

1 Harvey Rosenfield, SBN 123082  
2 Pamela Pressley, SBN 180362  
3 Daniel L. Sternberg, SBN 329799  
4 Ryan Mellino, SBN 342497  
5 CONSUMER WATCHDOG  
6 6330 San Vicente Blvd., Suite 250  
7 Los Angeles, CA 90048  
8 Tel. (310) 392-0522  
9 Fax (310) 392-8874  
10 harvey@consumerwatchdog.org  
11 pam@consumerwatchdog.org  
12 danny@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

In the Matter of the Rate Applications of

GEICO Indemnity Company, GEICO  
Casualty Company, GEICO General  
Insurance Company, and Government  
Employees Insurance Company,

Applicants.

File Nos.: 22-1492; 22-1492-A;  
22-1492-B; 22-1492-C

**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 Applications of GEICO Indemnity Company, GEICO Casualty Company, GEICO General  
5 Insurance Company, and Government Employees Insurance Company (“Applicants”), at which  
6 time Applicants will be directed to appear and respond to the issues raised in this petition.  
7 Consumer Watchdog also hereby requests that it be granted leave to intervene in the proceeding  
8 on the Applications. Consumer Watchdog intends to seek compensation in this proceeding, and,  
9 pursuant to California Code of Regulations, title 10 (“10 CCR”), section 2661.3 subdivision (c),  
10 Consumer Watchdog’s proposed budget is attached hereto as Exhibit A.

11 In support of its petition, Consumer Watchdog alleges:

12 **I. THE APPLICATIONS**

13 1. On or about June 6, 2022, Applicants filed Rate Applications with the California  
14 Department of Insurance (“CDI”), seeking approval of an overall 6.9% rate increase to their  
15 private passenger auto line of insurance (File Nos. 22-1492, 22-1492-A, 22-1492-B, and 22-  
16 1492-C [“the Applications”]).

17 2. On or about June 24, 2022, the public was notified by the Department of the  
18 Applications.

19 **II. PETITIONER**

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

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

1           5.       Consumer Watchdog has served as a public watchdog with regard to insurance  
2 rates and insurer rollback liabilities under Proposition 103 by: monitoring rollback settlements  
3 and the status of the rollback regulations; reviewing and challenging rate filings made by insurers  
4 seeking excessive rates; participating in rulemaking and adjudicatory hearings before the CDI;  
5 and educating the public concerning industry underwriting and rating practices, their rights under  
6 Proposition 103, and other provisions of state law. Consumer Watchdog has also initiated and  
7 intervened in actions in state court and appeared as amicus curiae in matters involving the  
8 interpretation and application of Proposition 103 and the Insurance Code.<sup>1</sup>

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

17 **III. EVIDENCE**

18           7.       At the requested public hearing, Consumer Watchdog will present and elicit  
19 evidence to show that the rates proposed in the Applications are excessive and/or unfairly  
20 discriminatory in violation of Insurance Code section 1861.05, subdivision (a), which provides  
21 that “[n]o rate shall be approved or remain in effect which is excessive, inadequate, [or] unfairly  
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24 <sup>1</sup> 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 discriminatory.” Additionally, Consumer Watchdog will present and elicit evidence that  
2 Applicants’ proposed rates violate 10 CCR § 2644.1, which provides that “[n]o rate shall be  
3 approved or remain in effect that is above the maximum permitted earned premium as defined in  
4 section 2644.2.”

