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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 OPPOSITION TO STATE FARM'S MOTION FOR PROTECTIVE ORDER

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INTRODUCTION

Public transparency is the price of admission to California's voter-mandated prior approval rate process. Proposition 103 makes that rule non-negotiable: "All information" filed in a rate case "shall be available for public inspection." (Ins. Code § 1861.07; *State Farm Mut. Auto. Ins. Co. v. Garamendi* (2004) 32 Cal.4th 1029 ["*Garamendi*"], 1043–1044.) State Farm General Insurance Company ("State Farm") seeks secrecy where Proposition 103 demands openness. It already secured an unprecedented $750 million interim rate hike without a full rate hearing, specifically conditioned on fully proving up its basis for a rate increase later. Now it seeks a permanent rate hike that would allow it to collect $1.2 billion in annual premiums from ratepayers while shielding hearing materials from public disclosure or, in the alternative, blocking discovery of materials which could be used to challenge its request for a rate increase and allow effective public participation. The law does not permit either of these alternatives. All means all. Meaningful public participation and scrutiny are paramount.

Instead, State Farm proposes an overly broad protective order adopting a seal-first, appeal-later procedure designed to delay and to erode the very transparency voters required. Its motion should be denied. If the Court grants any relief, it must be limited to allowing individual documents to be marked as confidential in discovery, with each one supported by a sufficient showing to establish some form of recognized confidentiality, and never extended to hearing exhibits admitted as evidence.

BACKGROUND FACTS

I. State Farm Secured Interim Relief on Limited Discovery, Expanded the Scope of the Hearings, and Now Seeks Further Discovery Limits

In mid-2024, following a 20% rate increase in 2023, State Farm General launched three sweeping rate applications: 30% for homeowners, 41.8% for renters and condo units, and 38% for rental dwellings. Each sought a solvency variance, also known as "Variance 6," under 10 CCR § 2644.27(f)(6). Public notice followed in early July. Consumer Watchdog quickly responded, filing petitions to intervene; the Commissioner granted those requests.

Following the Los Angeles wildfires, State Farm negotiated with the California Department of Insurance ("CDI" or "Department") for a significant interim hike in January 2025.

On February 7, 2025, State Farm and the Department signed a stipulation allowing a 21.8% increase on State Farm's homeowners coverage (15% overall for renters and condominiums and 38% overall for rental dwellings), subject to refunds with interest. Consumer Watchdog objected. The Commissioner "provisionally" approved the interim increase on March 14, 2025, subject to a hearing on the stipulated interim rates and conditioned on a full hearing. A Notice of Hearing issued days later, calling for a formal rate hearing to begin by June 1, 2025.

That hearing on the proposed interim rate increase was conducted over three days in April, at which State Farm and the Department supported the joint stipulation, and Consumer Watchdog opposed. ALJ Seligman issued a proposed decision on the interim rates on May 12, 2025. This decision approved an amended stipulation, including an overall 17% rate increase for homeowners (15% overall for renters and condo and 38% overall for rental dwelling), included a new $400 million commitment from State Farm's parent company, and sent the matter to a "full rate hearing with updated financial data."[1] State Farm, as part of the approval of the interim rate increase, stipulated that it would update its rate applications and that the final rate hearing that would determine consumer refunds would "includ[e] information regarding Applicant's concerning financial condition, the Interim Rate Request, the Updated Information, Applicant's currently in-effect rates, the preliminary information provided by Applicant regarding the devastating impacts of the Palisades/Eaton Fires on Applicant's financial condition, and Applicant's representations," which would be further examined, "reviewed and tested at [a] hearing prior to issuance of a final rate order."[2]

Following the interim rate hearing, State Farm updated and broadened its applications with first-quarter 2025 data and the addition of loss-development and confiscation variances under 10 CCR § 2644.27(f)(7) and (f)(9)—expanding both the scope of the full hearing and the discovery required.

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[1] Proposed Decision Approving Stipulation, May 12, 2025, approved and adopted May 13, 2025. ("Interim Rate Hearing Decision"), at p. 5, note 15.
[2] *Id.* at p. 6 (reciting stipulation).

II. Prior Rate Hearings Did Not Allow Protective Orders Limiting Discovery Nor The Introduction of Evidence

Stipulations in prior rate hearing proceedings were narrow, non-precedential, and often protected third parties' trade secret computer programs—not insurer documents. None supports the sweeping order State Farm now seeks. In prior rate cases, parties sometimes entered into stipulations concerning specific documents, including limited protective orders, but always with narrow scope and document-specific justification.[3] The Commissioner's 1995 rulemaking (File No. RH-339) expressly acknowledged that ALJs could issue protective orders in "appropriate circumstances," while reaffirming that protective orders are only available for documents that are "not subject to California Insurance Code section 1861.07." (Cal. Code Regs., tit. 10, § 2655.1(e).)

When State Farm pressed similar claims in a hearing on its homeowners rate application in 2015 (*In the Matter of the Rate Application of State Farm General Insurance Company*, PA-2015-00004), those arguments were tested. The parties, including the Department and Consumer Watchdog, stipulated to a protective order for discovery. But State Farm demanded that exhibits it had marked "confidential" remain sealed when introduced as evidence. The ALJ rejected that position, holding that once documents are part of the record, Insurance Code section 1861.07 governs and requires public access. (Final Rulings on Motion to Seal, Admission of Exhibits, Closing Evidentiary Hearing, and Briefing, PA-2015-00004, March 3, 2016, pp. 7–9, attached as Exh. 8 to Declaration of Benjamin Powell in Support of Consumer Watchdog's Motion to Compel Discovery Responses Against State Farm ["Powell Decl."], Aug. 20, 2025.)

State Farm's attempts to overturn the ALJ's ruling prohibiting it from concealing documents used at the rate hearing failed. In the San Diego Superior Court, State Farm argued that section 1861.07 did not apply to documents submitted in a rate hearing and that trade secret and other privileges required sealing. The court declined to adopt that reading, affirmed the

[3] State Farm now claims that documents in prior cases were "routinely sealed," yet as seen in Argument, II.C.2 below, the materials it cites show only narrow, non-precedential stipulations—mostly minor redactions or protections for third-party catastrophe models. None establishes any precedent or practice that would allow an insurer to seal its own ratemaking materials and other financial information relevant to core issues in dispute over objection.

ALJ's findings that State Farm had not established that any of the documents at issue were trade secrets, and held that other provisions of the Insurance Code, which State Farm seeks to invoke here, did not create any blanket protection for State Farm's Materials. (See Declaration of Ryan Mellino ["Mellino Decl."], Exh. F, filed concurrently herewith.)

State Farm then attempted to appeal. The Court of Appeal dismissed the case on procedural grounds, holding the appeal untimely because it was taken from the judgment rather than the underlying order. The California Supreme Court denied review. See Declaration of Vanessa O. Wells in Support of State Farm's Motion for Protective Order and motion to Compel Further Discovery from CDI, ("Wells Decl."), Aug. 20, 2025, Exh. 28 (California Supreme Court Order Denying Certiorari for Review of Case No. S259327, Jan. 29, 2020). State Farm's current attempts to attack that decision and suggest that this Court should reject the ruling are improper. (See Mot., 5:24–7:7.)

Protective orders must be carefully circumscribed. They cannot override Proposition 103's transparency command nor the need for meaningful public participation facilitated by liberal discovery. State Farm has not even come close to meeting its burden. It offers no proposed protective order, no documents, no affidavits, no specific harms—only generalities and inapposite history lessons regarding non-precedential and irrelevant stipulations from prior unrelated cases. This Court should, again, protect the voter-mandated requirements of an open hearing process and meaningful public participation made possible by liberal discovery.

ARGUMENT

I. Protective Orders Can Only Ever Apply as a Narrow Exception to Transparency

Protective orders are the exception, not the rule. The rule—set by Proposition 103—is transparency. Section 1861.07 requires that "all information" filed in a rate case be available for public inspection. Against that baseline, any protective relief must be justified by a document-specific showing of good cause. And in order for civil discovery practice to function effectively, whether in an administrative law proceeding or in the Superior Court, protective orders must remain a narrow, limited exception. California law requires such secrecy to be (1) tethered to specific documents, (2) supported by a particularized factual showing (not labels), and (3) consistent with statutory mandates—in this case, Proposition 103's transparency command.

California's trade-secret privilege is narrow and document-specific. Evidence Code section 1060 permits withholding a trade secret only when doing so "will not tend to conceal fraud or otherwise work injustice." The burden is on the proponent to prove both the trade-secret status and the absence of injustice. That burden is heavy because secrecy runs against the grain of the numerous rules and standards mandating openness. (See, e.g., Cal. Rules of Court, 2.550(c) ["Unless confidentiality is required by law, court records are presumed to be open"], rule 2.503(a) ["General right of access by the public"]; *Overstock.com, Inc. v. Goldman Sachs Grp., Inc.* (2014) 231 Cal. App. 4th 471, 483 ["Nearly all jurisdictions, including California, have long recognized a common law right of access to public documents, including court records. (See *Nixon v. Warner Communications, Inc.* (1978) 435 U.S. 589, 597 [other citations omitted].) This common law right is effectuated through a presumption of access. (*Nixon*, 435 U.S. at p. 602.) Courts balance the parties' interests; conclusory invocations of "confidential" or "proprietary" are not enough. Any protective relief must identify the documents and the concrete harms alleged. (See *Bridgestone/Firestone, Inc. v. Superior Court* (1992) 7 Cal.App.4th 1384, 1391–1395; *Calcor Space Facility, Inc. v. Superior Court* (1997) 53 Cal.App.4th 216, 221–222.)

Proposition 103 and the APA favor openness and liberal discovery. Voters mandated that "[a]ll information provided to the commissioner pursuant to this article shall be available for public inspection." (Ins. Code § 1861.07.) The California Supreme Court confirmed that "all means all." (*Garamendi*, *supra*, 32 Cal.4th at pp. 1043–1047.) Proposition 103 incorporates the Administrative Procedure Act ("APA"); discovery "shall be liberally construed," and disputes are determined by the ALJ. (Ins. Code § 1861.08(e); Gov. Code, §§ 11507.6–11507.7; 10 CCR § 2655.1(a).)

Persuasive federal authority demands specificity, not "stereotypes." While persuasive, but not controlling in this administrative context, federal courts echo the same principle: protective orders and document sealing require a "particular and specific demonstration of fact," not "stereotyped and conclusory statements." (*Kamakana v. City &*

County of Honolulu (9th Cir. 2006) 447 F.3d 1172, 1179–1180; *Foltz v. State Farm Mut. Auto. Ins. Co.* (9th Cir. 2003) 331 F.3d 1122, 1130–1136; *Phillips v. Gen. Motors Corp.* (9th Cir. 2002) 307 F.3d 1206, 1210–1211; see also *Seattle Times Co. v. Rhinehart* (1984) 467 U.S. 20, 34–37 [protective orders require good cause and narrow tailoring].) Secrecy is disfavored, transparency the default.

