Finding of Eligibility to Seek Compensation is valid in any proceeding in which the intervenor's participation commences within two years of the finding of eligibility, provided the intervenor still meets all the requirements in the initial request.⁷⁸

CW satisfied the procedural requirements of Insurance Code section 1861.10, subdivision (b) and Regulations 2662.2, subdivision (a)(2) by showing that it represents the interests of consumers. As noted above, CDI's public advisor has continuously granted CW's requests for eligibility throughout the time period relevant to this case.⁷⁹ The findings of the Public Advisor are conclusive on this issue. Additionally, CW filed its request for compensation on November 7, 2022, within 30 days of the October 14, 2022 approval of Insurance Regulation section 2644.9.

B. CW Made a Substantial Contribution to the Adoption of Regulation 2644.9.

An intervenor's contribution is substantial when, viewed as a whole, their contribution results in more relevant, credible, and non-frivolous information being available than would otherwise have been available to the Commissioner to make a decision.⁸⁰ In the context of an application for a rate change, intervenors who present relevant issues, evidence, or arguments which were separate and distinct from those emphasized by other parties may be deemed to have contributed substantially, regardless of whether a petition for hearing is granted or denied.⁸¹ Moreover, the intervenor need not be a prevailing party in order to be deemed to have made a substantial contribution.⁸²

⁷⁷ Cal. Code Regs., tit. 10, § 2661.1, subd. (j).

⁷⁸ Cal. Code Regs., tit. 10, § 2662.2

⁷⁹ CW's Request for Compensation, p. 2, fn. 1.

⁸⁰ Cal. Code Regs., tit. 10, § 2661.1, subd. (k).

⁸¹ *Ibid.*

⁸² *State Farm Insurance Co. v. Lara, supra*, 71 Cal.App.5th 197.

As noted above, CW's actuary made a presentation at CDI's public meeting on December 10, 2020 to explain catastrophe modeling and how the actuarial standards of practice apply to the use of wildfire models. This information was relevant to establishing both that wildfire mitigation credits are actuarially sound, as well as to establish that its use is socially beneficial by incentivizing home hardening efforts by policyholders, which in turn reduces the frequency and severity of wildfires.

In its May 26, 2021 memo, CW's attorneys also presented written counter-arguments to the insurance companies, who argued that CDI did not have authority to adopt a regulation requiring insurance companies to consider a homeowner's actual risk of loss from wildfire when setting rates and premiums. The issue of the Commissioner's authority to regulate insurance rates goes to the heart of the rulemaking process and is highly relevant and in no way frivolous.

Finally, CW not only advocated for CDI to adopt its proposed regulation to require insurers to consider homeowners' mitigation measures, but pushed CDI to adopt stronger language than originally proposed, in order to reduce ambiguities and strengthen enforcement, potentially increasing the efficacy of the regulation to achieve its stated goal. This factor is most evident in the May 26, 2021 memo, which includes 12 pages of additional proposed edits to CDI's April 5 draft of the regulation.

C. CW's Contribution was Separate and Distinct

Given that CDI staff expressly recognized CW's participation in this rulemaking process, specifically assigning topics to CW's consulting actuary for its December 10, 2020 meeting, there can be little doubt that CW's contribution was separate and distinct from the contributions made by CDI and others. Indeed, in response to CDI's invitation, CW provided CDI with both legal and actuarial justifications for the new regulation as well as specific recommendations as to

the proposed language of the regulation. But this is not the only evidence that CW's contribution differed from the contributions of others.

After arguing for the inclusion of homeowners' risk mitigation measures in the calculation of premiums, CW also argued that the models used in projecting aggregate losses under regulations 2644.4 and 2644.5 should be explicitly excluded from use by insurers in setting homeowners' rates.

D. CW's Advocacy, Witness Fees, and Other Expenses are Reasonable.

Reasonable advocacy and witness fees are determined according to the prevailing rate for comparable services in the private sector in the Los Angeles and San Francisco Bay Areas at the time of the Commissioner's decision awarding compensation.⁸³ This standard is applied to attorney advocates, non-attorney advocates, and experts with similar experience, skill and ability. Reasonable, actual out of pocket costs may also be compensated.⁸⁴ Billing rates shall not exceed the market rate.⁸⁵

The requirement that fees be reasonable preserves the Commissioner's discretion to reduce fees for unnecessary, excessive, or duplicative work.⁸⁶ For example, when an intervenor seeks contributions for efforts that were not authorized in the ruling on the Petition to Intervene, and when those efforts duplicate the contribution of another party, the request for compensation may be reduced accordingly.⁸⁷ An intervenor may not reopen matters that were decided prior to their petition being granted.⁸⁸ The intervenor is required to file a "detailed description of

⁸³ Cal. Code Regs., tit. 10, § 2661.1, subd. (c).

⁸⁴ Cal. Code Regs., tit. 10, § 2661.1, subds. (b) and (d).

⁸⁵ *Ibid.*

⁸⁶ *State Farm Insurance Co. v. Lara, supra*, 71 Cal.App.5th 197.

⁸⁷ Cal. Code Regs., tit. 10, § 2662.5, subd. (b).

⁸⁸ Cal. Code Regs., tit. 10, § 2661.3, subd. (h).

services and expenditures,” “legible time and/or billing records,” and citations to the record of the proceedings.⁸⁹

Based on the comparison records attached to Pressley’s declaration, the rates charged by Rosenfield and Pressley are below that charged by many attorneys in similar markets with similar experience. A review of the detailed billing records provided for both Rosenfield and Pressley does not reveal any unauthorized or duplicative efforts. Finally, as noted above, the time records kept for both Rosenfield and Pressley correlate to the dates upon which public or written comment was made and/or filed in CDI proceedings.

Time records for Schwartz are similarly reliable as a source of accurate information regarding his fees and expenses. Like Pressley, Schwartz provides comparative data on other, similarly-situated professionals demonstrating that his rates are at least comparable in the market. There is no evidence that Schwartz’s efforts were duplicated by any other party, indeed, CDI appears to have “assigned” Schwartz to provide analysis that likely would not have been provided otherwise. Finally, like Pressley and Rosenfield, allocations of Schwartz’s time correlate to the dates upon which public or written comments were made and/or filed in CDI proceedings.

CONCLUSIONS

Consumer Watchdog is entitled to advocacy and witness fees and costs in the amount requested. Because this matter was initiated by the Insurance Commissioner, rather than in response to a Rate Application, the fees should be paid from the Proposition 103 Fund.

ORDER

1. Consumer Watchdog is hereby awarded \$372,737.88 in advocacy and witness fees and expenses in connection with the Insurance Commissioner’s Investigatory Hearing on


⁸⁹ Cal. Code Regs., tit. 10, § 2662.3, subd. (b).

Homeowners' Insurance Availability and Affordability.

2. The award shall be paid from the Proposition 103 Fund.

Date: March 8, 2023

RICARDO LARA
Insurance Commissioner

By: 
Alicia A. Clement
Administrative Law Judge

PROOF OF SERVICE

Case Name/Number: In the Matter of the Request for Compensation of
CONSUMER WATCHDOG
File No. **RFC-2022-004**

I, Florinda Cristobal, declare that:

I am employed by the California Department of Insurance, Administrative Hearing Bureau, in the City of Oakland and County of Alameda. I am over the age of eighteen (18) years and not a party to this action. My business address is 1901 Harrison Street, 3rd Floor, Oakland, CA 94612.

I am readily familiar with the business practices of the California Department of Insurance for collecting and processing correspondence for mailing, electronic filing and electronic mail. On March 9, 2023, I served **DECISION AWARDING COMPENSATION** regarding In the **Matter of the Request for Compensation of CONSUMER WATCHDOG**.

_____ **(By U.S. Mail)** on those identified parties in said action, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013.

_____ **(By Intra-Agency Mail)** on those identified parties in said action, by placing this correspondence in a place designated for collection for delivery by Department of Insurance intra-agency mail.


_____ **(By facsimile transmission)** on those identified parties in said action, by transmitting said document(s) from our office by facsimile machine Fax Number to facsimile machine number(s) shown below. Following the transmission, I received a "Transmission Report" from our fax machine indicating that the transmission had been transmitted without error.

X **(By Email)** on those identified parties in said action, in accordance with Code of Civil Procedure §1013, by emailing true copies thereof at the address set forth below.

SEE ATTACHED PARTY SERVICE LIST

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed in Oakland, California, on March 9, 2023.

F. CRISTOBAL
(Print Name)


(Signature)

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Name/Address

Method of Service

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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of the Request for Compensation of) FILE NO. RFC-2021-003
CONSUMER WATCHDOG,)
Intervenor.	) DECISION AWARDDING
	) COMPENSATION
)
	) <i>In the Matter of the Rate Applications of</i>
	) <i>Farmers Insurance Exchange,</i>
	) <i>Fire Insurance Exchange, and Mid-</i>
	) <i>Century Insurance Company</i>
	) Rule Change Application Nos. 20-865,
	) 20-865-A, 20-865-B
	) Prior Approval File No. PA-2020-00006
)

Consumer Watchdog, a consumer advocacy group, intervened in a proceeding concerning three 2019 homeowners insurance eligibility rule change applications of Farmers Insurance Exchange, Fire Insurance Exchange, and Mid-Century Insurance Company (collectively, “Farmers”). Consumer Watchdog a filed Request for Compensation seeking advocacy fees and expenses for its participation in the proceeding. Farmers has not opposed the request. For the reasons below, Consumer Watchdog’s Request for Compensation is granted.

BACKGROUND

On or about March 13, 2020, Farmers filed Rule Change Application Nos. 19-3278, 19-3278-A and 19-3278-B (“Applications”) with the Department of Insurance (“Department”), seeking approval of changes to Farmers’ homeowners policy eligibility guidelines for wildfire prone properties.¹ The Department notified the public of the pending Applications on or about

¹ Declaration of Pamela Pressley in support of Consumer Watchdog’s Request for Compensation, dated June 10, 2021 (“Pressley Decl.”), ¶ 27.

