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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 COUNTY OF LOS ANGELES

14 THE ASSOCIATION OF CALIFORNIA  
15 INSURANCE COMPANIES, THE PERSONAL  
16 INSURANCE FEDERATION OF CALIFORNIA,  
17 THE AMERICAN INSURANCE ASSOCIATION,  
18 AND THE PACIFIC ASSOCIATION OF  
19 DOMESTIC INSURANCE COMPANIES

20 Insurance Association  
21 Petitioners and Plaintiffs,

22 v.

23 STEVE POIZNER, in his capacity as Insurance  
24 Commissioner of the State of California; and  
25 CALIFORNIA DEPARTMENT OF INSURANCE,

26 Respondents and Defendants,

27 THE FOUNDATION FOR TAXPAYER AND  
28 CONSUMER RIGHTS,

Intervenor.

Case No. BS109154

**DECLARATION OF PAMELA PRESSLEY  
IN SUPPORT OF THE FOUNDATION  
FOR TAXPAYER AND CONSUMER  
RIGHTS' OPPOSITION TO PETITION  
FOR WRIT OF MANDATE**

Hearing Date: January 31, 2008

Time: 9:30 a.m.

Dept: 85

Judge: Hon. Dzintra Janavs

Date Action Filed: May 25, 2007

1 I, Pamela Pressley, declare

2 1. I am the Litigation Project Director and lead attorney for intervenor The Foundation for  
3 Taxpayer and Consumer Rights (FTCR). This declaration is submitted in support of FTCR's  
4 opposition to insurer trade associations' Petition for Writ of Mandate in the above-captioned matter. I  
5 have first hand knowledge of the matters set forth herein, and if called as a witness, I could and would  
6 testify competently to the facts stated in this declaration.

7 2. FTCR is dedicated to the promotion of insurance reform and the protection of the  
8 interests of all insurance consumers in matters before the Legislature, the courts, and the California  
9 Department of Insurance (CDI). One of FTCR's core missions is the enforcement and implementation  
10 of Proposition 103, and the organization acts to defend and enforce the provisions of the initiative and  
11 other consumer protection measures enacted for the benefit of consumers and policyholders.

12 3. FTCR's staff and consultants include some of the nation's foremost consumer advocates  
13 and experts on insurance ratemaking matters.

14 4. FTCR and/or its attorneys have participated in virtually every significant case  
15 concerning Proposition 103, including *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805; *20th*  
16 *Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216; *Amwest Surety Ins. Co. v. Wilson* (1995) 11  
17 Cal.4th 1243; *Proposition 103 Enforcement Project v. Quackenbush* (1998) 64 Cal.App.4th 1473; *State*  
18 *Farm Mut. Auto. Ins. Co. v. Garamendi* (2004) 32 Cal.4th 1029; *Donabedian v. Mercury Ins. Co.*  
19 (2004) 77 Cal.App.4th 750; and *The Foundation for Taxpayer and Consumer Rights v. Garamendi*  
20 (2005) 132 Cal.App.4th 1354. FTCR has also initiated administrative actions before the CDI by  
21 monitoring rollback settlements, reviewing and challenging rate filings, and participating in rulemaking  
22 hearings, including *In re Rulemaking Hearing to Amend Sections 2651.1, 2661.1, 2661.3, 2662.1,*  
23 *2662.3, and 2662.5 of Subchapter 4.9, Title 10 of the California Code of Regulations, RH06092874*  
24 (2006), which led to the adoption of amendments to the intervenor regulations that are at issue in this  
25 case.

26 5. One of the primary goals of Proposition 103, enacted in 1988 over other competing  
27 measures sponsored by the insurance industry, was to encourage consumer participation in the rate-  
28 setting process. FTCR has invoked and relied upon Insurance Code section 1861.10's consumer

1 participation and enforcement provisions, including its broad rights of standing to initiate and intervene  
2 in actions to enforce Proposition 103 before the CDI and in the courts and the requirement that  
3 consumer representatives be compensated for their reasonable advocacy and witness fees when they  
4 make a substantial contribution to “the adoption of any order, regulation or decision by the  
5 commissioner or a court.”