Past practice in rate-hearing matters confirms limited use of protective orders. In the 2015 hearing on State Farm's homeowners rate application, PA-2015-00004, the parties stipulated to a *discovery* protective order. But when State Farm sought to keep hearing exhibits sealed, the ALJ rejected that position under section 1861.07; the San Diego Superior Court declined to adopt State Farm's reading; and the Court of Appeal dismissed State Farm's later challenge as untimely. (Final Rulings on Motion to Seal, Admission of Exhibits, Closing Evidentiary Hearing, and Briefing, PA-2015-00004, March 3, 2016 [Powell Decl., Exh. 8], pp. 7–9; Mellino Decl., Exh. F; Order Denying Petition for Writ of Mandate, *State Farm v. Lara*, No. D076434, Oct. 15, 2019.) This outcome may not be State Farm's preferred result, but this does not mean the practice itself was faulty; it was consistent with well-established California and federal law and Proposition 103's transparency requirements.[4]

In short, public access is the condition for rate relief. Protective orders are allowed only as narrow carve-outs, never as the starting point. Measured against these standards, State Farm's request fails to leave the starting gate: it identifies no documents, makes no particularized showing, and asks this Court to invent a secrecy regime that Proposition 103 forbids.

II. State Farm Is Not Entitled to the Broad and Undefined Protective Order It Seeks

State Farm's motion fails on three independent grounds. First, it asks this Court to create a sweeping secrecy regime that Proposition 103 forbids. The voters mandated transparency, and

[4] Even well-regarded practice templates, like the Los Angeles Superior Court's model protective orders, available at https://www.lacourt.ca.gov/pages/lp/civil/tp/tools-for-court-users-and-attorneys/cp/model-protective-orders, likewise cabin protective orders to discovery. A protective order for discovery properly preserves objections and avoids any presumption of sealing. Under the Los Angeles Superior Court's model orders, "Confidential" and "Highly Confidential" designations are simply provisional discovery tools. The designation does not itself decide protectability—that is a matter reserved for the court on a later application.

section 1861.07 commands that all information provided in ratemaking be public. State Farm demands the opposite. In the alternative, State Farm seeks an order from this Court permitting it to withhold critical documents from discovery that could stand in the way of its request for a $1.2 billion rate increase. Neither alternative is permissible or consistent with the public participation in the rate-setting process required by Proposition 103.

Second, the motion is procedurally hollow. It identifies no specific documents, offers no proposed order, and relies on broad buzzwords and nonspecific categories—"confidential," "proprietary," "trade secret"—instead of evidence supporting specific protections for specific documents. Courts cannot grant blanket protective orders based on speculation.

Third, State Farm seeks to reopen arguments already rejected by ALJs, the Department, and the courts, now dressing them up as urgent. These claims were dead years ago. Reviving them would not only contradict established law but also skew the process in favor of a company that is delaying fire-victim claims even as it demands unprecedented rate hikes. The following sections address each defect in turn.

A. Proposition 103 Mandates Transparency; State Farm Demands Secrecy

1. In Response to an Insurance Crisis, California Voters Created a Transparent and Public Process for Pre-Approval of Insurance Rate Increases

In the mid-1980s, California was gripped by an insurance crisis, punishing consumers and businesses alike with skyrocketing premiums while insurers refused to sell coverage. "Enormous increases in the cost of insurance made it both unaffordable and unavailable to millions of Californians." (Prop. 103, § 1 Findings & Decls.) Independent studies commissioned by the Legislature[5] and state agencies[6] concluded that the threshold problem was that neither the

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[5] National Insurance Consumer Organization, "Insurance in California: A 1986 Status Report for the Assembly (October 1986), p. III-44 ["The evidence we have reviewed indicates that auto insurance information is uniquely difficult to obtain and understand."]; Appendix A [recounting the refusal of the insurance industry to cooperate with the study in disclosing data, even with protective orders]. (Mellino Decl., Exh. A.)

[6] Commission on California State Government Organization and Economy, *A Report on the Liability Insurance Crisis in the State of California* (July 1986), pp. 25–26 ["The Commissioner does not collect, nor have the authority to collect, adequate information regarding insurance rates."], 27 ["Without good information, sound decision-making is difficult . . . . Without

public nor policymakers had the ability to assess the validity of the insurance companies' rates and underwriting practices. Operating under minimal regulation and exempt from the state's antitrust, civil rights, and consumer protection laws, insurance companies were effectively unaccountable.

The California Supreme Court later described the era's "so-called 'open competition' system of regulation . . . under which 'rates [were] set by insurers without prior or subsequent approval by the Insurance Commissioner . . . .' Under that system, 'California ha[d] less regulation of insurance than any other state . . . ." (*20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216, 240, citations omitted.) Specifically, the Commissioner did not collect information regarding insurance rates before rate increases went into effect, and there was no opportunity for members of the public to participate in any regulatory process.

When the Legislature failed to act, the voters did, seeking relief through their constitutionally reserved power of initiative. They adopted Proposition 103 in November 1988, declaring that the "existing laws inadequately protect consumers and allow insurance companies to charge excessive, unjustified and arbitrary rates," that "insurance reform is necessary," and that, from here on out, "insurance rates shall be maintained at fair levels by requiring insurers to justify all future increases." (Prop. 103, § 1 Findings & Decls.) Proposition 103 thus abandoned California's laissez-faire laws and replaced them with a rigorous system of rate regulation administered by an elected Insurance Commissioner, requiring complete justification of rates that could be charged by insurers, public notice of applications to change rates, public hearings under the formal hearing provisions of the APA, and gave consumers the right to initiate or intervene in those proceedings. (Ins. Code §§ 1861.05–1861.10.)[7] These provisions were intended to restore public confidence in the insurance process by providing transparency and rigor to the rate-review process and public oversight of the Commissioner's decisions. No longer would insurers be permitted to set their own rates behind closed doors based on secret factors only known to the

adequate information, the role of the Insurance Commissioner can only be reactive."]. (Mellino Decl., Exh. B.)

[7] Subsequent statutory citations are to the Insurance Code unless otherwise noted.

insurance companies. As the Attorney General's title and summary for the proposed measure declared, Proposition 103 "[p]rovides for public disclosure of insurance company operations."[8]

2. Section 1861.07 Requires the Public Disclosure of all Materials Provided to the Commissioner as Part of a Rate Hearing—Transparency Is the Price of Admission

Section 1861.07 is categorical: "All information provided to the commissioner pursuant to this article shall be available for public inspection." This section guarantees that all information provided to the Commissioner in the ratemaking process will be available for public inspection. Rejecting a similar challenge by State Farm twenty-one years ago, the California Supreme Court ruled that, as used in this section, "all" means "all." (See *Garamendi*, *supra*, 32 Cal.4th at pp. 1043–1047. Transparency is not optional—it is required from all insurance companies who are seeking rate increases under California's prior-approval system.

The California Supreme Court has referred to section 1861.07 as a "broad disclosure mandate," finding that the "first clause broadly requires public disclosure of '*[a]ll* information provided to the commissioner pursuant to' article 10." (*Id.* at pp. 1043–1044, original italics.) This mandate is limited only by the clause "provided to the commissioner pursuant to this article." In this context, "this article" refers to article 10 of chapter 9 of part 2 of division 1 of the Insurance Code—the article that Proposition 103 added to the Insurance Code. As *Garamendi* explained, this means that "all information provided pursuant to article 10—which encompasses Insurance Code sections 1861.01 to 1861.16—is subject to public disclosure under Insurance Code section 1861.07." (*Id*. at p. 1040.) Thus, by its clear terms, section 1861.07 applies to information provided pursuant to section 1861.05, which, among other things, authorizes the Commissioner to hold a rate hearing to determine whether to approve a rate application, and to section 1861.08, which sets the procedures for such a hearing.

That baseline applies here. State Farm seeks to convert a voter-mandated rule of openness into an insurer-controlled option of secrecy by drawing a distinction between information submitted to the Commissioner "as part of the rate making process" and the "rate hearing,"

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[8] Cal. Atty. Gen. Title & Summary for Initiative Petition (Jan. 11, 1988). (Mellino Decl., Exh. C.)

arguing that section 1861.07 does not apply to the latter. (See Mot., 14:13–22.) This argument ignores the clear and unambiguous statutory language of section 1861.07 which, as explained above, applies to sections 1861.01 through 1861.16 of the Insurance Code, including those sections addressing rate hearings.

In making its argument, State Farm relies on *Garamendi*, but that case directly supports Consumer Watchdog's position that this information must be made public—it offers no support whatsoever for State Farm's position. In that case, State Farm was required by a regulation adopted under Proposition 103 to submit to the Commissioner certain data, known as "record A data," relating to potential redlining practices. (*Id.* at pp. 1035–1036.) The Commissioner released the record A data to a third party pursuant to a records request, and State Farm sued, claiming that its data are "proprietary in nature" and constitute "trade secret material" that are privileged and exempt from the disclosure mandate of section 1861.07. (*Id.* at pp. 1037–1038.) In rejecting State Farm's argument, the court found that "the drafters [of Proposition 103] established a public hearing process for reviewing insurance rate changes" in order to "enable consumers to permanently unite to fight against insurance abuse." (*Id*. at p. 1045, quotations and citations omitted.) Recognizing the goal of Proposition 103 "to encourage public participation in the rate-setting process," the Court held that "State Farm may not invoke the trade secret privilege to prevent disclosure of its record A data under Insurance Code section 1861.07." (*Id.* at pp. 1046–1047.)[9]

State Farm wrongly asserts that the Court "made clear, 'insurers may . . . prevent disclosure of trade secret information' in a rate hearing, as long as that information has not already been 'provided to the Commissioner.'" (Mot., 14:18–21, quoting *Garamendi*, *supra*, 32

[9] *Garamendi* also rejected State Farm's argument that the second clause of section 1861.07, which states that two specific statutory exemptions from disclosure do not apply, left intact other exemptions from disclosure under the Public Records Act, such as Government Code section 6254(k), which exempts trade secret information. (*Id*. at p. 1042.) The court held that, given the inclusive language used in the first clause, those two exemptions "are meant to be examples rather than an exhaustive listing of all those statutory exemptions that are inapplicable." (*Id*. at p. 1045.) "[T]he language of Insurance Code section 1861.07, when viewed in context, is not ambiguous and, by its terms, requires public disclosure of [State Farm's purported trade secret information]." (*Id*. at p. 1046.)

Cal.4th at p. 1047). And that section 1861.07 “does *not* apply in a *rate hearing*, where insurers are permitted ‘to involve the privilege’ of protection of trade secrets ‘in response to a request for information in a public rate hearing.’” (Mot., 14:16–18, quoting *Garamendi*, *supra*, 32 Cal.4th at p. 1047). In fact, the snippets of the Court’s opinion quoted and relied upon by State Farm were part of a larger discussion by the Court of the interplay between section 1861.07 and the trade secret privilege. In this discussion, the Court concluded that “trade secret information is . . . not exempt from disclosure” under section 1861.07, that insurers are precluded “from invoking the trade secret privilege after they have already submitted trade secret information to the Commissioner,” and that insurers are permitted to “invoke the [trade secret] privilege in response to a request for information in a public rate hearing.” (*Garamendi*, *supra*, 32 Cal.4th at p. 1046.) This latter quote merely holds that an insurer retains the ability to assert a valid trade secret privilege in the rate making process such that it may invoke that privilege in response to a request for information if it is properly raised based on a valid and established trade secret claim. It does not hold, and cannot plausibly be read to hold, that a trade secret may be submitted in evidence in a rate proceeding and yet not publicly disclosed. As the Court explained, “[g]iven that article 10 seeks to encourage public participation in the rate-setting process [ ], precluding insurers from withholding trade secret information already provided to the Commissioner because of its relevance under article 10 [ ] is certainly reasonable.” (*Id.*, internal citations omitted.) Information must still be produced in discovery, even if a party claims it is a trade secret; but unless that information is later submitted to the Commissioner as part of the hearing record, there is no requirement that it be made public. The Court was categorically not tacitly creating an exception to section 1861.07 under which an insurer can submit information to the Commissioner at a rate hearing and then prevent its public disclosure on the basis that it is a trade secret.