March 27, 2020.²

Consumer Watchdog and its consulting actuary reviewed the Applications and formed the opinion that Farmers' proposed rule changes potentially violated Insurance Code section 1861.05(a).³

On May 11, 2020, Consumer Watchdog submitted to the Department a Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation ("Petition"), challenging the Applications.⁴ The Petition alleged that Farmers failed to prove that their proposed rule changes—which sought to use a new fire-risk modeling system to determine eligibility for homeowner insurance—did not result in rates that violated Insurance Code section 1861.05.⁵ Specifically, the Petition asserted that Farmers' did not provide sufficient information to determine whether its proposed rule changes had a rate impact, and whether any such rate impact resulted in excessive, inadequate or unfairly discriminatory rates.⁶ The Petition further argued that Farmers made apparently contradictory statements in a cover letter accompanying its Applications, namely that the proposed rule changes would increase the number of fire-prone properties meeting Farmers' risk management practices yet Farmers did not expect the changes would materially impact premiums or the overall mix of insured properties.⁷ In addition, the Petition stated that Consumer Watchdog would show that Farmers violated Insurance Code section 1861.07 by failing to publicly file a complete version of the proposed changes to their eligibility guidelines.⁸

On July 30, 2020, the Commissioner granted Consumer Watchdog's Petition to intervene,

² *Ibid.*

³ Pressley Decl., ¶ 28.

⁴ Pressley Decl., ¶ 32.

⁵ Petition, ¶¶ 9-11; Pressley Decl., ¶ 33.

⁶ Petition, ¶ 9; Pressley Decl., ¶¶ 33, 35.

⁷ Petition, ¶ 9; Pressley Decl., ¶ 34.

⁸ Petition, ¶ 10; Pressley Decl., ¶ 36.

finding that “the specific issues that CW seeks to address ... are relevant to the ratemaking process.”⁹ The Commissioner specifically noted Consumer Watchdog’s arguments concerning Farmers’ contention that the proposed changes to its eligibility guidelines would have no rate impact, Farmers’ alleged failure to publicly file complete changes to the guidelines, and Farmers’ alleged failure to provide support that the proposed fire model is accurate and reliable.¹⁰

Between May 2020 and May 2021, Consumer Watchdog, Farmers and the Department exchanged ongoing communications concerning the subject matter of the Applications and the Petition.¹¹ During that time, Consumer Watchdog reviewed information provided by Farmers, submitted requests for additional information, and drafted multiple letters to Farmers and the Department that forth detailed commentary on the information supplied by Farmers.¹²

On May 7, 2021, Consumer Watchdog participated in a conference call with the Department, during which the Department stated it was satisfied that Farmers resolved the issues raised in Consumer Watchdog’s Petition.¹³

On May 11, 2021, the Commissioner issued a decision denying Consumer Watchdog’s petition for hearing.¹⁴ The decision summarized the Department’s position as follows: (1) Farmers’ proposed rule changes would not impact current policyholders’ rates; (2) Farmers publicly filed a complete version of their proposed changes to their eligibility guidelines; and (3) the Department had no concerns about the accuracy or reliability of Farmers’ fire risk model.¹⁵

⁹ Ruling Granting Consumer Watchdog’s Petition to Intervene, July 30, 2020, p. 3 (“July 2020 Ruling”); Pressley Decl., ¶ 50.

¹⁰ July 2020 Ruling, p. 3; Pressley Decl., ¶ 50.

¹¹ Pressley Decl., ¶¶ 44-54.

¹² *Ibid.*

¹³ Pressley Decl., ¶ 55.

¹⁴ Decision Denying Petitioner’s Petition for Hearing, May 11, 2021, No. PA-2020-00006 (“Denial Decision”); Pressley Decl., ¶ 56.

¹⁵ Denial Decision, p. 3.

The decision concluded:

The Department has considered all of the factors and issues which Petitioner raised and has thoroughly reviewed the Applications. The Department concluded that Applicant's rule filing is reasonable for purposes of this Application, as required by [Insurance Code] § 1861.05.¹⁶

On June 10, 2021, Consumer Watchdog filed a Request for Compensation with the Commissioner, pursuant to Insurance Code section 1861.10(b), seeking advocate fees for work performed by Consumer Watchdog employees Pamela Pressley, Harvey Rosenfield, Benjamin Powell, and Kaitlyn Gentile.¹⁷ Ms. Pressley is an attorney with over 25 years of consumer advocacy and litigation experience.¹⁸ Mr. Rosenfield is an attorney with over 40 years of insurance regulatory and litigation experience.¹⁹ Mr. Powell is an attorney with four years of litigation experience.²⁰ Ms. Gentile is a paralegal with over 13 years of litigation experience.²¹

The Request for Compensation also seeks witness fees for actuarial analysis of the Applications performed by Consumer Watchdog's consulting actuary, Allan I. Schwartz, of AIS Risk Consultants, Inc.²² Mr. Schwartz has over 40 years of professional actuarial experience.²³

Consumer Watchdog seeks the following fees for work in connection with the Applications and for preparing the Request for Compensation: 48.7 hours of Ms. Pressley's time at \$595 per hour, 5.4 hours of Mr. Rosenfield's time at \$695 per hour, 22.6 hours of Mr. Powell's time at \$350 per hour, 14.0 hours of Ms. Gentile's time at \$200 per hour, and 14.0 hours of Mr. Schwartz's time at \$835 per hour, for total advocate and witness fees of

¹⁶ *Ibid.*

¹⁷ Request for Compensation, Exh. A.

¹⁸ Pressley Decl, ¶ 9.

¹⁹ *Id.* at ¶ 12.

²⁰ *Id.* at ¶ 16.

²¹ *Id.* at ¶ 20.

²² Request for Compensation, Exh. A; Declaration of Allan I. Schwartz in Support of Consumer Watchdog's Request for Compensation ("Schwartz Declaration"), Exh. 7.

²³ Pressley Decl., ¶ 26.

\$55,129.50.²⁴ Consumer Watchdog supported the Request for Compensation with declarations by Ms. Pressley and Mr. Schwartz. Ms. Pressley’s declaration attached a declaration by Richard Pearl, an expert on California attorneys’ fees.²⁵

Farmers did not submit a response to the Request for Compensation.

The Request for Compensation was assigned to Administrative Law Judge Clarke de Maigret (the “ALJ”) for review.

APPLICABLE LAW

I. Prior Approval Framework

In 1988, California’s voters approved Proposition 103, which added Article 10 “Reduction and Control of Insurance Rates”²⁶ (“Article 10”) to Division 1, Part 2, Chapter 9 of the Insurance Code. Article 10 governs automobile, home, and other property-casualty insurance rates. It requires that the Commissioner approve the rates insurers charge prior to use, so as to prevent “excessive, inadequate, [or] unfairly discriminatory” rates.²⁷ Insurers wishing to change their rates must file complete rate applications with the Commissioner.²⁸ All application information must be available for public inspection.²⁹ Public hearings may be held on the applications.³⁰

II. Compensation for Public Participation

To promote enforcement of the rate control laws, Insurance Code section 1861.10(a) authorizes consumers and their representatives to initiate and intervene in rate proceedings and to enforce Article 10’s provisions. The Insurance Code and the intervenor regulations

²⁴ Request for Compensation, Exh. A.

²⁵ Pressley Decl., Exh. 2.

²⁶ Ins. Code, § 1861.01 et seq.

²⁷ Ins. Code, §§ 1861.01(c), 1861.05(a).

²⁸ Ins. Code, §1861.05(b).

²⁹ Ins. Code, § 1861.07.

³⁰ Ins. Code, §1861.05(c).

(“Regulations”)³¹ provide that intervenors must be compensated for their participation if various substantive and procedural requirements are met.

A. Substantive Requirements

Insurance Code section 1861.10(b) provides that the Commissioner “shall award reasonable advocacy and witness fees and expenses” to persons demonstrating that (1) they “represent the interests of consumers,” and (2) they have “made a substantial contribution to the adoption of any order, regulation, or decision by the commissioner[.]” The Regulations contain substantially identical requirements.³²

An intervenor “represents the interests of consumers” if it “represents the interests of individual insurance consumer[s], or the intervenor is a group organized for the purpose of consumer protection as demonstrated by, but is not limited to, a history of representing consumers in administrative, legislative or judicial proceedings.”³³

An intervenor makes a “substantial contribution” if the intervenor “substantially contributed, as a whole, to a decision, order, regulation, or other action of the Commissioner by presenting relevant issues, evidence, or arguments which were separate and distinct from those emphasized by the Department of Insurance staff or any other party, such that the intervenor’s participation resulted in more relevant, credible, and non-frivolous information being available for the Commissioner to make his or her decision than would have been available to a Commissioner had the intervenor not participated. A substantial contribution may be demonstrated without regard to whether a petition for hearing is granted or denied.”³⁴

³¹ Cal. Code Regs., tit. 10, §§ 2662.1—2662.8

³² Cal. Code Regs., tit. 10, § 2662.5(a).

³³ Cal. Code Regs., tit. 10, § 2661.1(j).

³⁴ Cal. Code Regs., tit. 10, § 2661.1(k).

B. Procedural Requirements

The Regulations set forth various procedural requirements for claiming intervenor compensation. The intervenor must obtain the Commissioner's approval of a petition to intervene.³⁵ The intervenor must be found eligible to seek compensation by the Commissioner's Public Advisor.³⁶ And the intervenor must submit a request for an award of compensation within 30 days after the Commissioner's decision or action in the proceeding for which intervention was sought, or within 30 days after conclusion of the entire proceeding.³⁷ The request for compensation must be verified and include detailed descriptions of the services and expenditures, legible time and billing records, and a description of the intervenor's substantial contribution.³⁸

C. Payment and Amount of Compensation Award

Where an intervenor's advocacy occurs in response to an insurer's rate application, the insurer must pay the intervenor's reasonable advocacy fees, witness fees and expenses.³⁹ Time spent preparing the intervenor's request for compensation may be included in those amounts.⁴⁰

The intervenor's advocacy and witness fees must not exceed "the prevailing rate for comparable services in the private sector in the Los Angeles and San Francisco Bay Areas at the time of the Commissioner's decision awarding compensation for attorney advocates, non-attorney advocates, or experts with similar experience, skill and ability."⁴¹

DISCUSSION

Consumer Watchdog's Request for Compensation satisfies the substantive and

³⁵ Cal. Code Regs., tit. 10, § 2662.3.

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ Ins. Code, § 1861.10(b).

⁴⁰ Cal. Code Regs., tit. 10, § 2661.1(d).

⁴¹ Cal. Code Regs., tit. 10, § 2661.1(c).

procedural requirements for intervenor compensation, and its fees are reasonable. Its Request for Compensation must be granted.

I. Consumer Watchdog Represented the Interests of Consumers and Made a Substantial Contribution to the Commissioner’s Decision.

