

Merritt David Farren (SBN 119721)
26565 West Agoura Rd
Suite 200
Calabasas, CA 91302
(818) 474-4610
merritt.farren@farrenLLP.com

Intervenor

BEFORE THE INSURANCE COMMISSIONER OF
THE STATE OF CALIFORNIA

In the Matter of the Rate Application of)	File No.: PA-2024-00011, PA-2024-
)	00012, PA-2024-00013
State Farm General Insurance Company,)	
)	INTERVENOR MERRITT DAVID
Applicant.)	FARREN'S SUPPLEMENTAL
)	RESPONSE TO CDI'S STATEMENT IN
)	OPPOSITION TO INTERVENOR'S
)	MOTION TO COMPEL DISCOVERY
)	FROM STATE FARM GENERAL
)	INSURANCE COMPANY

Intervenor Merritt David Farren ("Farren") respectfully submits this supplemental response to the request of the California Department of Insurance's ("Department") that this Court certify to the Commissioner of Insurance ("Commissioner"), pursuant to 10 CCR § 2646.2, the question of whether claims handling practices may be considered in the above-referenced proceeding ("Proceeding").

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2 Farren acknowledges that submitting a supplemental response after an initial response
3 has already been filed is unusual. However, in light of the importance of the question and in
4 light of the recent reference to certification in an email communication to this Court from State
5 Farm General (“State Farm”) (email from attorney Vanessa Wells, Hogan Lovells LLP, dated
6 October 17, 2025 at 12:19 PM), Farren believes that a fuller statement of Farren’s position on
7 the law relevant to the question is appropriate.
8

9 Accordingly, Farren respectfully requests that the Court consider this supplemental
10 response.
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12 I. INTRODUCTION 13 14

15 The Department seeks extraordinary relief by asking this Court to certify an
16 interlocutory question to the Commissioner under 10 CCR § 2646.2. Certification is an
17 exceptional mechanism intended to resolve threshold questions that an administrative law
18 judge (“ALJ”) cannot otherwise address without risking wasted proceedings. It is not a tool to
19 avoid ordinary evidentiary or discovery rulings. The Department’s request is premature,
20 unsupported, and inconsistent with both the text and purpose of § 2646.2.
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23 II. SECTION 2646.2 MUST BE CONSTRUED NARROWLY 24 25

26 Section 2646.2 was designed to address “fundamental” and “substantially in doubt”
27 matters that risk paralyzing the hearing process. It was not intended to allow an agency party
28

1 to refer to itself discovery and evidentiary issues that are properly to be considered and
2 determined by the ALJ.

3 The California Administrative Procedure Act (“APA”) vests the ALJ with authority to
4 rule on admissibility, discovery, and development of the record (Gov. Code §§ 11425.10,
5 11507.6). CDI’s expansive reading of Section 2646.2 would undermine the ALJ’s statutory
6 function.
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9 III. THE CRITERIA FOR CERTIFICATION UNDER SECTION 2646.2 THAT THE
10 DEPARTMENT ASSERTS ARE MET ARE, IN FACT, NOT MET
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12
13 The Department asserts that certification of the question for which it requests
14 certification is appropriate because both of the two initial criteria for certification that serve to
15 provide ALJs the discretion to certify a question, if an ALJ chooses to do so, are met in the
16 current circumstance. In fact, neither of the criteria are met. The first of the two criteria, that
17 the matter apply to numerous pending hearings, is not met. There is, to Farren’s knowledge,
18 no other pending hearing in which the Department or an Intervenor has requested that an
19 applicant requesting a rate approval provide information regarding its claims handling
20 procedures. The second criteria, that the matter be one that is “substantially in doubt and ... so
21 fundamental to the instant proceeding that absent certification there is a substantial risk that
22 hearing time would be wasted” is also not met. There is, in fact, no issue “in doubt” here. The
23 Court has already acknowledged the potential relevance of claims handling practices to the rate
24 approval analysis to be conducted in the Proceedings and the fact that claims handling
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1 practices can affect the financial situation of an insurer asking for a rate increase is not a “novel
2 idea” but a simple fact. Claims handling practices directly affect loss costs and thus are
3 relevant to whether rates are justified. Admitting evidence related to a matter of relevance to
4 the Proceedings, or even potential relevance, is not wasteful. There is no real risk of “wasted”
5 hearing time. It is far better to create a full factual record now. By contrast, if discovery and
6 evidence are cut off now, the Proceedings will lack the benefit of a complete record, it will
7 make the Commissioner’s consideration of the findings of the ALJ at the end of the
8 Proceedings more difficult, and will additionally complicate any subsequent legal review of the
9 Commissioner’s ultimate decision on State Farm’s rate increase request. Facts can be admitted
10 now and set aside later, if appropriate. Facts cannot be easily added to the record later.
11 Prudent practice focused on avoidance of wastefulness suggests inclusion of evidence that may
12 be useful, not exclusion.
13
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15 IV. CERTIFICATION WOULD WASTE RESOURCES, NOT SAVE RESOURCES 16 17 18