6 **FTCR’s Participation in the Rate Review and Approval Process.**

7           6.       As a frequent petitioner and intervenor in rate proceedings before the CDI, FT  
8 advocates and experts often spend significant time reviewing and analyzing rate applications and data  
9 submitted by insurers in response to issues raised by FT  
10 consumer representative, files a petition for hearing, the insurer files an “Answer” or “Response” to the  
11 petition for hearing. This answer and the petition are considered “pleadings”, which become part of the  
12 record in the rate proceeding. (10 CCR § 2653.5 [“The petition for hearing, any response, any answer,  
13 and the Commissioner’s determination whether to grant or deny a hearing shall be part of the record in  
14 the proceeding . . . .”].) In addition, FT  
15 discussions with the CDI’s and the applicant’s counsel and experts and provide detailed comments and  
16 analysis explaining why the rate proposed by the application is excessive. As a result of these  
17 discussions, the insurer often provides more data to supplement its original rate filing, which both the  
18 CDI and FT  
19 often explicitly taken into account by the Commissioner in his final decision as to whether to hold a  
20 hearing or whether to approve or disapprove the requested rate, or approve a lower, more appropriate  
21 rate without a hearing. (See, e.g., FT  
22 approving stipulation of the parties and Decisions of the Commissioner denying Petition for Hearing,  
23 but approving a lower rate indication than requested and recognizing FT  
24

25           7.       In some cases, the CDI, after reviewing FT  
26 approve a lower rate than originally requested by the insurer, or told the insurer that it will face a  
27 hearing on the issues raised by FT  
28 instances, the hearing process is suspended to allow the parties to reach an informal resolution. In each  
of these instances, FT  
of these instances, FT

1 ultimately approved at a lower rate or withdrawn altogether has been determined by the Commissioner  
2 to have made a substantial contribution to the outcome. (See *ibid.*) For example:

3 a. On or about June 21, 2004, American Casualty Company of Reading, PA submitted an  
4 Application for Approval of Insurance Rates to the Insurance Commissioner (“Commissioner”)  
5 for a +27.7% rate increase for its commercial lines medical malpractice insurance, File No. 04-  
6 4692. On August 16, 2004, FTCR timely filed a Petition for Hearing and Petition to Intervene  
7 alleging that the Applicant’s requested rate increase was excessive pursuant to Insurance Code  
8 section 1861.05(a) and California Code of Regulations, title 10, section 2644.1, *et seq.*, and  
9 setting forth eight separate issues concerning how the methodologies or values used by the  
10 insurer were inappropriate. Even though the statutes and regulations do not provide for a  
11 *unilateral* “waiver” of the applicable timelines once a timely petition for hearing has been filed  
12 concerning a filing above the 15% mandatory hearing threshold, the Applicant indicated to the  
13 CDI in a letter dated August 24, 2004, that it “waived” all applicable deemer provisions of  
14 section 1861.05. During August, September and October of 2004, the CDI and FTCR  
15 continued to review the rate filing. On October 20, 2004, the CDI issued an “Approval of  
16 Application” letter to the Applicant indicating a +14.9% “rate change approved”. (FTCR’s  
17 RJN, Exh. 6a [Stipulation and Request for Order, File No. PA04039736, July 28, 2005.]) On  
18 December 30, 2004, and prior to receiving any decision by the Commissioner on its Petition for  
19 Hearing, FTCR filed a Request for Reconsideration of the CDI’s “approval” of a 14.9% rate  
20 increase. On January 20, 2005, the Commissioner granted Petitioner’s Request for  
21 Reconsideration. Therein, he ordered the parties “to meet and confer regarding the Application  
22 and the rates approved following review of the Application” and directed the Applicant to  
23 provide additional data. (Decision on Reconsideration, File No. PA04039736, Jan. 20, 2005, p.  
24 2.) Subsequently, FTCR served two informal discovery requests on the Applicant, and the  
25 Applicant provided documents responding to some of FTCR’s requests. FTCR, the Applicant,  
26 and the CDI by their counsel and actuaries participated in three meet and confer sessions over  
27 the next four months. During this process, FTCR provided the parties with a written analysis by  
28 its consulting actuary, Allan Schwartz, based on his review of the further information provided