Consumer Watchdog argues that it satisfied the requirements of Insurance Code section 1861.10, subdivision (b) and Regulations section 2662.5 to “represent[] the interests of consumers” and to make “a substantial contribution” to the Commissioner’s decision the Applications.⁴² Consumer Watchdog indisputably met the first requirement. The Commissioner has determined that “Consumer Watchdog represents the interests of consumers, and on those grounds, the Commissioner hereby finds Consumer Watchdog eligible to seek compensation in Department proceedings pursuant to [Insurance Code section] 1861.02 *et seq.*”⁴³

Turning to the substantial contribution requirement, Consumer Watchdog’s Petition asserted that (1) Farmers did not provide sufficient information to determine whether its proposed rule changes had a rate impact, and whether any such rate impact resulted in excessive, inadequate or unfairly discriminatory rates; (2) Farmers made apparently contradictory statements in a cover letter accompanying its Applications; and (3) Farmers failed to publicly file a complete version of the proposed changes to their eligibility guidelines.⁴⁴

Those issues and arguments—which Consumer Watchdog advanced throughout the proceeding—were “separate and distinct from those emphasized by the Department of Insurance staff or any other party”⁴⁵ because only Consumer Watchdog raised them.⁴⁶ Consumer Watchdog’s participation thus resulted in “more relevant, credible, and non-frivolous

⁴² Request for Compensation, pp. 1, 11-13.

⁴³ Finding of Consumer Watchdog’s of Eligibility to Seek Compensation, Aug. 25, 2020, File No. IE-2020-0002, p. 4. Consumer Watchdog’s eligibility is effective until July 2022.

⁴⁴ Petition, ¶¶ 9-10; Pressley Decl., ¶¶ 33-36.

⁴⁵ Cal. Code Regs., tit. 10, § 2662.3(a).

⁴⁶ See Denial Decision, p. 3 [summarizing Department’s positions].

information being available for the Commissioner” to make his final decision on the Applications.⁴⁷ Accordingly, Consumer Watchdog satisfied the substantial contribution requirement.

II. Consumer Watchdog Met the Procedural Requirements for Compensation.

The Commissioner approved Consumer Watchdog’s petition to intervene,⁴⁸ and the Public Advisor found Consumer Watchdog eligible to seek compensation.⁴⁹ Consumer Watchdog submitted a timely verified request for compensation on June 10, 2021, within 30 days after the Commissioner’s May 11, 2021 final decision on the Applications.⁵⁰ It included detailed descriptions of the services and expenditures, legible time and billing records, and a description of Consumer Watchdog’s substantial contribution.⁵¹ Therefore, Consumer Watchdog satisfied the procedural requirements for compensation.

III. Consumer Watchdog’s Requested Fees Are Reasonable and Must Be Paid by Farmers.

Consumer Watchdog billed at hourly rates of \$595 for an attorney with over 25 years of consumer advocacy and litigation experience, \$350 for an attorney with four years of litigation experience, and \$200 for a paralegal with over 13 years of litigation experience.⁵² These rates are consistent with the current prevailing private sector rates for advocates in Los Angeles with similar experience, skill and ability.⁵³

Consumer Watchdog billed a total of 90.7 advocacy hours in connection with the proceeding on the Applications, including 76.7 hours of attorney time and 14.0 hours of

⁴⁷ Cal. Code Regs., tit. 10, § 2662.3(a).

⁴⁸ July 2020 Ruling.

⁴⁹ Finding of Consumer Watchdog’s of Eligibility to Seek Compensation, Aug. 25, 2020, File No. IE-2020-0002.

⁵⁰ Request for Compensation [attached Proof of Service].

⁵¹ Request for Compensation, Exh. A; Pressley Decl., Exh. 1a.; Schwartz Decl., Exh. 7.

⁵² Pressley Decl., ¶¶ 9, 12, 16, 20, Exh. 1a.

⁵³ See Pressley Decl., Exh. 2 [fee expert declaration].

paralegal time.⁵⁴ Those hours are not excessive, given the nature and quality of work Consumer Watchdog's advocates performed reviewing the Applications, preparing the Petition, engaging with the consulting actuary, communicating with Farmers and the Department over the course of a year, and preparing the Request for Compensation.

Mr. Schwartz's expert witness rate of \$835 per hour, when adjusted for inflation, is consistent with rates charged by other similarly-experienced consulting actuaries in earlier prior approval cases.⁵⁵ His rates are also consistent with rates he charged clients in other matters.⁵⁶ There is no indication his charges exceed prevailing Los Angeles or San Francisco Bay Area rates for comparable services.

Consumer Watchdog seeks compensation for the 14.0 hours Mr. Schwartz spent performing actuarial analysis of the Applications.⁵⁷ That time is not excessive for the work performed.

For these reasons, the advocacy and expert fees Consumer Watchdog seeks are reasonable. Because Consumer Watchdog's advocacy was in response to Farmers applications, Farmers must pay the fees.⁵⁸

CONCLUSIONS AND DETERMINATIONS

The Commissioner concludes and determines that Consumer Watchdog is entitled to advocacy and witness fees of \$55,129.50 for work concerning the Applications, and that Farmers must pay the award, pursuant to Insurance Code section 1861.10(b) and the Regulations.

ORDER

1. Consumer Watchdog is hereby awarded \$55,129.50 in advocacy and witness fees

⁵⁴ Pressley Decl., Exh. 1a.

⁵⁵ Schwartz Declaration, ¶¶ 5-9.

⁵⁶ *Ibid.*

⁵⁷ Schwartz Decl., Exh. 7.

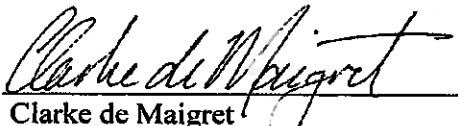
⁵⁸ Ins. Code, § 1861.10(b).

in connection with Farmers' Applications.

2. Farmers shall pay the award no later than 30 days after the date of this Decision and shall notify the Department's Office of the Public Advisor⁵⁹ upon making payment.

Date: October 6, 2021

RICARDO LARA
Insurance Commissioner

By: 
Clarke de Maigret
Administrative Law Judge

⁵⁹ Edward Wu, 300 South Spring Street, 12th Floor, Suite 12700, Los Angeles, CA 90013 or edward.wu@insurance.ca.gov.

PROOF OF SERVICE

Case Name/Number: In the Matter of the Request for Compensation of
CONSUMER WATCHDOG
File No. **RFC-2021-003**

I, Florinda Cristobal, declare that:

I am employed by the California Department of Insurance, Administrative Hearing Bureau, in the City of Oakland and County of Alameda. I am over the age of eighteen (18) years and not a party to this action. My business address is 1901 Harrison Street, 3rd Floor, Oakland, CA 94612.

I am readily familiar with the business practices of the California Department of Insurance for collecting and processing correspondence for mailing, electronic filing and electronic mail. On October 6, 2021, I served **DECISION AWARDING COMPENSATION** regarding the **Matter of the Request for Compensation of CONSUMER WATCHDOG**.

 X **(By U.S. Mail)** on those identified parties in said action, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013.

 (By Intra-Agency Mail) on those identified parties in said action, by placing this correspondence in a place designated for collection for delivery by Department of Insurance intra-agency mail.


 (By facsimile transmission) on those identified parties in said action, by transmitting said document(s) from our office by facsimile machine Fax Number to facsimile machine number(s) shown below. Following the transmission, I received a "Transmission Report" from our fax machine indicating that the transmission had been transmitted without error.

 X **(By Email)** on those identified parties in said action, in accordance with Code of Civil Procedure §1013, by emailing true copies thereof at the address set forth below.

SEE ATTACHED PARTY SERVICE LIST

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed in Oakland, California, on October 6, 2021.

(Print Name)



(Signature)

PARTY SERVICE LIST

<u>Name/Address</u>	<u>Method of Service</u>
Harvey Rosenfield, SBN 123082 Pamela Pressley, SBN 180362 Daniel L. Sternberg, SBN 329799 Benjamin Powell, SBN 311624 CONSUMER WATCHDOG 6330 San Vicente Boulevard, Suite 250 Los Angeles, CA 90048 Tel No.: (310) 392-0522 Fax No.: (310) 392-8874 harvey@consumerwatchdog.org pam@consumerwatchdog.org danny@consumerwatchdog.org ben@consumerwatchdog.org	via U.S. Mail/E-mail
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**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

In the Matter of the Request for Compensation of) FILE NO. RFC-2021-005
)
CONSUMER WATCHDOG,	) DECISION AWARDING
	) COMPENSATION
Intervenor.)
	) <i>In the Matter of the Rate Application of</i>
	) <i>Homesite Insurance Company</i>
	) <i>of California</i>
	) Rate Application No. 20-100
	) Prior Approval File No. PA-2020-00003
)

Consumer Watchdog, a consumer advocacy group, intervened in a proceeding concerning a 2020 rate application of Homesite Insurance Company of California (“Homesite”). Consumer Watchdog filed Request for Compensation seeking advocacy fees and expenses for its participation in the proceeding. Homesite has not opposed the request. For the reasons below, Consumer Watchdog’s Request for Compensation is granted.

BACKGROUND

On or about January 3, 2020, Homesite filed Application No. 20-100 (“Application”) with the Department of Insurance (“Department”), seeking approval of rate changes to a homeowners program and a condominium program.¹ The Department notified the public of the pending Application on or about January 17, 2020.²

Consumer Watchdog and its actuarial consultant reviewed the Application and formed

¹ Declaration of Pamela Pressley in support of Consumer Watchdog’s Request for Compensation, dated September 3, 2021 (“Pressley Decl.”), ¶ 27.

² *Ibid.*

the opinion that Homesites' proposed rule changes potentially violated the Insurance Code.³

On March 2, 2020 Consumer Watchdog submitted to the Department a Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation ("Petition"), challenging the Application.⁴ The Petition alleged: (a) Homesite had used only a single computer model for calculating fire following earthquake losses, for which no underlying support or documentation was provided, and Homesite had not shown that the use of the single model was the most actuarially sound or that the model was properly implemented;⁵ (b) Homesite had not shown that the value of the selected catastrophe adjustment was reasonable to use during the rate period;⁶ (c) Homesite's selected annual loss trends were unreasonably high;⁷ (d) Homesite failed to show that all institutional advertising expenses had been reflected in the excluded expense provision;⁸ and (e) Homesite had proposed various other changes that were not adequately supported.⁹

On March 9, 2020, Homesite filed an answer to the Petition.¹⁰

On April 30, 2020, the Commissioner served a ruling granting Consumer Watchdog's Petition to intervene, finding that "the specific issues that CW seeks to address ... are relevant to the ratemaking process."¹¹ The Commissioner specifically noted Consumer Watchdog's allegations concerning "Improper use of complex catastrophe model; Failure to demonstrate that the value of the selected catastrophe adjustment is reasonable; Selected loss trends that are unreasonably high; Improper and or unsupported use of excluded expenses; and Proposed

³ Pressley Decl., ¶ 28.

