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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF LOS ANGELES – CENTRAL**

13 ROGER HARRIS, DUANE BROWN,  
14 AND BRIAN LINDSEY,

15 Plaintiffs,

16 v.

17 FARMERS INSURANCE  
18 EXCHANGE AND MID CENTURY  
19 INSURANCE  
20 COMPANY,

21 Defendants.

Case No.: BC579498

**SUPPLEMENTAL DECLARATION  
OF JAY ANGOFF IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

**Date: December 12, 2019**

**Time: 9:00 a.m.**

**Department: 17**

**Complaint filed: April 22, 2015**

**Trial Date: TBD**

Case No.: BC579498

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18 *Attorneys for Plaintiffs*  
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1 I, Jay Angoff, declare and state that:

2 1. I am an attorney licensed to practice in the District of Columbia, and I was  
3 admitted pro hac vice in this matter on October 19, 2015. I am a partner at the law offices  
4 of Mehri & Skalet, one of the counsel for the Plaintiffs and the proposed Settlement Class  
5 in the above captioned matter. I submit this declaration in support of Plaintiffs'  
6 Unopposed Motion for Preliminary Approval of Class Action Settlement. Unless  
7 otherwise noted, I have personal knowledge of the facts set forth in this declaration and  
8 could and would testify competently to them if called upon to do so.

9 2. In response to the Court's October 8, 2019 request for additional briefing,  
10 the Parties entered into an Amended Settlement Agreement in this matter, a true and  
11 correct copy of which is attached as **EXHIBIT 1**, including all of its exhibits.

12 3. A redline reflecting the changes made from the original settlement  
13 agreement Plaintiffs submitted on August 30, 2019 to the Amended Settlement Agreement  
14 is attached as **EXHIBIT 2**. Redline versions of the exhibits to the settlement agreement  
15 are not included.

16 4. Plaintiffs and Class Counsel have entered into written retainer agreements  
17 specifying that, in the event of a settlement on behalf of a class, Class Counsel would  
18 apply to the Court for reimbursement of their costs and payment of their attorneys' fees  
19 pursuant to applicable law, including that Class Counsel would have the right to seek  
20 reimbursement of fees and costs pursuant to the common fund doctrine. In connection  
21 with the Settlement, Plaintiffs have agreed in writing that Class Counsel may request up to  
22 33% of the gross Settlement Amount as attorneys' fees. Exhibit 1, ¶ 90. Separately, Class  
23 Counsel has entered into a written agreement concerning the manner in which they will  
24 allocate among themselves any attorneys' fees awarded by the Court in this Settlement.  
25 Plaintiffs have given their written approval of Class Counsel's fee splitting agreement, as  
26 that agreement is an exhibit to Plaintiffs' retainer agreements with Class Counsel. Class  
27 Counsel will bring these agreements to the hearing on Plaintiffs' motion for preliminary  
28 approval for the Court's *in camera* review.

1           5.       Attached as **EXHIBIT 3** is a true and correct copy of the Prefiled Direct  
2 Testimony of Allan I. Schwartz, dated Oct. 4, 2018. Mr. Schwartz was retained as an  
3 actuarial expert for Consumer Watchdog, an intervenor in California Department of  
4 Insurance administrative investigatory non-compliance hearing, California Department of  
5 Insurance File No. NC-2017-00003 (the “Department Proceeding”). Mr. Schwartz’s  
6 prefiled direct testimony was offered by Consumer Watchdog in the Department  
7 Proceeding. Portions of Mr. Schwartz’s prefiled direct testimony are redacted where he  
8 relies on discovery materials designated confidential pursuant to the terms of a protective  
9 order issued by Chief Administrative Law Judge Kristin Rosi in the Department  
10 Proceeding. The redacted portions of Mr. Schwartz’s prefiled direct testimony are not  
11 pertinent to that matters for which Plaintiffs have relied upon his testimony. The redacted  
12 portions of Mr. Schwartz’s prefiled direct testimony are also not pertinent to the reasons  
13 Plaintiffs are submitting his testimony in connection with their motion for preliminary  
14 approval of the Settlement.

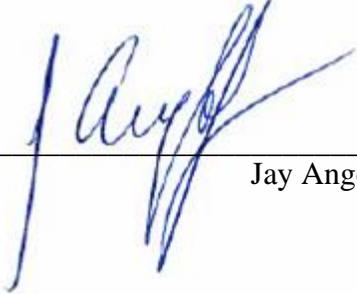
15           6.       Based on representations made in the Department Proceeding by  
16 representatives of the California Department of Insurance to the Parties and to Chief  
17 Administrative Law Judge Kristin Rosi, it is my understanding that the California  
18 Insurance Commissioner intends to seek dismissal of the Department Proceeding if and  
19 after the Court grants preliminary approval of the Settlement.

20           7.       Class Counsel carefully considered alternatives for how to allocate the Net  
21 Settlement Amount to Settlement Class Members. After receiving input from Justice Low  
22 during the negotiation process, the Parties agreed to allocate the Net Settlement Amount  
23 in equal payments to each person who has or had an ownership interest in any Farmers  
24 policy or policies, except that persons who jointly have or had an ownership interest in  
25 any Farmers policy or policies would not receive separate payments from the Net  
26 Settlement Amount. Class Counsel determined that this plan of allocation appropriately  
27 allocates the Net Settlement Amount to Settlement Class members in a manner that is  
28 consistent with Plaintiffs’ theory and which is not needlessly costly to administer.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true of my own personal knowledge.

Executed at Washington, D.C. this 20<sup>th</sup> day of November, 2019.



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Jay Angoff

# **EXHIBIT 1**

## **AMENDED SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release (“Agreement”) is made and entered into this 18<sup>th</sup> day of November 2019, by and among (1) Plaintiffs, Roger Harris, Duane Brown, Brian Lindsey (“Plaintiffs”), individually, and on behalf of the Settlement Class, and (2) Farmers Insurance Exchange and Mid Century Insurance Company (collectively “Farmers” or “Defendants”), subject to preliminary and final approval as required by the California Rules of Court. As provided herein, Plaintiffs, Class Counsel and Farmers hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and upon entry by the Court of a Final Order and Judgment and achievement of the Effective Date all claims of the Settlement Class against Farmers in the action titled *Harris, et al. v. Farmers Insurance Exchange, et al.*, Superior Court of California, County of Los Angeles, Case No. BC 57948 (“Action”), shall be settled and compromised upon the terms and conditions contained herein.

### **I. Recitals**

1. On April 22, 2015, Plaintiffs filed a class action complaint in the Superior Court of California alleging five causes of action pertaining to Farmers’ alleged use of price optimization/elasticity of demand (a.k.a., a method of taking into account an individual’s or class’s willingness to pay a higher premium relative to other individuals or classes) as a rating factor in violation of California’s Unfair

Competition Law, Cal. Bus. & Prof. Code § 17200 et seq. (“UCL”), the California Insurance Code, and as unjust enrichment.

2. Plaintiffs filed a First Amended Complaint on October 29, 2015.

3. On November 30, 2015, Farmers filed a Demurrer to the First Amended Complaint (“Demurrer”). On December 30, 2015, Plaintiffs filed their Response in Opposition to Farmers’ Demurrer, and on January 8, 2016, Farmers filed its Reply in support of its Demurrer.

4. On January 25, 2016, the Court sustained in part and denied in part Farmers’ Demurrer. The Court overruled Farmers’ Demurrer to Plaintiffs’ causes of action under the UCL and for unjust enrichment. The Court sustained without leave to amend Farmers’ Demurrer as to Plaintiffs’ cause of action for violation of California Insurance Code Section 1861.10. The Court granted Farmers’ request for a stay of the case pending proceedings before the California Department of Insurance (the “Department”) pursuant to the primary jurisdiction doctrine.

5. For the next several months, the Department informally investigated whether Farmers was using price optimization or elasticity of demand as a rating factor. Then, both in response to the Superior Court’s order and also on his own motion, on April 14, 2017 the Commissioner announced that he would hold a hearing on “whether Farmers has violated California insurance law by using illegal price optimization” titled *In the Matter of the Rating Practices of Farmers Insurance*

*Exchange and Mid-Century Insurance Company* (CDI File No. NC-2017-00003).

6. The Commissioner invited Plaintiffs to participate in the Department Proceeding and stated that he would convey his findings to the Superior Court.

7. Both Plaintiffs and Consumer Watchdog (“CWD”) subsequently intervened in the Department Proceeding.

8. The Department Proceeding continued for over two years and included significant motion practice and discovery. The Parties also entered into a Joint Statement of Issues in which the Parties stipulated to the following facts:

- a. The Commissioner approved Farmers’ 2008 Class Plans and associated rate filings;
- b. Farmers did not directly use price optimization software in the development of the 2008 Class Plans or any rate filings based on those Class Plans;
- c. Farmers calculated rates and premiums in a manner consistent with the 2008 Class Plans as filed with the Commissioner;

9. During that time, Farmers also filed two separate Petitions for Writ of Administrative Mandamus – one in August of 2017 and another in November of 2018 – related to the conduct and scope of the Department Proceeding.

10. After several continuances as the Parties engaged in discovery and other disputes, the Department Proceeding was set for final evidentiary hearing on January 7, 2019.

11. In December of 2018, the Parties agreed to a mediation before the Hon.

Harry W. Low (Ret.) and requested that the evidentiary hearing in the Department Proceeding be continued. The Chief Administrative Law Judge presiding over the Department Proceeding, Judge Rosi, granted that request.

12. On February 19, 2019, the Parties participated in a full day mediation with Judge Low. The mediation did not result in a settlement on that date.

13. For the next several months, the Parties continued their discussions and negotiations both in writing and over the telephone, with the participation of Judge Low. Chief Administrative Law Judge Rosi continued the evidentiary hearing in the Department Proceeding pending such settlement talks.

14. On June 5, 2019, the Parties executed a Memorandum of Understanding wherein the Parties agreed to the material terms of the settlement, the finalization of which is contingent on (1) the execution of a full and binding Settlement Agreement; (2) the Commissioner of Insurance's dismissal of the Department Proceeding (CDI File No. NC -2017-00003) (without prejudice to reinstatement in the event the Settlement does not receive Final Approval and/or the Effective Date does not occur); (3) the entry by the Court of a Final Order and Judgment (i) affirming certification of the Settlement Class, (ii) finding the Settlement Agreement to be fair, adequate and reasonable, (iii) finding that the Notice to the Class of the Settlement Agreement is fair, adequate and reasonable, (iv) resolving any and all objections to the Settlement Agreement, (v) dismissing with prejudice the Settlement Class

Members' claims against the Released Persons with each party to bear its own costs;

(4) the expiration of the deadline for seeking appellate review of the Final Order and Judgment if no appeal is sought, or the day following the date all appellate courts with jurisdiction to review the Final Judgment and Order with no possibility of further appellate review.

15. On June 6, 2019, Plaintiffs and Farmers filed a Stipulated Request for a Stay of the Department Proceeding pending the Settlement of the Action.

16. On June 7, 2019, the Parties filed a Notice of Settlement with the Court advising the Court of the Memorandum of Understanding and requesting a stay of all proceedings until the filing of this Settlement Agreement and a Motion for Preliminary Approval.

17. The Parties now agree to settle the Action in its entirety, without any admission of liability, with respect to all Released Claims of the Releasing Parties (definitions below). The Parties intend this Agreement to bind Plaintiffs, Farmers, and all Settlement Class Members.

18. Plaintiffs' proposed Second Amended Complaint is attached hereto as Exhibit 1. Plaintiffs will file this proposed Second Amended Complaint with the Court as the operative complaint in the Action at the time that Plaintiffs file their Motion for Preliminary Approval.

19. On November 18, 2019, the Parties entered into an Amended Settlement Agreement.

**NOW, THEREFORE**, in light of the foregoing, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows.

## **II. Definitions**

In addition to the terms defined at various points within this Agreement, the following Defined Terms apply throughout this Agreement:

20. “Action” means *Harris, et al. v. Farmers Insurance Exchange, et al.*, Superior Court of California, Case No. BC 57948.

21. “Class Counsel” means:

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Peter Kahana, Esq.  
Jeff Osterwise, Esq.  
1818 Market Street, Suite 3600  
Philadelphia, PA 19103

22. “Class Period” means the period from August 18, 2015, through March 31, 2017.

23. “Class Representatives” mean Roger Harris, Duane Brown, and Brian Lindsey.

24. “Court” means the Superior Court of California, County of Los Angeles.

25. “Depository Bank” shall mean BB&T or its successor or another bank acceptable to the parties with the capacity to hold a qualified settlement fund.

26. “Department Proceeding” means the California Department of Insurance administrative investigatory non-compliance hearing, California Department of Insurance File No. NC-2017-00003.

