

June 28, 2024

Commissioner Ricardo Lara  
California Department of Insurance  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, CA 95814

Re: Testimony of the Consumer Protection Policy Center – Consumer Intervenor  
Process

Dear Commissioner Lara:

On behalf of the Consumer Protection Policy Center (CPPC) at the University of San Diego School of Law, I am pleased to submit the following testimony to the California Department of Insurance regarding the consumer intervenor process.

### **CPPC Expertise Regarding the California Department of Insurance**

CPPC is a nonprofit, nonpartisan academic and advocacy center based at the University of San Diego School of Law. For 44 years, CPPC has examined and critiqued California's regulatory agencies that regulate business, professions, and trades, including the California Department of Insurance. CPPC's expertise has long been relied upon by the Legislature, the executive branch, and the courts where the regulation of consumer protection is concerned.

Following California voters' passage of Proposition 103 in 1988, faculty and staff of CPPC (then called the Center for Public Interest Law or CPIL) assisted California Attorney General John Van de Kamp in defending the constitutionality of the initiative. This effort resulted in a unanimous California Supreme Court ruling upholding Proposition 103. *Calfarm v. Deukmejian*, 48 Cal.3d 805 (1989). Suffice it to say that CPPC has considerable understanding of the language of the initiative and expertise in the courts' interpretation of Proposition 103 as against an insurance industry challenge.

### **The Consumer Intervenor Process**

The California Department of Insurance (CDI) consumer intervenor process was established under Proposition 103's passage in 1988 to protect consumers from arbitrary insurance rates and practices, and to ensure fair insurance availability and affordability for Californians. The

Department of Insurance notes that Proposition 103's impartial review requirement "has saved Californians billions of dollars in premiums while helping to maintain a solvent market able to pay consumers' claims." Part of the impartial review process allows public participation via the consumer intervenor process: a tool to help voice consumer protection concerns before the approval of new insurance rates. Intervenors may recover costs and expenses, as well as reasonable attorney's fees, only if they "provide a substantial contribution to a rate decision by providing valuable technical input." Intervenors who represent the insurance industry or other entities are not entitled to recover costs and expenses as intervenors.

However, CDI now wishes to create new barriers for intervenors to participate in its ratemaking proceedings and – if successful – recover costs and expenses. The Department has given notice to insurers regarding the eligibility of Consumer Watchdog and Consumer Federation of California Education Foundation as intervenors, and allegedly no other group was reached for eligibility verification. Targeting notices of objections towards the insurers that often seek faster rate increases is of great concern to consumer protection. The additional queries of eligibility to seek compensation by the most active consumer protection intervenors can only lead to further discouragement of intervenor participation designed under Proposition 103. There is already a mechanism by which CDI must validate that the intervenor does not represent the insurance industry or other entities. Further, before an intervenor recovers costs and expenses, there must be a finding the intervenor provided substantial contribution to the rate decision by providing valuable technical input.

It is strange that CDI, after touting the current process has saved consumers billions of dollars, would want to change how the intervenor compensation process works. Providing insurers with the power to object to the eligibility of consumer protection groups works against consumer protection. It was the intent of Proposition 103 to encourage intervenors to voice the concerns of consumers. These changes would discourage active participation on behalf of consumer protection.

For the reasons listed above, CPPC is in support of Consumer Watchdog, Consumer Federation of California Education Foundation, and other consumer groups' recognition as eligible intervenors without any additional eligibility requirements the Department may try to impose via insurer input.

Sincerely,

*Marcus Friedman*

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Administrative Director, Consumer Protection Policy Center

Centers for Public Interest Law

University of San Diego School of Law

cc Edward Wu, Acting Public Advisor, California Department of Insurance