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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of the Rate Applications of
State Farm General Insurance
Company,
Applicant.

File Nos.: PA-2024-00011, PA-2024-00012,
PA-2024-00013

**CONSUMER WATCHDOG'S NOTICE
OF AND MOTION IN LIMINE NO. 1 TO
EXCLUDE EVIDENCE REGARDING
STATE FARM'S GENERAL FINANCIAL
CONDITION**

**Hearing Date/Time: April 8, 2025
10:00 a.m.**

1 **TO THE ADMINISTRATIVE LAW JUDGE AND TO ALL PARTIES:**

2 PLEASE TAKE NOTICE that Consumer Watchdog hereby moves in limine for an order
3 excluding from the April 8, 2025 interim rate hearing any evidence, argument, or reference to
4 State Farm General Insurance Company's general financial condition, including but not limited
5 to evidence, argument, or reference to issues concerning solvency, capital deterioration, credit
6 ratings, or financial strength ratings, on the grounds that:

- 7 1. State Farm has expressly abandoned Variance 6 (10 CCR § 2644.27, subd. (f)(6)) in
8 relation to its interim rate request and Variance 6 is the only regulatory mechanism
9 permitting the use of insurer financial condition as a basis for rate relief;
- 10 2. Under Consumer Watchdog's calculations of the maximum permitted rate indication,
11 based on the incomplete data submitted to date, State Farm would need to invoke
12 Variance 6 to get to the 17% or 21.8% rate increase it has proposed. Yet State Farm
13 failed to provide any of the documentation required under Variance 6 or otherwise
14 support its financial condition, including but not limited to in response to discovery
15 requests and Department inquiries;
- 16 3. State Farm has not provided admissible evidence, expert testimony, or declarations to
17 support any claims of insolvency or related financial hardship, and in fact has admitted
18 that its ability to pay existing claims is "not in question";
- 19 4. Introduction of evidence concerning State Farm's financial condition—now untethered
20 from any regulatory variance and supported by no admissible evidence—would be
21 irrelevant, unduly prejudicial, and in violation of the prior approval and transparency
22 requirements of Proposition 103 and the California Administrative Procedure Act.

23 This Motion is made pursuant to 10 CCR § 2656.1 and the ALJ's express and inherent
24 authority to regulate the admission of evidence to ensure a fair and legally compliant hearing.
25 (See 10 CCR § 2654.1.) Consumer Watchdog requests that this motion be heard **as soon as**
26 **practicable, but in no event later than April 8, 2025**, the date of the scheduled interim rate
27 hearing.

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1 DATED: April 7, 2025

Respectfully submitted,

2 CONSUMER WATCHDOG

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4 By:


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Ryan Mellino

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Attorneys for CONSUMER WATCHDOG

INTRODUCTION

California law authorizes the Insurance Commissioner to approve an interim rate only if the insurer’s current rate is “plainly invalid.” (See *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805, 824.) While State Farm originally based its rate application on Variance 6 (10 CCR § 2644.27, subd. (f)(6))—the “insurer insolvency” variance—it has since expressly abandoned that variance and disclaimed any reliance on it to support its interim rate request. The stipulation now before the Commissioner likewise omits Variance 6 and asserts instead a vague “financial deterioration” claim unsupported by evidence, declarations, or adherence to applicable regulations.

Having abandoned Variance 6 and failed to invoke any other permissible variance based on financial condition (such as Variance 10 (10 CCR § 2644.27, subd. (f)(10))), State Farm should not now be permitted to introduce evidence of its financial condition in support of an interim rate order. Any such evidence is irrelevant, unduly prejudicial, and offered in violation of California's transparent rate-setting framework. It should be excluded in limine.

I. California Law Requires Exclusion

A. State Farm Has Abandoned the Only Regulatory Pathway for Invoking Financial Condition Evidence

State Farm's original rate applications were based on Variance 6, which allows an insurer to seek rates exceeding the regulatory maximum if its solvency is directly threatened. But in its February 3, 2025 letter to the Commissioner, State Farm changed course, claiming its interim request could be justified without any variance. Its abandonment of Variance 6—and failure to invoke Variance 10—forecloses any regulatory basis for presenting financial condition evidence at the April 8 interim hearing.