27. “Effective Date” means the day following: (A) the entry by the Court of the Final Order and Judgment: (i) affirming certification of the Settlement Class; (ii) finding the Settlement Agreement to be fair, adequate and reasonable; (iii) finding that the Notice to the Class of the Settlement Agreement was fair, adequate and reasonable; (iv) resolving any and all objections to the fairness and reasonableness of the Settlement Agreement, if any; and (B) the expiration of the deadline for seeking appellate review of the Final Order and Judgment if no appeal is sought; or the day following the date all appellate courts with jurisdiction affirm the Final Judgment and Order with no possibility of further appellate review existing; and (C) the Commissioner’s dismissal of the Department Proceeding

(without prejudice to reinstatement in the event the Settlement does not receive Final Approval and/or the Effective Date does not occur).

28. “Final Approval” means the date that the Court enters an order granting final approval to the Settlement and determines the amount of fees, costs, and expenses awarded to Class Counsel and the amount of any Service Awards to the Class Representatives.

29. “Final Approval Order” means the final order that the Court enters upon Final Approval that does not affect the financial terms or Releases provided for herein. All Parties will in good faith support and pursue preliminary and final class-wide approval of the material terms of this Agreement. In the event that the Court issues separate orders addressing the matters constituting Final Approval, then the Final Approval Order includes all such orders.

30. “Farmers” means Farmers Insurance Exchange and its affiliate, Mid Century Insurance Company.

31. “Net Settlement Amount” means the Settlement Amount, minus Court approved attorneys’ fees, costs and expenses, any notice and administration expenses, and Court-approved Service Awards to Plaintiffs. The Net Settlement Amount will be allocated (to Settlement Class Members such that each Settlement Class Member will receive an equal Settlement Class Member Payment from the

Net Settlement Amount, except that Settlement Class Members that jointly hold an ownership interest in any Policy or Policies shall receive a joint Settlement Class Member Payment.

32. “Non-Renewing Current Policy Holder” means a Settlement Class Member who continues to have his or her Policy as of the Effective Date and who declines to renew his or her Policy within six months after the Payment Date.

33. “Notice” means the notices that the Parties will ask the Court to approve in connection with the Motion for Preliminary Approval of the Settlement.

34. “Notice Program” means the methods provided for in this Agreement for giving the Notice and consists of Postcard Notice, Email Notice, Long Form Notice, and Publication Notice (all defined herein below), which shall be substantially in the forms as the Exhibits attached hereto as Exhibits 3-6.

35. “Opt-Out Period” means the period that begins the day after the earliest date on which the Notice is first mailed, and that ends 120days after Preliminary Approval. The deadline for the Opt-Out Period will be specified in the Notice.

36. “Parties” means Plaintiffs and Farmers.

37. “Past Policy Holder” means a Settlement Class Member who no longer holds his or her Policy as of the Effective Date.

38. “Payment Date” means that date occurring after the Effective Date on which the Court orders the payment of the Settlement Class Member Payments to begin.

39. “Plaintiffs” means Roger Harris, Duane Brown, and Brian Lindsey.

40. “Policy” means any private passenger auto insurance policy maintained by Farmers in the state of California.

41. “Policy Holder” means each person who has an ownership interest in a Policy or Policies during the Class Period.

42. “Preliminary Approval” means the date that the Court enters, without material change, an order preliminarily approving the Settlement.

43. “Publication Notice” means a mutually agreed notice of the Settlement published in California in the following publications in the publications identified in paragraph 71 to apprise Settlement Class Members of the Settlement.

44. The “Releases” means all of the releases contained in Paragraph 88 hereof.

45. “Released Claims” means all claims to be released as specified in Paragraph 88 hereof.

46. “Released Parties” means those persons released as specified in Paragraph 88 hereof.

47. “Releasing Parties” means Plaintiffs and all Settlement Class Members, and each of their respective heirs, assigns, beneficiaries and successors.

48. “Renewing Current Policy Holder” means a Settlement Class Member who continues to have his or her Policy as of the Effective Date and who renews his or her Policy within six months after the Payment Date.

49. “Service Award” means any Court-ordered payment to Plaintiffs for serving as Class Representatives that is in addition to any payment otherwise due Plaintiffs as Settlement Class Members.

50. “Settlement” means the settlement into which the Parties have entered to resolve the Action. The terms of the Settlement are as set forth in this Agreement.

51. “Settlement Administration Costs” means all costs of the Settlement Administrator regarding notice and settlement administration.

52. “Settlement Administrator” means Epiq Systems, Inc.

53. “Settlement Class” means all Policy Holders of Defendants Farmers Insurance Exchange (“FIE”) and Mid Century Insurance Company (“MCA”) who: (1) had 9 or more years of tenure/persistency as a FIE and/or MCA policyholder as of August 18, 2015 or who reached 9 or more years of tenure/persistency as a FIE and/or MCA policyholder on or before March 31, 2017, and (2) were FIE and/or MCA policyholders of Defendants at any time during the period extending from August 18, 2015 through March 31, 2017. Excluded from the Settlement Class are

(a) officers, directors, and employees of any member of the Farmers Insurance Group of Companies; (b) the judge overseeing the proposed settlement and the judge's immediate family and (c) all Policy Holders who make a timely election to be excluded.

54. "Settlement Class Member" means each Policy Holder included in the Settlement Class who does not timely opt-out of the Settlement.

55. "Settlement Class Member Payment" means the equal distribution that will be made from the Net Settlement Amount to each Settlement Class Member (or jointly to Settlement Class Members who jointly hold an ownership interest in a Policy or Policies), as described in Paragraph 31.

56. "Settlement Amount" means the \$15,000,000 that Farmers is obligated to pay under the Settlement. The Settlement Amount is all inclusive and will be used to pay the Settlement Class Member Payments, any attorneys' fees, costs and Service Awards ordered by the Court, any Settlement Administration Costs including the costs of Settlement Administrator and the costs of all forms of Notice and the Notice Program, and any *cy pres* payment required under this Agreement. Any and all costs incurred by Farmers in the process of making Policy credits to Renewing Current Policy Holders shall be borne by Farmers separately and not out of the Settlement Amount.

57. “Settlement Website” means the website that the Settlement Administrator will use as a means for Settlement Class members to obtain notice of and information about the Settlement, through and including hyperlinked access to this Agreement, the Long Form Notice, the order preliminarily approving this Settlement, the Final Judgment, and such other documents as Class Counsel agree to post or that the Court orders posted on the website. The URL of the Settlement Website shall be [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com), or such other URL as Class Counsel and Farmers agree upon in writing.

### **III. Certification of the Settlement Class**

58. For Settlement purposes only, Plaintiffs and Farmers agree to ask the Court to certify the Settlement Class under California Code of Civil Procedure Section 382.

### **IV. Monetary Settlement**

59. Subject to approval by the Court, the total monetary consideration to be provided by Farmers pursuant to the Settlement shall be \$15,000,000, inclusive of the amount paid to Settlement Class Members, any and all attorneys’ fees, costs and expenses awarded to Class Counsel, any Service Awards to the Class Representatives, all costs and expenses incurred by the Settlement Administrator and any *cy pres* payment.

60. Within 10 days of Preliminary Approval of the Settlement, Farmers shall deliver to the Settlement Administrator \$500,000 from the Settlement Amount to be deposited in a Qualified Settlement Fund account for this matter at the Depository Bank. This amount is estimated to be necessary to pay for the Notice Program and administration of the Settlement by the Settlement Administrator.

61. Within 10 days of the Effective Date Farmers shall deliver to the Settlement Administrator that portion of the Settlement Amount necessary to pay the Settlement Class Member Payments due to the Past Policy Holders and the attorneys' fees and costs payable to Class Counsel, which amount shall be deposited in the Qualified Settlement Fund account for this matter at the Depository Bank maintained by the Settlement Administrator. The Settlement Administrator shall deliver such Settlement Class Member Payments to the Past Policy Holders in accordance with the Court's Final Approval Order.

62. In order to reduce the costs of administration of the Settlement, Farmers shall retain that portion of the Settlement Amount that is allocated to Settlement Class Members who are Renewing Current Policy Holders, who will beginning on the Payment Date, at its own cost and expense, directly credit the Policies of those Renewing Current Policy Holder Settlement Class Members at the time of renewal of their Policies. At the conclusion of the renewal cycle, Farmers shall deliver to the Settlement Administrator that portion of the Settlement Amount

necessary to satisfy the Settlement Class Member Payments due to the Non-Renewing Current Policyholders, whose payments will be then be delivered by the Settlement Administrator by paper check. Farmers shall report to the Court as to the status of all Settlement Class Member Payments made to Renewing Current Policy Holders on a semi-annual basis following the Payment Date.

**V. Prospective Injunctive Relief**

63. Without admitting any liability or that it is required by law to do so, Farmers agrees to the practices outlined in the attached Exhibit 7.

**VI. Settlement Approval**

64. Upon execution of this Agreement by all Parties, Class Counsel shall promptly move the Court for an Order granting Preliminary Approval of this Settlement (“Preliminary Approval Order”). The motion for Preliminary Approval shall request that the Court: (1) approve the terms of the Settlement as within the range of fair, adequate and reasonable; (2) provisionally certify the Settlement Class pursuant to California Code of Civil Procedure Section 382 for settlement purposes only; (3) appoint Class Counsel as counsel for the Settlement Class; (4) appoint Plaintiffs as Class Representatives of the Settlement Class (5) approve the Notice Program set forth herein and approve the form and content of the Notices of the Settlement; (6) approve the procedures set forth herein below for Settlement Class members to exclude themselves from the Settlement Class or to object to the

Settlement; (7) stay the Action pending Final Approval of the Settlement; and (8) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, Class Counsel and counsel for Farmers, at which the Court will conduct an inquiry into the fairness of the Settlement, determine whether it was made in good faith, and determine whether to approve the Settlement and Class Counsel's application for attorneys' fees, costs and expenses and for Service Awards to the Class Representatives ("Final Approval Hearing").

## **VII. Settlement Administrator**

65. The Settlement Administrator shall administer various aspects of the Settlement as described in the next paragraph hereafter and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, providing Mailed and Email Notice to Settlement Class members and distributing the Settlement Amount as provided herein.

66. The duties of the Settlement Administrator, in addition to other responsibilities that are described in the preceding paragraph and elsewhere in this Agreement, are as follows:

a. Use the name and address information for Settlement Class members provided by Farmers in connection with the Notice process approved by the Court, for the purpose of mailing the Mailed Notice and sending the Email Notice, and later

mailing distribution checks to Past Policy Holder Settlement Class Members and Non-Renewing Current Policy Holder Settlement Class Members, and to Renewing Current Policy Holder Settlement Class Members where it is not feasible or reasonable for Farmers to make the payment by a credit to the their Policies;

- b. Arrange for the Publication Notice;
- c. Establish and maintain a Post Office box for requests for exclusion from the Settlement Class;
- d. Establish and maintain the Settlement Website;
- e. Establish and maintain an automated toll-free telephone line for Settlement Class members to call with Settlement-related inquiries, and answer the questions of Settlement Class members who call with or otherwise communicate such inquiries;
- f. Respond to any mailed Settlement Class member inquiries;
- g. Process all requests for exclusion from the Settlement Class;
- h. Provide weekly reports to Class Counsel and Farmers that summarizes the number of requests for exclusion received that week, the total number of exclusion requests received to date, and other pertinent information;
- i. In advance of the Final Approval Hearing, prepare an affidavit to submit to the Court confirming that the Notice Program was completed, describing how the Notice Program was completed, providing the names of each Settlement

Class member who timely and properly requested exclusion from the Settlement Class, and other information as may be necessary to allow the Parties to seek and obtain Final Approval;

j. Pay invoices, expenses and costs upon approval by Class Counsel and Farmers, as provided in this Agreement; and

k. Any other Settlement-administration-related function at the instruction of Class Counsel and Farmers, including, but not limited to, verifying that settlement funds have been distributed.

#### **VIII. Notice to Settlement Class members**

67. As soon as practicable after Preliminary Approval of the Settlement, the Settlement Administrator shall implement the Notice Program provided herein, using the forms of Notice approved by the Court in the Preliminary Approval Order. The Notice shall include, among other information: a description of the material terms of the Settlement including the injunctive relief; a date by which Settlement Class members may exclude themselves from or “opt-out” of the Settlement Class; a date by which Settlement Class members may object to the Settlement; the date upon which the Final Approval Hearing is scheduled to occur; and the address of the Settlement Website at which Settlement Class members may access this Agreement and other related documents and information. Class Counsel and Farmers shall

insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices and publications provided under or as part of the Notice Program shall not bear or include the Farmers logo or trademarks or the return address of Farmers, or otherwise be styled to appear to originate from Farmers.

68. The Notice also shall include a procedure for Settlement Class members to opt-out of the Settlement Class. A Settlement Class member may opt-out of the Settlement Class at any time during the Opt-Out Period, provided the opt-out notice is postmarked no later than the last day of the Opt-Out Period. Any Settlement Class member who does not timely and validly request to opt-out shall be bound by the terms of this Agreement. Requests for exclusion from the Settlement must be delivered to the Settlement Administrator via mail.