During the State Farm 2015 rate proceedings, CDI acknowledged the California Supreme Court’s holding in *Garamendi* and took the precise position now taken by Consumer Watchdog and contested by State Farm. Counsel for CDI, Ms. McKennedy, explained:

> As a general matter, the Department is not going to stipulate to some sort of permanent confidentiality of any materials. We do think that Insurance Code

> Section 1861.07 would govern, which requires - - we believe it requires public disclosure of those materials that are relied upon in a rate hearing such as this one.
>
> . . .
>
> . . . I don't believe that we think that anything we could stipulate to would overcome the requirements of public disclosure, under 1861.07, in the California Supreme court in the State Farm versus Garamendi case.

(Transcript of Hearing on Motion to Compel, PA-2015-0004 (Sept. 29, 2015), 2:25–13:6, 13:21–25.) And, when State Farm sought to overturn the ALJ's ruling prohibiting it from concealing documents used at the rate hearing on its 2015 rate increases, the Commissioner made clear: "the Commissioner's regulations governing rate hearings confirm that section 1861.07 demands the information provided to the Commissioner be made available for public inspection." (See *State Farm Gen. Ins. Co. v. Jones*, Super. Ct. San Diego County, Case No. 37-2016-00041469 [Commissioner's Responsive Brief (Phase 2)], 17:14–25.) And he flatly rejected State Farm's contention that the Commissioner had "consistently recognized that proprietary and confidential information *can* be sealed in the rate hearing record," stating "[n]ow, as always, the Commissioner upholds his obligation under section 1861.07 of disclosing all of the information provided to him in setting insurance rates." (*Id.* at 22:27–23:20.)

Seeking to cast doubt on CDI's consistent position on this issue, State Farm reaches back to comments submitted during the rulemaking proceedings for 10 CCR § 2655.1(e). (See Mot., 1:11–2:15.) But section 2655.1 applies to discovery, rather than rate hearings themselves. And it clearly and explicitly distinguishes between an ALJ's ability to issue protective orders regarding discovery and protective orders regarding documents subject to section 1861.07; that is, documents submitted in a rate hearing. It provides, in pertinent part:

> Nothing in this section shall prohibit the administrative law judge, in appropriate circumstances, from ordering in camera inspection of documents or entering a protective order for documents not subject to California Insurance Code section 1861.07.

(10 CCR § 2655.1, subd. (e).) State Farm suggests that it was somehow assured that this language does not mean what it plainly means. While the Commissioner's Response to Comments cited by State Farm, albeit not a model of clarity, recognizes that an ALJ can issue protective orders, it "also recognizes the <u>requirement</u> of Proposition 103 that rate information is

public information." (Mot., 2:5–10.) The statute leaves no room for State Farm's interpretation: public access is the condition for rate relief. All means all.

3. No Other Provisions of the Insurance Code Could Override Proposition 103 or Exempt State Farm's Compliance with Section 1861.07

Ignoring the plain language of Proposition 103 and section 1861.07, State Farm suggests that certain other sections of the Insurance Code "operate to protect State Farm General's right to keep its information confidential." (Mot., 7:22–23.) It even offers an "illustrative" chart of "code protections for trade secret and other kinds of privileged information." (See Mot., Chart at 8:12–12:27.) This is not a new argument. This is the same argument State Farm has already lost as part of its 2015 rate hearing before the Department, and in the San Diego Superior Court.

a. The Insurance Code Sections Cited by State Farm Cannot Override Proposition 103

Even if there were provisions of the Insurance Code which could be read to preclude disclosure of information required to be made public pursuant to Proposition 103, it would be the public disclosure mandate set forth in the voter-approved initiative statute, not subsequent laws enacted by the Legislature, that would control. To the extent any provisions were enacted prior to Proposition 103, they were repealed by implication by that Proposition. And to the extent they were enacted after the passage of Proposition 103, they are void as illegal amendments to Proposition 103 to the extent they are interpreted to override it. "When a statute enacted by the initiative process is involved, the Legislature may amend it only if the voters specifically gave the Legislature that power, and then only upon whatever conditions the voters attached to the Legislature's amendatory powers." (*Proposition 103 Enforcement Project v. Quackenbush* (1998) 64 Cal.App.4th 1473, 1483–1484 ["*Proposition 103"*], citing Cal. Const., art. II, § 10(c).) This is a constitutional limitation that is designed to "protect the people's initiative powers by precluding the Legislature from undoing what the people have done, without the electorate's consent." (*Id.* at p. 1484.) Proposition 103 explicitly provides that "[t]he provisions of this act shall not be amended by the Legislature except to further its purposes . . . ." (Prop. 103, § 8(d).) "The voters thereby made the Legislature's authority to amend Proposition 103 subject to the condition that any amendment must further the purposes of Proposition 103." (*Foundation for Taxpayer and Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th 1354, 1365 ["*FTCR*"].) State Farm has not explained how the various confidentiality provisions it cites could be interpreted to further the purposes of Proposition 103 when they would in fact, if read in the way State Farm proposes, demonstrably narrow the scope of section 1861.07. As *Garamendi* recognized, a key purpose of Proposition 103 was "fostering consumer participation in the rate-setting process." (*Supra*, 32 Cal.4th at p. 1045.) This purpose, the court found, is furthered "[b]y giving the public access to all information provided to the Commissioner pursuant to article 10—which was enacted by Proposition 103" and by "precluding insurers from withholding trade secret information already provided to the Commissioner because of its relevance under article 10." (*Id*. at pp. 1045–1046.).

b. None of the Sections Cited by State Farm Apply to the Materials at Issue

State Farm, again, loosely invokes "trade secrets and other types of privileged information," pointing to various scattered Insurance Code provisions to attempt to construct a shield for the documents it wants to withhold. (Mot. at 8:9–11; Chart at 8:12–12:6.) But, even setting aside the preclusive power of Proposition 103's public disclosure mandate, none of the sections cited by State Farm, individually or collectively, confer the protections it seeks, and none provide a lawful basis to block discovery here.

State Farm's motion never connects these provisions to the specific information Consumer Watchdog seeks. Instead, it gestures broadly, as if a general reference to "privileged information" could override Proposition 103's transparency mandate. That is not the law. We address each cited section below.

i. Own Risk and Solvency Assessment (ORSA) Law

<u>*Ins. Code §§ 935.1(a)–(b), 935.8(a), (e)*</u>

State Farm contends the ORSA law provides protection from disclosure that overrides section 1861.07. (Mot., Chart at 8:12–9:26.) Not so, and as discussed in Consumer Watchdog's Motion to Compel, the ALJ in the 2015 State Farm rate hearing and the San Diego Superior Court rejected this argument. (Consumer Watchdog's Mot. to Compel, 9:26–10:23; Powell

Decl., Exh. 8 and Mellino Decl., Exh F.) Its chart even omits critical language—an unfortunate, and perhaps strategic, ellipsis—and, in doing so, it hides the statute's limits. ORSA confidentiality applies only to information "obtained by, created by, or disclosed to the commissioner or any other person *under this article*." (§ 935.8(a), italics added.) The "article" referred to in section 935.8(a) is Article 10.6 of Chapter 1 of Part 2 of Division 1 of the Insurance Code; ORSA itself. Thus, ORSA confidentiality provisions restrict the Commissioner from making public documents that are obtained or disclosed pursuant to ORSA and that protection applies only to "any private civil action" (§ 935.8(a)), not administrative proceedings. (See Mellino Decl., Exh. F, p. 3; Powell Decl., Exh. 8, p. 10.) The statutes do not broadly apply to any documents sought or produced in discovery in a Proposition 103 rate-setting proceeding—created and controlled by an entirely distinct article (Article 10 of Chapter 9 of Part 2 of Division 1), nor could they apply to preclude their production in Proposition 103's "liberally construe[d]" discovery. (Ins. Code § 1861.08(e).)

Nor does ORSA's general declaration that these records "will include proprietary and trade secret information" (section 935.1(b)) preclude their discovery under Proposition 103; as *Garamendi* held, "trade secret information is . . . not exempt from disclosure" under section 1861.07. (*Supra*, 32 Cal.4th at p. 1047.)

Moreover, there is nothing absolute about ORSA confidentiality. Even if the unidentified materials State Farm hopes to shield actually were ORSA documents, which they are not, the law does not provide blanket secrecy or a privilege running to the insurer. As the Superior Court recognized in rejecting State Farm's attempt to seal documents in its 2015 rate proceedings, "this provision merely *recognizes* protections; it does not create a privilege." (Mellino Decl., Exh F, p. 2, original italics; see also Powell Decl., Exh. 8, pp. 9–11.) Section 935.8(a) provides that ORSA documents "shall not be subject to subpoena or discovery, or admissible in evidence, in any private civil action." But as the Superior Court acknowledged, a "rate hearing [is] an administrative proceeding, not a private civil action." (Mellino Decl., Exh. F, p. 3.) And section 935.8(a) authorizes the Commissioner to "use" ORSA documents "in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties" and then states that the "commissioner shall not *otherwise* make those documents, materials, or other information public without the prior written consent of the insurer." (§ 935.8(a), italics added.) A Proposition 103 rate proceeding is precisely such a regulatory action noticed and brought as part of the Commissioner's official duties. So even if the documents State Farm seeks to shield were ORSA documents, it is no obstacle to the production and use of ORSA materials, nor could it be, consistent with section 1861.07, in this rate hearing. (See Mellino Decl., Exh. F, pp. 2–3.)

In short, ORSA's confidentiality provisions cannot and do not override Proposition 103. They regulate the Commissioner's custody of ORSA-specific filings, while carving out regulatory actions like this rate hearing for disclosures of those documents. ORSA categorically does not give State Farm a shield against discovery nor act to restrict public access in a rate case.

ii. Holding Company Act

<u>Ins. Code § 1215.8(a), (d)</u>

State Farm next invokes the Holding Company Act's confidentiality provisions. (Mot., Chart at 9:26–11:6.) Like ORSA, this argument misfires. Similar to the confidentiality protections of the ORSA law, the protections of the Holding Company Act refer only to information obtained or disclosed pursuant to the Act, and not to information provided pursuant to Proposition 103. Section 1215.8(a) narrowly applies confidentiality protection when materials are "obtained by or disclosed to the commissioner or any other person *in the course of an examination or investigation* made pursuant to Section 1215.4, 1215.5, 1215.6, or 1215.75" or are "reported or provided *pursuant to* Section 1215.4, 1215.5, 1215.6, or 1215.75." (Italics added.) In other words, confidentiality applies only to documents provided either (i) in the course of an examination or investigation under the Holding Company Act, or (ii) pursuant to one of the four specified sections of the Act. Moreover, section 1215.8, like the ORSA statute, narrowly applies to restrict the disclosure of such information from being discoverable or admissible *in private civil actions*. (Ins. Code § 1215.8(a).) It has no application to materials produced through discovery in a Proposition 103 rate case. (See Mellino Decl., Exh. F, p. 3; see also Powell Decl., Exh. 8, pp. 11–12.)

Here, State Farm seeks a protective order which would apply to information that would be obtained directly from State Farm through discovery and provided to an intervenor or the Department pursuant to Proposition 103. This information is therefore subject to section 1861.07's public disclosure mandate. Section 1215.8's confidentiality simply does not apply here.