19 Were certification to be granted, the Proceedings would be delayed by interlocutory
20 appeals before a factual record is even built. That is inefficient and would waste resources, not
21 create efficiency.
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23 V. THE DEPARTMENT MISAPPLIES GOVERNMENT CODE § 11415.20 24 25 26 27 28

1 The Department effectively argues that Section 2646.2 “prevails” over the APA under
2 Gov. Code § 11415.20. That provision simply recognizes that agency-specific regulations
3 govern when in direct conflict with APA defaults. But there is no conflict here. The APA
4 authorizes the ALJ to manage discovery and evidence (Gov. Code §§ 11425.10, 11507.6), and
5 nothing in § 2646.2 displaces that authority. Reading § 2646.2 as the Department proposes
6 would nullify the APA’s adjudicatory framework and improperly deny the Court its proper
7 role.
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9 10 VI. CONSISTENCY WITH PROPOSITION 103 11

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13 Proposition 103 was enacted to ensure maximum transparency and consumer
14 participation in ratemaking. Courts have emphasized that Prop 103 must be interpreted
15 broadly to further these goals (*20th Century Ins. v. Garamendi*, 8 Cal.4th 216 (1994); *Calfarm*
16 *Ins. v. Deukmejian*, 48 Cal.3d 805 (1989)).
17

18 Denying discovery into claims practices at the outset, or certifying away the issue,
19 would undermine transparency and consumer participation by shielding evidence provided by
20 insurers in support of rate increase requests from proper scrutiny. What’s more, as noted in
21 *Fireman’s Fund Ins. Cos. v. Quackenbush*, 52 Cal.App.4th 599 (1997):
22

23 *Proposition 103 expressly states that only ALJ's will conduct hearings, the converse of*
24 *which is that the Commissioner will not. If the conduct of hearings is limited to ALJ's,*
25 *evidentiary rulings are necessarily limited to ALJ's. Furthermore, Proposition 103*
26 *restricts the Commissioner to making his final decision "solely on the basis of the record."*
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(Ins. Code, § 1861.08.) The record is developed at the hearing, which the Commissioner does not conduct. (Ins. Code, § 1861.08.) Were the Commissioner to rule on interim evidentiary rulings, he would in effect be participating in the conduct of the hearing and also conducting an unauthorized interim review.

VII. CONCLUSION

Certification under § 2646.2 is neither necessary nor appropriate. The ALJ is fully empowered to rule on discovery and evidentiary issues, and the Commissioner retains authority to review such rulings after the ALJ has issued the ALJ's determination on State Farm's rate increase request at the end of the Proceedings. The Department's request should therefore be denied, and the Proceedings should continue with development of a full factual record, including claims-handling discovery.

Dated October 27, 2025

Respectfully submitted,



Merritt David Farren

Intervenor

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2 **PROOF OF SERVICE**

3 **[BY OVERNIGHT OR U.S. MAIL, FAX TRANSMISSION,**
4 **EMAIL TRANSMISSION AND/OR PERSONAL SERVICE]**
5

6 State of California, City and County of Los Angeles

7 I am employed in the City and County of Los Angeles, State of California. I am over the age of 18
8 years. My business address 26565 West Agoura Rd, Suite 200, Calabasas, CA 91302, and I am
9 employed in the city and county where this service is occurring. On October 27, 2025, I caused
10 service of true and correct copies of the document entitled: INTERVENOR MERRITT DAVID
11 FARREN'S SUPPLEMENTAL RESPONSE TO CDI'S STATEMENT IN OPPOSITION TO
12 INTERVENOR'S MOTION TO COMPEL DISCOVERY FROM STATE FARM GENERAL
13 INSURANCE COMPANY in the Matter of the Rate Application of State Farm General Insurance
14 Company, Applicant, upon the persons named in the attached service list, in the following manner:
15

16 1. If marked FAX SERVICE, by facsimile transmission this date to the FAX number
17 stated to the person(s) named.
18

19 2. If marked EMAIL, by electronic mail transmission this date to the email address
20 stated.
21

22 3. If marked U.S. MAIL or OVERNIGHT or HAND DELIVERED, by placing this date for
23 collection for regular or overnight mailing true copies of the within document in sealed envelopes,
24 addressed to each of the persons so listed. I am readily familiar with the regular practice of
25 collection and processing of correspondence for mailing of U.S. Mail and for sending of Overnight
26 mail. If mailed by U.S. Mail, these envelopes would be deposited this day in the ordinary course of
27
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1 business with the U.S. Postal Service. If mailed Overnight, these envelopes would be
2 deposited this day in a box or other facility regularly maintained by the express
3 service carrier or delivered this day to an authorized courier or driver authorized by
4 the express service carrier to receive documents, in the ordinary course of business,
5 fully prepaid.
6