69. The Notice also shall include a procedure for Settlement Class members to object to the Settlement and/or to Class Counsel's application for attorneys' fees, costs and expenses and/or Service Awards to the Class Representatives. A Settlement Class member may submit an objection, via mail, to the Settlement Administrator at any time during the Opt-Out Period, provided the objection is postmarked no later than the last day of the Opt-Out Period.

70. A written objection must also set forth:

a. the name of the Action;

- b. the objector's full name, address and telephone number;
- c. an explanation of the basis upon which the objector claims to be a Settlement Class member;
- d. all grounds for the objection;
- e. the identity of all counsel who represent the objector;
- f. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- g. the objector's signature.

Class Counsel and/or Farmers may conduct limited discovery on any objector consistent with the California Code of Civil Procedure.

71. Notice shall be provided to Settlement Class members in four different ways: Email notice to Settlement Class members for whom Farmers has email addresses ("Email Notice") and who have agreed to accept their Policy statements and/or information by email; postcard Notice ("Postcard Notice") to those Settlement Class members who have not agreed to accept their Policy statements and/or information by email or for whom Farmers does not have current email addresses; Long-Form Notice with details regarding the Settlement ("Long Form Notice") on the Settlement Website; and a mutually agreed Publication Notice published in California in the following publications to apprise Settlement Class members of the Settlement: the Los Angeles Times, East Bay Times/Mercury News,

Sacramento Bee, San Diego Union-Tribune, San Francisco Chronicle, Facebook (California IP addresses only) and Google Display Network (California IP addresses only). Email Notice and Postcard Notice shall collectively be referred to as “Mailed Notice.” Not all Settlement Class members will receive all forms of Notice, as detailed herein. The cost of all forms of Notice and the Notice Program shall be paid out of the Settlement Amount. A Spanish version of the Long Form Notice shall be provided to Settlement Class Members who request it. The Postcard Notice, Email Notice, and Publication Notice shall inform Settlement Class members, in Spanish, of the availability of the Spanish version of the Long Form Notice.

72. Farmers, with the assistance of the Settlement Administrator as appropriate, shall create a list of Settlement Class members and their electronic mail and/or postal addresses based on readily available information already within its possession. Farmers will bear the expense of extracting the necessary data to make this list of Settlement Class members. Farmers will provide the list of Settlement Class members and their electronic mail and/or postal addresses to the Settlement Administrator to provide Notice by November 30, 2019.

73. The Settlement Administrator shall run the physical addresses through the National Change of Address Database and shall mail to all such Settlement Class members Postcard Notice. The Settlement Administrator shall also send out Email

Notice to all Settlement Class members receiving Notice by that method. The initial Mailed Postcard and Email Notice shall be referred to as “Initial Mailed Notice.”

74. The Settlement Administrator shall perform reasonable address traces for all Initial Mailed Notice postcards that are returned as undeliverable. By way of example, a “reasonable” tracing procedure would be to run addresses of returned postcards through the Lexis/Nexis database that can be utilized for such purpose. No later than 60 days after preliminary approval, the Settlement Administrator shall complete the re-mailing of Postcard Notice to those Settlement Class members whose new addresses were identified as of that time through address traces (“Notice Re-mailing Process”). The Settlement Administrator shall send Postcard Notice to all Settlement Class members’ whose emails were returned as undeliverable and complete such Notice pursuant to the deadlines described herein as they relate to the Notice Re-mailing Process.

75. The Notice Program (which is composed of both the Initial Mailed Notice and the Notice Re-mailing Process) shall be completed no later than 60 days after entry of a Preliminary Approval Order.

76. Within the provisions set forth in this Section VIII, further specific details of the Notice Program shall be subject to the agreement of Class Counsel and Farmers.

## **IX. Final Approval Order and Judgment**

77. Plaintiffs' Motion for Preliminary Approval of the Settlement will include a request to the Court for a scheduled date on which the Final Approval Hearing will occur. Plaintiffs shall file their Motion for Final Approval of the Settlement, and application for attorneys' fees, costs and expenses and for Service Awards for the Class Representatives no later than 105 days after preliminary approval. At the Final Approval Hearing, the Court will hear argument on Plaintiffs' Motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees, costs, and expenses and for the Service Awards for the Class Representatives. One week prior to the Final Approval Hearing, Plaintiffs may file supplemental briefing in support of final approval of the Settlement. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class members (or their counsel) who object to the Settlement or to Class Counsel's application for attorneys' fees, costs, expenses or the Service Awards application, provided the objectors submitted timely objections that meet all of the requirements listed in the Agreement.

At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order granting Final Approval of the Settlement and entering final judgment thereon and whether to approve Class Counsel's request for attorneys' fees, costs, expenses and Service Awards.

Such proposed Final Approval Order shall, among other things:

- a. Determine that the Settlement is fair, adequate and reasonable;
- b. Finally certify the Settlement Class for settlement purposes only;
- c. Determine that the Notice provided satisfies Due Process requirements;
- d. Provide for the future entry of judgment dismissing the Action with prejudice;
- e. Release Farmers and the Released Parties from the Released Claims;  
and
- f. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including Farmers, all Settlement Class Members, and all objectors, to administer, supervise, construe and enforce this Agreement in accordance with its terms.

**X. Distributions From The Settlement Amount**

78. In exchange for the mutual promises and covenants in this Agreement, including, without limitation, the Releases and occurrence of the Effective Date, Farmers shall be responsible for paying the Settlement Amount, from which Settlement Class Member Payments shall be paid to the Settlement Class Members.

79. Unless a Renewing Current Policy Holder has contacted the Settlement Administrator to request a paper check instead of a Policy credit, Farmers shall credit

the Policies of all Renewing Current Policy Holders their Settlement Class Member Payments at the time of their next Policy renewal.

80. Settlement Class Member Payments to Renewing Current Policy Holders shall be made first by crediting a Policy for those Policy Holders at the time of their next Policy renewal, or by mailing a standard size check if it is not feasible or reasonable to make the payment by a credit. Farmers shall notify Renewing Current Policy Holders of any such credit on the Policy statement on which the credit is reflected and provide a brief explanation that the credit has been made as a payment in connection with the Settlement. The form and substance of this notification shall be mutually agreed upon by the Parties and shall be substantially similar to the language of Exhibit 9. Farmers will bear all costs and expenses associated with implementing the Policy credits and notification discussed in this paragraph.

81. If the next Policy renewal date for a Policy Holder does not occur within six (6) months of the Payment Date, the Policy Holder shall receive his or her Settlement Class Member Payment via check from the Settlement Administrator. Within 10 days after the Payment Date, Farmers shall provide the Settlement Administrator with a list of the Settlement Class members who do not have a Policy renewal date within six (6) months of the Effective Date. Settlement Class Member Payments to such Settlement Class Members shall be made by mailing a standard

size check. The Settlement Administrator shall be responsible for mailing such checks.

82. After Farmers has processed all Settlement Class Member Payments to Renewing Current Policy Holders with a Policy renewal date occurring within six (6) months of the Payment Date, Farmers shall notify the Settlement Administrator of that portion of the Settlement Amount necessary to fund the Settlement Class Member Payments to Non-Renewing Current Policy Holders by check.

83. Settlement Class Member Payments to Non-Renewing Current Policy Holders shall be made by mailing a standard size check. The Settlement Administrator shall be responsible for mailing such checks.

84. Within 10 days after Effective Date, Farmers shall provide the Settlement Administrator with a list of Past Policy Holder Settlement Class Members in order to send checks to Past Policy Holders for their Settlement Class Member Payments.

85. Settlement Class Member Payments to Past Policy Holders shall be made by mailing a standard size check. The Settlement Administrator shall be responsible for mailing such checks.

86. The amount of the Net Settlement Amount attributable to uncashed or returned checks sent by the Settlement Administrator shall be held by the Settlement Administrator one year from the date that the first distribution check is mailed by

the Settlement Administrator. During this time the Settlement Administrator shall make a reasonable effort to locate intended recipients of settlement funds whose checks were returned (such as by running addresses of returned checks through the Lexis/Nexis database that can be utilized for such purpose) to effectuate delivery of such checks. The Settlement Administrator shall make only one such additional attempt to identify updated addresses and re-mail or re-issue a distribution check to those for whom an updated address was obtained.

**a. Disposition of Residual Funds**

87. Within 2 years after the date the Settlement Administrator mails the first Settlement Class Member Payment, any remaining amounts such as resulting from uncashed checks (“Residual Funds”) in the Qualified Settlement Fund shall be distributed pursuant to California Code of Civil Procedure 384(b). Specifically, the parties agree that, consistent with the requirements of Section 384, the Court may open any judgment to direct payment of any amounts remaining in the Qualified Settlement Fund, plus interest, to the Center for Auto Safety, [www.autosafety.org](http://www.autosafety.org), or other court approved cy pres recipient. While most known for strengthening highway safety standards to save lives, for decades the Center for Auto Safety has provided tools to educate consumers in California and across the country on different types of auto insurance coverage and discount strategies to save consumers on costs of insurance premiums. Neither the Parties or counsel for the Parties have any

interest or involvement in the governance or the work of Center for Auto Safety. Class Counsel shall seek the Court's approval of distribution to the *cy pres* recipient. If the Court does not approve the *cy pres* recipient, Class Counsel with input from Farmers will propose another *cy pres* recipient for the Court's approval.

**b. Release**

88. As of the Effective Date, Plaintiffs and each Settlement Class Member, each on behalf of itself and on behalf of its respective heirs, assigns, beneficiaries and successors ("Releasing Parties"), shall automatically be deemed to have fully and irrevocably released and forever discharged Farmers and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns, and the present and former directors, officers, employees, agents, insurers, members, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, predecessors, successors and assigns of each of them ("Released Parties"), of and from any claims that were or could have been alleged based on the facts pleaded in the First Amended Complaint dated October 29, 2015 and/or any subsequent amended complaint filed in conjunction with the Court's approval of the Settlement ("Released Claims").

**c. Payment of Attorneys' Fees, Costs, and Service Awards**

89. Class Counsel will ask the Court to approve Service Awards to the Plaintiffs in the amount of \$5,000 each to be paid out of the Settlement Amount.

The Service Awards will be capped at \$5,000 per Class Representative. The Service Awards are to be paid by the Settlement Administrator directly to the Class Representatives within 10 days of the Effective Date. The Service Awards shall be paid to the Class Representatives in addition to the Class Representatives' Settlement Class Member Payments. Farmers agrees not to oppose Class Counsel's request for the Service Awards. The Parties agree that the Court's failure to approve the Service Awards, in whole or in part, shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination.

90. Class Counsel agree to cap their request for attorneys' fees at 33% of the gross Settlement Amount. Farmers agrees not to oppose Class Counsel's request for attorneys' fees of up to 33% of the Settlement Amount, and not to oppose Class Counsel's request for reimbursement of reasonable costs and expenses. Any award of attorneys' fees, costs, and expenses to Class Counsel shall be payable solely out of the Settlement Amount. The Parties agree that the Court's failure to approve, in whole or in part, any award for attorneys' fees shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination.

91. Within 14 days of the Effective Date, the Settlement Administrator shall pay Class Counsel all Court-approved attorneys' fees, costs, and expenses.

92. The Parties negotiated and reached agreement regarding attorneys' fees and costs, and the Service Awards, only after reaching agreement on all other material terms of this Settlement.

**d. Termination of Settlement**

93. This Settlement may be terminated by either Class Counsel or Farmers by serving on counsel for the opposing Party and filing with the Court a written notice of termination within 15 days (or such longer time as may be agreed in writing between Class Counsel and Farmers) after any of the following occurrences:

- a. Class Counsel and Farmers agree to termination;
- b. the Court rejects, materially modifies, materially amends or changes, or declines to finally approve the Settlement;
- c. an appellate court vacates or reverses the Final Approval Order, and the Settlement is not reinstated and finally approved without material change by the Court on remand within 360 days after such reversal;
- d. the Effective Date does not occur;
- e. the Department Proceeding is not dismissed by the Insurance Commissioner of the California Department of Insurance following the Court's issuance of the Preliminary Approval Order and prior to the Court's issuance of the Final Approval Order (in which case notice of termination may be served and filed at any time prior to issuance of the Final Approval Order); provided however, that

such dismissal is without prejudice to reinstatement if the Settlement does not otherwise become effective; or

f. any other ground for termination provided for elsewhere in this Agreement.

94. Farmers also shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within 14 days after its receipt from the Settlement Administrator of any report indicating that the number of Settlement Class members who timely request exclusion from the Settlement Class equals or exceeds 5%.

e. **Effect of a Termination**

95. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiffs', Class Counsel's, and Farmers' obligations under the Settlement shall cease to be of any force and effect; and the Parties shall return to the status *quo ante* in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims and defenses will be retained and preserved. Any Party may move to reinstate the Department Proceeding. Any and all costs and/or expenses associated with the Notice and administration of the Settlement prior to its termination shall be borne by Farmers.

96. The Settlement shall become effective on the Effective Date unless earlier terminated in accordance with the provisions hereof.

