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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.

28 //

1 DATED: April 7, 2025

Respectfully submitted,

2 CONSUMER WATCHDOG

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4 By: Ryan Mellino
5 Ryan Mellino
6 Attorneys for CONSUMER WATCHDOG
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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.

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

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

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

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

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

23 **CONCLUSION**

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

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


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

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

DATED: April 7, 2025

Respectfully submitted,

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