The legislative history confirms that Holding Company Act confidentiality is of "limited effect" and does not affect whether information can be obtained through discovery and admitted into evidence in unrelated proceedings:

> *Limited effect.* This bill does not preclude a court from considering a discovery request by a party seeking information from an insurer, nor does it affect the admissibility of that information should it be obtained through discovery from the insurer. Rather, it simply provides that if confidential information is provided to the commissioner, it is not obtainable from the commissioner.

(Assem. Floor Analysis on Assem. Bill No. 1234 (2013-2014 Reg. Sess.) August 19, 2014, p. 2; Mellino Decl., Ex. D.) This makes clear that section 1215.8 does not provide absolute protection to these documents, but rather only prevents the Commissioner from releasing documents to the extent they are in the Commissioner's possession because they were disclosed to the Commissioner pursuant to the Holding Company Act, and only in private civil actions.

Even this narrow protection, like ORSA, is again not absolute. Section 1215.8(a) explicitly authorizes the Commissioner to publicly disclose any and all such information if the Commissioner "determine[s] that the interest of policyholders, shareholders, or the public will be served by the publication thereof . . . ." Thus, even if the confidentiality provision of the Holding Company Act applied here, and it does not, section 1218.5 would permit the Commissioner to make all of this information available in the public interest.

In short, section 1215.8 limits only what the Commissioner can release from his own files. It does not shield State Farm from producing documents in discovery in matters unrelated to Holding Company Act investigations and examinations, and it cannot justify a blanket protective order in a Proposition 103 proceeding.

iii. Other Sections

The other Insurance Code sections cited by State Farm offer no greater support for its position. (Mot., Chart at 11:6–12:6.) *Ins. Code §§ 923.6 subdivisions (a) and (f)(1),* similarly to the confidentiality provisions of the ORSA law and the Holding Company Act, addresses information provided to the Commissioner pursuant to a provision of the Insurance Code entirely distinct and separate from those created by Proposition 103, and places limits, with considerable exceptions, on the Commissioner's disclosure of that information. Section 923.6(a) requires "[e]very admitted property and casualty insurer, unless otherwise exempted by the domiciliary commissioner, [to] annually submit the opinion of an Appointed Actuary entitled 'Statement of Actuarial Opinion.'" Section 923.6(b) also requires those insurers required to submit a Statement of Actuarial Opinion to "annually submit an Actuarial Opinion Summary, written by the insurer's Appointed Actuary." And section 923.6(d) requires that an "Actuarial Report and underlying workpapers . . . shall be prepared to support each Actuarial Opinion," and contemplates that these documents may be requested by the Commissioner. Section 923.6(f)(1), upon which State Farm relies, provides:

> Documents, materials, or other information in the possession or control of the commissioner that are considered an Actuarial Report, workpapers, or Actuarial Opinion Summary provided in support of the Statement of Actuarial Opinion, and any other material provided by the insurer to the commissioner in connection with the Actuarial Report, workpapers, or Actuarial Opinion Summary shall be confidential by law and privileged, shall not be made public by the commissioner or any other person and are exempt from the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any civil action brought by a private party.

Thus, section 923.6(f)(1) only addresses information and documents provided to the Commissioner pursuant to section 923.6, subdivisions (a), (b), and (d), and "any other material provided by the insurer to the commissioner in connection" with that information and those documents. Moreover, it applies only to limit the disclosure of that information by the commissioner. It does not apply to the discovery process relating to a rate-setting hearing, or to any information provided to the Commissioner pursuant to Proposition 103.

Finally, State Farm cites *Ins. Code § 936.1(b)*, which merely constitutes an acknowledgement that Corporate Governance Annual Disclosures ("CAGD"s)—required to be annually submitted to the commissioner by insurers—"will contain confidential and sensitive information related to an insurer or insurance group's internal operations and proprietary and trade secret information that, if made public, could potentially cause the insurer or insurance group competitive harm or disadvantage." (Mot., Chart at 11:23–12:6.) It does not offer any protection to CAGDs or describe how they must be treated by the Commissioner.

4. State Farm's Arguments Regarding Other Provisions Purportedly Protecting "Statutory Privileges" in Administrative Hearings Are Irrelevant

Because State Farm has failed to identify any "statutory privileges" that apply to the documents it seeks to cover in the vague and broad proposed protective order, its arguments regarding the effect of Evidence Code section 910 and Government Code sections 11513(e) and 11507.6(f) are irrelevant. (Mot., 12:28–13:23.) Their combined effect, if any, on the rate-setting process is to establish that privileges such as the attorney-client privilege or the mediation privilege and attorney work-product protections apply. But this simply does not apply to the issue of whether information submitted to the Commissioner during a rate hearing must be open to the public or whether Consumer Watchdog is entitled to non-privileged documents and information during discovery as part of the rate-setting process.

5. Illinois Statutes, Regulations, and Regulators Do Not Apply Here and Cannot Override Proposition 103

In its "illustrative" chart of statutory provisions, State Farm even includes a column of Illinois code sections. (Mot., Chart at 8:12–12:27.) It never explains why. It does not argue that these out-of-state statutes somehow control these proceedings. It does not even argue that these foreign statutes are somehow persuasive as argument; they are not. State Farm does not claim that they are relevant or somehow apply to prevent the discovery of relevant information by Consumer Watchdog in this California rate-setting proceeding, or to restrict public access under Proposition 103, and they plainly could not. We could conceivably expand this chart to a 50-state survey of insurance law confidentiality provisions worthy of a law review article. But only the California column of that chart could potentially be relevant in this California proceeding.

To be clear, there is no authority that any Illinois statute (or any other state) could control discovery or public access in a California rate hearing under Proposition 103. These provisions are irrelevant to the question before this Court and cannot support State Farm's proposed protective order.

6. State Farm Has No Due Process Right to an Exemption from Section 1861.07's Public Disclosure Mandate

State Farm attempts to recast due process as a right to secrecy. (Mot., 18:14–20:11.) That is the same argument it made in 2018, which the courts rejected, and it is still wrong today. Due process guarantees fairness; it does not erase a voter-enacted command of transparency.

In reprising its unsuccessful argument, State Farm relies on *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178, which *upheld* the right of public access and *rejected* a litigant's claim that due process required the closure of the trial, and California Rules of Court which, by their own terms, do not apply to administrative proceedings, Cal. Rules of Court, rule 2.2. *NBC Subsidiary* protects the public's right of access to judicial records. It does not create an insurer's right to seal its ratemaking evidence. More importantly, the balance has already been struck: the voters chose transparency in Proposition 103.

In *NBC Subsidiary*, a television station successfully appealed the trial court's order barring the public from proceedings in a civil trial when the jury was absent and sealing the transcripts of the closed proceedings to avoid the jury seeing excluded evidence. (*Supra*, 20 Cal. 4th at pp. 1183–84.) The Supreme Court held that the public's First Amendment right of access superseded the parties' concerns about jury prejudice and personal privacy. Contrary to State Farm's assertions (Mot., 19:7–11), the Supreme Court did *not* "make clear" that "the right of public access to ordinary civil proceedings yields to litigants' due process rights to present confidential (sealed) evidence." The Court did, however, recognize that the public's First Amendment right of access can be balanced against other legally cognizable interests. But here, State Farm's trade secret claim *was* balanced against the public right of access—by the voters in enacting Proposition 103. Section 1861.07 represents a categorical determination by the voters that it would be unjust to permit an insurer to increase its rates on the basis of secret information, even if that information is alleged to be a trade secret (or somehow "confidential" or "proprietary" or fitting any other term connoting privacy). Neither an administrative agency nor a court is entitled to rebalance those interests.

The California Rules of Court cited by State Farm (Mot., 19:12–21) also do not override section 1861.07 because, by their terms, they do not apply to administrative proceedings. (Cal. Rules of Court, rule 2.2.) In any event, the rules would require, among other things, an explicit finding of an "overriding interest that overcomes the right of public access to the record" in order to seal a record. (*Id.*, rule 2.550(d).) But this simply brings us full circle back to the fact that the voters have already balanced the interests in favor of full disclosure. Their decision must be respected.

State Farm suggests that it faces an unnecessary and intolerable Hobson's choice under which it is "legally compelled to give up its right to trade secrets and highly sensitive business and financial records as the price of admission to the hearing room." (Mot., 19:25–26.) This is hyperbole. State Farm has complete control over the variances it chooses to seek, and, thus, many of the subjects it places at issue in rate setting proceedings. What it cannot do is insist that this Court issue a broad protective order permitting State Farm to ignore the clear public disclosure mandate of Proposition 103 as expressed in section 1861.07. To accept State Farm's argument would be to re-balance what the electorate settled—replacing transparency as the price of admission with secrecy as the default. No rate hike can rest on hidden evidence. Transparency is not a burden; it is the baseline that makes prior approval legitimate.

B. State Farm Proposes a Sweeping, Vague Exception to Section 1861.07 That Would Undermine Proposition 103 and Cripple Public Oversight

State Farm proposes a sweeping, ill-defined exception to section 1861.07's clear mandate that would gut Proposition 103's requirement of meaningful public participation and insurer accountability in the rate pre-approval process. (Mot., 7:13-15.) This argument strikes at the core of Proposition 103's consumer protections.

1. State Farm Offers Only the Vaguest Sketch of a Protective Order Covering an Undefined Swathe of Documents and Information

State Farm specially requested this briefing, on this schedule, at this time in the hearing proceedings, specifically so it could seek a protective order. (Transcript of July 16, 2025 Prehearing Status Conference, 15:21–16:20; 26:4–28:12.) Yet the motion it filed is not how protective-order issues are properly raised, and only demonstrates why this process cannot work in a vacuum, untethered from specific documents or privilege claims.

Instead of following the proper procedure and presenting a concrete order that the Court and parties could analyze, State Farm offers only the vaguest outline. It seeks unilateral authority to designate "confidential and statutorily privileged documents" to remain sealed indefinitely, "regardless of whether these documents are submitted as evidence in this rate hearing proceeding." (Mot., 7:10–15.) It piles on broad, elastic labels such as "confidential," "proprietary," "trade secret," and "statutorily-protected," without proposing precisely how each type of information should be defined, let alone treated, instead stating that a protective order should "provide[] for the sealing" of such information. (Mot., 2:28–3:3.) State Farm also fails to describe in detail the information it seeks to protect, instead including an "illustrative" but not "exhaustive" list of <u>categories</u> of information, essentially offering a moving target. (Mot., 8:12–12:27.) On this basis alone, the ALJ should decline to issue the requested protective order. There is simply nothing substantive to evaluate—State Farm asked for this issue to be determined now, and there is no proposed protective order, no identified documents—only an "illustrative" sketch.

At its own request and insistence, this motion was State Farm's opportunity to identify specific discovery materials it claims are trade secrets and to justify protection. It has not met that burden. Instead, it has proposed a seal-first, appeal-later process designed to prolong these proceedings. The Court should reject that approach and deny State Farm any further opportunity to re-raise these arguments.

2. State Farm's Proposed New Procedure Has No Basis in Law or Practice

In seeking its general and undefined protective order, State Farm proposes a seal-first, appeal-later regime that would invert Proposition 103. Instead of transparency as the rule, secrecy would become the starting point. Under State Farm's approach, an applicant could designate any material "confidential," secure automatic sealing, and then trigger multiple layers of review and appeal. That structure is designed for delay, not openness.

State Farm is asking this Court to invent a new, multi-step procedure, never contemplated by Proposition 103, the APA, nor any other rate case. Under its proposal, State Farm would unilaterally designate documents as "confidential," place them under seal, and control what the public can see. (Mot., 15:3–9.) If an intervenor or the Department objected, the ALJ would review the documents, and, if the ALJ ordered disclosure, State Farm would then be permitted to appeal—to the Commissioner and then the courts—before releasing a single page to the public.