97. In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made or filed with the Court.

98. In the event the Settlement is terminated in accordance with the provisions of this Agreement, or if the Settlement does not receive Final Approval, or if the Effective Date does not occur, Plaintiffs may seek to re-institute the Department Proceeding.

99. In the event the Settlement does not receive Final Approval, or a Final Approval Order is reversed on appeal, or the Effective Date is not otherwise achieved then this Settlement Agreement shall be of no force or effect, the Parties shall be returned to their status in the litigation as if the Settlement was never executed, and, in such event, the Parties agree that this Settlement Agreement, and any and all negotiations, documents and discussions associated with it, shall be without prejudice to the rights of any party, and shall not be deemed or construed to be an admission or evidence of any violation of any statute, law or regulation or of

any liability or wrongdoing by Defendants or of the truth of any of the claims or allegations made by Plaintiffs in the Action.

100. All Parties expressly reserve all of their rights if the Settlement does not become final, including but not limited to Farmers' right to oppose class certification and Plaintiffs' right to seek re-institution of the Department Proceeding.

101. If the Settlement does not receive final and non-appealable Court approval, Farmers shall not be obligated to make any payments or provide any other monetary or non-monetary relief to Plaintiffs or the Settlement Class Members, any attorneys' fees, costs, or expenses to Class Counsel, and/or any Service Awards to Plaintiffs.

**f. No Admission of Liability**

102. Farmers continues to dispute its liability for the claims alleged in the Action, and maintains that its private passenger auto insurance policy pricing practices and representations concerning those practices complied, at all times, with applicable laws and regulations. Farmers does not admit any liability or wrongdoing of any kind, by this Agreement or otherwise. Farmers has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

103. Class Counsel believe that the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel fully investigated the facts and law relevant to the merits of the claims, conducted significant formal discovery including extensive written discovery and depositions over a period of approximately 2 years, and conducted independent investigation of the challenged practices. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class members.

104. The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability or wrongdoing of any kind whatsoever.

105. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or

may be used as, an admission of, or evidence of, the validity of any claim made by the Plaintiffs or Settlement Class members, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency or other tribunal.

106. In addition to any other defenses Farmers may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding that may be instituted, prosecuted or attempted in breach of this Agreement or the Releases contained herein.

#### **XIX. Miscellaneous Provisions**

107. With the exception of the claims brought on behalf of the Settlement Class and resolved pursuant to the terms of the Settlement, Class Counsel have no intention to represent any person or entity covered as a Settlement Class member in any complaint filed in this Action to re-litigate the claims covered by any of the complaints in this Action.

108. Gender and Plurals. As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

109. Binding Effect. This Agreement shall be binding upon, and inure to the

benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

110. Cooperation of Parties. The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

111. Obligation To Meet And Confer. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted.

112. Integration. This Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

113. No Conflict Intended. Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

114. Governing Law. Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the State of California, without regard to the principles thereof regarding choice of law.

115. Counterparts. This Agreement may be executed in any number of

counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required. Any signature submitted by facsimile or through email of an Adobe PDF shall be deemed an original.

116. Jurisdiction. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice program and the Settlement Administrator. As part of their agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.

117. Notices. All notices to Class Counsel provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

MEHRI & SKALET PLLC  
Jay Angoff, Esq.  
1250 Connecticut Avenue NW  
Suite 300  
Washington, DC 20036

*Class Counsel*

TYCKO & ZAVAREEI, LLP  
Andrea Gold, Esq.  
1828 L Street NW  
Suite 1000  
Washington, DC 20036  
*Class Counsel*

BERGER MONTAGUE, P.C.  
Jeff Osterwise, Esq.  
1818 Market Street  
Suite 3600  
Philadelphia, PA 19103  
*Class Counsel*

HINSHAW & CULBERTSON LLP  
James C. Castle  
633 West 5th Street  
47th Floor  
Los Angeles, CA 90071-2043  
*Counsel for Farmers*

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice program.

118. Modification and Amendment. This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and counsel for Farmers and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

119. No Waiver. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

120. Authority. Class Counsel (for the Plaintiffs and the Settlement Class Members), and counsel for Farmers (for Farmers), represent and warrant that the persons signing this Agreement have full power and authority to bind the person, partnership, corporation or entity included within the definitions of Plaintiffs and Farmers, for whom they are signing, to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

121. Agreement Mutually Prepared. Neither Farmers nor Plaintiffs, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

122. Independent Investigation and Decision to Settle. The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action (including but not limited to approximately 2 years of contested discovery in the

Department Proceeding); and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law, subsequently occurring or otherwise.

123. Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she or it has fully read this Agreement and the Release contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Release and the legal effects of this Agreement and the Release, and fully understands the effect of this Agreement and the Release.

*Counsel for Plaintiffs on Behalf Named Plaintiffs*

Dated: November 18, MEHRI & SKALET, PLLC  
2019 Cyrus Mehri, Esq.

Jay Angoff, Esq.

By: *Mehri*  
Counsel for Plaintiff

Dated: 11/18/2019

TYCKO  
TYCKO & ZAVAREEI LLP  
Hassan A. Zavareei, Esq.  
Andrea Gold, Esq.

By: *Hassan*  
Hassan Zavareei

Dated: \_\_\_\_\_

BERGER MONTAGUE, P.C.  
Peter Kahana, Esq.  
Jeff Osterwise, Esq.

By: \_\_\_\_\_

Dated: \_\_\_\_\_

ROGER HARRIS

\_\_\_\_\_

Dated: \_\_\_\_\_

DUANE BROWN

\_\_\_\_\_

Dated: \_\_\_\_\_

BRIAN LINDSEY

\_\_\_\_\_

Jay Angoff, Esq.

By: \_\_\_\_\_

*[Handwritten signature]*  
*Counsel for Plaintiff*

Dated: \_\_\_\_\_

TYKO & ZAVAREEI LLP  
Hassan A. Zavareei, Esq.  
Andrea Gold, Esq.

By: \_\_\_\_\_

Dated: November 18, 2019

BERGER MONTAGUE, P.C.  
Peter Kahana, Esq.  
Jeff Osterwise, Esq.

By: *[Handwritten signature]*

Dated: \_\_\_\_\_

ROGER HARRIS

\_\_\_\_\_

Dated: \_\_\_\_\_

DUANE BROWN

\_\_\_\_\_

Dated: \_\_\_\_\_

BRIAN LINDSEY

\_\_\_\_\_

Jay Angoff, Esq.

*[Handwritten signature]*  
By: Counsel for Plaintiff

Dated: \_\_\_\_\_

TYKO & ZAVAREEI LLP  
Hassan A. Zavareei, Esq.  
Andrea Gold, Esq.

By: \_\_\_\_\_

Dated: \_\_\_\_\_

BERGER MONTAGUE, P.C.  
Peter Kahana, Esq.  
Jeff Osterwise, Esq.

By: \_\_\_\_\_

Dated: Nov 18 2019

ROGER HARRIS

*[Handwritten signature]*

Dated: \_\_\_\_\_

DUANE BROWN

\_\_\_\_\_

Dated: \_\_\_\_\_

BRIAN LINDSEY

\_\_\_\_\_

Jay Angoff, Esq.

By: *Yusef Mehri*  
Counsel to Plaintiff

Dated: \_\_\_\_\_

TYKO & ZAVAREEI LLP  
Hassan A. Zavareei, Esq.  
Andrea Gold, Esq.

By: \_\_\_\_\_

Dated: \_\_\_\_\_

BERGER MONTAGUE, P.C.  
Peter Kahana, Esq.  
Jeff Osterwise, Esq.

By: \_\_\_\_\_

Dated: \_\_\_\_\_

ROGER HARRIS

Dated: 11-15-2019

DUANE BROWN

*Duane A. Brown*

Dated: \_\_\_\_\_

BRIAN LINDSEY

Jay Angoff, Esq.

By: *[Signature]*  
Counsel for Plaintiff

Dated: \_\_\_\_\_

TYKO & ZAVAREEI LLP  
Hassan A. Zavareei, Esq.  
Andrea Gold, Esq.

By: \_\_\_\_\_

Dated: \_\_\_\_\_

BERGER MONTAGUE, P.C.  
Peter Kahana, Esq.  
Jeff Osterwise, Esq.

By: \_\_\_\_\_

Dated: \_\_\_\_\_

ROGER HARRIS

\_\_\_\_\_

Dated: \_\_\_\_\_

DUANE BROWN

\_\_\_\_\_

Dated: 11/13/2019

BRIAN LINDSEY

*[Signature]*

Dated: 11/18/19

FARMERS INSURANCE EXCHANGE

Thomas S. Noh

MID CENTURY INSURANCE  
COMPANY

Dated: 11/18/19

Thomas S. Noh

*Counsel for Defendants*

Dated: 11/18/19

HINSHAW & CULBERTSON LLP  
James C. Castle, Esq.

James C. Castle

# EXHIBIT 1

1 Wilmer J. Harris, SBN 150407  
wharris@sshhlaw.com  
2 SCHONBRUN SEPLOW  
HARRIS & HOFFMAN LLP  
3 715 Fremont Ave., Suite A  
South Pasadena, CA 91030  
4 Telephone: (626) 441-4129  
Facsimile: (626) 283-5770

5 Jay Angoff [D.C. Bar #248641]  
6 jay.angoff@findjustice.com  
Cyrus Mehri [D.C. Bar #420970]  
7 cyrus@findjustice.com  
Christine H. Monahan, Esq. [D.C. Bar #1035590]  
8 cmonahan@findjustice.com  
9 MEHRI & SKALET PLLC  
1250 Connecticut Ave. NW, Suite 300  
10 Washington, DC 20036  
Telephone: (202) 822-5100  
11 Facsimile: (202) 822-4997

12 Attorneys for Plaintiffs  
13 [Additional Counsel listed on following page]

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **FOR THE COUNTY OF LOS ANGELES**

16 ROGER HARRIS, DUANE BROWN, AND )  
17 BRIAN LINDSEY, )

18 Plaintiffs, )

19 vs. )

20 FARMERS INSURANCE EXCHANGE )  
21 AND MID CENTURY INSURANCE )  
COMPANY, )

22 Defendants. )

Case No: BC 579498

**SECOND AMENDED CLASS ACTION**  
**COMPLAINT FOR DAMAGES**

1. **Violation of the Unfair Competition Law – Commission of Unlawful Business Act or Practice Cal. Bus. & Prof. Code § 17200 et seq.**
2. **Violation of the Unfair Competition Law – Commission of Unfair Business Act or Practice Cal. Bus. & Prof. Code § 17200 et seq.**
3. **Violation of the Unfair Competition Law – Commission of Fraudulent Business Act or Practice Cal. Bus. & Prof. Code § 17200 et seq.**
4. **Unjust Enrichment**

**JURY TRIAL DEMANDED**

1 Peter Kahana, Esq. [PA Bar #33587]  
2 Jeff Osterwise, Esq. [PA Bar #201859]  
3 **BERGER MONTAGUE, P.C.**  
4 1818 Market Street, Suite 3600  
5 Philadelphia, PA 19103  
6 Tel: (215) 875-3000  
7 Fax: (215) 875-4613  
8 pkahana@bm.net  
9 josterwise@bm.net

10 Jonathan K. Tycko, Esq. [D.C. Bar #445851]  
11 Andrea Gold, Esq. [D.C. Bar #420970]  
12 **TYCKO & ZAVAREEI LLP**  
13 1828 L Street NW, Suite 1000  
14 Washington, DC 20036  
15 Tel: (202) 973-0900  
16 Fax: (202) 973-0950  
17 jtycko@tzlegal.com  
18 agold@tzlegal.com

19 *Attorneys for Plaintiffs*

20  
21  
22  
23  
24  
25  
26  
27  
28

1 Plaintiffs Roger Harris, Duane Brown, and Brian Lindsey (collectively “Plaintiffs”),  
2 bring this action on behalf of themselves and all others similarly situated against Farmers  
3 Insurance Exchange and its Affiliate, Mid Century Insurance Company (collectively referred to  
4 herein as “Farmers” or “Defendants”). Plaintiffs, through undersigned counsel, allege the  
5 following based on personal knowledge as to allegations regarding Plaintiffs and on information  
6 and belief as to other allegations.

### 7 NATURE OF THE ACTION

8 1. In California, as in other states, drivers are required to maintain auto insurance.  
9 For many consumers, who may own more than one vehicle, auto insurance costs take up a  
10 considerable portion of a household’s monthly budget.

11 2. Auto insurance companies are not permitted to determine auto insurance  
12 premiums on the basis of what the market will bear.

13 3. Instead, all states have laws requiring that auto insurance companies, including  
14 Defendants, calculate premiums based on the risk presented by the policyholder, meaning those  
15 objectively discernible characteristics or facts about the insured person which directly impact  
16 the likelihood of a covered event occurring (and thus, the cost to the insurer of providing the  
17 offered insurance).