⁴ Pressley Decl., ¶ 29.

⁵ Petition, ¶ 7(a); Pressley Decl., ¶ 30.

⁶ Petition, ¶ 7(b); Pressley Decl., ¶ 31.

⁷ Petition, ¶ 7(c); Pressley Decl., ¶ 32.

⁸ Petition, ¶ 7(d); Pressley Decl., ¶ 33.

⁹ Petition, ¶ 7(e); Pressley Decl., ¶ 34.

¹⁰ Pressley Decl., ¶ 35.

¹¹ Ruling Granting Consumer Watchdog's Petition to Intervene, dated April 29, 2020, p. 3 ("April 2020 Ruling"); Pressley Decl., ¶ 32.

changes that have not been adequately supported as well as unreasonable rate increases for many insureds.”¹²

On May 22, 2020, Homesite provided additional information and responses to the issues raised in the Petition.¹³ Thereafter Consumer Watchdog sought further information concerning those matters and Homesite provided certain of the information requested.¹⁴ The parties engaged in ongoing telephone and email discussions concerning the Application and related information through July 2021.¹⁵

On July 20, 2021, Consumer Watchdog, Homesite and the Department executed a final settlement stipulation resolving the issues raised concerning the Application.¹⁶

On July 21, 2021, the Commissioner approved the Application.¹⁷

Pursuant to the terms of the stipulation, Consumer Watchdog withdrew its Petition for hearing on July 30, 2021.¹⁸ Consumer Watchdog subsequently requested, and the other parties agreed, that the deadline for filing its Request for Compensation be extended to September 3, 2021.¹⁹

On September 3, 2021, Consumer Watchdog filed a Request for Compensation with the Commissioner, pursuant to Insurance Code section 1861.10(b), seeking advocate fees for work performed by Consumer Watchdog employees Harvey Rosenfield, Pamela Pressley, Benjamin Powell, and Kaitlyn Gentile.²⁰ Mr. Rosenfield is an attorney with over 40 years of experience in

¹² April 2020 Ruling, p. 2 (bullets omitted).

¹³ Pressley Decl., ¶ 37; Consumer Watchdog’s Request for Compensation, dated September 3, 2021 (“Request for Compensation”), Exh. B.

¹⁴ Pressley Decl., ¶¶ 38-41.

¹⁵ Pressley Decl., ¶¶ 38-50.

¹⁶ Pressley Decl., ¶ 52.

¹⁷ Pressley Decl., ¶ 54.

¹⁸ Pressley Decl., ¶ 55.

¹⁹ Request for Compensation, p. 3.

²⁰ Request for Compensation, Exh. A.

insurance regulatory and litigation matters.²¹ Ms. Pressley is an attorney with over 25 years of consumer advocacy and litigation experience.²² Mr. Powell is an attorney with four years of litigation experience.²³ Ms. Gentile is a paralegal with over 13 years of litigation experience.²⁴

The Request for Compensation also seeks witness fees for actuarial analysis of the Application performed by Consumer Watchdog's consulting actuary, Allan I. Schwartz, and his associate, Katherine Tollar, of AIS Risk Consultants, Inc.²⁵ Mr. Schwartz has over 40 years of professional actuarial experience.²⁶ Ms. Tollar has over 30 years of experience as an actuarial assistant.²⁷

Consumer Watchdog seeks the following fees for work in connection with the Application and for preparing the Request for Compensation: 4.9 hours of Mr. Rosenfield's time at \$695 per hour, 60.6 hours of Ms. Pressley's time at \$595 per hour, 22.1 hours of Mr. Powell's time at \$350 per hour, 5.1 hours of Ms. Gentile's time at \$200 per hour, 52.2 hours of Mr. Schwartz's time at \$835 per hour, and 13.8 hours of Ms. Tollar's time at \$380 per hour, for total advocate and witness fees of \$97,048.50.²⁸ Consumer Watchdog supported the Request for Compensation with declarations by Ms. Pressley and Mr. Schwartz. Ms. Pressley's declaration attached a declaration by Richard Pearl, an expert on California attorneys' fees.²⁹

Homesite did not submit a response to the Request for Compensation.

The Request for Compensation was assigned to Administrative Law Judge Clarke de Maigret (the "ALJ") for review.

²¹ Pressley Decl., ¶ 12.

²² Pressley Decl., ¶ 9.

²³ *Id.* at ¶ 16.

²⁴ *Id.* at ¶ 20.

²⁵ Request for Compensation, Exh. A; Declaration of Allan I. Schwartz in Support of Consumer Watchdog's Request for Compensation ("Schwartz Declaration"), Exh. 7.

²⁶ Schwartz Decl., ¶ 1.

²⁷ Schwartz Decl., Exh. 6.

²⁸ Request for Compensation, Exh. A; Pressley Decl., Exh. 1a.

²⁹ Pressley Decl., Exh. 2.

APPLICABLE LAW

I. Prior Approval Framework

In 1988, California's voters approved Proposition 103, which added Article 10 "Reduction and Control of Insurance Rates"³⁰ ("Article 10") to Division 1, Part 2, Chapter 9 of the Insurance Code. Article 10 governs automobile, home, and other property-casualty insurance rates. It requires that the Commissioner approve the rates insurers charge prior to use, so as to prevent "excessive, inadequate, [or] unfairly discriminatory" rates.³¹ Insurers wishing to change their rates must file complete rate applications with the Commissioner.³² All application information must be available for public inspection.³³ Public hearings may be held on the applications.³⁴

II. Compensation for Public Participation

To promote enforcement of the rate control laws, Insurance Code section 1861.10(a) authorizes consumers and their representatives to initiate and intervene in rate proceedings and to enforce Article 10's provisions. The Insurance Code and the intervenor regulations ("Regulations")³⁵ provide that intervenors must be compensated for their participation if various substantive and procedural requirements are met.

A. Substantive Requirements

Insurance Code section 1861.10(b) provides that the Commissioner "shall award reasonable advocacy and witness fees and expenses" to persons demonstrating that (1) they "represent the interests of consumers," and (2) they have "made a substantial contribution to the adoption of any order, regulation, or decision by the commissioner[.]" The Regulations contain

³⁰ Ins. Code, § 1861.01 et seq.

³¹ Ins. Code, §§ 1861.01(c), 1861.05(a).

³² Ins. Code, §1861.05(b).

³³ Ins. Code, § 1861.07.

³⁴ Ins. Code, §1861.05(c).

³⁵ Cal. Code Regs., tit. 10, §§ 2662.1—2662.8

substantially identical requirements.³⁶

An intervenor “represents the interests of consumers” if it “represents the interests of individual insurance consumer[s], or the intervenor is a group organized for the purpose of consumer protection as demonstrated by, but is not limited to, a history of representing consumers in administrative, legislative or judicial proceedings.”³⁷

An intervenor makes a “substantial contribution” if the intervenor “substantially contributed, as a whole, to a decision, order, regulation, or other action of the Commissioner by presenting relevant issues, evidence, or arguments which were separate and distinct from those emphasized by the Department of Insurance staff or any other party, such that the intervenor’s participation resulted in more relevant, credible, and non-frivolous information being available for the Commissioner to make his or her decision than would have been available to a Commissioner had the intervenor not participated. A substantial contribution may be demonstrated without regard to whether a petition for hearing is granted or denied.”³⁸

B. Procedural Requirements

The Regulations set forth various procedural requirements for claiming intervenor compensation. The intervenor must obtain the Commissioner’s approval of a petition to intervene.³⁹ The intervenor must be found eligible to seek compensation by the Commissioner’s Public Advisor.⁴⁰ And the intervenor must submit a request for an award of compensation within 30 days after the Commissioner’s decision or action in the proceeding for which intervention was sought, or within 30 days after conclusion of the entire proceeding.⁴¹ The request for compensation must be verified and include detailed descriptions of the services and

³⁶ Cal. Code Regs., tit. 10, § 2662.5(a).

³⁷ Cal. Code Regs., tit. 10, § 2661.1(j).

³⁸ Cal. Code Regs., tit. 10, § 2661.1(k).

³⁹ Cal. Code Regs., tit. 10, § 2662.3.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

expenditures, legible time and billing records, and a description of the intervenor's substantial contribution.⁴²

C. Payment and Amount of Compensation Award

Where an intervenor's advocacy occurs in response to an insurer's rate application, the insurer must pay the intervenor's reasonable advocacy fees, witness fees and expenses.⁴³ Time spent preparing the intervenor's request for compensation may be included in those amounts.⁴⁴

The intervenor's advocacy and witness fees must not exceed "the prevailing rate for comparable services in the private sector in the Los Angeles and San Francisco Bay Areas at the time of the Commissioner's decision awarding compensation for attorney advocates, non-attorney advocates, or experts with similar experience, skill and ability."⁴⁵

DISCUSSION

Consumer Watchdog's Request for Compensation satisfies the substantive and procedural requirements for intervenor compensation, and its fees are reasonable. Its Request for Compensation must be granted.

I. Consumer Watchdog Represented the Interests of Consumers and Made a Substantial Contribution to the Commissioner's Decision.

Consumer Watchdog argues that it satisfied the requirements of Insurance Code section 1861.10, subdivision (b) and Regulations section 2662.5 to "represent[] the interests of consumers" and to make "a substantial contribution" to the Commissioner's decision the Application.⁴⁶ Consumer Watchdog indisputably met the first requirement. The Commissioner has determined that "Consumer Watchdog represents the interests of consumers, and on those grounds, the Commissioner hereby finds Consumer Watchdog eligible to seek compensation in

⁴² *Ibid.*

⁴³ Ins. Code, § 1861.10(b).

⁴⁴ Cal. Code Regs., tit. 10, § 2661.1(d).

⁴⁵ Cal. Code Regs., tit. 10, § 2661.1(c).

⁴⁶ Request for Compensation, pp. 1, 11-13.

Department proceedings pursuant to [Insurance Code section] 1861.02 *et seq.*”⁴⁷

Turning to the substantial contribution requirement, Consumer Watchdog’s Petition asserted that Homesite used an improper catastrophe model, failed to demonstrate the reasonableness of the selected catastrophe adjustment, used improper loss trends, and engaged in improper or unsupported use of excluded expenses.⁴⁸

Those issues and arguments were “separate and distinct from those emphasized by the Department of Insurance staff or any other party”⁴⁹ because only Consumer Watchdog raised them. Consumer Watchdog’s participation thus resulted in “more relevant, credible, and non-frivolous information being available for the Commissioner” to make his final decision on the Application.⁵⁰ Accordingly, Consumer Watchdog satisfied the substantial contribution requirement.