The last time State Farm litigated a rate case protective-order/sealing issue, it drove more than four years of proceedings before resolution. (See Mellino Decl., Exh. E, State Farm General Insurance Company's Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief, Nov. 23, 2016, pp. 17–20; Wells Decl., Exh. 28, California Supreme Court Order Denying Certiorari for Review of Case No. S259327, Jan. 29, 2020.) This proposal invites the same slow-rolling outcome. And every month that passes benefits State Farm: in an inflationary environment, as time passes, the chance that State Farm's "true rate indication" will eventually climb toward the interim 17% level increases, reducing or eliminating any refund consumers might otherwise receive. This is not a good-faith protective-order process proposal; it is a tactic to run out the clock and tilt the process in State Farm's favor at the expense of California consumers.

Transparency is the condition for rate relief. Proposition 103 does not tolerate higher rates collected on evidence locked behind years of sealing disputes. The law requires open hearings, not shadow proceedings. State Farm's proposed procedure would erode the very transparency the voters demanded as a requirement to have a rate increase considered.

C. State Farm's Arguments Challenging the Public Disclosure Mandate of Section 1861.07 Have Already Been Rejected

1. State Farm's Arguments Failed Before an ALJ and the Courts

State Farm now seeks to reopen arguments that have already failed before an ALJ and the California courts. As described above (see *ante* Background Facts, § II), in a hearing on its 2015 rate application, State Farm demanded that exhibits it had marked "confidential" remain sealed when introduced as evidence. The ALJ rejected that position, holding that once documents are part of the record, Insurance Code section 1861.07 governs and requires public access. State Farm's attempts to overturn the ALJ's ruling prohibiting it from concealing documents used at the rate hearing failed. In the San Diego Superior Court, State Farm argued that section 1861.07 did not apply to documents submitted in a rate hearing and that trade secret and other privileges required sealing. The court declined to adopt that reading, affirmed the ALJ's findings that State Farm had not established that any of the documents at issue were trade secrets, and held that other provisions of the Insurance Code, which State Farm seeks to invoke here, did not create any blanket protection for State Farm's materials. (See Mellino Decl., Exh. F.)

2. What Happened in Prior Rate Cases on Unrelated Documents Is Irrelevant Here

State Farm asserts that prior to 2015, "[d]ocuments were routinely sealed in rate hearing proceedings." (Mot., 4:22.) The record shows the opposite. But even if it were true, that claim cannot counter the mandate of section 1861.07; documents provided to the Commissioner in rate hearing proceedings cannot be sealed. Regardless, none of the seven proceedings cited by State Farm, *see* Wells Decl., ¶ 7, Exhs. 4–6, 8–14, involved a contested motion equivalent to the current motion for a protective order. They do not even establish a practice of blanket protective orders in rate hearings (even if in violation of section 1861.07). The examples it cites were narrow, non-precedential stipulations—often protecting a third-party catastrophe model or redacting lines from a single document or two. Transparency remained the rule.

Importantly, none of the documents cited by State Farm carry precedential weight relevant to the instant proceedings. Government Code section 11425.60(a) states: "A decision may not be expressly relied on as a precedent unless it is designated as a precedent decision by the agency." Department of Insurance regulations echo that limitation: "Stipulations shall be limited to the issues in the proceeding and shall have no precedential value for future proceedings." (10 CCR § 2656.1, subd. (d).) Likewise, the ALJ's adoption of a stipulation "does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding." (10 CCR § 2656.3, subd. (a).) Thus, only one of the stipulations, decisions, or orders offered by State Farm carries any precedential weight whatsoever. To be clear, State Farm's reference to prior stipulations cannot be considered as precedent here, nor somehow bind the parties. Indeed, State Farm is violating the terms it agreed to in one of the prior stipulations it cites by asking this court to assign precedential value to a stipulation about which it specifically agreed (and the court ordered) "**Nothing** . . . **should be considered precedential in any other proceeding**." (See Wells Decl., Exh. 4, emphasis added.) Even Exhibit 9—the only decision State Farm points to with some designated precedential value—undercuts its argument. The portions of the decision that were designated as precedential explicitly exclude the portion addressing "confidential material" and the parties' stipulated protective order relating to that material. (See Wells Decl., Exh. 9.)

At most, these exhibits show that protective orders have sometimes been stipulated to in limited contexts.[10] But even if State Farm could rely upon a handful of decades-old non-precedential stipulations and non-contested orders to support its claim (contrary to the clear ruling in *Garamendi*) that documents in rate proceedings have been "routinely sealed," the documents cited do not establish a practice, let alone a rule, supporting the ability of an applicant to unilaterally seal its own materials in a contested rate-setting hearing.

State Farm relies on its attorney's declaration claiming that she "found sealing orders (or evidence of sealing orders) in seven [Proposition 103 prior approval cases that had gone all the way through decision]." (Wells Decl. at p. 4:16–20.) But a review of the exhibits offered with her declaration reveals that they do not, in fact, support State Farm's position. (Wells Decl. at pp. 2–4.) Exhibit 4, for example, is described by State Farm as one of the documents that constitutes a "sealing order[ ] (or evidence of sealing orders)," but it is, instead, simply a stipulation where the parties agreed to seek ALJ approval before seeking to admit a limited set of "Underwriting Rule Documents" in the relevant proceeding. The word "seal" does not even appear in the document at all. (Wells Decl., Exh. 4 [File Nos. PA-93-0014-00; PA-93-0015-00;

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[10] And Consumer Watchdog has repeatedly told the parties and the Court that it is willing to negotiate on limited protections for discovery purposes in this matter. (See P. Pressley Email RE: Stipulated Protective Order, June 25, 2025; Transcript of July 16, 2025 Prehearing Status Conference, pp. 22–23.)

PA-93-0017-00; PA-93-0014-0A; PA-93-0014-0B; PA-93-0018-00].) Similarly, State Farm offers Exhibit 10 on this same point, but that document, from the Allstate proceedings of 2007, is also merely a stipulation where the parties agreed to keep certain documents confidential in discovery—not an order approving the sealing of particular documents in a Proposition 103 proceeding. (Wells Dec. Exh. 10 [File No. PA-2007-0004].) That stipulation also makes it clear that any confidential designation made can be challenged and that any party making a designation has an obligation to prove it. (*Id*. at p. 5.)

Many of the exhibits that were subject to a stipulation in a prior case that State Farm relies upon as alleged precedent, are irrelevant on another ground: they address the ability of a third-party non-insurance company to avoid public disclosure of its proprietary computer model. To be clear, they did not give insurers who were seeking a rate increase the ability to seal any of their own allegedly "proprietary," "confidential," or "trade secret" documents. One non-precedential stipulation, for example, was between State Farm and other parties and allowed a third-party non-insurance company to keep its proprietary computer model—but not the non-confidential output from that model—from being disclosed. (Wells Decl., Exh. 5 [Confidentiality Order Regarding RMS Trade Secrets], Exh. 6 [general stipulation regarding production of discovery] (File No. PA-95-0055-00).) Similarly, State Farm submits an order from Safeco's 2006 rate hearing which required the parties to meet and confer to determine how to address a proprietary RMS computer model to protect this third-party model from disclosure (Wells Decl., Exh. 9 at p. 10 [discussing this matter in the non-precedential portion of the order] (File No. PA-04-041210).) Put simply, the non-precedential treatment of the proprietary details of a third party's computer model addressed in both of these matters does nothing to support State Farm's argument that it, as an insurer, should be able to hide its own financial and actuarial information directly relevant to issues in this Proposition 103 hearing from the public.

Several of the stipulated orders State Farm relies on are primarily concerned with stipulated redactions involving portions of a minuscule number of documents, as opposed to the complete sealing of documents as suggested in State Farm's briefing. For example, an order from the Mercury rate proceeding in 2013 involved uncontested redactions to portions of a single document. (Wells Decl., Exh. 14 at p. 2 (Case No. PA-2013-00004).) Similarly, the Mercury stipulation and order from 2012 involves an agreement to a partial redaction of only a single document. (Wells Decl., Exh. 12 (Stipulation and Order Sealing Exhibit 67) and Exh. 13 (Motion to Seal Exh. 67) (Case No. PA-2009-00009).) And the 2008 American Automobile Insurance Company matter involves an order concerning only two redacted documents (and related testimony) and was issued *following a hearing on a stipulated and unopposed motion*. (Wells Decl., Exh. 11 (File No. PA-2007-00019).)

In short, State Farm has not identified or established any precedent or even long-standing practice of an insurer being able to permanently seal documents from public disclosure over objections. Its bold statement that "sealing of confidential information placed on the record should . . . be a matter of routine," (Mot., 2:11–15.) is, then, contradicted by the clear mandate of section 1861.07 and unsupported even by the exemplars of non-precedential past stipulations and stipulated orders it, itself, hand-selected. And, to reiterate, as discussed above, when this issue was contested in the 2015 rate hearing and subsequent litigation, State Farm's arguments in this regard were rejected.

Proposition 103 makes openness the baseline. At most, past cases reflect limited carve-outs; none supports State Farm's attempt to turn secrecy into the default. Transparency is, and has always been, a requirement to justify seeking to charge California consumers rate increases.

D. State Farm's "Alternative" Request for a Protective Order Permitting It to Withhold Broad Categories of Information Is Equally Unsupported

As a fallback, State Farm suggests that this Court should go further still and simply order that it is not required to disclose its "confidential, trade-secret, and/or statutorily protected information." (Mot., 16:6–8.) Consumer Watchdog understands this to mean State Farm could bar discovery of anything it unilaterally labels with those broad, undefined terms, allowing State Farm to supplant the ALJ in determining the scope of discovery with respect to these documents, contrary to section 1861.08(e) which provides: "Discovery shall be liberally construed and disputes determined by the administrative law judge." State Farm's request is sweeping, vague, and contrary to the law.

1. State Farm Offers No Authority for a Broad Protective Order Placing Unjustified Limits on Discovery

State Farm offers no authority for the novel suggestion that it should be allowed to unilaterally limit discovery. In Proposition 103 proceedings, meaningful public participation depends on robust discovery. Consumer intervenors begin at a steep information disadvantage compared to insurers—and often even compared to the Department—so full access is essential. Proposition 103, its regulations, and the Government Code all support that breadth. Proposition 103 requires that "[d]iscovery shall be liberally construed." (Section 1861.08, subd. (e).) Government Code section 11513 provides a broad standard for admissible evidence that is applicable to these types of administrative hearings. It provides that "Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions." Government Code section 11507.6 further provides that the broad scope of permissible discovery includes "any . . . writing or thing which is relevant and which would be admissible in evidence," and the Department's regulations require that those standards be "liberally constru[ed]." (See 10 CCR § 2655.1.) State Farm's proposal is the opposite of liberal discovery rights for intervenors; it is a blanket shield for it as the insurer.

And State Farm blurs critical distinctions, conflating trade secrets with a broad and undefined category of "confidential, trade-secret, and/or statutorily protected information." Courts treat actual trade secrets very differently from more ordinary "confidential" business material. State Farm lumps them all together.