18 4. This case arises from Defendants’ practice from at least April 2009 until October  
19 2018 of using the policyholder’s willingness to tolerate a price increase as a factor in calculating  
20 premiums, even though Defendants’ use of that factor has neither been disclosed to nor  
21 approved by the California Department of Insurance.

22 5. Using a policyholder’s willingness to tolerate a price increase—more  
23 technically, the policyholder’s elasticity of demand—as a factor in calculating premiums harms  
24 policyholders who Defendants judge to be less price-sensitive and more loyal to Defendants:  
25 they pay more than they would pay if Defendants did not use the policyholder’s willingness to  
26 tolerate a price increase as a factor in calculating premiums.

27 6. Defendants have compiled or reviewed data indicating that people with certain  
28 (non-risk based) characteristics are willing to pay more than they should pay based on the risk

1 they present. That data indicates, among other things, that their most loyal customers are price  
2 inelastic and are willing to renew their policies and pay more than the risk they present justifies.

3 7. After reviewing internal documents and testimony by Defendants' employees  
4 responsible for developing Defendants' California auto insurance class plans, California  
5 Department of Insurance Senior Casualty Actuary Edward D. Cimini, Jr. has concluded that  
6 "Farmers engaged in price optimization in the construction of its Private Passenger Auto Class  
7 Plan with regard to the selection of rate relativities for the optional rating factor of Persistency."

8 8. The use of elasticity of demand as a rating factor results in the Defendants' most  
9 loyal customers paying more than they would pay based on the risk they present. As the  
10 Department's Senior Casualty Actuary Cimini observed, "Farmers' existing persistency  
11 discounts for tenured policyholders were considerably smaller than the actuarially indicated  
12 discounts. Lower discounts for these policyholders resulted in higher premium for these  
13 policyholders."

14 9. Defendants did not disclose their use of elasticity of demand as a rating factor to  
15 the California Department of Insurance when seeking approval of their Private Passenger Auto  
16 Class Plan ("class plans" or "2008 class plans"), and the Department did not approve its use.

17 10. In their marketing materials, Defendants intentionally omit and fail to disclose  
18 their use of elasticity of demand as a rating factor in determining auto insurance premiums.

19 11. Plaintiffs and members of the Class have paid higher prices for their insurance  
20 coverage than the risk they present would justify.

21 12. Plaintiffs bring this action on behalf of themselves and other similarly situated  
22 insureds for violation of California's Unfair Competition law, and for unjust enrichment.

### 23 **JURISDICTION AND VENUE**

24 13. This action is properly brought in the Superior Court of the State of California.  
25 Each cause of action enumerated below arises from California state law and the events giving  
26 rise to this lawsuit took place in California, including the County of Los Angeles.

### 27 **PARTIES**

28 14. Plaintiff Roger Harris is a citizen of the State of California and was a customer

1 of Defendants until 2018. Mr. Harris resides in Lompoc, California in the County of Santa  
2 Barbara.

3 15. Plaintiff Harris has been a loyal customer of Defendants for more than 15 years.

4 16. Plaintiff Harris has purchased auto insurance from Defendants for multiple  
5 vehicles. Most recently, Plaintiff purchased auto insurance for one vehicle from Defendants.

6 17. Plaintiff Duane Brown is a citizen of the State of California and is a customer of  
7 Defendants. Mr. Brown resides in Lompoc, California in the County of Santa Barbara.

8 18. Plaintiff Brown became a customer of Defendants in 1997 and has been a loyal  
9 customer of Defendants since that time.

10 19. Plaintiff Brown has purchased auto insurance from Defendants. Currently,  
11 Plaintiff purchases auto insurance for six automobiles from Defendants.

12 20. Plaintiff Brian Lindsey is a citizen of the State of California and was a customer  
13 of Defendants until 2018. Mr. Lindsey resides in the County of Santa Barbara.

14 21. Plaintiff Lindsey was a loyal customer of Defendants for almost ten years.

15 22. Plaintiff Lindsey purchased auto insurance from Defendants. Plaintiff purchased  
16 auto insurance for at least one automobile from Defendants.

17 23. Defendants have never notified Plaintiffs that they are charging them more than  
18 other policyholders presenting the same risk because of their willingness to tolerate a price  
19 increase.

20 24. As explained in more detail below, Plaintiffs have been injured in fact and  
21 directly harmed as a result of Defendants' failure to disclose their use of elasticity of demand as  
22 a rating factor, in that Plaintiffs have been fraudulently, deceptively and unfairly misled into  
23 paying a premium that is higher than it would have been had Defendants calculated Plaintiffs'  
24 premiums based on the risk they present.

25 25. A direct causal relationship exists between Defendants' unlawful conduct and  
26 the ascertainable losses suffered by Plaintiffs and the Class. Had Defendants' use of elasticity  
27 of demand as a rating factor been disclosed, Plaintiffs (and other Class members) would have  
28 paid less for auto insurance.



1           32.     The statute also authorizes the Commissioner to adopt additional rating factors  
2 by regulation. Cal. Ins. Code § 1861.02(a)(4). The Department has promulgated a regulation  
3 setting forth the rating factors insurers are permitted to use, Cal. Ins. Code § 2632.5(d), and has  
4 specifically provided that “No insurer shall use a rating factor which is not set forth in these  
5 regulations.” Cal. Code Regs. § 2632.4(a).

6           33.     The Commissioner has not adopted elasticity of demand as a rating factor, and  
7 thus does not permit insurers to use elasticity of demand to “establish[] or affect[] the rates,  
8 premiums, or charges assessed for a policy of automobile insurance.” Cal. Code Regs. §  
9 2632.2(a).

10          34.     In California, insurers, including Defendants, are also barred from using any  
11 rating factor that does not bear a substantial relationship to the risk of loss. Cal. Ins. Code §  
12 1861.02(a)(4); Cal. Code Regs. Tit. 10, § 2632.4(b).

13          35.     California law also provides that “no insurer may hereafter use a class plan, or  
14 charge or collect a premium which does not comply with” the California Insurance Code or the  
15 regulations of the Department of Insurance. Cal. Code Regs. Tit. 10, § 2632.10(a).

16          36.     California law also directs that “[n]o person, insurer or organization shall  
17 willfully withhold information from, or knowingly give false or misleading information to, the  
18 commissioner or to any rating organization, advisory organization, insurer or group, association  
19 or other organization of insurers, which will affect the rates, rating systems or premiums for the  
20 classes of insurance to which the provisions of this chapter are applicable. Cal. Ins. Code §  
21 1859.

22                                   **The Use of Elasticity of Demand as a Rating Factor**

23          37.     “Elasticity of demand” is the technical term for an individual’s sensitivity to  
24 price changes.

25          38.     An individual whose demand is elastic is sensitive to price changes, *i.e.*, he or  
26 she will seek insurance elsewhere in response to a relatively small price increase. The more  
27 sensitive the individual is to price changes – *i.e.*, the smaller the increase in price that will cause  
28 the individual to shop – the more elastic is that individual’s demand.

1           39.     Conversely, an individual whose demand is inelastic is relatively insensitive to  
2 price changes – he or she is relatively unlikely to seek insurance elsewhere in response to a  
3 price increase. The more the insurer can raise its prices to such an individual without causing  
4 him or her to switch carriers, the more inelastic that individual’s demand is.

5           40.     By using elasticity of demand as a rating factor, Defendants charge customers  
6 whose demand is inelastic—who are unlikely to seek insurance elsewhere in response to a price  
7 increase—more than customers who are likely to shop around in response to a price increase, all  
8 other things being equal. Defendants’ customers whose demand is inelastic thus pay prices that  
9 are higher than the risk they present would justify.

10          41.     Defendants did not disclose in their class plan the use of elasticity of demand as  
11 a rating factor to the Department, and the Department did not approve Defendants' use of  
12 elasticity of demand as a rating factor.

13     **California Has Specifically Prohibited the Use of Elasticity of Demand as a Rating Factor,**

14                     **As Have Other States**

15          42.     The term commonly used by insurance companies and insurance regulators for  
16 the use of elasticity of demand as a rating factor is “price optimization.” On February 18, 2015,  
17 the California Department of Insurance issued a Notice (the “Notice”) announcing that “any use  
18 of Price Optimization in the ratemaking/pricing process or in a rating plan is unfairly  
19 discriminatory in violation of California law,” and ordering any insurer using price optimization  
20 to discontinue doing so. The Notice defines “price optimization” as “any method of taking into  
21 account an individual’s or class’s willingness to pay a higher premium relative to other  
22 individuals or classes.” It also notes that “price optimization does not seek to arrive at an  
23 actuarially sound estimate of the risk of loss and other future costs of a risk transfer.”

24          43.     The Notice further ordered that “Any insurer currently using Price Optimization  
25 to adjust its rates in California shall cease this practice.” More specifically, the Notice ordered  
26 “any insurer that has a factor or factors based on Price Optimization in its rating plan” to  
27 “remove the factor or factors in its next filing” to be made “no later than six months from the  
28 date of this Notice.”



1 “adding a driver,” “moving to a new residence,” and “if you’ve recently switched vehicles” can  
2 cause your premium to increase. Nowhere on Farmers’ website does Farmers disclose that an  
3 insured’s elasticity of demand can affect an individual’s premium, even though that is the case.

4 52. Consultants have boasted about the fact that the use of elasticity of demand as a  
5 rating factor is hidden from regulators and therefore that regulators cannot tell whether an  
6 insurer is using an individual’s willingness to pay a higher premium than the risk-based  
7 premium in its computations.

8 **Farmers’ Use of Elasticity of Demand as a Rating Factor**

9 53. Farmers’ employees have acknowledged Farmers’ use of elasticity of demand in  
10 calculating premiums. A Senior Analyst who worked at Farmers between August 2008 and  
11 June 2012, for example, has said that his projects included “price elasticity modeling of  
12 differing consumer segments.”

13 54. An Actuarial Analyst at the Farmers Personal Lines Pricing Group, who has been  
14 in that position since February 2012, says that he is “managing team on the design,  
15 implementation, and delivery of an auto insurance price optimization tool,” and that he has  
16 “pitched potential price optimization schemes that incorporate retention, conversion, and  
17 elasticity modeling.”

18 55. A Product Manager working at Farmers between 2003 and 2008 says that he  
19 “built and used GLM’s for retention price elasticity.”

20 56. Further, a Senior Product Manager who was working at Farmers in 2007-2008  
21 says he “designed pricing strategy” through “proper segmentation” and “demand estimation.”

22 57. Defendants specifically have engaged in price optimization in California for  
23 more than a decade by charging their most loyal policyholders—those insured by the company  
24 for nine or more years—more than the risk they present justifies because they are willing to pay  
25 more than that risk-based rate.

26 58. Defendants have known for years that their longer-tenured customers are price  
27 inelastic. This knowledge was captured and shared in internal PowerPoint presentations and  
28 memorandums circulated as early as at least 2006 and 2007. These materials further

1 emphasized that it was in Defendants’ business interest to capitalize on this knowledge in  
2 ratemaking. It thus was standard practice for Defendants to charge price-inelastic, tenured  
3 policyholders higher-than-indicated rates. For example:

- 4 a. A May 2007 PowerPoint presentation from Defendants’ Insight &  
5 Innovation (“I&I”) group entitled “Retention-Elasticity Modeling,” states  
6 that “[r]enewal elasticity [is] extraordinarily low,” among Defendants’  
7 policyholders and that the number one variable associated with higher  
8 retention was “[p]olicy [t]enure” — specifically, “[o]lder policies.”
- 9 b. A memorandum describing Defendants’ pricing strategy in 2006 or 2007  
10 notes that “the retention model tells us that tenured business tends to have  
11 [sic] higher retention levels. Lowering the price point for those that are  
12 likely to renew anyway does not gain a premium advantage.”
- 13 c. A presentation at the company in approximately 2006 emphasized that  
14 Defendants’ auto product managers should be thinking about “how you  
15 optimize rate — how you maximize margins with every customer who  
16 allows you to.”

17 59. Similarly, in emails, then-Vice President Bill Martin endorsed the use of price  
18 optimization practices that “surgically allow for subsidies within our portfolio, as a means to  
19 superior growth without compromising on targeted profitability.” He instructed his  
20 subordinates, including Regional Vice President for California Auto Russina Sgoureva and  
21 Chief Auto Actuary Morgan Bugbee, that:

22 We need our PM’s [(product managers)] to be creative with what they have —  
23 *encouraging subsidy where it generates overall profitable growth*, eliminating  
24 mix shifts toward unsubsidized unprofitable segments. *That means we need to*  
25 *make intensive use of even the most preliminary revenue-forecasting tools (rate*  
*optimization or elasticity) as part of the process* and track whether the outcome  
is the same as predicted so as to refine the forecast model.