II. Consumer Watchdog Met the Procedural Requirements for Compensation.

The Commissioner approved Consumer Watchdog’s petition to intervene,⁵¹ and the Public Advisor found Consumer Watchdog eligible to seek compensation.⁵² Consumer Watchdog submitted a timely verified request for compensation on September 3, 2021, within the period stipulated by the other parties.⁵³ It included detailed descriptions of the services and expenditures, legible time and billing records, and a description of Consumer Watchdog’s substantial contribution.⁵⁴ Therefore, Consumer Watchdog satisfied the procedural requirements for compensation.

⁴⁷ Finding of Consumer Watchdog’s of Eligibility to Seek Compensation, Aug. 25, 2020, File No. IE-2020-0002 (“Eligibility Finding”), p. 4. Consumer Watchdog’s eligibility is effective until July 2022.

⁴⁸ Petition, ¶ 7; Pressley Decl., ¶¶ 30-34.

⁴⁹ Cal. Code Regs., tit. 10, § 2662.3(a).

⁵⁰ Cal. Code Regs., tit. 10, § 2662.3(a).

⁵¹ April 2020 Ruling.

⁵² Eligibility Finding, p. 4.

⁵³ Request for Compensation, p. 3.

⁵⁴ Request for Compensation, Exh. A; Pressley Decl., Exh. 1a.; Schwartz Decl., Exh. 7.

III. Consumer Watchdog's Requested Fees Are Reasonable and Must Be Paid by Homesite.

Consumer Watchdog billed at hourly rates of \$695 for an attorney with over 40 years of insurance regulatory and litigation experience, \$595 for an attorney with over 25 years of consumer advocacy and litigation experience, \$350 for an attorney with four years of litigation experience, and \$200 for a paralegal with over 13 years of litigation experience.⁵⁵ These rates are consistent with the current prevailing private sector rates for advocates in Los Angeles with similar experience, skill and ability.⁵⁶

Consumer Watchdog billed a total of 92.7 advocacy hours in connection with the proceeding on the Application, including 87.6 hours of attorney time and 5.1 hours of paralegal time.⁵⁷ Those hours are not excessive, given the nature and quality of work Consumer Watchdog's advocates performed reviewing the Application, preparing the Petition, engaging with the consulting actuary, communicating with Homesite and the Department concerning the Application, negotiating the settlement stipulation, and preparing the Request for Compensation.

Mr. Schwartz's expert witness rate of \$835 per hour, when adjusted for inflation, is consistent with rates charged by other similarly-experienced consulting actuaries in earlier prior approval cases.⁵⁸ His rates are also consistent with rates he charged clients in other matters.⁵⁹ There is no indication his charges, or the \$380 per hour charges of his associate, Ms. Tollar, exceed prevailing Los Angeles or San Francisco Bay Area rates for comparable services.

Consumer Watchdog seeks compensation for the 52.2 hours Mr. Schwartz and the 13.8 hours Ms. Tollar spent performing actuarial analysis concerning the Application.⁶⁰ That time is

⁵⁵ Pressley Decl., Exh. 1a; Request for Compensation, Exh. A.

⁵⁶ See Pressley Decl., Exh. 2 [fee expert declaration].

⁵⁷ Pressley Decl., Exh. 1a.

⁵⁸ Schwartz Declaration, ¶¶ 3-6.

⁵⁹ *Ibid.*

⁶⁰ Schwartz Decl., Exh. 7.

not excessive for the work performed.

For these reasons, the advocacy and expert fees Consumer Watchdog seeks are reasonable. Because Consumer Watchdog's advocacy was in response to Homesite's application, Homesite must pay the fees.⁶¹

CONCLUSIONS AND DETERMINATIONS


The Commissioner concludes and determines that Consumer Watchdog is entitled to advocacy and witness fees of \$97,048.50 for work concerning the Application, and that Homesite must pay the award, pursuant to Insurance Code section 1861.10(b) and the Regulations.

ORDER

1. Consumer Watchdog is hereby awarded \$97,048.50 in advocacy and witness fees in connection with Homesite's Application.
2. Homesite shall pay the award no later than 30 days after the date of this Decision and shall notify the Department's Office of the Public Advisor⁶² upon making payment.

Date: February 14, 2022

RICARDO LARA
Insurance Commissioner

By: 
Clarke de Maigret
Administrative Law Judge

⁶¹ Ins. Code, § 1861.10(b).

⁶² Edward Wu, 300 South Spring Street, 12th Floor, Suite 12700, Los Angeles, CA 90013 or edward.wu@insurance.ca.gov.

PROOF OF SERVICE

Case Name/Number: In the Matter of the Request for Compensation of
CONSUMER WATCHDOG
File No. **RFC-2021-005**

I, Florinda Cristobal, declare that:

I am employed by the California Department of Insurance, Administrative Hearing Bureau, in the City of Oakland and County of Alameda. I am over the age of eighteen (18) years and not a party to this action. My business address is 1901 Harrison Street, 3rd Floor, Oakland, CA 94612.

I am readily familiar with the business practices of the California Department of Insurance for collecting and processing correspondence for mailing, electronic filing and electronic mail. On February 15, 2022, I served **DECISION AWARDING COMPENSATION** regarding the **Matter of the Request for Compensation of CONSUMER WATCHDOG**.

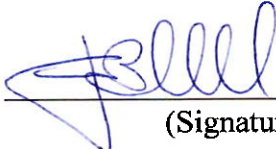
- X **(By U.S. Mail)** on those identified parties in said action, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013.
- X **(By Intra-Agency Mail)** on those identified parties in said action, by placing this correspondence in a place designated for collection for delivery by Department of Insurance intra-agency mail.
- (By facsimile transmission)** on those identified parties in said action, by transmitting said document(s) from our office by facsimile machine Fax Number to facsimile machine number(s) shown below. Following the transmission, I received a "Transmission Report" from our fax machine indicating that the transmission had been transmitted without error.
- X **(By Email)** on those identified parties in said action, in accordance with Code of Civil Procedure §1013, by emailing true copies thereof at the address set forth below.

SEE ATTACHED PARTY SERVICE LIST

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed in Oakland, California, on February 15, 2022.

FLORINDA CRISTOBAL

(Print Name)



(Signature)

PARTY SERVICE LIST

<u>Name/Address</u>	<u>Method of Service</u>
Harvey Rosenfield, SBN 123082 Pamela Pressley, SBN 180362 Benjamin Powell, SBN 311624 CONSUMER WATCHDOG 6330 San Vicente Boulevard, Suite 250 Los Angeles, CA 90048 Tel No.: (310) 392-0522 Fax No.: (310) 392-8874 harvey@consumerwatchdog.org pam@consumerwatchdog.org ben@consumerwatchdog.org	via U.S. Mail/E-mail
Jennifer McCune, Acting Chief Counsel Nikki McKennedy, Attorney IV Rate Enforcement Bureau Legal Division, Rate Enforcement Bureau CALIFORNIA DEPARTMENT OF INSURANCE 1901 Harrison Street, 6 TH Floor Oakland, CA 94612 Tel. No.: (415) 538-4111 FAX No.: (415) 904-5490 Jennifer.McCune@insurance.ca.gov Nikki.McKennedy@insurance.ca.gov	via E-mail/Intra-agency
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NON-PARTY

Jamie Katz

(E-Mail)

California Department of Insurance

Legal - Enforcement Bureau - Oakland

1901 Harrison Street

Oakland, CA 94612

Tel: (415) 538-4180

Fax: (510)238-7830

Jamie.Katz@insurance.ca.gov

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

In the Matter of the Request for Compensation of	) FILE NO. RFC-2021-004
CONSUMER WATCHDOG,)
Intervenor.	) DECISION AWARDING
	) COMPENSATION
)
	) <i>In the Matter of</i>
	) <i>the New Program Applications of</i>
	) <i>Farmers Insurance Exchange</i>
	) <i>and Fire Insurance Exchange</i>
	) New Program Application Nos. 20-444
	) and 20-444-B
	) Prior Approval File No. PA-2020-00004
)

Consumer Watchdog, a consumer advocacy group, intervened in a proceeding concerning 2020 rate applications of Farmers Insurance Exchange and Fire Insurance Exchange (collectively, “Farmers”). Consumer Watchdog a filed Request for Compensation seeking advocacy fees and expenses for its participation in the proceeding. Farmers has not opposed the request. For the reasons below, Consumer Watchdog’s Request for Compensation is granted.

BACKGROUND

On or about January 24, 2020, Farmers filed Application Nos. 20-444 and 20-444-B (“Applications”) with the Department of Insurance (“Department”), seeking approval of two new products called Farmers Smart Plan Renters Policy (“SPR”) and Farmers Smart Plan Condominium Policy (“SPC”) that would update Farmers’ legacy renters and condominium programs.¹ The Department notified the public of the pending Applications on or about February

¹ Declaration of Pamela Pressley in support of Consumer Watchdog’s Request for Compensation, dated August 27, 2021 (“Pressley Decl.”), ¶ 27.

14, 2020.²

Consumer Watchdog and its actuarial consultant reviewed the Applications and formed the opinion that Farmers' use of unsupported "FireLine Score Factors" potentially violated the Insurance Code.³

On March 30, 2020 Consumer Watchdog submitted to the Department a Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation ("Petition"), challenging the Applications.⁴ The Petition alleged that Farmers had failed to sufficiently justify the FireLine Score Factors in their SPC and SPR rate manuals, and that such failure potentially resulted in unfairly discriminatory rates and premiums in violation of Insurance Code section 1861.05.⁵ The Petition also alleged that the Applications referenced certain adjustments to base rates used in the SPC and SPR programs without showing that those adjustments would not result in excessive or unfairly discriminatory rates.⁶

On May 4, 2020, the Commissioner granted Consumer Watchdog's Petition to Intervene, finding that "the specific issues that CW seeks to address ... are relevant to the ratemaking process."⁷ The Commissioner specifically noted Consumer Watchdog's allegations concerning potentially excessive and/or discriminatory rates resulting from unsupported use of FireLine Score Factors.⁸

Over a year later, on June 1, 2021, the parties held a teleconference discussion of the issues raised in Consumer Watchdog's Petition.⁹ During that discussion, Consumer Watchdog

² *Ibid.*

³ Pressley Decl., ¶ 28.

⁴ Pressley Decl., ¶ 29.

⁵ Pressley Decl., ¶ 30.

⁶ Pressley Decl., ¶ 31.