7
8 I declare under penalty of perjury that the foregoing is true and correct.
9

10 Executed on October 27, 2025, at Los Angeles, California.
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14 Merritt David Farren
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1 **SERVICE LIST**

2
3
4 Hon. Karl Frederic J. Seligman
5 Administrative Law Judge
6 Administrative Hearing Bureau
7 California Department of Insurance
8 1901 Harrison Street, 3rd Floor
9 Oakland, CA 94612
10 Florinda Cristobal - Tel. (415) 538-4172
11 Camille Johnson - Tel. (415) 538-4243
12 AHBFilings@insurance.ca.gov

11 ☐ FAX
12 ☐ U.S. MAIL
13 ☐ OVERNIGHT MAIL
14 ☐ HAND DELIVERED
15 ☒ EMAIL

1 Vanessa Wells
2 Victoria Brown
3 Kristel Gelera
4 Cathy Perry
5 Attorneys for Applicant
6 HOGAN LOVELLS US LLP
7 855 Main Street, Suite 200
8 Redwood City, CA 94063
9 Tel: (650) 463-4000
10 Fax: (650) 463-4199
11 Vanessa.wells@hoganlovells.com
12 Victoria.brown@hoganloverlls.com
13 Kristel.gelera@hoganlovells.com
14 Cathy.perry@hoganlovells.com

15 ☐ FAX
16 ☐ U.S. MAIL
17 ☐ OVERNIGHT MAIL
18 ☐ HAND DELIVERED
19 ☒ EMAIL

20 Katherine Wellington
21 HOGAN LOVELLS US LLP
22 125 High Street, Suite 2010
23 Boston, MA 02110
24 Tel: (617) 371-1000
25 Fax: (617) 371-1037
26 Katherine.Wellington@hoganlovells.com

27 ☐ FAX
28 ☐ U.S. MAIL
29 ☐ OVERNIGHT MAIL
30 ☐ HAND DELIVERED
31 ☒ EMAIL

32 Jordan D. Teti
33 HOGAN LOVELLS US LLP
34 1999 Avenue of the Stars, Suite 1400
35 Los Angeles, CA 90067 Tel: (310) 785-4600
36 Fax: (310) 785-4601
37 Jordan.Teti@hoganlovells.com

1
2 Nikki S. McKennedy (SBN 184269)
3 Jennifer McCune (SBN 160089)
4 Daniel Wade (SBN 296958)
5 Duncan Montgomery (SBN 176138)
6 Lisbeth Landsman Smith
7 CALIFORNIA DEPARTMENT OF INSURANCE
8 1901 Harrison Street, Sixth Floor
9 Oakland, CA 94612
10 Tel: (415) 538-4162
11 Fax: (510) 238-7829
12 nikki.mckennedy@insurance.ca.gov
13 jennifer.mccune@insurance.ca.gov
14 daniel.wade@insurance.ca.gov
15 duncan.montgomery@insurance.ca.gov
16 cecilia.padua@insurance.ca.gov
17 lisbeth.landsman@insurance.ca.gov

12 ☐ FAX
13 ☐ U.S. MAIL
14 ☐ OVERNIGHT MAIL
15 ☐ HAND DELIVERED
16 ☒ EMAIL

16
17 Harvey Rosenfield
18 Pamela Pressley
19 William Pletcher
20 Ryan Mellino
21 Benjamin Powell
22 CONSUMER WATCHDOG
23 6330 San Vicente Blvd., Suite 250
24 Los Angeles, CA 90048
25 Tel: (310) 392-0522
26 Fax: (310) 392-8874
27 harvey@consumerwatchdog.org
28 pam@consumerwatchdog.org
will@consumerwatchdog.org
ryan@consumerwatchdog.org
ben@consumerwatchdog.org (via email)

26 ☐ FAX
27 ☐ U.S. MAIL

1 ☐ OVERNIGHT MAIL
2 ☐ HAND DELIVERED
3 ☒ EMAIL

4 **NON PARTY**

5 Margaret W. Hosel
6 Attorney and Public Advisor
7 Office of the Public Advisor
8 **CALIFORNIA DEPARTMENT OF**
9 **INSURANCE**
10 1901 Harrison Street, 6th Floor
11 Oakland, CA 94612
12 Tel: (415) 538-4383
13 Fax: (510) 238-7830
14 Margaret.Hosel@insurance.ca.gov

15 ☐ FAX
16 ☐ U.S. MAIL
17 ☐ OVERNIGHT MAIL
18 ☐ HAND DELIVERED
19 ☒ EMAIL