26 60. This practice of charging price-inelastic, tenured policyholders higher-than-  
27 indicated rates did not require sophisticated algorithms and computer software to be effective.  
28 Indeed, as Mr. Martin acknowledged in 2007, it was the “massive amounts of premium gained

1 and saved” from considering policyholders’ elasticity of demand that led Defendants to see the  
2 value in investing in price optimization software that could mechanize its consideration of  
3 elasticity of demand.<sup>1</sup>

4 61. Defendants’ knowledge of the price inelasticity of its long-tenured customers  
5 carried over and was incorporated into the development of Defendants’ California auto  
6 insurance class plans. Specifically, the undisclosed elasticity rating factor was employed to  
7 deprive Defendants’ long-term customers of the persistency discounts the risk they presented  
8 warranted.

9 62. In preparing their 2008 Class Plans, Defendants knew that the loss ratios for their  
10 longer-tenured policyholders were far lower (nearly 20 percentage points) than the loss ratios  
11 for their less-tenured policyholders. In other words, Defendants were making a significantly  
12 greater profit off their longer-tenured policyholders than their less-tenured policyholders,  
13 because the losses relative to premiums were lower for longer-tenured policyholders compared  
14 to less-tenured policyholders.<sup>2</sup>

15 63. This profit occurred because Defendants had been charging rates far higher than  
16 their loss-models indicated for the longer-tenured customers. Specifically, Defendants used  
17 relativities for “Persistency” — a rating factor based on the length of time a policyholder had  
18 been consistently insured by the company — that were significantly higher for policyholders  
19 with nine or more years tenure than its own data showed was justified.

20 64. In October 2007, Defendants identified giving larger discounts to their long-term  
21 policyholders as a “future product change.” Implementing such discounts would have brought  
22 the rates paid by Defendants’ long-term policyholders closer to the rates the risk they presented  
23

---

24 <sup>1</sup>Farmers employees have also recognized that price optimization does not need to rely on  
25 sophisticated software to be unlawful. As Defendants’ Chief Auto Actuary Morgan Bugbee  
26 noted, “[w]hether or not these tools are being used is irrelevant. What’s relevant is whether or  
27 not regulators are comfortable with companies deviating from the point estimates of cost from  
their models, the reasons why the company has deviated, and the extent to which those  
deviations occur (not excessive or inadequate...)”

28 <sup>2</sup> Notably, because renewal business is less expensive to administer than new business,  
Defendants were likely already earning greater profits on its longer-tenured policyholders  
without even comparing loss ratios.

1 justified. But despite knowing that they were overcharging their longest-tenured policyholders,  
2 Defendants affirmatively chose not to reduce the rates for these policyholders in their 2008  
3 class plans.

4 65. Internal documents show that this decision was made in June 2008 — relatively  
5 early in Defendants’ planning process — after a meeting with a set of officials responsible for  
6 overseeing Defendants’ agency workforce in California. The decision was then immediately  
7 presented to and approved by the executives overseeing work in California, including Mr.  
8 Martin and then-President of Personal Lines, Jeff Dailey.

9 66. Internal documents further make clear that Defendants chose not to follow its  
10 indications for the persistency rating factor because doing so would have meant lowering rates  
11 for their customers who would renew anyway at a higher, actuarially unjustifiable rate.

12 67. While actuarially improper, this decision made business sense for Defendants.  
13 In fact, back in January 2007, Defendants’ Senior Customer Advocacy Manager Chris Maydak  
14 had specifically advised Mr. Bugbee that he should not “react” to his loss indications showing  
15 that longer-tenured policyholders in California should receive 30-35% discounts. Mr. Maydak  
16 explained, “If you react to the loss indications, you end up lowering rate for those who tend to  
17 renew anyway.”

18 68. After reviewing internal documents and testimony by Defendants’ employees  
19 responsible for developing Defendants’ California auto insurance filings, California Department  
20 of Insurance Senior Casualty Actuary Edward D. Cimini, Jr. testified in a sworn statement that  
21 “Farmers engaged in price optimization in the construction of its Private Passenger Auto Class  
22 Plan with regard to the selection of rate relativities for the optional rating factor of Persistency.”

23 69. Mr. Cimini based his conclusion that Defendants engaged in price optimization,  
24 despite not having employed a sophisticated software program or algorithm, on evidence that  
25 “Farmers had extensively studied how sensitive their existing policyholders were to varying  
26 levels of premium increases at renewal,” knew its “most tenured business ... would likely renew  
27 their policies at premium levels which were higher than premium levels supported by the  
28 underlying data,” and “decided to retain its existing persistency discounts because [it] believed

1 the renewal customers would be willing to pay the higher rates.”

2 **Defendants Were Aware That the 2015 Notice on Price Optimization Reached Their**  
3 **Conduct, But Failed to File a New Class Plan Removing the Factor Based on Price**  
4 **Optimization Until August 2018**

5 70. Defendants paid close attention to state actions regulating price optimization and  
6 tried to influence regulators not to prohibit the practice.

7 71. Defendants’ employees immediately recognized that the 2015 Notice prohibited  
8 a broad range of conduct, including non-mechanized forms of price optimization. Defendants  
9 had implemented such price optimization in its 2008 Class Plans, which were then still in effect.

10 72. Nonetheless, Defendants did not file a new class plan removing the factor based  
11 on price optimization within the time period set by the Notice. Instead, Defendants did not file  
12 an amended class plan removing the price optimized persistency rating factor until August 2018  
13 — three years past the deadline.

14 **Defendants’ Use of Elasticity of Demand as a Rating Factor in California Has Injured**  
15 **Defendants’ Long-Tenured Policyholders**

16 73. Had Defendants chosen to use the indicated relativities — those based on the risk  
17 presented by the policyholder as set forth in Exhibit 4 of its 2008 class plans — the rates paid  
18 by policyholders who had been with the company for nine or more years would have been  
19 between 4.1% and 11.2% less, depending on the type of coverage a policyholder had.

20 74. During the class period, Defendants overcharged its policyholders that had been  
21 with the company for nine or more years by more than \$200 million.

22 **CLASS ALLEGATIONS**

23 75. Plaintiffs, on behalf of themselves and all others similarly situated, bring this  
24 action pursuant to California Code of Civil Procedure Section 382. This action satisfies the  
25 numerosity, commonality, typicality, adequacy, predominance and superiority requirements.

26 76. The proposed Class is defined as:

27 All persons who (1) had 9 or more years of tenure/persistency as a  
28 Farmers Insurance Exchange (“FIE” and/or Mid Century Auto

1 (“MCA”) policyholder as of August 18, 2015 or who reached 9 or  
2 more years of tenure/persistence as a FIE and/or MCA policyholder on  
3 or before March 31, 2017, and (2) were FIE and/or MCA policyholders  
4 of Defendants at any time during the period extending from August 18,  
5 2015 through March 31.

6 77. Excluded from the Class are (a) officers, directors, and employees of any  
7 member of the Farmers Insurance Group of Companies; (b) the judge overseeing the proposed  
8 settlement and the judge’s immediate family; and (c) all Policy Holders who make a timely  
9 election to be excluded.

10 78. Membership in the class is ascertainable based on computerized records  
11 maintained by Defendants. Plaintiffs reserve the right to modify or amend the definition of the  
12 proposed Class before the Court determines whether certification is appropriate.

13 79. The Class is numerous such that joinder of all Class members is impracticable.  
14 The proposed Class contains many thousands of members.

15 80. Common questions of law and fact exist as to all members of the Class and  
16 predominate over questions affecting only individual Class members. The common legal and  
17 factual questions include, but are not limited to, the following:

- 18 a. Whether Defendants consider Class members’ elasticity of demand as a  
19 rating factor in establishing the premium charged to Class members;
- 20 b. Whether Defendants’ use of elasticity of demand as a rating factor  
21 produces premiums that exceed the risk-based premium;
- 22 c. Whether Defendants’ use of elasticity of demand as a rating factor  
23 produces premiums that are higher than the expected value of future costs  
24 for those policyholders who have inelastic demand;
- 25 d. Whether Defendants’ use of elasticity of demand as a rating factor results  
26 in customers presenting the same risk being charged different premiums  
27 based on their elasticity of demand;
- 28 e. Whether Defendants use elasticity of demand as a rating factor to charge

- 1 inflated premiums that are not strictly related to individual risk transfer;
- 2 f. Whether Defendants are unjustly enriched through their use of elasticity
- 3 of demand as a rating factor;
- 4 g. Whether Defendants violate California's Unfair Competition Law
- 5 through their use of elasticity of demand as a rating factor.

- 6 81. Other questions of law and fact common to the Class include:
- 7 a. The proper method or methods by which to measure damages, and
- 8 b. The declaratory relief to which the Class is entitled.

9 82. Plaintiffs' claims are typical of the claims of other members of the Class and

10 there is no defense available to Defendants that is unique to Plaintiffs.

11 83. The claims of the representative Plaintiffs are typical of the claims of the Class

12 in that the representative Plaintiffs, like all Class members, paid more than the risk-based

13 premium due to Defendants' use of elasticity of demand as a rating factor. Furthermore, the

14 factual basis of Farmers' misconduct is common to all Class members, and represents a

15 common thread of deceptive, unfair, and unlawful conduct resulting in injury to all members of

16 the Class.

17 84. Plaintiffs will fairly and adequately represent the interests of the Class. Plaintiffs

18 have no interests that are antagonistic to those of the Class. Plaintiffs have the ability to assist

19 and adequately protect the rights and interests of the Class during litigation. Further, Plaintiffs

20 are represented by counsel who are competent and experienced in this type of class action

21 litigation.

22 85. This class action is not only the appropriate method for the fair and efficient

23 adjudication of the controversy, it is the superior method because:

- 24 a. Joinder of thousands of individual Class members is impracticable,
- 25 cumbersome, unduly burdensome, and a waste of judicial and litigation
- 26 resources;
- 27 b. There is no special interest by the Class members in individually
- 28 controlling separate causes of action;

- 1 c. The Class members' individual claims are small compared with the  
2 expense of litigating the claim thereby making it impracticable, unduly  
3 burdensome, and expensive, if not totally impossible, to justify individual  
4 Class members addressing their losses in litigation;
- 5 d. When liability is determined, the claims of all Class members can be  
6 determined through routine mathematical calculations and thus can be  
7 determined by the Court and administered efficiently in a manner that is  
8 far less onerous, burdensome, and expensive than if it were attempted  
9 through filing, discovery, and trial of many individual cases;
- 10 e. This class action will promote the orderly, efficient, expeditious, and  
11 appropriate adjudication and administration of class claims to promote  
12 economies of time and resources;
- 13 f. This class action will assure uniformity of decisions among Class  
14 members;
- 15 g. The resolution of this controversy through this class action presents fewer  
16 management difficulties than individual claims filed in which the parties  
17 may be subject to varying adjudication of their rights.

18 86. Furthermore, class treatment is appropriate because Defendants have acted on  
19 grounds generally applicable to the Class, making class-wide equitable, injunctive, declaratory  
20 and monetary relief appropriate. In addition, the prosecution of separate actions by or against  
21 individual members of the Class would create a risk of incompatible standards of conduct for  
22 Defendants and inconsistent or varying adjudications for all parties.

### 23 CAUSES OF ACTION<sup>3</sup>

#### 24 FIRST CAUSE OF ACTION

#### 25 **Violation of the Unfair Competition Law – Commission of Unlawful Business Act or** 26 **Practice**

27 \_\_\_\_\_  
28 <sup>3</sup> Plaintiffs have removed their Fifth Cause of Action for Violation of California Insurance Code  
§ 1861.10 consistent with the Court's Order on January 25, 2016. However, Plaintiffs are not  
waiving any of their rights vis-à-vis this cause of action, including their right to appeal.

1 **Cal. Bus. & Prof. Code § 17200 et seq.,**

2 87. Plaintiffs repeat, reassert, and incorporate the allegations contained in  
3 paragraphs 1-86 above as if set forth herein.

4 88. Cal. Bus. & Prof. Code § 17200 prohibits any “unlawful, unfair or fraudulent  
5 business act or practice.”

6 89. Defendants’ conduct is “unlawful” because it violates the California Insurance  
7 Code and its implementing regulations in the following ways:

- 8 a. Defendants’ use of elasticity of demand as a rating factor violates Cal.  
9 Ins. Code § 1861.02 because it is not one of the three mandatory rating  
10 factors that are authorized by § 1861.02(a) and it has not been adopted by  
11 the Commissioner as a permissible rating factor pursuant to §  
12 1861.02(a)(4).
- 13 b. Defendants’ use of elasticity of demand as a rating factor violates Cal.  
14 Code Regs. Tit. 10, § 2632.4(a) because elasticity of demand constitutes  
15 a rating factor that is not set forth in or authorized by California  
16 regulations.
- 17 c. Defendants’ use of elasticity of demand as a rating factor violates Cal.  
18 Ins. Code § 1861.02(a)(4) and Cal. Code Regs. Tit. 10, § 2632.4(b)  
19 because elasticity of demand does not bear a substantial relationship to  
20 loss.
- 21 d. Defendants’ use of elasticity of demand as a rating factor violates Cal.  
22 Code Regs. Tit. 10, § 2632.10(a) in that it causes Farmers to collect a  
23 premium which is not calculated in accordance with a class plan that  
24 complies with California regulation.
- 25 e. Defendants’ use of elasticity of demand as a rating factor violates Cal.  
26 Ins. Code § 1859 in that Farmers willfully withheld information from, or  
27 knowingly gave false or misleading information to, the California  
28 Insurance Commissioner concerning its use of elasticity of demand as a

1 rating factor to unlawfully increase Plaintiffs’ and the Class’ insurance  
2 premiums.