2. Even if It Would Apply Only to Trade Secrets, There Is No Basis for the Broad Protective Order Requested

As addressed in Consumer Watchdog's Motion to Compel, while State Farm may attempt to invoke "trade secret" protections, this does not mean that the documents are entitled to absolute protection during discovery or permanent sealing. The trade secret privilege contained in Evidence Code section 1060 is expressly conditional, applying only "if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice." Thus, State Farm is required to establish both that the information it does not wish to disclose in discovery is, in fact, a trade secret, *and* that withholding it will not tend to conceal fraud or otherwise work injustice. Here, State Farm has not met its burden of establishing that anything should be withheld as a trade secret; it has completely failed to identify any specific documents that it considers to be a trade secret, and omitted any legitimate explanation as to why such documents are in fact trade secrets. Furthermore, as explained in the Motion to Compel, when State Farm has placed a matter, such as its financial condition, at issue, it should not be permitted to refuse to produce relevant documents responsive to a discovery request on the basis that they are trade secrets; this would indisputably "work injustice." (Consumer Watchdog's Mot. to Compel, 7:14–9:9, citing *Bridgestone/Firestone, Inc. v. Superior Court* (1992) 7 Cal. App. 4th 1384, 1392 [failure to disclose trade secret would "work an injustice" within meaning of Evidence Code § 1060 where evidence "reasonably believed to be essential to a fair resolution of the lawsuit"].) And as discussed above, once admitted into the record, any trade secret privilege must give way to section 1861.07's absolute disclosure mandate.

Both cases cited by State Farm, *Bridgestone/Firestone, Inc.* (1992) 7 Cal.App.4th 1384, and *Multiversal Enterprises-Mammoth Props. LLC v. Yelp, Inc.* (2022) 74 Cal. App. 5th 890, address actual trade secret information sought to be protected in civil litigation and not the vague, broader category which State Farm would have the ALJ, here, protect from disclosure. However, even with respect to actual trade secrets, these two cases do not support State Farm's position.

Bridgestone/Firestone stands for the unremarkable proposition that in civil litigation "a court is required to order disclosure of a trade secret unless, after balancing the interests of both sides, it concludes that under the particular circumstances of both sides, no fraud or injustice would result from denying disclosure." (*Supra*, 7 Cal.App.4th at p. 1393.) This is essentially a restatement of Evidence Code section 1060, and does not support State Farm's extreme position that the ALJ should issue a proactive protective order in a rate proceeding under which State Farm is not required to disclose any information it deems to be a trade secret, particularly with respect to documents relevant to its financial condition which it has put at issue through its requested variances. Rather, under *Bridgestone/Firestone*, the ALJ should consider each specific document or piece of information that State Farm claims to be a trade secret and decide whether it is relevant to the issues to be decided in this proceeding, and thus must be disclosed, or not. In that case, for example, rather than considering some broad undefined category of all trade secrets, the court considered the potential disclosure of "the specifications for the tires (and their formula recipes)." (*Id.* at p. 1395.)

In *Multiversal Enterprises-Mammoth Props. LLC v. Yelp, Inc.*, the court excluded a party's principal from a limited portion of a trial in civil litigation because it found that there was a risk that the principal would misappropriate trade secret information. (*Supra*, 74 Cal.App.5th 890.) State Farm has not made such an argument here and, in fact, has not identified any particular harm that would result from disclosing any specific information. In the section of the opinion cited by State Farm, the court noted that the lower court implicitly found "that a protective order in lieu of exclusion [of the principal from the trial] would be ineffective." *Id.* at 906. But this says nothing about the issue of the type of blanket order protecting all trade secret information from disclosure during discovery in a proceeding under Proposition 103 that State Farm is seeking.

These cases confirm the general rule: each claim of trade-secret protection must be determined individually. They do not authorize insurers to unilaterally seal entire categories of documents or create new privileges under Proposition 103. Here, State Farm appears to argue that nearly any information beyond what it has already included in the rate applications—including core financial data it has put at issue through the solvency and confiscation variances it chose to invoke—should be beyond discovery and public view. That would turn Proposition 103 on its head. If State Farm believed a document was truly a trade secret, it should have identified it, explained why, let the parties address the issue, and let the Court decide. What it cannot do is use broad, undefined labels to shut down discovery wholesale and file a motion that fails to identify specific documents for which it is claiming a protective order should issue, based on unsupported claims of generalized "trade secret" protections.

A blanket protective order that will hide relevant information from Consumer Watchdog and the public is an inappropriate means that State Farm is using to try to find another way to avoid its discovery obligations that are subject to Consumer Watchdog's Motion to Compel. This is inconsistent with the letter and spirit of Proposition 103 as well as established discovery procedures, which are set up to require State Farm to provide direct and specific justifications for seeking to withhold documents in connection with a discovery dispute.

If State Farm did establish that a particular document contained a trade secret, which it has not done as required in its motion, the proper result would be for the ALJ to require State Farm to produce that information to Consumer Watchdog and the other parties, under a limited protected order for discovery purposes only. If Consumer Watchdog or any other party later determines that it needs to enter that document into the record at the hearing, either in its case-in-chief or by way of rebuttal, the parties could meet and confer regarding potential redactions of non-relevant portions of the document that is claimed to contain trade secrets (see 10 CCR § 2655.2 [parties shall designate specifically relevant and material portions of documents exceeding 10 pages]), or if the parties cannot agree, the ALJ can determine at that time, as in the 2015 rate hearing, whether that document should be admitted into the record based on the broad relevance standard in Government Code section 11513, subdivision (c), subject to any findings that its probative value is outweighed by the undue consumption of time or that it is unnecessarily cumulative (see Gov. Code § 11513(e); 10 CCR § 2654.1(c)). Once admitted the information must be publicly available under section 1861.07. Consumer Watchdog has offered this exact process multiple times here.

3. State Farm's Second Alternative—That the ALJ Review Documents Over Which State Farm Asserts "Statutory Privilege" in Camera—Is Unjustified and Would Be Unfair

Continuing its demands for unprecedented and unjustified advantages in the hearing process and in discovery, State Farm attempts to offer yet another alternative under which this Court would issue a protective order covering all documents over which State Farm asserts a "statutory privilege." (Mot., 15:10–18:13.) Should either Consumer Watchdog or the Department challenge that assertion, the Court would review the documents *in camera*, and, if it ordered disclosure, that would occur only "after State Farm General has exhausted all appeal rights (including to the Commissioner and the state courts)." (Mot., 18:11–13, 15:11–16.) State Farm offers no justification for why any objection to its claims of privilege should have to be essentially "blind," given that the objection itself would be limited to State Farm's own vague description of what it seeks to withhold from discovery. And it is another prescription for years of delay, with State Farm permitted to file multiple appeals before disclosing a single page in this rate hearing to evaluate whether it should have been granted the $750 million interim increase in the first place, as well as a full analysis of whether it should be granted a permanent $1.2 billion increase. State Farm's imagined process cannot be squared with section 1861.08(e)'s clear direction that "[d]iscovery shall be liberally construed and disputes determined by the administrative law judge as provided in Section 111507.7 of the Government Code."

As addressed above, protective orders are not granted in the abstract.[11] (See *ante*, Argument, I.) State Farm has not identified any specific documents it seeks to shield here. Instead, it asks for carte blanche to decide the pace of this case—slow-walking discovery and controlling a drip-drip-drip release of documents—while continuing to collect the additional roughly $750 million from consumers per year in "emergency interim" premiums that have not been rigorously tested in a full rate hearing. That is the opposite of Proposition 103's promise of public scrutiny.

The law provides a clear process for resolving disputes—through objections and, if needed, motions to compel—not through a sweeping and untethered order restricting discovery. Nothing in the Code authorizes what State Farm seeks. This Court can and should decide

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[11] See *Foltz v. State Farm Mut. Auto. Ins. Co.* (9th Cir. 2003) 331 F.3d 1122, 1130–1131, citing *Phillips v. Gen. Motors* (9th Cir. 2002) 307 F.3d 1206, 1212 ("a party asserting good cause bears the burden, for each particular document it seeks to protect, of showing that specific prejudice or harm will result if no protective order is granted"); see also *Beckman Industries, Inc. v. International Ins. Co.* (9th Cir. 1992) 966 F.2d 470, 476, quoting *Cipollone v. Liggett Group, Inc*. (3d Cir. 1986) 785 F.2d 1108, 1121 ("Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning, do not satisfy the Rule 26(c) test.") (internal quotation marks omitted)); *Deford v. Schmid Prods. Co*. (D. Md. 1987) 120 F.R.D. 648, 653 (requiring party requesting a protective order to provide "specific demonstrations of fact, supported where possible by affidavits and concrete examples, rather than broad, conclusory allegations of potential harm").

relevance and production issues through the ordinary motion to compel process, as it is doing now.

4. State Farm's Claim of Irrelevance Is Untimely and Unfounded

Continuing its effort to have the ALJ prospectively decide discovery disputes in the abstract and aggregate, without seeing the information or documents at issue, and without detailed descriptions of the types of information or documents at issue, State Farm asserts that it is "highly unlikely" that any of the information it seeks to protect "will in fact be relevant and non-duplicative in this rate hearing proceeding." (Mot., 17:3–5.) This turns the proper nature of discovery proceedings on its head.

Relevance cannot be determined in a vacuum. The Court cannot know whether documents are irrelevant or non-duplicative without either the documents or argument on how they might be relevant, and to which issues. Neither can Consumer Watchdog. But Consumer Watchdog has made clear that it is seeking information directly related to State Farm's application, including the insolvency and confiscation variances that directly deal with financial issues beyond the typical ratemaking process, that are relevant, non-duplicative, and not already public. (See Motion to Compel, pp. 2, 6, 11–12.) That is precisely the information that State Farm has refused to produce based on its broad and unsupported claims of privilege.

State Farm is again asking this court, Consumer Watchdog, and the public to simply trust it and allow it to avoid its basic discovery obligations while collecting up to $1.2 billion in rate hikes. But discovery exists for Proposition 103 rate hearings because regulators and the public cannot rely on insurers' assurances. (See *ante* Argument, II.A.1.) And even if the assurances are accurate, Proposition 103 guarantees transparency and participation. If State Farm believes a particular request is overbroad or irrelevant, it can properly object to that specific request and explain why, beyond boilerplate discovery objections. All such disputes should be handled through a proper motion to compel proceeding—not by State Farm seeking a blanket protective order as a basis to justify refusing to comply with its discovery obligations if it loses the motion to compel. State Farm cannot use this motion to wholesale avoid its discovery obligations while asking consumers to pay up to $1.2 billion more in additional premiums.

5. State Farm's Burden Arguments Are Baseless, Premature, and Incomplete

State Farm further claims that "any benefit of disclosure is far outweighed by the burden on State Farm General of the disclosure of statutorily protected information." (Mot., 17:16–18.) This argument is baseless, premature, and incomplete. As discussed above (see *ante* Argument, II.A.3), State Farm's claims of statutory protection for confidential, proprietary, and otherwise private information are without basis or applicability to these rate proceedings. And whether a discovery request would subject a party to an undue burden is necessarily a matter tied to a specific discovery request and dependent on the particular burden associated with responding to that particular request. State Farm offers no discussion of any specific discovery request nor any detail as to the burden associated with responding to said unidentified request. Nor could it, because State Farm's motion is not about specific discovery requests—it seeks a proactive blanket order shielding State Farm from current and future discovery obligations. That is premature and incomplete.