⁷ Ruling Granting Consumer Watchdog's Petition to Intervene, May 4, 2020, p. 3 ("May 2020 Ruling"); Pressley Decl., ¶ 32.

⁸ May 2020 Ruling, pp. 2-3; Pressley Decl., ¶ 33.

⁹ Pressley Decl., ¶ 35.

requested documentation to support the FireLine Score Factors and rate changes.¹⁰ Farmers responded to those requests shortly thereafter.¹¹

Between June 9 and June 23, 2021, Consumer Watchdog, its actuarial consultant, the Department and Farmers participated in numerous discussions and email exchanges concerning the issues raised in the Petition and information provided by Farmers in response to Consumer Watchdog's requests.¹²

On July 14, 2021 the parties executed a settlement stipulation, resolving all issues between them concerning the Applications, including the FireLine Score factors and rate impact issues raised by the Petition.¹³

On July 30, 2021, the Commissioner approved the Applications.¹⁴

On August 9, 2021, Consumer Watchdog withdrew its Petition for hearing, in accordance with the Stipulation.¹⁵

On August 27, 2021, Consumer Watchdog filed a Request for Compensation with the Commissioner, pursuant to Insurance Code section 1861.10(b), seeking advocate fees for work performed by Consumer Watchdog employees Harvey Rosenfield, Pamela Pressley, Benjamin Powell, and Kaitlyn Gentile.¹⁶ Mr. Rosenfield is an attorney with over 40 years of experience in insurance regulatory and litigation matters.¹⁷ Ms. Pressley is an attorney with over 25 years of consumer advocacy and litigation experience.¹⁸ Mr. Powell is an attorney with four years of

¹⁰ *Ibid.*

¹¹ Pressley Decl., ¶ 36.

¹² Pressley Decl., ¶¶ 37-43

¹³ Pressley Decl., ¶ 44.

¹⁴ Pressley Decl., ¶ 46.

¹⁵ Pressley Decl., ¶ 47.

¹⁶ Consumer Watchdog's Request for Compensation, dated August 27, 2021 ("Request for Compensation"), Exh. A.

¹⁷ Pressley Decl., ¶ 12.

¹⁸ Pressley Decl., ¶ 9.

litigation experience.¹⁹ Ms. Gentile is a paralegal with over 13 years of litigation experience.²⁰

The Request for Compensation also seeks witness fees for actuarial analysis of the Applications performed by Consumer Watchdog's consulting actuary, Allan I. Schwartz, and his associate, Katherine Tollar, of AIS Risk Consultants, Inc.²¹ Mr. Schwartz has over 40 years of professional actuarial experience.²² Ms. Tollar has over 30 years of experience as an actuarial assistant.²³

Consumer Watchdog seeks the following fees for work in connection with the Applications and for preparing the Request for Compensation: 0.9 hours of Mr. Rosenfield's time at \$695 per hour, 37.7 hours of Ms. Pressley's time at \$595 per hour, 9.2 hours of Mr. Powell's time at \$350 per hour, 6.5 hours of Ms. Gentile's time at \$200 per hour, 16.0 hours of Mr. Schwartz's time at \$835 per hour, and 3.4 hours of Ms. Tollar's time at \$380 per hour, for total advocate and witness fees of \$42,428.50.²⁴ Consumer Watchdog supported the Request for Compensation with declarations by Ms. Pressley and Mr. Schwartz. Ms. Pressley's declaration attached a declaration by Richard Pearl, an expert on California attorneys' fees.²⁵

Farmers did not submit a response to the Request for Compensation.

The Request for Compensation was assigned to Administrative Law Judge Clarke de Maigret (the "ALJ") for review.

APPLICABLE LAW

I. Prior Approval Framework

In 1988, California's voters approved Proposition 103, which added Article 10

¹⁹ *Id.* at ¶ 16.

²⁰ *Id.* at ¶ 20.

²¹ Request for Compensation, Exh. A; Declaration of Allan I. Schwartz in Support of Consumer Watchdog's Request for Compensation ("Schwartz Declaration"), Exh. 7.

²² Schwartz Decl., ¶ 1.

²³ Schwartz Decl., Exh. 6.

²⁴ Request for Compensation, Exh. A.

²⁵ Pressley Decl., Exh. 2.

“Reduction and Control of Insurance Rates”²⁶ (“Article 10”) to Division 1, Part 2, Chapter 9 of the Insurance Code. Article 10 governs automobile, home, and other property-casualty insurance rates. It requires that the Commissioner approve the rates insurers charge prior to use, so as to prevent “excessive, inadequate, [or] unfairly discriminatory” rates.²⁷ Insurers wishing to change their rates must file complete rate applications with the Commissioner.²⁸ All application information must be available for public inspection.²⁹ Public hearings may be held on the applications.³⁰

II. Compensation for Public Participation

To promote enforcement of the rate control laws, Insurance Code section 1861.10(a) authorizes consumers and their representatives to initiate and intervene in rate proceedings and to enforce Article 10’s provisions. The Insurance Code and the intervenor regulations (“Regulations”)³¹ provide that intervenors must be compensated for their participation if various substantive and procedural requirements are met.

A. Substantive Requirements

Insurance Code section 1861.10(b) provides that the Commissioner “shall award reasonable advocacy and witness fees and expenses” to persons demonstrating that (1) they “represent the interests of consumers,” and (2) they have “made a substantial contribution to the adoption of any order, regulation, or decision by the commissioner[.]” The Regulations contain substantially identical requirements.³²

An intervenor “represents the interests of consumers” if it “represents the interests of

²⁶ Ins. Code, § 1861.01 et seq.

²⁷ Ins. Code, §§ 1861.01(c), 1861.05(a).

²⁸ Ins. Code, § 1861.05(b).

²⁹ Ins. Code, § 1861.07.

³⁰ Ins. Code, § 1861.05(c).

³¹ Cal. Code Regs., tit. 10, §§ 2662.1—2662.8

³² Cal. Code Regs., tit. 10, § 2662.5(a).

individual insurance consumer[s], or the intervenor is a group organized for the purpose of consumer protection as demonstrated by, but is not limited to, a history of representing consumers in administrative, legislative or judicial proceedings.”³³

An intervenor makes a “substantial contribution” if the intervenor “substantially contributed, as a whole, to a decision, order, regulation, or other action of the Commissioner by presenting relevant issues, evidence, or arguments which were separate and distinct from those emphasized by the Department of Insurance staff or any other party, such that the intervenor's participation resulted in more relevant, credible, and non-frivolous information being available for the Commissioner to make his or her decision than would have been available to a Commissioner had the intervenor not participated. A substantial contribution may be demonstrated without regard to whether a petition for hearing is granted or denied.”³⁴

B. Procedural Requirements

The Regulations set forth various procedural requirements for claiming intervenor compensation. The intervenor must obtain the Commissioner’s approval of a petition to intervene.³⁵ The intervenor must be found eligible to seek compensation by the Commissioner’s Public Advisor.³⁶ And the intervenor must submit a request for an award of compensation within 30 days after the Commissioner’s decision or action in the proceeding for which intervention was sought, or within 30 days after conclusion of the entire proceeding.³⁷ The request for compensation must be verified and include detailed descriptions of the services and expenditures, legible time and billing records, and a description of the intervenor’s substantial

³³ Cal. Code Regs., tit. 10, § 2661.1(j).

³⁴ Cal. Code Regs., tit. 10, § 2661.1(k).

³⁵ Cal. Code Regs., tit. 10, § 2662.3.

³⁶ *Ibid.*

³⁷ *Ibid.*

contribution.³⁸

C. Payment and Amount of Compensation Award

Where an intervenor's advocacy occurs in response to an insurer's rate application, the insurer must pay the intervenor's reasonable advocacy fees, witness fees and expenses.³⁹ Time spent preparing the intervenor's request for compensation may be included in those amounts.⁴⁰

The intervenor's advocacy and witness fees must not exceed "the prevailing rate for comparable services in the private sector in the Los Angeles and San Francisco Bay Areas at the time of the Commissioner's decision awarding compensation for attorney advocates, non-attorney advocates, or experts with similar experience, skill and ability."⁴¹

DISCUSSION

Consumer Watchdog's Request for Compensation satisfies the substantive and procedural requirements for intervenor compensation, and its fees are reasonable. Its Request for Compensation must be granted.

I. Consumer Watchdog Represented the Interests of Consumers and Made a Substantial Contribution to the Commissioner's Decision.

Consumer Watchdog argues that it satisfied the requirements of Insurance Code section 1861.10, subdivision (b) and Regulations section 2662.5 to "represent[] the interests of consumers" and to make "a substantial contribution" to the Commissioner's decision the Applications.⁴² Consumer Watchdog indisputably met the first requirement. The Commissioner has determined that "Consumer Watchdog represents the interests of consumers, and on those grounds, the Commissioner hereby finds Consumer Watchdog eligible to seek compensation in

³⁸ *Ibid.*

³⁹ Ins. Code, § 1861.10(b).

⁴⁰ Cal. Code Regs., tit. 10, § 2661.1(d).

⁴¹ Cal. Code Regs., tit. 10, § 2661.1(c).

⁴² Request for Compensation, pp. 1, 11-13.

Department proceedings pursuant to [Insurance Code section] 1861.02 *et seq.*”⁴³

Turning to the substantial contribution requirement, Consumer Watchdog’s Petition asserted that Farmers failed to sufficiently justify the FireLine Score Factors in its rate manuals and failed to show that adjustments to base rates used in the SPC and SPR programs would not result in excessive or unfairly discriminatory rates.⁴⁴

Those issues and arguments—which Consumer Watchdog advanced throughout the proceeding—were “separate and distinct from those emphasized by the Department of Insurance staff or any other party”⁴⁵ because only Consumer Watchdog raised them. Consumer Watchdog’s participation thus resulted in “more relevant, credible, and non-frivolous information being available for the Commissioner” to make his final decision on the Applications.⁴⁶ Accordingly, Consumer Watchdog satisfied the substantial contribution requirement.

II. Consumer Watchdog Met the Procedural Requirements for Compensation.

The Commissioner approved Consumer Watchdog’s petition to intervene,⁴⁷ and the Public Advisor found Consumer Watchdog eligible to seek compensation.⁴⁸ Consumer Watchdog submitted a timely verified request for compensation on August 27, 2021, within 30 days after the Commissioner’s July 30, 2021 final decision on the Applications.⁴⁹ It included detailed descriptions of the services and expenditures, legible time and billing records, and a description of Consumer Watchdog’s substantial contribution.⁵⁰ Therefore, Consumer Watchdog

⁴³ Finding of Consumer Watchdog’s of Eligibility to Seek Compensation, Aug. 25, 2020, File No. IE-2020-0002 (“Eligibility Finding”), p. 4. Consumer Watchdog’s eligibility is effective until July 2022.