B. State Farm Refused to Provide the Supporting Documentation That Would Be Required for Variance 6

Even if State Farm had not abandoned Variance 6, it has failed to comply with its prerequisites. Variance 6 requires submission of a solvency plan, evidence of foregone dividends, and a plan to return excessive charges to policyholders once the insurer's financial condition improves. (10 CCR § 2644.27(f)(6).) State Farm has submitted none of these. Its

1 failure to produce the documentation necessary to support its financial condition—despite
2 repeated requests from both Consumer Watchdog and the Department—renders any related
3 evidence inadmissible. A party cannot refuse to participate in discovery and then later rely on the
4 very information it withheld. Allowing such evidence would subvert the fundamental fairness
5 Proposition 103 was designed to protect.

6 **C. No Admissible Evidence Has Been Offered to Support Financial Claims**

7 State Farm has provided three experts—none of whom directly address its financial
8 condition.

- 9 • The Appel Declaration, for example, generally seeks to shift blame to the Department
10 of Insurance and Proposition 103 for State Farm’s alleged financial distress, but
11 provides no independent financial analysis, and is rather an ideological or political
12 critique of California’s regulatory environment. It is narrative of an economic
13 viewpoint, not specific evidence of State Farm’s financial condition.
- 14 • The Ehrhart Declaration provides a general overview of the reinsurance market as a
15 whole, and some of State Farm’s reinsurance programs, but does not assess or support
16 the proposed interim rate, and offers no independent financial analysis.
- 17 • The Watkins Declaration attempts to rebuts Consumer Watchdog’s actuarial analysis,
18 but again, is not an independent assessment or analysis of State Farm’s financial
19 condition.

20 Other than these declarations, State Farm has offered no other declarations, expert reports, or
21 authenticated financial records to substantiate its solvency-related assertions. Under 10 CCR
22 § 2656.1(c), any stipulation must be supported by declarations demonstrating that it is
23 “fundamentally fair, adequate, reasonable, and in the interests of justice.” State Farm and the
24 Department have submitted no such declarations. The only statements offered are unsworn,
25 conclusory attorney argument, and the Appel, Ehrhart, and Watkins Declarations, which
26 sometimes assume State Farm attorney arguments about financial condition, but do not
27 independently address State Farm’s financial condition.

D. Evidence of Financial Condition Is Irrelevant and Prejudicial Absent a Variance

Evidence should only be admissible only if relevant to the issues before the ALJ. (Evid. Code § 350.) Given its non-variance-based requests, State Farm’s financial condition is not relevant to the legal question the April 8 hearing presents: whether the company’s existing rates are “plainly invalid” under *Calfarm*. The proper framework for evaluating this question is the ratemaking formula prescribed by Proposition 103—not after-the-fact claims about capital levels or credit ratings. (See Ins. Code § 1861.05.)

Additionally, admitting such evidence would be unduly prejudicial. (Evid. Code § 352.) Without evidentiary foundation, unsupported claims about financial hardship risk inflaming concerns among regulators and consumers while short-circuiting the proper public hearing process.

E. Allowing Financial Condition Evidence Would Result in Litigation by Ambush

California courts have repeatedly held that litigation by surprise is improper. (See *Williams v. Superior Court* (2017) 3 Cal.5th 531, 540 [noting “Legislature’s preference for discovery over trial by surprise”].) State Farm has had since last June to produce financial records relevant to its solvency claims, and its interim request has been pending for over 60 days. It has still refused to produce the records. It cannot now be permitted to present the same withheld evidence at a contested hearing without violating due process and fundamental fairness. Such tactics—litigation by ambush—undermine the integrity of this proceeding and violate the purpose of Proposition 103’s public scrutiny requirements.

CONCLUSION

For all the reasons set forth above, Consumer Watchdog respectfully requests that the ALJ enter an order excluding from the April 8, 2025 hearing all evidence, testimony, or argument concerning State Farm’s general financial condition, including:

- Alleged capital deterioration or surplus levels;
- References to insolvency risks or financial instability;
- Credit or financial strength ratings; and

1 • Any assertion of hardship premised on financial condition not raised through an
2 authorized regulatory variance.

3 This motion should be heard as soon as practicable, and no later than April 8, 2025.
4

5 DATED: April 7, 2025

6 Respectfully submitted,

7 Harvey Rosenfield
8 Pamela Pressley
9 William Pletcher
10 Benjamin Powell
11 Ryan Mellino
12 CONSUMER WATCHDOG

13 By:

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15 Ryan Mellino
16 Attorneys for CONSUMER WATCHDOG

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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 April 7, 2025, I caused service of true and correct copies of the document entitled

**CONSUMER WATCHDOG'S NOTICE OF AND MOTION IN LIMINE NO. 1 TO
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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 April 7, 2025 at Los Angeles, California.


Kaitlyn Gentile

Service List

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