State Farm's reliance on Code of Civil Procedure section 2031.060(f) compounds its errors. The section does not apply here. (See Ins. Code § 1861.08 ["Hearings shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that: . . . (e) Discovery shall be liberally construed and disputes determined by the [ALJ] as provided in Section 11507.7 of the Government Code"].) Even if it did, its application is limited to electronically stored information—State Farm makes no specific ESI argument—and it permits a court to limit discovery of such information only if "any of the following conditions exist:"

> (1) It is possible to obtain the information from some other source that is more convenient, less burdensome, or less expensive.
>
> (2) The discovery sought is unreasonably cumulative or duplicative.
>
> (3) The party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought.
>
> (4) The likely burden or expense of the proposed discovery outweighs the likely benefit, taking into account the amount in controversy, the resources of the parties, the importance of the issues in the litigation, and the importance of the requested discovery in resolving the issues.

Even if section 2031.060(f) applied here, it cannot be read to permit a blanket protective order without State Farm having established the details of any of the predicate conditions it claims, much less having tied them to specific requests. Simply asserting "*extreme burden*" without providing the details of that purported burden and the specific details of the discovery requests that would supposedly impose that burden is not enough. And State Farm does not, and cannot, offer any case law or statutory provisions that would support its position.

In any case, section 2031.060(f)'s factors do not support State Farm's arguments. The information Consumer Watchdog seeks—especially State Farm's financial data and information—can come only from State Farm. It is not duplicative; Consumer Watchdog does not have it. Nor has Consumer Watchdog had "ample opportunity" to obtain it. Discovery has been severely constrained. State Farm failed to respond to initial requests for over half a year, and then only produced a handful of documents a day before the interim rate hearing commenced. (Consumer Watchdog's Objections to CDI and State Farm's Two-Way Stipulation to Interim Rate, PA-2024-00011, PA-2024-00012, PA-2024-00013, Mar. 24, 2025, p. 4.) And State Farm has yet to produce a substantial amount of documents in response to Consumer Watchdog's most recent June 30, 2025 requests that are the subject of Consumer Watchdog's pending Motion to Compel. The current schedule is compressed, as opposed to long-running civil court discovery comprising multiple rounds of factual and expert discovery.

The fourth factor—balancing burden against benefit—deserves emphasis. The stakes here are extraordinary: a proposed $1.2 billion rate increase, averaging nearly $600 per policyholder family. Few household budgets can absorb that kind of hit without sacrifice. Many families will have to cut back on food, delay filling prescriptions, and postpone or adjust other essential expenses just to keep their coverage. By contrast, the resources of the party resisting discovery are immense. State Farm is the largest insurer in California, and its parent company holds roughly $150 billion in reserves. Any discovery expense in this context is a rounding error. Against those facts, there is no credible claim that the burden on State Farm of producing information outweighs the benefit to Consumer Watchdog and the public of full disclosure. Moreover, much of the discovery State Farm resists goes directly to issues it has placed at the center of this case—particularly its solvency and confiscation variance requests—which require detailed financial information to be fully vetted and to evaluate any plan to compensate policyholders for excessive charges once its condition is restored. The Court should weigh this real-world impact and these variance-related disclosures heavily in its burden analysis.

6. State Farm Is Wrong to Suggest that Little Additional Information Is Needed; to the Contrary, It Is Withholding Critical Information

In seeking to justify its alternative suggestion that the ALJ should simply order that State Farm is not required to disclose any information it deems "statutorily privileged," State Farm asserts that enough discovery has been completed and that "CW (and the other parties to this rate proceeding) already have what they need to make their case." (Mot. 17:3–15.) This ignores the arguments by Consumer Watchdog to the contrary in its pending Motion to Compel regarding State Farm's failure to provide a substantial amount of required information. It is, State Farm effectively suggests, appropriate for the ALJ to call time out on any meaningful discovery in the proceeding despite State Farm's failure to comply with responding to basic discovery requests (or before even considering Consumer Watchdog's motions to compel). This suggestion, and State Farm's related argument, is both inappropriate and incorrect.

It is, of course, not for State Farm to determine when Consumer Watchdog has the information it needs to adequately represent the public in this rate-setting proceeding. And, regardless, State Farm is quite wrong to suggest that Consumer Watchdog does not need additional information. As addressed more fully in Consumer Watchdog's pending Motion to Compel, despite putting its financial condition at issue in its initial rate filings, through its interim rate request, and its updated filings seeking multiple variances, State Farm is withholding core financial, actuarial, and corporate-support documents. To be clear, the March 17, 2025 Notice of Hearing squarely places the subject matter of Consumer Watchdog's requests at issue and thus makes the information it seeks directly relevant to the issues to be determined in this proceeding—including information regarding State Farm's relationship with its parent and affiliates, its capital support, liquidity, surplus, and related corporate decisions. Yet State Farm has refused to produce this information, and, now, in the instant motion, asserts that it will be irrelevant and duplicative. (Mot., 17:3–5.)

Part of State Farm's argument in this regard appears to be that the ALJ has "already made preliminary findings on [the issue of State Farm's general condition] based on the public information submitted in the emergency rate hearing." (Mot., 17:10–12, citing Wells Decl., Exh. 22 (May 13, 2025 Proposed Decision Approving Stipulation, as adopted by the Commissioner, at pp. 26–28).) But, the ALJ was clear that a "full rate hearing" will follow. (Wells Decl., Exh. 22, p. 22 ["Evidence and arguments concerning [State Farm's] business decisions – including claims that its predicament is self-inflicted - . . . along with other relevant analyses CW advanced, raise issues that the parties are now better positioned to address comprehensively in a full rate hearing."], p. 28 ["The full rate hearing process will allow an opportunity to fully investigate and further vet SFG's financial condition and rate needs, together with the implications of non-renewals, while the Proposed Interim Rates are in place to promote a 'stop gap;'"].) Indeed, the ALJ explicitly noted:

> While the Interim Rates are subject to future revision and the important refund provision, continued scrutiny is necessary to ensure that the increases are justified at the lowest reasonable level. In other words, the requirement for a full rate hearing is paramount to making this arrangement meaningful, as rigorous actuarial analysis remains essential in confirming rate justifications and ensuring compliance with Proposition 103's prohibitions against excessive or inadequate rates.
>
> Moreover, a full rate hearing serves as a critical signal to the marketplace that emergency rate requests of the type State Farm advanced . . . will undergo rigorous scrutiny. Applicants seeking such measures must be prepared to substantiate their claims through the hearing process, reinforcing the importance of transparency, evidence-based decision-making, and [the] Commissioner's regulatory oversight.

(Wells Decl., Exh. 22, pp. 32−33.) He further noted that: "Updated financial information for [State Farm] was unavailable for the hearing on the Proposed Interim Rate Stipulation" and "the parties have informed the ALJ that they will not be ready for a full rate hearing with updated financial data until at least October 2025." (*Id.* at p. 5, fn. 15.) And with respect to his finding that "Applicant has made a preliminary showing that it may be able to demonstrate, after a full hearing, that it may be entitled to a rate increase," the ALJ noted that it was:

> Based upon the Applications including the information regarding Applicant's concerning financial condition, the Interim Rate Request, the Updated

> Information, Applicant's currently in-effect rates, the *preliminary* information provided by Applicant regarding the devastating impacts of the Palisades/Eaton Fires on Applicant's financial condition, and Applicant's represents, *all of which will be reviewed and tested at hearing prior to issuance of a final rate order* . . . .

(*Id.* at p. 6, italics added.) It is, then, completely misleading for State Farm to suggest that the preliminary findings of the ALJ should be taken as an indication that no further relevant evidence needs to be discovered. As a consumer advocate intervenor in these proceedings, it is Consumer Watchdog's appropriate role and responsibility to review and test State Farm's claims regarding its financial condition. To this end, Consumer Watchdog must be able to obtain and review documents and information relating to State Farm's financial condition rather than relying on documents curated by State Farm.

7. State Farm Is Seeking, Again, to Raise the Specter of Trade Secrets to Allow It to Withhold Relevant and Material Documents and Data that Are Not Trade Secrets

A large part of State Farm's motion is devoted to its inaccurate characterization of the treatment of supposedly trade secret information in prior rate proceedings involving State Farm and Consumer Watchdog. (Mot., 4:22–7:7.) As discussed elsewhere in this brief, (see Background Facts, II; Argument, I; Argument, II.C.1), State Farm's narrative of those cases is misleading, and its apparent dissatisfaction with those outcomes is no reason for this Court to decline to follow Proposition 103 or relevant precedent.

And the record tells a different story. In (one of) those prior hearings, on a writ arising out of the 2015 State Farm homeowners rate proceeding, the Superior Court ultimately found that State Farm had failed to establish that even one of the 39 documents at issue was a trade secret. (See Mellino Decl., Exh F, pp. 2–3 [noting that the ALJ concluded that "State Farm did not meet its burden to demonstrate the elements required for trade secret protection," and finding that "State Farm's opening brief does not demonstrate that any of the 39 exhibits at issue are trade secret[s]"].)

Here, State Farm goes even further. Perhaps to avoid a repeat of its experience before the Superior Court—where there were actual documents for the Court to evaluate—it now avoids identifying specific documents for this Court to consider. Instead, it seeks a blind, sweeping order shielding a much broader universe of information, variously labeled "trade secret," "confidential," "proprietary," or other terms connoting privacy interests, without reference to the documents and detail necessary for the meaningful review that it failed in the Superior Court. This is not a trade secret motion; it is an attempt to cloak the record in secrecy and to massively restrict discovery that could be used to challenge the validity of State Farm's application for a $1.2 billion rate increase.

III. Information Regarding State Farm's Financial Position Is Clearly Relevant to Its Requested Variances and Not Protected from Disclosure

A. Information Regarding State Farm's Financial Condition Cannot Be Exempt from the Public Disclosure Mandate of Section 1861.07

State Farm acknowledges that it is seeking "two variances, Variances 6 and 9, which relate to State Farm General's solvency and the standard for confiscation," and concedes that "[b]oth variances . . . require a showing of State Farm General's financial condition." (Mot., 20:17–24.) However, in addition to the vague and broad protective order sought by State Farm and discussed above, State Farm seeks a second protective order which would "prevent public disclosure of confidential solvency-related information." (*Id*. at 20:16–17.) For all the reasons given above with respect to State Farm's first proposed protective order, there can be no limit to public disclosure of information submitted to the Commissioner. Thus, State Farm's second requested protective order cannot be granted.

With respect to information on this particular subject, State Farm offers a new argument for its proposed protective order. It argues that because it "made a prima facie showing that it is suffering deep financial hardship to the point that it is unable to operate successfully" at the interim rate hearing, and this showing has been supported with updated data, this issue has, somehow, already been resolved such that this ALJ should, effectively, determine as a matter of law that is financial condition supports it claim for these two variances. (Mot., 20:14–22:18.) Relatedly, State Farm also argues that the Illinois Department of Insurance has "evaluated State Farm General's financial condition," and "determined that State Farm General is in a 'hazardous' financial condition." (Mot., 23:20–24:4.)

These arguments simply do not address the issue of public disclosure. Proposition 103 mandates that any information or documents submitted to the Commissioner during the rate-setting process must be public; whether or not State Farm believes that information is relevant is not a basis to defy that mandate. Neither this Court's interim rate ruling nor speculation regarding the Illinois Department of Insurance's views on State Farm's financial condition means that any additional evidence relating to State Farm's financial condition is somehow automatically irrelevant.

First, State Farm argues that, because at the interim rate hearing, it "made a prima facie showing that it is suffering deep financial hardship to the point that it is unable to operate successfully," and this showing has been supported with updated data, this issue has been dispositively resolved. (Mot., 20:14–22:18.) As described in detail above, (see *ante* Argument, II.D.6), in reaching his decision on the interim rate, the ALJ was clear that a "full rate hearing" would follow. Again, it is misleading to claim those preliminary findings mean no more discovery or evidence is required.