1 by the Applicant in response to FTCCR's requests. After extensive discussion, the parties finally  
2 agreed that a +9.5% rate change was reasonable and in compliance with the applicable statutes  
3 and regulations. Subsequently, the parties prepared a joint stipulation and supporting  
4 declarations from their attorneys and actuaries, agreeing that the Applicant would issue refunds  
5 to insureds of any amounts charged as a result of the 14.9% rate increase and would implement  
6 a +9.5% rate change after the Commissioner issued an order approving the stipulation. (FTCCR  
7 RJN, Exh. 6a [Stipulation and Request for Order], p. 2.) On September 17, 2005, the  
8 Commissioner issued an Order Adopting Proposed Stipulation, which found that "the  
9 settlement, taken as a whole, is fundamentally fair, adequate, reasonable, and in the interests of  
10 justice" and ordered that the terms of the settlement were adopted as the order of the  
11 Commissioner; as a result, a hearing was unnecessary, and FTCCR's request for hearing was  
12 denied. (FTCCR RJN, Exh. 6a [Order Adopting Proposed Stipulation, PA04039736, Sept. 17,  
13 2005], p. 2.) As a direct result of FTCCR's participation, California health care professionals  
14 were saved approximately \$1.6 million per year in medical malpractice insurance rate hikes.

15  
16 b. On or about February 17, 2005, The Medical Protective Company submitted an  
17 Application for Approval of Insurance Rates to the Insurance Commissioner for a +14.5% rate  
18 increase for its commercial lines medical malpractice insurance, File No. 05-1776. On April 18,  
19 2005, FTCCR timely filed a Petition for Hearing and Petition to Intervene alleging that the  
20 Applicant's requested rate increase was excessive pursuant to Insurance Code section  
21 1861.05(a) and California Code of Regulations, title 10, section 2644.1, *et seq.*, for six separate  
22 reasons. Attached as an exhibit to FTCCR's Petition for Hearing was a detailed and  
23 comprehensive analysis of the six issues prepared by FTCCR's actuarial expert, Allan Schwartz,  
24 who has over 20 years experience in reviewing rate applications in California and elsewhere.  
25 Subsequently, FTCCR, the Applicant, and the CDI, engaged in informal discussions, which were  
26 held on June 1, July 8, and July 15, 2005. As a result of these informal discussions, the CDI  
27 concluded that the 14.5% rate increase request would result in an excessive rate, and that an  
28 increase of 7.1% was reasonable. (FTCCR RJN, Exh. 6b [Decision, PA05045074, Aug. 9, 2005],

1 p. 4.) In concluding that a 7.1% increase was reasonable, the CDI required modifications to the  
2 Applicant's rate filing with regard to all six issues raised by FTCR. (*Id.* at 2-3.) On August 9,  
3 2005, the Commissioner issued his final decision in this matter, which ruled that an overall rate  
4 increase of 7.1% was appropriate, rather than the 14.5% increase sought by the Applicant. (*Id.*  
5 at 4.) That Decision also stated, "Petitioner has raised issues relevant to the Application and  
6 Petitioner's request to intervene is granted." (*Ibid.*) The ultimate result of this favorable  
7 resolution was that those physicians and surgeons insured by the Medical Protective Company  
8 (as well as their patients, to whom malpractice insurance costs are ultimately passed) saved  
9 more than \$2 million per year in excessive insurance premiums.

10  
11 c. On or about June 22, 2004, Farmers Insurance Exchange, Mid-Century Insurance  
12 Company, and Truck Insurance Exchange submitted a rate application to the Insurance  
13 Commissioner for a +5.8% rate increase for their personal lines automobile insurance, File Nos.  
14 04-4704, 4706, 4707. FTCR timely filed a Petition for Hearing and Petition to Intervene  
15 alleging that Applicant's requested rate increase was excessive pursuant to Insurance Code §  
16 1861.05(a) and California Code of Regulations, title 10, section 2644.1, *et seq.* and setting forth  
17 eight separate issues regarding components of the regulatory ratemaking formula with which it  
18 believed the insurer did not comply. (FTCR's RJN, Exh. 6c [Decision, File No. PA04039720,  
19 Dec. 17, 2004], pp. 2-5.) Subsequently, the applicants waived the statutory 60-day "deemed  
20 approved" date indefinitely to allow the CDI to complete its analysis of the rate filing, including  
21 reviewing the issues raised by FTCR. FTCR actively participated in the review and analysis of  
22 Applicant's rate application and presented credible and non-frivolous information to the  
23 Commissioner that would not have otherwise been otherwise available. Indeed, the  
24 Commissioner denied FTCR's Petition for Hearing, but granted FTCR's Petition to Intervene,  
25 finding that "Petitioner has raised issues relevant to the Application and Petitioner's request to  
26 intervene is granted." (*Id.* at 5.) The Decision approved a rate adjustment of just +.68%, a  
27 savings of over \$93 million per year to consumers, and discussed each of the factors raised by  
28

1 FTCR's petition in detail and how they were considered by the CDI in reaching a final  
2 determination. (*Id.* at 2-5.)