3 90. Plaintiffs and the Class members have suffered injury in fact and have lost  
4 money as a result of Defendants’ unlawful business acts or practices.

5 91. Pursuant to Business and Professions Code §§ 17200 and 17203, Plaintiffs seek  
6 an order providing restitution and disgorgement of all profits relating to the above-described  
7 unfair business acts or practices, and injunctive and declaratory relief as may be appropriate.

8 **SECOND CAUSE OF ACTION**

9 **Violation of the Unfair Competition Law – Commission of Unfair Business Act or Practice**

10 **Cal. Bus. & Prof. Code § 17200 *et seq.*,**

11 92. Plaintiffs repeat, reassert, and incorporate the allegations contained in  
12 paragraphs 1-91 above as if set forth herein.

13 93. Cal. Bus. & Prof. Code § 17200 prohibits any “unlawful, unfair or fraudulent  
14 business act or practice.”

15 94. The acts and practices of Defendants as alleged herein also constitute “unfair”  
16 business acts and practices under the UCL in that Defendants’ conduct is unconscionable,  
17 immoral, deceptive, unfair, illegal, unethical, oppressive, and/or unscrupulous. Further, the  
18 gravity of Defendants’ conduct outweighs any conceivable benefit of such conduct.

19 95. Defendants have, in the course of their business and in the course of trade or  
20 commerce, undertaken and engaged in unfair business acts and practices under the UCL by  
21 using elasticity of demand as a rating factor.

22 96. Defendants have also, in the course of their business and in the course of trade or  
23 commerce, undertaken and engaged in unfair business acts and practices by:

- 24 a. Engaging in bad faith in using elasticity of demand as a rating factor;
- 25 b. Not calculating auto insurance premiums based on risk or loss costs but,  
26 instead, using elasticity of demand as a rating factor to inflate premiums;
- 27 c. Making material and misleading omissions about the manner in which  
28 they determine a customer’s auto insurance premium;

- 1 d. Using elasticity of demand as a rating factor in a manner that was not  
2 transparent, ascertainable, or verifiable by Plaintiffs and Class members;  
3 and  
4 e. Unlawfully and unfairly using elasticity of demand as a rating factor to  
5 extract additional revenues from their price inelastic customers, including  
6 but not limited to those who are or were most loyal by virtue of their  
7 tenure as insureds of Defendants.  
8 f. Failing to remove price optimization from their class plans even after  
9 being instructed to do so by the Department in its February 2015 Notice.

10 97. The above-described unfair business acts or practices present a threat and  
11 likelihood of harm and deception to members of the Class in that Defendants have  
12 systematically perpetrated the unfair conduct upon members of the public by engaging in the  
13 conduct described herein.

14 98. Pursuant to Business and Professions Code §§ 17200 and 17203, Plaintiffs seek  
15 an order providing restitution and disgorgement of all profits relating to the above-described  
16 unfair business acts or practices, and injunctive and declaratory relief as may be appropriate.

17 **THIRD CAUSE OF ACTION**

18 **Violation of the Unfair Competition Law – Commission of Fraudulent Business Act or**  
19 **Practice**

20 **Cal. Bus. & Prof. Code § 17200 *et seq.*,**

21 99. Plaintiffs repeat, reassert, and incorporate the allegations contained in  
22 paragraphs 1-98 above as if set forth herein.

23 100. Cal. Bus. & Prof. Code § 17200 prohibits any “unlawful, unfair or fraudulent  
24 business act or practice.”

25 101. The acts and practices of Defendants as alleged herein constitute “fraudulent”  
26 business acts and practices under the UCL in that Defendants’ conduct is false, misleading, and  
27 has a tendency to deceive the Class and the general public.

28 102. Defendants’ conduct in using elasticity of demand as a rating factor to inflate

1 auto insurance premiums for its price inelastic customers was likely to deceive, and did in fact  
2 deceive, Plaintiffs and the Class.

3 103. Defendants' conduct in failing to disclose to Plaintiffs and members of the Class  
4 their use of elasticity of demand as a rating factor to inflate auto insurance premiums for price  
5 inelastic policyholders was likely to deceive, and did in fact deceive, Plaintiffs and the Class.

6 104. Plaintiffs and the Class members have suffered injury in fact and have lost  
7 money as a result of Defendants' fraudulent business acts or practices.

8 105. The above-described fraudulent business acts or practices present a threat and  
9 likelihood of harm and deception to members of the Class in that Defendants have  
10 systematically perpetrated the fraudulent conduct upon members of the public by engaging in  
11 the conduct described herein.

12 106. Pursuant to Business and Professions Code §§ 17200 and 17203 Plaintiffs seek  
13 an order providing restitution and disgorgement of all profits relating to the above-described  
14 fraudulent business acts or practices, and injunctive and declaratory relief as may be  
15 appropriate.

#### 16 **FOURTH CAUSE OF ACTION**

##### 17 **Unjust Enrichment**

18 107. Plaintiffs repeat, reassert, and incorporate the allegations contained in  
19 paragraphs 1-106 above as if set forth herein.

20 108. Defendants have been unjustly enriched at the expense of Plaintiffs and Class  
21 members as a result of their conduct as alleged above.

22 109. Defendants have wrongfully and unjustly collected higher auto insurance  
23 payments from thousands of insureds than they were entitled to by using elasticity of demand as  
24 a rating factor.

25 110. It would be inequitable to allow Defendants to retain these ill-gotten gains, and  
26 the Plaintiffs and Class members are entitled to restitution and/or disgorgement of all revenues  
27 obtained by Defendants as a result of their unlawful conduct.

28

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiffs, individually and on behalf of the Class, pray for judgment in favor  
3 of Plaintiffs and the Class and against Defendants as follows:

- 4 A. Finding that this action satisfies the prerequisites for maintenance as a class  
5 action under California Code of Civil Procedure Section 382 and certifying the  
6 Class defined herein;
- 7 B. Designating Plaintiffs as representatives of the Class and their counsel as class  
8 counsel;
- 9 C. Declaring Defendants’ use of elasticity of demand as a rating factor to be  
10 unlawful and granting equitable and/or injunctive relief;
- 11 D. Awarding Plaintiffs and members of the Class their compensatory damages in  
12 an amount to be determined at trial;
- 13 E. Disgorgement of, restitution of, and/or imposing a constructive trust upon, the  
14 ill-gotten gains derived by Defendants from their unjust enrichment;
- 15 F. Plaintiffs’ reasonable attorneys’ fees and non-taxable expenses;
- 16 G. Plaintiffs’ taxable costs;
- 17 H. Pre- and post-judgment interest at the maximum rate permitted by applicable  
18 law; and
- 19 I. Granting such further relief as the Court deems just.

20 **JURY DEMAND**

21 Plaintiffs demand a trial by jury on all issues so triable.

22  
23 Dated: August \_\_, 2019

SCHONBRUN SEFLOW  
HARRIS & HOFFMAN LLP

MEHRI & SKALET PLLC

26 BERGER MONTAGUE, P.C.

27 TYCKO & ZAVAREEI LLP  
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By: \_\_\_\_\_  
Jay Angoff

*Attorneys for Plaintiffs*

# EXHIBIT 2

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# EXHIBIT 3

A \$15,000,000 settlement has been reached in a class action lawsuit alleging that Farmers Insurance Exchange and Mid-Century Insurance Company (collectively “Farmers”) violated California law by using price optimization (a method of setting prices that takes into account an individual’s or class of consumers’ willingness to pay a higher price for a product relative to other individuals or classes) when pricing its automobile insurance in California. Farmers denies the allegations in the lawsuit and denies that it did anything wrong. The Court has not decided who is right. Those included in the Settlement Class have legal rights and options, such as receiving settlement benefits or excluding themselves from or objecting to the settlement.

**WHO IS INCLUDED? Farmers’ records indicate that you are a Settlement Class Member.** The Settlement Class includes all California Policy Holders of Defendants Farmers Insurance Exchange (“FIE”) and Mid-Century Insurance Company (“Mid-Century”) who: (1) had 9 or more years of tenure/persistence as a FIE and/or Mid-Century policyholder as of August 18, 2015 or who reached 9 or more years of tenure/persistence as a FIE and/or Mid-Century policyholder on or before March 31, 2017, and (2) were FIE and/or Mid-Century policyholders at any time during the period extending from August 18, 2015 through March 31, 2017.

If you believe that you are in the Settlement Class, but have not received notice of the Settlement, you may call the toll free number, 1-855-964-0518, write the Settlement Administrator at Farmers PO Settlement, P.O. Box 5053, Portland, OR 97208-5053, or send an e-mail to [info@FarmersPOSettlement.com](mailto:info@FarmersPOSettlement.com).

**SETTLEMENT BENEFITS.** Farmers will pay \$15 million to make payments (via check or policy credit) to eligible Settlement Class Members as well as to pay Class Counsel’s attorneys’ fees, costs, expenses, costs of Settlement Administration, and Service Awards. After these fees and costs are deducted from the Settlement Fund, the remaining funds (approximately \$9,237,613) will be paid to Settlement Class Members with an equal payment amount of approximately \$15.02. If the Settlement is approved, payments will *automatically* be made to Settlement Class Members identified in Farmers’ records. You do not need to do anything to receive a payment.

**OTHER OPTIONS.** If you do not want to be legally bound by the Settlement, you must exclude yourself by **Month Day, 2020**, and the Court will exclude you from the Settlement. If you do not timely exclude yourself, you will release any claims you have and will not be able to sue Farmers for any claim relating to the lawsuit. Settlement Class Members who do not exclude themselves will be bound by any judgement. If you stay in the Settlement, you may object to it by **Month Day, 2020**. The Detailed Notice available at the website or by calling the toll-free number below includes information on how to exclude yourself or object. The Court will hold a hearing on **Month Day, 2020** to consider whether to approve the Settlement and a request by Class Counsel for attorneys’ fees of up to 33% of the Settlement Amount plus Class Counsel’s costs and expenses and Service Awards to the Class Representatives in the amount of \$5,000 each. You may appear at the hearing, but you are not required to attend. You may also hire your own attorney, at your own expense, to appear or speak for you at the hearing.

For more information regarding the Settlement, call the toll free number or visit the settlement website.

**[www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com) • 1-855-964-0518**

Farmers PO Settlement Administrator  
P.O. Box 5053  
Portland, OR 97208-5053

**If You Had a Farmers Insurance  
Exchange or Mid-Century Insurance  
Company Auto Policy in California  
between August 18, 2015 and  
March 31, 2017 and had been insured  
by those companies for 9 or more years,  
You May Be Eligible for a Payment  
from a Class Action Settlement.**

*Para una notificacion en Espanol, visitar  
[www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com).*

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# EXHIBIT 4

Email Notice

**If You Purchased Automotive Vehicle Insurance from Farmers from August 18, 2015 to March 31, 2017, You May Be Eligible for a Payment from a Class Action Settlement.**

*Para una notificación en Español, visitar [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com).*

A \$15,000,000 settlement has been reached in a class action lawsuit alleging that Farmers Insurance Exchange and Mid Century Insurance Company (“Farmers”) used optimization/elasticity of demand (a method of taking into account an individual’s or class’s willingness to pay a higher premium relative to other individuals or classes) as a rating factor when setting insurance rates, and that this method violated California law. Farmers denies the allegations in the lawsuit and denies that it did anything wrong. The Court has not decided who is right. Those included in the Settlement Class have legal rights and options, such as receiving settlement benefits or excluding themselves from or objecting to the settlement.

**WHO IS INCLUDED?** Farmers’ records indicate that you are a Settlement Class Member. The Settlement Class includes all California Policy Holders of Defendants Farmers Insurance Exchange (“FIE”) and Mid-Century Insurance Company (“Mid-Century”) who: (1) had 9 or more years of tenure/persistency as a FIE and/or Mid-Century policyholder as of August 18, 2015 or who reached 9 or more years of tenure/persistency as a FIE and/or Mid-Century policyholder on or before March 31, 2017, and (2) were FIE and/or Mid-Century policyholders at any time during the period extending from August 18, 2015 through March 31, 2017.

**SETTLEMENT BENEFITS.** Farmers will pay \$15 million to a Settlement Fund to make payments or give policy credits to eligible Settlement Class Members as well as to pay Class Counsel’s attorneys’ fees, costs, notice and administration expenses, and Service Awards. The maximum estimated amounts for the deductions from the \$15 million Settlement Fund are as follows: Class Counsel’s attorneys’ fees (\$4,950,000), costs (\$275,000), notice and administration expenses (\$522,387) and Service Awards (\$15,000). After these fees and costs are deducted from the Settlement Fund, the remaining funds (approximately \$9,237,613) will be divided by the total number of Settlement Class Members (approximately 615,000) to calculate the payment amount for each Settlement Class Member. All Settlement Class Members will receive an equal payment amount (estimated at \$15.02). If the Settlement is approved, payments or policy credits will *automatically* be made to Settlement Class Members identified in Farmers’ records. If you received this notice by email or mail, you do not need to do anything to receive a payment or policy credit.