⁴⁴ Petition, ¶¶ 7-8; Pressley Decl., ¶¶ 30-31.

⁴⁵ Cal. Code Regs., tit. 10, § 2662.3(a).

⁴⁶ Cal. Code Regs., tit. 10, § 2662.3(a).

⁴⁷ May 2020 Ruling.

⁴⁸ Eligibility Finding, p. 4.

⁴⁹ Request for Compensation [attached Proof of Service].

⁵⁰ Request for Compensation, Exh. A; Pressley Decl., Exh. 1a.; Schwartz Decl., Exh. 7.

satisfied the procedural requirements for compensation.

III. Consumer Watchdog's Requested Fees Are Reasonable and Must Be Paid by Farmers.

Consumer Watchdog billed at hourly rates of \$695 for an attorney with over 40 years of insurance regulatory and litigation experience, \$595 for an attorney with over 25 years of consumer advocacy and litigation experience, \$350 for an attorney with four years of litigation experience, and \$200 for a paralegal with over 13 years of litigation experience.⁵¹ These rates are consistent with the current prevailing private sector rates for advocates in Los Angeles with similar experience, skill and ability.⁵²

Consumer Watchdog billed a total of 54.3 advocacy hours in connection with the proceeding on the Applications, including 47.8 hours of attorney time and 6.5 hours of paralegal time.⁵³ Those hours are not excessive, given the nature and quality of work Consumer Watchdog's advocates performed reviewing the Applications, preparing the Petition, engaging with the consulting actuary, communicating with Farmers and the Department concerning the Applications, and preparing the Request for Compensation.

Mr. Schwartz's expert witness rate of \$835 per hour, when adjusted for inflation, is consistent with rates charged by other similarly-experienced consulting actuaries in earlier prior approval cases.⁵⁴ His rates are also consistent with rates he charged clients in other matters.⁵⁵ There is no indication his charges, or the \$380 per hour charges of his associate, Ms. Tollar, exceed prevailing Los Angeles or San Francisco Bay Area rates for comparable services.

Consumer Watchdog seeks compensation for the 16.0 hours Mr. Schwartz and the 3.4

⁵¹ Pressley Decl., Exh. 1a; Request for Compensation, Exh. A.

⁵² See Pressley Decl., Exh. 2 [fee expert declaration].

⁵³ Pressley Decl., Exh. 1a.

⁵⁴ Schwartz Declaration, ¶¶ 3-6.

⁵⁵ *Ibid.*

hours Ms. Tollar spent performing actuarial analysis concerning the Applications.⁵⁶ That time is not excessive for the work performed.

For these reasons, the advocacy and expert fees Consumer Watchdog seeks are reasonable. Because Consumer Watchdog's advocacy was in response to Farmers' applications, Farmers must pay the fees.⁵⁷

CONCLUSIONS AND DETERMINATIONS

The Commissioner concludes and determines that Consumer Watchdog is entitled to advocacy and witness fees of \$42,428.50 for work concerning the Applications, and that Farmers must pay the award, pursuant to Insurance Code section 1861.10(b) and the Regulations.

ORDER

1. Consumer Watchdog is hereby awarded \$42,428.50 in advocacy and witness fees in connection with Farmers' Applications.
2. Farmers shall pay the award no later than 30 days after the date of this Decision and shall notify the Department's Office of the Public Advisor⁵⁸ upon making payment.

Date: February 16, 2022

RICARDO LARA
Insurance Commissioner

By: 
Clarke de Maigret
Administrative Law Judge

⁵⁶ Schwartz Decl., Exh. 7.

⁵⁷ Ins. Code, § 1861.10(b).

⁵⁸ Edward Wu, 300 South Spring Street, 12th Floor, Suite 12700, Los Angeles, CA 90013 or edward.wu@insurance.ca.gov.

PROOF OF SERVICE

Case Name/Number: In the Matter of the Request for Compensation of
CONSUMER WATCHDOG
File No. RFC-2021-004

I, Camille E. Johnson, declare that:

I am employed by the California Department of Insurance, Administrative Hearing Bureau, in the City of Oakland and County of Alameda. I am over the age of eighteen (18) years and not a party to this action. My business address is 1901 Harrison Street, 3rd Floor, Oakland, CA 94612.

I am readily familiar with the business practices of the California Department of Insurance for collecting and processing correspondence for mailing, electronic filing and electronic mail. On February 16, 2022, I served **DECISION AWARDED COMPENSATION** regarding the **Matter of the Request for Compensation of CONSUMER WATCHDOG**.

 X **(By U.S. Mail)** on those identified parties in said action, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013.

 X **(By Intra-Agency Mail)** on those identified parties in said action, by placing this correspondence in a place designated for collection for delivery by Department of Insurance intra-agency mail.

 (By Facsimile transmission) on those identified parties in said action, by transmitting said document(s) from our office by facsimile machine to facsimile machine number(s) shown below. Following the transmission, I received a "Transmission Report" from our fax machine indicating that the transmission had been transmitted without error.

 X **(By Email)** on those identified parties in said action, in accordance with Code of Civil Procedure §1013, by emailing true copies thereof at the address set forth below.

SEE ATTACHED PARTY SERVICE LIST

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed in Oakland, California, on February 16, 2022.

February 16, 2022
DATE


C. E. JOHNSON

PARTY SERVICE LIST

<u>Name/Address</u>	<u>Method of Service</u>
Harvey Rosenfield, SBN 123082 Pamela Pressley, SBN 180362 Benjamin Powell, SBN 311624 CONSUMER WATCHDOG 6330 San Vicente Boulevard, Suite 250 Los Angeles, CA 90048 Tel No.: (310) 392-0522 Fax No.: (310) 392-8874 harvey@consumerwatchdog.org pam@consumerwatchdog.org ben@consumerwatchdog.org	via Email and U. S. Mail
Daniel Goodell, Asst. General Counsel Jennifer McCune Lisbeth Landsman-Smith Alec Stone Legal Division, Rate Enforcement Bureau CALIFORNIA DEPARTMENT OF INSURANCE 1901 Harrison Street, 6 TH Floor Oakland, CA 94612 Tel. No.: (415) 538-4111 FAX No.: (415) 904-5490 Daniel.Goodell@insuance.ca.gov Jennifer.McCune@insurance.ca.gov Lisbeth.Landsman@insurance.ca.gov Alec.Stone@insurance.ca.gov Tina.Warren@insurance.ca.gov	via Email/Intra-agency Mail
Richard De La Mora Victoria McCarthy Alissa Vreman Farmers Insurance Exchange 6301 Owensmouth Avenue Woodland Hills, CA 91367 Tel. No.: (818) 865-0433 Richard.delamora@farmersinsurance.com Victoria.mccarthy@farmersinsurance.com Alissa.vreman@farmersinsurance.com	via Email and U. S. Mail

NON-PARTY

Jamie Katz
California Department of Insurance
Legal - Enforcement Bureau - Oakland
1901 Harrison Street
Oakland, CA 94612
Tel: (415) 538-4180
Fax: (510) 238-7830
Jamie.Katz@insurance.ca.gov

via Email

EXHIBIT 5

ALLAN I. SCHWARTZ
President
AIS Risk Consultants, Inc.
4400 Route 9 South
Freehold, New Jersey 07728
732-780-0330

EDUCATION

Cooper Union, B.S., Physics, 1975

PROFESSIONAL AFFILIATIONS

Casualty Actuarial Society, Fellow - 1981, Associate - 1979

American Academy of Actuaries, Member - 1979

Associate in Reinsurance - June 1998
(Received Reinsurance Association of America Award for Academic Excellence)

Associate in Claims - September 1998

Associate in Premium Auditing - May 1999

Associate in Underwriting - June 1999

Associate in Insurance Accounting and Finance - June 2002
(Received National Association of Mutual Insurance Companies Award for Academic Excellence)

Associate in Risk Management - September 2002

Associate in Personal Insurance – January 2008

Associate, Customer Service – March 2008 (With Honors)

Certified Rate of Return Analyst – April 2011

PUBLICATIONS

"Workers' Compensation and Investment Income" : Best's Review, Property / Casualty Insurance Edition, 10/82

"A Note on Calendar Year Loss Ratios" : Proceedings of the Casualty Actuarial Society, 11/82

"An Actuary's Analysis of the Security of a Self-Insured" : Business Insurance, 9/26/83

"Actuarial Issues to be Addressed in Pricing Excess of Loss Reinsurance" : Proceedings of the Los Angeles Chapter CPCU Technical Conference, 6/84 (Received Research Excellence Award from Farmers Insurance Group)

"An Actuarial Analysis of Self-Insurance" : The Self-Insurer, Volume 1, Issue 3, 1984

"Loss and Loss Expense Reserving" : The Self-Insurer, Volume 1, Issue 4, 1984

"The ABC's of Reinsurance" : The Self-Insurer, Volume 2, Issue 4, 1985

"Actuarial Implications of Claims-Made Policies" : The Journal of the Independent Reinsurance Underwriters Association, Volume I, Number 1, October 1985

"Considerations in the Regulatory Analysis of Workers' Compensation Rate Filings" : Best's Review, Property / Casualty Insurance Edition, 8/88

"Delays in Payment of Private Passenger Auto Premium Receipts / Commissions : Impact on Calculation of Investment Income", Journal on Insurance Regulation, Volume 7, No. 3, March 1989

"Various Studies Related to Workers' Compensation", State of California - Workers' Compensation Rate Study Commission, Volume V, March 1992

LECTURES PRESENTED

"Reserving Losses for Self-Insureds" & "Actuarial Sufficiency of Self-Insurance Programs" : Eleventh Workers' Compensation College of the IAIABC - 4/84

"Problems, Trends, and History of Self-Insurance" : 1984 IAIABC Central States Association Conference - 6/84

"Actuarial Issues to be Addressed in Pricing Excess of Loss Reinsurance" : Los Angeles CPCU Technical Conference - 6/84

"Types of Security Available for the Self-Insured Employer" : 1984 Mid-Year Meeting of the National Council of Self-Insurers - 9/84

"Actuarial Implications of Claims-Made Policies" : Fall 1985 Meeting of the Independent Reinsurance Underwriters Association - 10/85

"North Carolina Medical Malpractice Closed Claim Study" : Duke University - Conference on Developing Information Bases for Medical Malpractice Claim Studies - 5/87

"A Regulator's Perspective on Rate Filings" : Casualty Actuarial Society Seminar on Ratemaking - 3/88

"Understanding the Insurance Industry and Regulation" : Public Citizen's Taming the Insurance Giant Conference - 2/90

"Analyzing Insurance Company Rate Filings" : National Association of Attorneys General Insurance Committee Meeting - 4/90

"Where Does All The Money Go - Insurance Profitability" : Workers Compensation in New York - 5/95

WORK EXPERIENCE

AIS RISK CONSULTANTS, INC.