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

- 9 a) Loss and Premium Trends (10 CCR § 2644.7): The selected annual net trends are  
10 generally among the highest of the possible twenty values based upon the applicable  
11 regulation. The excessive net trends overstate the projected losses, resulting in inflated  
12 rate indications. Also, Applicants do not demonstrate that the selected trend factors and  
13 trend data period used are the most actuarially sound. Additionally, given the recent  
14 decision to close all GEICO agency offices in California, the likely change in the book of  
15 business needs to be reflected in the analysis of trends.<sup>2</sup>
- 16 b) Unsupported Variance 8A (10 CCR § 2644.27(f)(8)): Applicants’ analysis of potential  
17 distorting events on the loss and premium trend were not adequately documented or  
18 supported. Applicants need to provide the derivation of the adjustment factors used.  
19 Additionally, given the upcoming closure of all GEICO offices in California, the likely  
20 change in the book of business needs to be reflected in the analysis of any trend variance.
- 21 c) Efficiency Standard (10 CCR § 2644.12): Applicants use a weighted average efficiency  
22 standard consisting of 75.5% weight to Captive and 24.5% weight to Direct Writer. The  
23 recently announced closure of all sales offices in California means that going forward,  
24 GEICO will be 100% Direct. Therefore, the efficiency standard for this rate filing should  
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27 <sup>2</sup> See Carolyn Said, *GEICO closes California offices, ends telephone sales here*, San Francisco  
28 Chronicle (Aug. 2, 2022), <https://www.sfchronicle.com/bayarea/article/GEICO-closes-California-offices-ends-telephone-17347208.php>.

1 reflect that GEICO will be a 100% Direct Writer for the time that the proposed rates are  
2 in effect.

3 d) Affinity Group Surcharges (10 CCR § 2632.5(d)): Applicants' use of education and  
4 occupation as rating factors to create five separate rating tiers for their Standard Group,  
5 Professional Group, Skilled Artisans and Technicians Group, Sponsored Marketing  
6 Group, and Affinity Group violates sections 1861.05(a) and 1861.02(a) and 10 CCR  
7 § 2632.5(d). The authorized optional rating factors that have been adopted by the  
8 Commissioner are set forth in 10 CCR § 2632.5(d), and do not include education or  
9 occupation. Applicants charge higher premiums to their Standard policyholders than their  
10 Professional, Skilled Artisans and Technicians, Sponsored Marketing, and Affinity  
11 Groups based on occupational status and education. Use of these different rating tiers to  
12 charge rates and premiums based on education and occupational status results in  
13 excessive and/or unfairly discriminatory rates in violation of sections 1861.05(a) and  
14 1861.02(a), and the application of unauthorized rating factors is in violation of section  
15 1861.02(a)(1)–(3) and the auto rating factor regulations at 10 CCR § 2632.5(d).

16 9. This petition is based upon Consumer Watchdog's preliminary analysis of the  
17 Applications. Thus, Consumer Watchdog reserves the right to modify, withdraw, and/or add  
18 issues for consideration as more information becomes available, including but not limited to  
19 violations of Insurance Code section 1859 for failure to disclose information in its filings that  
20 will affect policyholders' rates and premiums.

#### 21 **IV. AUTHORITY FOR PETITION AND GRANTING REQUEST FOR A HEARING**

22 10. The authority for this petition for hearing is Insurance Code section 1861.10,  
23 subdivision (a), which grants "any person" the right to initiate or intervene in a proceeding  
24 permitted or established by Proposition 103 and the right to enforce Proposition 103.  
25 Specifically, as stated above, Consumer Watchdog initiates this proceeding to enforce Insurance  
26 Code sections 1861.05 and 1861.02 and the Commissioner's regulations.

27 11. Additionally, a hearing is authorized pursuant to Insurance Code section 1861.05,  
28 subdivision (c), which allows "a consumer or his or her representative" to request a hearing on a

1 rate application and 10 CCR § 2653.1, which provides that “any person, whether as an  
2 individual, representative of an organization, or on behalf of the general public, may request a  
3 hearing by submitting a petition for hearing.”

4 12. This petition is timely pursuant to Insurance Code section 1861.05, subdivision  
5 (c), and 10 CCR § 2646.4(a)(1) because it is filed within forty-five (45) days of the June 24,  
6 2022 public notice date.

7 **V. INTEREST OF PETITIONER**

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

16 14. As noted in paragraphs 3–6 above, Consumer Watchdog’s staff and consultants  
17 have substantial experience and expertise in insurance rate matters, which Consumer Watchdog  
18 believes will aid the CDI in its review of the Applications and aid the Commissioner in making  
19 his ultimate decision as to whether to approve or disapprove the requested rate. As noted in  
20 paragraph 6 above, the Commissioner has found that Consumer Watchdog has made a  
21 substantial contribution in all of the rate proceedings in which it has intervened in the last  
22 nineteen years that have proceeded to a final decision wherein Consumer Watchdog has sought  
23 compensation. If leave to intervene is granted, Consumer Watchdog will participate fully in all  
24 aspects of this proceeding.