3  
4 d. On or about March 29, 2004, NORCAL Mutual Insurance Company (hereinafter the  
5 "Applicant") submitted a rate application for a +4.3% rate change for its commercial lines  
6 medical malpractice insurance, File No. 04-2368. On May 24, 2004, FTCR timely filed a  
7 Petition for Hearing and Petition to Intervene alleging that Applicant's requested rate increase  
8 was excessive pursuant to Insurance Code § 1861.05(a) and California Code of Regulations,  
9 title 10, section 2644.1, *et seq.* and raising five separate issues with the filing. (FTCR's RJN,  
10 Exh. 6d [Decision, File No. PA04037956, July 22, 2004], p. 4.) The insurer subsequently  
11 waived the statutory 60-day "deemed approved" date to July 22, 2004. (*Id.* at 3.) As  
12 recognized by the Commissioner, the insurer stated in its Answer to FTCR's petition "a desire  
13 to *work collaboratively with the Rate Regulation Staff and any intervener to resolve any*  
14 *issues with the Applicant's Rate Application without a formal hearing.*" (*Ibid.*, emphasis  
15 added.) On July 21, 2004 the Commissioner issued his Decision, which denied FTCR's  
16 petition, but granted FTCR's request to intervene, finding that "Petitioner has raised issues  
17 relevant to the Application and Petitioner's request to intervene is granted." (*Id.* at 5.) The  
18 Decision further discussed the CDI's consideration of each of the factors raised by FTCR's  
19 petition. (*Id.* at 4-5.) In particular, the Commissioner's Decision referenced the CDI's use of a  
20 0% federal income tax factor as advocated by FTCR, which was a major factor that led the  
21 Commissioner to approve a 1.6% increase, rather than the 4.3% originally requested by the  
22 Applicant. (*Id.* at 4.) FTCR's participation in this proceeding resulted in significant savings to  
23 consumers of \$5 million.

24  
25 8. The above-discussed examples represent just four instances where FTCR has engaged in  
26 lengthy proceedings that were resolved without a formal hearing. Others are listed below at paragraph  
27 14. In each of these instances, the Commissioner found that FTCR made a substantial contribution to  
28 his final order or decision.

1  
2 **Necessity of Amendments to the Intevenor Regulations**

3 9. During the course of its participation in several of these rate proceedings, FTCCR became  
4 aware of many problems with regard to the initial stages of the rate review process. FTCCR conveyed its  
5 views to the CDI's legal staff on several occasions, and ultimately wrote a formal letter to the  
6 Commissioner requesting that he address such problems. (See Letter from Harvey Rosenfield and  
7 Pamela Pressley to Commissioner Garamendi, Mar. 23, 2004, a true and correct copy of which is  
8 attached as Exhibit A.) The issues detailed in that letter are summarized as follows:

9 • **Insurers often submit incomplete rate applications, hindering public review.**

10 As stated in FTCCR's March 2004 letter to the Commissioner, "FTCCR has discovered that some  
11 insurers have submitted incomplete rate applications to the CDI,<sup>1</sup>" and "the approval of such an  
12 application without a hearing undermines the public's participation in the prior approval process  
13 by depriving the petitioner of the opportunity to request the missing data from the company in  
14 order to complete its review of the filing."

15 • **Insurers subject to a hearing often seek to informally negotiate with the CDI  
16 without the participation of the consumer representative who petitioned for a hearing.**

17 FTCCR also informed the Commissioner that insurers often amend their rate applications after a  
18 request for a hearing is filed and just before the 60-day deemer date. Often, the amendment  
19 seeks a rate just under the 7% mandatory hearing threshold. In these instances, a consumer  
20 representative has only have a few days to review a rate application, instead of the statutorily  
21 mandated 45-day public notice period. In some of these instances, the company and the CDI  
22 agree to an extension of the deemer date (over the objection of the consumer intervenor),  
23 despite the requirement under Insurance Code section 1861.05(c)(1) and 10 CCR § 2648.3 for a  
24 decision on a petition for hearing to be issued within 60 days after a rate filing is publicly  
25

26 <sup>1</sup> Section 1861.05(b), the statutes referenced therein (sections 1857.7, 1857.9, 1857.15 and 1864), and  
27 section 2648.4 of title 10 of the California Code of Regulations set forth the data that must be submitted  
28 in order for a rate application to be considered complete. In some cases, FTCCR has discovered missing  
exhibits, while in other instances, the exhibits supplied contain only cursory data that do not fully  
explain the company's assumptions.