For its second argument, State Farm relies on a witness's review of something that was "represented to be a log provided by the California Department of Insurance showing communications between the California Department of Insurance and the Illinois Department of Insurance regarding the financial condition of State Farm General Insurance Company." (Declaration of Jennifer Hammer in Support of State Farm's Motion for Protective Order and Motion to Compel, 5:21−24.) The witness makes no claim to have seen the documents addressed by the purported "log," but claims that "[t]he communications in this log are of the sort that that [*sic*] would occur when regulators have found the subject insurer to be a potentially 'troubled company.'" (*Id.* at 5:24−25.) This is triple or quadruple hearsay and entirely speculative, no sort of evidence at all. Moreover, even if the Illinois Department of Insurance had determined that State Farm is a "potentially 'troubled company,'" that is entirely beside the point.

It is for this Court to determine whether the requested rate increase is appropriate and the claimed variances have been justified under Proposition 103 and the relevant regulations, and this justification is tied to particular financial conditions, none of which are simply labeled "troubled"—the regulations are tied to quantitative statuses and constitutional standards, not qualitative descriptions such as "bad," "worse," "really bad," or "troubled." (10 CCR § 2644.1−2644.27.) State Farm must establish required showings before the ALJ with actual evidence and be subject to challenge and testing in the public process created by Proposition 103. State Farm's claim that a log describing documents that may or may not have been shared between two different Departments of Insurance somehow provides adequate information to justify a $1.2 billion rate increase is wholly improper.

Finally, we note that the issue of State Farm's financial condition is not binary. Even if State Farm establishes as a matter of law that it is in a poor financial condition, that is not the end of the inquiry as it does not establish that it needs a rate above the maximum permitted rate under the standard ratemaking formula in order to protect its solvency, or prevent confiscation under applicable legal standards in the prospective rate period. This inquiry requires a detailed analysis of the company's ability to operate successfully under the rates without any variances. And even if State Farm could establish its entitlement to any variance, as noted above, for example, 10 CCR § 2644.27(b) requires State Farm to "identify the extent or amount of the variance requested" and thus, it is necessary for the ALJ to understand State Farm's financial condition with some precision. And, of course, Consumer Watchdog must be able to challenge State Farm's claims in this regard.

B. There Is No Basis for State Farm's Request, in the Alternative, that the ALJ Should Order that State Farm Is Not Required to Disclose Its "Confidential Solvency-Related Information"

In the alternative, State Farm seeks an order from the ALJ that it not be required to produce, in discovery, "confidential, trade secret, and/or statutorily protected information." (Mot. 25:6−8.) This suggestion rests, in large part, on State Farm's flawed arguments, addressed above, that it has already established its financial condition such that further discovery by Consumer Watchdog or the CDI of information and documents relating to that topic is unnecessary and unjustified.

As an initial matter, Consumer Watchdog notes again these arguments should be raised—if at all—in State Farm's response to Consumer Watchdog's pending Motion to Compel.

Arguments regarding the relevance of documents and information or the merits of discovery requests are far better reviewed by the ALJ when considered in relation to specific documents and specific requests. Rather than seeking an extraordinarily broad protective order, all of State Farm's concerns could be dealt with through the standard discovery process. Respectfully, the ALJ should decline State Farm's motion and direct State Farm to make any such arguments in opposition to specific discovery requests.

Addressing State Farm's arguments, Consumer Watchdog notes, again, that State Farm erroneously conflates "confidential" and "statutorily protected" information with "trade secret" information. State Farm also pushes an unreasonably broad understanding of "trade secret," claiming, for example, that "information about State Farm General's solvency is a trade secret." (Mot., 25:9−11.) It cannot be that all such information is a "trade secret," especially when State Farm also claims that a great deal of this information "has been made public, as demonstrated by evidence and testimony at the interim rate hearing." (Mot. 21:15−18.) In fact, this merely exemplifies why the resolution of issues regarding trade secrets is completely unsuited to broad claims and broad protective orders; it requires that the parties address specific information and specific documents so that ALJ can engage in a detailed analysis of the relevance of the requested information and the specific harm that would result from its disclosure.

State Farm's arguments regarding statutory protections are similarly crude and overbroad. Section 1215.8(a) provides, in pertinent part:

> All information, documents, and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to Section 1215.4, 1215.5, 1215.6, 1215.7, or 1215.75, and all information reported or provided pursuant to Section 1215.4, 1215.5, 1215.6, 1215.7, or 1215.75 are recognized as being proprietary and containing trade secrets, shall be kept confidential, are not subject to disclosure by the commissioner pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), are not subject to subpoena, and are not subject to discovery from the commissioner or admissible into evidence in a private civil action if obtained from the commissioner.

Thus, as addressed above (see *ante* Argument, II.A.3.b.ii) it is clear that the statutory protection offered by section 1215.8(a) applies only to limit the Commissioner's disclosure of that information obtained pursuant to the specified statutes and only protects such information from discovery and admissibility in private civil actions. It offers no support for State Farm's suggestion that it "statutorily recognizes" all documents related to State Farm's solvency as trade secrets. (Mot., 25:15−19.) Indeed, section 1215.8(d) provides that "A waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall not occur as a result of disclosure to the commissioner under this section . . . ." This subsection would be entirely redundant, and make no sense whatsoever, if all of the "documents, materials, or information" to which it refers are automatically converted to trade secrets, pursuant to section 1215.8(a), by being disclosed to the Commissioner. Similarly, as discussed above (see *ante* Argument, II.A.3.b.iii) State Farm's reliance on Insurance Code section 923.6, subdivisions (a) and (f)(1), is misplaced. Those provisions also merely limit the Commissioner's ability to disclose information; they do not statutorily transform all covered "[d]ocuments, material, or other information" into trade secrets or otherwise confer a privilege on those items. Again, then, State Farm's attempts to paint with broad strokes fail; whether or not information constitutes a trade secret requires the review and consideration of that specific information.

Setting aside these fatal problems with the protective order sought by State Farm, and even assuming that all information covered by the order could be a trade secret, application of *Bridgestone/Firestone*, as relied on by State Farm, cannot support the proposed blanket order. In that case, the court recognized that failure to disclose a trade secret would "work an injustice" within the meaning of Evidence Code section 1060 where the evidence requested was "reasonably believed to be essential to a fair resolution of the lawsuit." (*Supra*, 7 Cal.App.4th at 1392.) Of course, this determination requires a court to consider the specific evidence requested and its relevance to the issues to be decided. Rather than accept this, State Farm argues that the fact of its financial condition has been dispositively established, such that no evidence related to that condition would "add value in this proceeding," and, thus, a blanket protective order permitting State Farm to disclose no more evidence relating to that topic should issue. As addressed in detail above, State Farm's arguments in this regard are fundamentally flawed. Neither this Court's interim rate ruling nor speculation regarding the Illinois Department of

Insurance's views on State Farm's financial condition can mean that no additional discovery relating to State Farm's financial condition could be reasonably believed to be essential to a fair resolution of the lawsuit. Respectfully, this Court must reject State Farm's arguments in this regard.

IV. Details of State Farm's Relationship with Its Parent Are Not Protected From Disclosure

The third protective order sought by State Farm would hold that it "is not required to disclose documents pertaining to State Farm Mutual, its parent company." (Mot., 29:6–7.) State Farm seeks this on the basis that Consumer Watchdog is precluded from seeking such information in discovery by *State Farm General Ins. Co. v. Lara* (2021) 71 Cal.App.5th 148, and, on the alternative basis that a protective order is warranted under *Bridgestone/Firestone*. Neither of these bases can justify such a broad protective order.

State Farm's reliance on *State Farm v. Lara* is misplaced. In that case, the Court of Appeal held that in construing the application of one of the ratemaking formula regulations on projected yield (10 CCR § 2644.20), Insurance Code section 1861.05(a) requires the Commissioner to use the insurance company's investment income, not that of the company's parent and its affiliates. (*Supra*, 71 Cal.App.5th at p. 172.) But, State Farm Mutual's investment income is not the basis of Consumer Watchdog's requests for documents and information regarding that entity and its relationship with State Farm. Rather, Consumer Watchdog intends to address one of the issues identified in the Notice of Hearing issued on March 17, 2025, namely:

> Whether Applicant receives, or could or should receive, any (or additional) financial or other support from its corporate parent and/or other affiliates, including whether its parent company provides financial support in the form of surplus notes or other contribution(s).

(See March 17, 2025 Notice of Hearing, p. 7.) This issue has been explicitly identified as one to be addressed, and the information that State Farm now seeks blanket permission to withhold is clearly relevant to it. To be clear, Consumer Watchdog is not seeking to pierce the corporate veil—it merely seeks to test readily discoverable facts about available financial support that bear on State Farm's maximum permitted rate and its solvency and confiscation variance requests.

Echoing its arguments regarding discovery pertaining to its financial condition, State Farm argues that documents relating to State Farm Mutual are not *necessary* to this proceeding and that, even if necessary, under *Bridgestone/Firestone* "the issuance of a protective order to guard the trade secrets is the appropriate next step." (Mot., 32:22–24.) State Farm makes no serious effort to substantiate the first of these claims. It simply asserts, without describing particular documents and without addressing Consumer Watchdog's outstanding discovery requests, that "CW can rely on public information, other documents that State Farm General have already produced, and this Court's prior order on the emergency rate application to make its case." (Mot., 32:17–20.) That is inaccurate and provides no basis for the ALJ to issue a blanket order prohibiting further discovery on this issue. The second claim is no better supported. State Farm simply does not address the injustice which would be worked by permitting it to refuse to provide discovery pertinent to an issue on which Consumer Watchdog has explicitly been asked to "provide evidence and argument" at the final hearing. (See March 17, 2025 Notice of Hearing, pp. 5, 7.) Somehow requiring Consumer Watchdog and the other parties to rely on the emergency hearing's preliminary, *prima facie* findings, as discussed above (see *ante* Argument, II.D.6; Argument, III.A), would improperly elevate preliminary findings to some form of law-of-the-case status with no additional evidence or findings—contrary to their limited, *prima facie* nature, and this Court's requirement that these findings be tested in a full rate hearing. Finally, in relying on *Bridgestone/Firestone*, State Farm, again, conflates what it terms "confidential and secret materials" with "trade secrets" within the meaning of Evidence Code section 1060. Respectfully, the ALJ cannot issue an extraordinarily broad protective order on the basis of such imprecise and unsupported claims and assertions.

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CONCLUSION

Transparency is the rule in a Proposition 103 rate hearing and the public role in the prior approval process created by Proposition 103 is sacrosanct. In seeking a protective order that would subvert the former by keeping hearing exhibits from the public or, in the alternative, fundamentally undermine the latter by permitting State Farm to unilaterally withhold entire categories of documents from discovery, State Farm <u>identifies no documents and makes no showing</u>. The motion should be denied. If any protective relief issues, it must be document-by-document, supported by competent evidence, and never extended to hearing exhibits.

Date: September 5, 2025 Respectfully submitted,

By: *<u>/s/ Christina Tusan</u>*
Christina Tusan
Attorneys for CONSUMER WATCHDOG

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 September 5, 2025, I caused service of true and correct copies of the document entitled

CONSUMER WATCHDOG'S OPPOSITION TO STATE FARM'S MOTION FOR PROTECTIVE ORDER

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 September 5, 2025 at Los Angeles, California.

Kaitlyn Gentile

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