25 15. Consumer Watchdog also has an interest in ensuring that Applicants, the CDI, and  
26 the Insurance Commissioner comply with the laws enacted by the voters under Proposition 103,  
27 and the rules and regulations that implement those laws, including that all information submitted  
28 to the Department in connection with the Applications is made publicly available.

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

2 16. The authority for Consumer Watchdog’s petition to intervene is Insurance Code  
3 section 1861.10, subdivision (a), which grants “any person” the right to “initiate or intervene in  
4 any proceeding permitted or established pursuant to this chapter [Chapter 9 of Part 2 of Division  
5 1 of the Insurance Code] . . . and enforce any provision of this article.” This proceeding is a  
6 proceeding to enforce Insurance Code sections 1861.05 and 1861.02 pursuant to Insurance Code  
7 section 1861.10(a), and hence is a proceeding both “permitted” and “established” by Chapter 9.  
8 This petition to intervene is also authorized by 10 CCR § 2661.1 et seq. Although consumer  
9 presence in departmental proceedings typically results in significant reductions to policyholders’  
10 rates, the amount of savings for each individual consumer is outweighed by the time and expense  
11 of hiring individual counsel or an advocacy group to protect his or her rights. Thus, an  
12 independent organization like Consumer Watchdog introduces a voice that otherwise would be  
13 absent from this proceeding.

14 **VII. PARTICIPATION OF CONSUMER WATCHDOG**

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

18 **VIII. INTENT TO SEEK COMPENSATION**

19 18. The Commissioner has awarded Consumer Watchdog compensation for its  
20 reasonable advocacy and witness fees and expenses in past departmental proceedings. The  
21 Commissioner issued Consumer Watchdog’s latest Finding of Eligibility on July 26, 2022,  
22 effective for two years as of July 12, 2022. Consumer Watchdog was previously found eligible to  
23 seek compensation on August 25, 2020, effective as of July 12, 2020; July 12, 2018; July 14,  
24 2016; July 24, 2014; July 24, 2012; July 2, 2010; August 25, 2008; July 14, 2006; July 2, 2004;  
25 June 20, 2002; October 1, 1997; September 26, 1995; September 27, 1994; and September 13,  
26 1993.

27 19. Consumer Watchdog intends to seek compensation in this proceeding. Pursuant to  
28 10 CCR § 2661.3(c), Consumer Watchdog’s estimated budget in this proceeding is attached

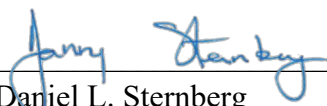
1 hereto as Exhibit A. Consumer Watchdog has based its estimated budget on several factors  
2 including: (1) the technical and legal expertise needed to address these issues; (2) its current best  
3 estimate of the time needed to participate effectively in these proceedings, taking into account  
4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

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

17  
18 DATED: August 8, 2022

Respectfully submitted,  
Harvey Rosenfield  
Pamela Pressley  
Daniel L. Sternberg  
Ryan Mellino  
CONSUMER WATCHDOG

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23 By:

  
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Daniel L. Sternberg  
Attorneys for CONSUMER WATCHDOG





**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 Applicants’ counsel; assist in all phases of proceeding, evidentiary hearing, and preparation of post-hearing briefing; edit request for compensation and supporting attorney declaration.

Daniel L. Sternberg (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 Applicants’ 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

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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 August 8, 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 August 8, 2022 at Los Angeles, California.

  
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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

Jenny Absher  
Analyst, State Filings  
**GEICO**  
One Geico Plaza  
Washington, DC 20076-0001  
Tel. 478-744-5420  
JAbsher@geico.com

- FAX
- U.S. MAIL
- OVERNIGHT MAIL
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