1 noticed. During this extended “waiver” of the deemer period, the insurer continues to have  
2 discussions with CDI staff and seeks to exclude the consumer representative from participation.

3 • **Insurers seek to block consumer representatives from being compensated for their**  
4 **advocacy fees when proceedings conclude in a withdrawal of a rate application or**  
5 **settlement.**

6 FTCR also conveyed in its March 22, 2004 letter to the Commissioner the fact that its attorneys  
7 and experts often expend significant time and resources engaging in informal discussions with  
8 CDI staff and insurers regarding issues with a rate application. In several instances, the  
9 company would agree to lower its requested rate or withdraw its rate application in response to  
10 issues that FTCR raised, but then claim that FTCR was not entitled to compensation for its  
11 substantial contribution. (See, e.g., *In the Matter of the Rate Applications of American*  
12 *Healthcare Indemnity Co. and SCPIE Indemnity Co. (“SCPIE”)*, PA02025379 (Cal. Ins.  
13 Comm’r, 2004); *In the Matter of the Rate Application of: NORCAL Mutual Insurance Co.*, PA-  
14 04037956 (Cal. Ins. Comm’r, 2004); *In the Matter of the Rate Application of First National*  
15 *Insurance Company of America, SAFECO Insurance Company of America, SAFECO Insurance*  
16 *Company of Illinois*, PA03032612 (Cal. Ins. Comm’r, 2003); *In the Matter of the Rate*  
17 *Application of: NORCAL Mutual Insurance Co.*, PA03032128 (Cal. Ins. Comm’r, 2003).)

18 10. In response to FTCR’s March 2004 letter to the Commissioner, the CDI took steps to  
19 address many of the problems raised by FTCR. One such step was to standardize the process whereby  
20 the CDI would seek to encourage informal resolution of rate challenges prior to any decision on a  
21 petition for hearing. In February 2005, the Commissioner issued an Advisory Notice setting forth how  
22 the CDI would conduct such an informal resolution process as follows:

23 The purpose of this advisory notice is to explain how the Department handles  
24 applications for rate increases when the following two conditions exist: first, the rate  
25 increase sought in the original rate application (the “proposed rate adjustment”) exceeds  
26 the applicable threshold set forth in California Insurance Code (“CIC”) Section  
1861.05(c)(3). Second, a consumer or his or her representative (“consumer  
representative”) has requested a hearing on the rate application.

27 When these two conditions are met, the Department will initiate joint discussions that  
28 include the consumer representative and the applicant regarding the rate application. If  
the applicant submits any written or electronic data or correspondence regarding the

1 application to the Department, the applicant must also send a copy to the consumer  
2 representative.

3 If the applicant, consumer representative and Department agree to a specific rate change  
4 the applicant may amend its rate application to request the agreed rate change. However,  
5 if the applicant, consumer representative and Department do not all agree to a specific  
6 rate change the applicant will have two options: the applicant may pursue the rate  
7 increase in a public hearing pursuant to CIC Sections 1861.05 and 1861.08 before the  
8 Department's Administrative Hearing Bureau, or the applicant may withdraw the rate  
9 application.

10 An applicant may withdraw an unapproved rate application at any time prior to issuance  
11 of a notice of hearing on the application. When a notice of hearing is issued the matter is  
12 referred to the Administrative Hearing Bureau. After the matter is referred to  
13 Administrative Hearing Bureau withdrawal may be permitted under certain  
14 circumstances. After an applicant withdraws a rate application, the applicant may file a  
15 new rate application at any time. The new rate application will be considered  
16 independently and will not be prejudiced by the existence of the prior rate application or  
17 any prior request for hearing.

18 (FTCR RJN, Exh. 7 [Advisory Notice, Cal. Ins. Comm'r, Feb. 18, 2005].)