President - 11/84 to Present

Responsibilities include performing actuarial analyses for all lines of property/casualty insurance. Loss reserve and rate level studies for insurance companies, reinsurance companies, state insurance funds, self-insurers, captive insurers, brokerage firms and attorneys. Work also involves projection of payment patterns, excess insurance studies, production of management information systems and development of individual risk rating plans.

I have provided expert testimony in insurance rate proceedings in Arkansas, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Massachusetts, Nevada, New Jersey, New Mexico, North Carolina, Oklahoma, Rhode Island, South Carolina, Texas, Vermont and Virginia.

I have worked on health insurance rate filings in California, Colorado, Massachusetts, New Jersey, New Mexico, Oregon and Vermont during the last several years. This involved the review of rate filings and the preparation of analyses which could be submitted to the state insurance regulatory agency. My work in health insurance includes providing actuarial assistance to the NAIC Consumer Representatives during the last several years dealing with various issues such as the Medical Loss Ratio calculation.

NEW JERSEY DEPARTMENT OF INSURANCE

Assistant Commissioner - 5/88 to 1/90

Supervised a staff of 20+ which regulated rates, rules and policy forms in New Jersey for property/casualty insurance to determine compliance with the applicable statutes and regulations. Also responsible for the statistical section for property/casualty insurance. This section gathers and analyzes data related to property/casualty insurance. Provided advice to the Insurance Commissioner and other senior staff members of the Insurance Department regarding the impact of proposed legislation, regulations and overall policy directives.

Provided recommendations in regard to the financial analysis and condition of insurers, including excess profits reports.

NORTH CAROLINA DEPARTMENT OF INSURANCE

Chief Actuary - 6/86 to 4/88

Responsible for all actuarial studies performed in the Department of Insurance covering property / casualty / life / health / accident insurance.

Work included the analysis of filings made by insurance companies to see that they are in compliance with the insurance laws and regulations of the State of North Carolina. Also interacted with the legal staff of the Insurance Department in drafting proposed insurance laws and regulations.

Responsible for the analysis of the loss and loss adjustment expense reserves established by insurance companies to meet the liabilities they have incurred in the past, but which will not be payable until some time in the future.

Involved in various special projects relating to the financial analysis of insurance operations. These included the review of reinsurance contracts, the financial analysis of the North Carolina State Property Fire Insurance Fund and a study of medical malpractice closed claims.

Was in charge of a staff of six, including four professional and two clerical people. Other duties involved the writing of computer programs, providing expert testimony at rate hearings and assisting the Insurance Commissioner prepare for legislative committees.

WOODWARD & FONDILLER

Senior Actuary - 8/77 to 11/84

Consulting property/casualty actuarial studies (see description under AIS Risk Consultants, Inc.)

NATIONAL COUNCIL ON COMPENSATION INSURANCE

Actuarial Trainee - 3/76 to 8/77

Performed ratemaking analyses and prepared rate filings for workers' compensation insurance. Regularly evaluated the impact of changes in workers' compensation benefits. Also assisted the Director of Research with special studies related to data collection, ratemaking procedures and benefit evaluations.

EXHIBIT 6

Katherine Tollar

Work Experience:

November 1999 to present : AIS Risk Consultants , Freehold, NJ

Actuarial Assistant

- Analysis of loss and loss adjustment expenses for companies self-insured for medical malpractice and workers' compensation.
- Analysis of trends and loss development for private passenger automobile, medical malpractice and workers' compensation.
- Research of insurance rating systems and applicable laws.

1990–1993 : Prudential Property and Casualty Insurance, Holmdel, NJ

Actuarial Assistant

- Rotational assignments in the areas of Reserves, Pricing and Product Development.
- Assignments included setting insurance rates for policies and estimating capital outflow from incoming claims.
- Supervised Group PCAT insurance area.

1994–1999 : St John Vianney High School, Holmdel, NJ

Mathematics Teacher

- Taught classes targeted at all levels of students.
- Designed and taught 2 new courses, Probability and Statistics, and BC Calculus.

Casualty Actuarial Society Examinations

Part 1 – Mathematical Foundations of Actuarial Science

Part 2- Financial Mathematics

Part 5 - Introduction to Property & Casualty Insurance and Ratemaking

VEE – Applied Statistical Methods

VEE – Economics

VEE – Finance

Professional Designations

- Associate in Commercial Underwriting April 2003
- Associate in Risk Management December 2004

Education

1978-1982 Purdue University West Lafayette, IN
B.S. in Mathematics Education.

1982-1985 Florida State University Tallahassee, FL
Graduate work in Mathematics totaling 30 credit hours.

EXHIBIT 7

Marianne E. Dwyer

Work Experience:

August 1990 to Present AIS Risk Consultants Freehold, NJ

Actuarial Assistant

- Compiling loss data data for private passenger automobile, medical malpractice and workers' compensation.
- Analysis of loss and loss adjustment expenses for companies self-insured medical malpractice and workers' compensation.
- Analysis of trends.
- Analysis of loss development.
- Research of insurance rating systems and applicable laws.

Casualty Actuarial Society Examinations

- Exam 1 – Mathematical Foundations of Actuarial Science
- Exam 2 – Interest Theory, Economics, and Finance
- Exam 3 – Actuarial Models
- Exam 4 – Actuarial Modeling

Honorary Affiliations

- Pi Mu Epsilon – National Honorary Mathematics Society
– Past Vice President of Trenton State College Chapter
- Phi Kappa Phi – National Honorary Society
- Society of Industrial and Applied Mathematics

Education

1986-1990 Trenton State College (now The College of New Jersey) Trenton, NJ

- B.A., Mathematics.
- Graduated Summa Cum Laude.

EXHIBIT 8

AIS RISK CONSULTANTS, INC.

Consulting Actuaries · Insurance Advisors

4400 Route 9 South · Suite 1000 · Freehold, NJ 07728 · (732) 780-0330 · Fax (732) 780-2706

Date: March 2, 2023

To: Pamela Pressley
Consumer Watchdog

From: Allan I. Schwartz

Re: Bill for Actuarial Analysis of
Interinsurance Exchange of the Automobile Club - Personal Auto, 22-1466

<u>Name</u>	<u>Time</u>	<u>Hourly Rate</u>	<u>Time Charges</u>
Allan Schwartz	30.0	\$915	\$27,450.00
Katherine Tollar	15.1	\$415	\$6,266.50
Marianne Dwyer	2.6	\$365	\$949.00

Time Charges	\$34,665.50
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Time for Allan I. Schwartz

Actuarial Analysis of
Interinsurance Exchange of the Automobile Club - Personal Auto, 22-1466

<u>Date</u>	<u>Description</u>	<u>Time</u>
7/5/2022	Review docs / work on analysis	4.6
7/6/2022	Review docs / work on analysis - PTI/PFH	1.0
7/7/2022	Review docs / work on analysis - PTI/PFH	0.9
7/11/2022	Review docs / work on analysis - PTI/PFH, e mail with CWD	1.4
	Call with CWD (PP)	0.1
7/23/2022	Review docs, work on PFH, e mail with CWD	0.9
8/25/2022	Review company response to PFH	0.2
2/1/2023	Review docs, work on analysis, e mails with CWD (PP)	4.4
2/4/2023	Provide basis for info requests, e mails with CWD (PP)	0.3
2/10/2023	E mail with CWD (PP, BP) re: info requests	0.1
2/13/2023	Call and e mails with CWD (PP) re: info requests	0.3
2/14/2023	Work on analysis, review docs	4.8
2/15/2023	Work on analysis, review docs	4.3
2/16/2023	Work on analysis, review docs	1.9
	Call / e mails with CWD (PP, BP)	0.6
2/17/2023	Work on analysis, review docs, write analysis / report, e mails with CWD	4.2
Total		30.0

Katherine Tollar

Consumer Watch Dog
Interinsurance Exchange of the Automobile Club
Rate filing No. 22-1466

Time Spent

Date	Activity	Time
06/29/2022	Made initial review of rate filing. Worked on trend and templates.	1.7
07/05/2022	Put together loss ratios.	0.8
07/06/2022	Wrote petition and analyzed COVID-19 refunds.	1.8
07/11/2022	Continued petition and reviewed COVID-19 refund information.	0.6
01/04/2023	Reviewed updated rate filing.	0.2
01/30/2023	Downloaded updated filing and began analysis.	0.3
01/31/2023	Continued analysis.	0.9
02/02/2023	Looked at RFI and trend graphs.	2.0
02/06/2023	Worked on trend and development.	1.1
02/14/2023	Reviewed development data and reworked trend.	1.7
02/15/2023	Reviewed development data and reworked trend.	3.7
02/16/2023	Finalized and sent files.	0.3
	Total	15.1

Marianne Dwyer

Consumer Watchdog
Interinsurance Exchange of the Automobile Club

<u>Date</u>	<u>Activity</u>	<u>Time</u>
2/14/2023	Check Trends	1.2
2/15/2023	Check Trends	1.4
Total		2.6

Service List

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Alec Stone
Lisbeth Landsman-Smith
Rate Enforcement Bureau
California Department of Insurance
1901 Harrison Street, 4th Floor
Oakland, CA 94612
Tel. (415) 538-4111
Fax (510) 238-7830
Alec.Stone@insurance.ca.gov
Lisbeth.Landsman@insurance.ca.gov

- FAX
- U.S. MAIL
- OVERNIGHT MAIL
- HAND DELIVERED
- EMAIL

Jamie Katz
Public Advisor
Rate Enforcement Bureau
California Department of Insurance
1901 Harrison Street
Oakland, CA 94612
Tel. (415) 538-4180
Fax (510) 238-7830
Jamie.Katz@insurance.ca.gov

- FAX
- U.S. MAIL
- OVERNIGHT MAIL
- HAND DELIVERED
- EMAIL

Lincoln Tomlin
Vice President, Public and Government Affairs
Interinsurance Exchange of the Automobile Club
3333 Fairview Road, A131
Costa Mesa, CA 92626
Tel. (714) 885-2315
Tomlin.Lincoln@aaa-calif.com

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- HAND DELIVERED
- EMAIL