19 Although the February 2005 Advisory Notice set forth the procedures to be followed by the CDI in a  
20 proceeding subject to a mandatory rate hearing, the same basic procedures have been followed by the  
21 CDI in rate proceedings in which the Commissioner's decision to grant a hearing is discretionary.

22 11. After this Advisory Notice was issued, one insurer filed a petition for writ of mandate  
23 against the Commissioner seeking to overturn his award of advocacy fees to FTCR for its substantial  
24 contribution to his decision after a rate proceeding ended in the withdrawal of the insurer's rate  
25 application (*In the Matter of the Rate Applications of American Healthcare Indemnity Company and*  
26 *SCPIE Indemnity Company*, PA03033937 (Cal. Ins. Comm'r, 2004)). This Court granted the insurer's  
27 petition for writ of mandate directing the Commissioner to not enforce his award of compensation  
28 "[d]espite the statutory requirement of Proposition 103 that the Commissioner *shall* award  
29 compensation to any person representing the interests of consumers who make a substantial  
30 contribution to his orders of decision." (FTCR RJN, Exh. 3 [Initial Statement, RH06092874, Sept. 22,  
31 2006], p. 2.) That decision, however, was limited to the factual situation before it, relying in part upon  
32 the fact that no petition to intervene was granted on the rate application challenged, to hold that FTCR,

1 the petitioner there, was not entitled to compensation.<sup>2</sup> (Judgment Granting Petition for Writ of  
2 Mandamus [adopting interlineated Tentative Ruling attached thereto], *American Healthcare Indemnity*  
3 *Company and SCPIE Indemnity Company v. Garamendi*, Super. Ct. L.A. County, 2005, No.  
4 BS094515, page 4.) ***That case, however, did not address the issues to be determined here, i.e.,***  
5 ***whether the Commissioner’s duly adopted amendments to the Intervenor Regulations, are consistent***  
6 ***with and reasonably necessary to effectuate the purposes of Proposition 103.***

7 12. Over the course of the next year, FTCR continued to raise its concerns with CDI staff  
8 and to propose amendments to the procedural regulations governing consumer participation in rate  
9 proceedings that would address many of the issues raised by FTCR and insurers. The Commissioner  
10 determined to amend the regulations and issued a notice of rulemaking hearing on September 26, 2007.  
11 The amendments ensure that, consistent with the mandates of Insurance Code sections 1861.05 and  
12 1861.10, consumer representatives who make a substantial contribution to an order or decision of the  
13 Commissioner in a rate proceeding are entitled to awards of their reasonable advocacy and witness fees.  
14 The changes are limited in scope and primarily do the following:

- 15 • Provide that a rate proceeding is initiated upon the filing of a petition for hearing.
- 16 • Provide that a consumer representative will receive a ruling on its petition to intervene  
17 within 15 days of filing a petition for hearing.
- 18 • Set forth additional documentation that may be submitted with a request for  
19 compensation to support a substantial contribution showing.

20 **The Importance of Consumer Participation in the Rate Review Process.**

21 13. Just as the voters and the California courts have recognized that private enforcement is  
22 essential to the effectuation of important public policies, FTCR has found that the funding mechanism  
23 established by section 1861.10(b) is essential in order to maintain a level regulatory playing field  
24 between consumers and insurers. Insurance regulation is a highly technical field of the law. While the  
25 informal review process has the virtue of permitting the parties to resolve challenges without the  
26

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27 <sup>2</sup> Despite Petitioners’ misstatement on page 8, lines 12-14 of their opening brief, ***the Amended***  
28 ***Regulations do not alter the requirement that a person must have had a petition to intervene granted***  
***in order to be eligible to seek compensation.*** (See 10 CCR § 2662.3(a).)

1 necessity of a full blown administrative hearing, it requires significant resources. Without the  
2 availability of compensation for the work of its attorneys, actuaries and other experts, consumer  
3 organizations would find it extremely difficult, if not impossible, to obtain the services of top quality  
4 attorneys and experts to represent the interests of insurance consumers. The Commissioner's  
5 regulations recognize that compensation of consumer representatives is critical to the integrity of the  
6 prior approval process because if insurers have the ability to determine whether the organization is  
7 compensated by strategic decisions to withdraw and/or negotiate, consumer organizations will be  
8 unable to afford the cost of participation. This, in turn, will diminish the public scrutiny that is  
9 essential to ensuring compliance with the regulations that specify the calculation of rates that are  
10 neither excessive, inadequate or unfairly discriminatory.

11 14. In just the last five years, consumer policyholders have been saved over \$730 million in  
12 annual premiums in 21 rate proceedings in which FTCR has intervened. (See, e.g., *In the Matter of the*  
13 *Rate Application of State Farm General Ins. Co.*, PA06092759 (Cal. Ins. Comm'r 2007); *In the Matter*  
14 *of the Rates, Rating Plans, or Rating Systems of Fire Insurance Exchange*, PA06093078 (Cal. Ins.  
15 Comm'r 2007); *In the Matter of the Rate Applications of First Nat'l Ins. Co., Safeco Ins. Co. of Amer.,*  
16 *et al.*, PA06093080 (Cal. Ins. Comm'r 2006); *In the Matter of the Rate Application of First Nat'l Ins.*  
17 *Co., Safeco Ins. Co. of Amer., et al.*, PA04041210 (Cal. Ins. Comm'r 2006); *In the Matter of the Rate*  
18 *Application of American Casualty*, PA04039736 (Cal. Ins. Comm'r 2005); *In the Matter of the Rate*  
19 *Application of Medical Protective Company*, PA05045074 (Cal. Ins. Comm'r, 2005); *In the Matter of*  
20 *the Rate Application of Executive Risk Indemnity, Inc.*, PA05044849 (Cal. Ins. Comm'r, 2005); *In the*  
21 *Matter of the Rate Application of State Farm General Insurance Company*, PA05043855 (Cal. Ins.  
22 Comm'r, 2005); *In the Matter of the Rate Application of National Union Fire Insurance Co. of*  
23 *Pittsburgh, PA*, PA05043265 (Cal. Ins. Comm'r, 2005); *In the Matter of the Rate Application of the*  
24 *Doctors Co., an Interinsurance Exchange 2005*, PA05043026 (Cal. Ins. Comm'r, 2005); *In the Matter*  
25 *of the Rate Application of California Casualty Indemnity Exchange (Homeowners)*, PA04038627 (Cal.  
26 Ins. Comm'r, 2005), *In the Matter of the Rate Application of California Casualty Indemnity Exchange*  
27 *(Auto)*, PA04037963 (Cal. Ins. Comm'r, 2005); *In the Matter of the Rate Applications of SCPIE*,  
28 PA03033937 (Cal. Ins. Comm'r, 2004); *In the Matter of the Rate Applications of Farmers Ins.*

1 *Exchange, et al.*, PA04039720 (Cal. Ins. Comm’r, 2004); *In the Matter of the Rate Application of*  
2 *Medical Protective Company*, PA04036735 (Cal. Ins. Comm’r, 2004); *In the Matter of the Rate*  
3 *Application of Medical Protective Company*, PA04037962 (Cal. Ins. Comm’r, 2004); *In the Matter of*  
4 *the Rate Applications of American Healthcare Indemnity Co. and SCPIE Indemnity Co. (“SCPIE”)*,  
5 PA02025379 (Cal. Ins. Comm’r, 2004); *In the Matter of the Rate Application of: NORCAL Mutual*  
6 *Insurance Co.*, PA-04037956 (Cal. Ins. Comm’r, 2004); *In the Matter of the Rate Application of*  
7 *California State Automobile Association Inter-Insurance Bureau*, PA03031809 (Cal. Ins. Comm’r,  
8 2003); *In the Matter of the Rate Application of First National Insurance Company of America,*  
9 *SAFECO Insurance Company of America, SAFECO Insurance Company of Illinois*, PA03032612 (Cal.  
10 Ins. Comm’r, 2003); *In the Matter of the Rate Application of: NORCAL Mutual Insurance Co.*,  
11 PA03032128 (Cal. Ins. Comm’r, 2003).

12 15. Of these proceedings, only two were decided after a formal hearing. The remaining 19,  
13 totaling a savings of \$688 million, were resolved without a formal hearing after: (1) the parties,  
14 including FTCCR, agreed to a final rate; (2) the Commissioner approved a lower rate than requested by  
15 the insurer after considering the views and analysis of FTCCR’s attorneys and experts; or (3) the insurer  
16 withdrew its rate filing rather than face a formal hearing.

17  
18 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and  
19 correct.

20 Executed on December 7, 2007 at Santa Monica, California.

21  
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