**OTHER OPTIONS.** If you do not want to be legally bound by the Settlement, you must exclude yourself by **Month Day, 2020**. If you do not timely exclude yourself, you will release any claims you have and will not be able to sue Farmers for any claim relating to the lawsuit per the Amended Settlement Agreement and Release as follows:

“As of the Effective Date, Plaintiffs and each Settlement Class Member, each on behalf of itself and on behalf of its respective heirs, assigns, beneficiaries and successors (“Releasing Parties”), shall automatically be deemed to have fully and irrevocably released and forever discharged Farmers and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns, and the present and former directors, officers, employees, agents, insurers, members, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, predecessors, successors and assigns of each of them (“Released Parties”), of and from any claims that were or could have been alleged based on the facts pleaded in the First Amended Complaint dated October 29,

2015 and/or any subsequent amended complaint filed in conjunction with the Court's approval of the Settlement ("Released Claims")."

If you stay in the Settlement, you may object to it by **Month Day, 2020**.

If you wish to exclude yourself from the Settlement Class, you must send a letter to the Settlement Administrator identifying:

- (1) the name and case number of this lawsuit (*Harris, et al. v. Farmers Insurance Exchange, et al. Superior Court of California, County of Los Angeles, Case No. BC 57948*);
- (2) your full name, current address, and telephone number;
- (3) a statement that you wish to exclude yourself from the Settlement Class; and
- (4) your signature.

To be effective you must submit the above information to the following address **postmarked no later than Month Day, 2020**:

Farmers PO Settlement Administrator  
P.O. Box 5053  
Portland, OR 97208-5053

This is a firm deadline for requesting exclusion from the proposed settlement. You cannot ask to be excluded on the phone, by email, or at the website.

The Court will hold a hearing on **Month Day, 2020** to consider whether to approve the Settlement and a request by Class Counsel for attorneys' fees of up to 33% of the Settlement Fund plus Class Counsel's costs and expenses, and Service Awards to the Class Representatives in the amount of \$5,000 each. You may appear at the hearing, but you are not required to attend. You may also hire your own attorney, at your own expense, to appear or speak for you at the hearing.

For more information regarding the Settlement and a copy of the Judgement (once it is available), visit the [Settlement Website](#).

# EXHIBIT 5

**If You Had a Farmers Insurance Exchange or Mid-Century Insurance Company Auto Policy in California at any time between August 18, 2015 and March 31, 2017 and had been insured by those companies for 9 or more years, You May Be Eligible for a Payment from a Class Action Settlement.**

*The Superior Court for the State of California, County of Los Angeles (“the Court”) authorized this Notice. This is not a solicitation from a lawyer. This is not a legal action against you and you are not required to take any action to receive benefits that may be approved.*

*Para una notificación en Español, visitar [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com).*

- A \$15,000,000 settlement has been reached in a class action case known as *Harris, et al. v. Farmers Insurance Exchange, et al.*, Superior Court of California, County of Los Angeles, Case No. BC 57948 (“Action”). The Plaintiffs filed a class action complaint alleging five causes of action pertaining to the alleged use by Farmers Insurance Exchange and Mid-Century Insurance Company of price optimization/elasticity of demand (a method of taking into account an individual’s or class’s willingness to pay a higher premium relative to other individuals or classes) as a rating factor in California in violation of California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq. (“UCL”) and the California Insurance Code, and as unjust enrichment. Farmers denies Plaintiffs’ allegations and denies that it did anything wrong. The Court has not decided who is right.
- A settlement of this lawsuit (“Settlement”) has been negotiated which, if approved by the Court, may entitle you to an automatic payment. By entering into the Settlement, Farmers has not admitted the truth or validity of any of the claims against it. Your rights and options under the Settlement—and the deadlines to exercise them—are explained below.
- Your legal rights are affected whether you act or do not act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
<b>EXCLUDE YOURSELF</b>	Get no benefits from the Settlement. This is the only option that allows you to start or remain part of any other lawsuit against Farmers about the legal claims in this case.
<b>OBJECT</b>	Write to the Court about why you do not like the Settlement.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the Settlement.
<b>DO NOTHING</b>	If you received a notice by email or in the mail about this Settlement, a policy credit or check payment will automatically be issued to you for the amount you are eligible to receive. You will give up your rights to sue Farmers about the legal claims in this case.

- These rights and options—and the deadlines to exercise them—are explained in this notice.
- The Court presiding over this case still has to decide whether to approve the Settlement. If it does, and after any appeals are resolved, benefits will be distributed to those who qualify. Please be patient as this process sometimes takes a long time.

**QUESTIONS? CALL 1-855-964-0518 OR VISIT [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com)**

**WHAT THIS NOTICE CONTAINS**

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2. What is this lawsuit about?
3. Why is this a class action?
4. Why is there a Settlement?

**WHO IS IN THE SETTLEMENT ..... PAGE 4**

5. How do I know if I am part of the Settlement?
6. What if I am not sure whether I am included in the Settlement?

**THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY ..... PAGE 4**

7. What does the Settlement provide?

**HOW TO GET A PAYMENT ..... PAGE 5**

8. How can I get a payment?
9. When will I get my payment?
10. What am I giving up to get a payment?

**EXCLUDING YOURSELF FROM THE SETTLEMENT ..... PAGE 6**

11. If I exclude myself, can I get anything from this Settlement?
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**THE LAWYERS REPRESENTING YOU ..... PAGE 7**

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19. Do I have to come to the hearing?

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**GETTING MORE INFORMATION ..... PAGE 9**

21. How do I get more information?

## BASIC INFORMATION

### 1. Why is this Notice being provided?

A Court authorized this notice because you have a right to know about a proposed Settlement of this class action lawsuit and about all of your options before the Court decides whether to give “final approval” to the Settlement. This notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who may be eligible for those benefits, and how to get them.

Judge Maren Nelson of the Superior Court of California, County of Los Angeles is overseeing this class action. The Settlement resolves the case known as *Harris, et al. v. Farmers Insurance Exchange, et al.*, Case No. BC 57948.

The persons who sued are called “Plaintiffs,” and the companies sued, Farmers Insurance Exchange and Mid-Century Insurance Company, are called collectively “Farmers” or “Defendants.”

### 2. What is this lawsuit about?

In California, as in other states, drivers are required to maintain auto insurance. Auto insurance companies are not permitted to determine auto insurance premiums based on what the market will bear, but instead must determine premiums based on those rating factors that the Insurance Commissioner has approved as having a substantial relationship to the risk of loss. This case was brought as a class action complaint alleging that Farmers engaged in violations of the Unfair Competition Law – Commission of Unfair Business Act or Practice Cal. Bus. & Prof. Code § 17200 et seq., Unjust Enrichment and Violation of Cal. Ins. Code § 1861.10, and claims that Defendants improperly used price optimization/elasticity of demand (a policyholders’ or class of policyholders’ willingness to tolerate a price increase as a compared to other policyholders or other classes of policyholders) as a factor in calculating premiums in California. This notice is just a summary of the allegations. The complaint in the lawsuit is posted at [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com) and contains all of the allegations. Farmers denies these allegations; however, in order to avoid the expense, inconvenience, and distraction of continued litigation, they have agreed to the Settlement described herein.

### 3. Why is this a class action?

In a class action, one or more people called Settlement Class Representatives (in this case Roger Harris, Duane Brown, and Brian Lindsey) sue on behalf of people who have similar claims. All of these people are a “Settlement Class” or “Settlement Class Members.” One court resolves the issues for all Settlement Class Members, except for those who timely exclude themselves from the Settlement Class.

### 4. Why is there a Settlement?

The Court did not decide in favor of Plaintiffs or Defendants. Instead, both sides agreed to settle this case to avoid the cost and risk of a trial. The proposed Settlement does not mean that any law was broken or that the Defendants did anything wrong. Defendants deny all legal claims in this case. Plaintiffs and their lawyers think that in light of litigation uncertainties and the lengthy delay that would result from a trial and possible appeal, the proposed Settlement is in the best interest of the Settlement Class Members.

## WHO IS IN THE SETTLEMENT

To see if you will be affected by the Settlement or if you can get a payment from it, you first have to determine if you are a Settlement Class Member.

### 5. How do I know if I am part of the Settlement?

If you received notice of the Settlement by email or by mail then Farmers' records show you may be a member of the Settlement Class. But even if you did not receive a notice, you may still be a member of the Settlement Class.

The Proposed "Settlement Class" is composed of:

All California Policy Holders of Defendants Farmers Insurance Exchange ("FIE") and Mid-Century Insurance Company ("Mid-Century") who: (1) had 9 or more years of tenure/persistence as a FIE and/or Mid-Century policyholder as of August 18, 2015 or who reached 9 or more years of tenure/persistence as a FIE and/or Mid-Century policyholder on or before March 31, 2017, and (2) were FIE and/or Mid-Century policyholders at any time during the period extending from August 18, 2015 through March 31, 2017.

Excluded from the Settlement Class are (a) officers, directors, and employees of any member of the Farmers Insurance Group of Companies ; (b) the judge overseeing the proposed Settlement and the judge's immediate family and (c) all Policy Holders who make a timely election to be excluded.

### 6. What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are in the Settlement Class, or have any other questions about the Settlement, visit the Settlement Website at [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com) or call the toll free number, 1-855-964-0518. You may also write with questions to Farmers PO Settlement, P.O. Box 5053, Portland, OR 97208-5053, or send an e-mail to [info@FarmersPriceOptimizationSettlement.com](mailto:info@FarmersPriceOptimizationSettlement.com).

## THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

If the Settlement is approved and becomes final, it will provide benefits to Settlement Class Members.

### 7. What does the Settlement provide?

Farmers will pay \$15 million to a Settlement Fund to make payments or give policy credits to eligible Settlement Class Members as well as to pay Class Counsel's attorneys' fees, costs, notice and administration expenses, and Service Awards. The maximum estimated amounts for the deductions from the \$15 million Settlement Fund are as follows: Class Counsel's attorneys' fees (\$4,950,000), costs (\$275,000), notice and administration expenses (\$522,387) and Service Awards (\$15,000). After these fees and costs are deducted from the Settlement Fund, the remaining funds (approximately \$9,237,613) will be divided by the total number of Settlement Class Members (approximately 615,000) to calculate the payment amount for each Settlement Class Member. All Settlement Class Members will receive an equal payment amount (estimated at \$15.02).

Settlement Class Members who are "Renewing Current Policy Holders" will receive a credit at the time of renewal of their Policies. "Non-Renewing Current Policy Holders" and those Settlement Class Members who are no longer Policyholders will receive their Settlement Class Member Payment by paper check.

**QUESTIONS? CALL 1-855-964-0518 OR VISIT [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com)**

“Renewing Current Policy Holder” means a Settlement Class Member who continues to have his or her Policy as of the Effective Date and who renews his or her Policy within six months after the Payment Date.

“Non-Renewing Current Policyholder” means a Settlement Class Member who continues to have his or her Policy as of the Effective Date and who declines to renew his or her Policy within six months after the Payment Date.

“Policy” means any private passenger auto insurance policy maintained by Farmers in the state of California.

“Effective Date” means the day following: (A) the entry by the Court of the Final Order and Judgment: (i) affirming certification of the Settlement Class; (ii) finding the Settlement Agreement to be fair, adequate and reasonable; (iii) finding that the Notice to the Class of the Settlement Agreement was fair, adequate and reasonable; (iv) resolving any and all objections to the fairness and reasonableness of the Settlement Agreement, if any; and (B) the expiration of the deadline for seeking appellate review of the Final Order and Judgment if no appeal is sought; or the day following the date all appellate courts with jurisdiction affirm the Final Judgment and Order with no possibility of further appellate review existing; and (C) the Insurance Commissioner’s dismissal of the Department Proceeding (without prejudice to reinstatement in the event the Settlement does not receive Final Approval and/or the Effective Date does not occur).

“Payment Date” means the date occurring after the Effective Date on which the Court orders the payment of the Settlement Class Member Payments to begin.

Details on all of the settlement benefits are in the Settlement Agreement, which is available at [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com).

## HOW TO GET A PAYMENT

### 8. How can I get a payment?

If you received a notice by email or in the mail telling you that you are Settlement Class Member, you will receive an automatic payment or policy credit once the Settlement is approved by the Court and the Effective Date passes, provided you are eligible for a payment and you have not requested exclusion from the Settlement (*see* —“Excluding Yourself From The Settlement” below).

If you did not receive a notice by email or in the mail and believe you are a Settlement Class Member, please contact the Settlement Administrator at [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com) or by calling 1-855-964-0518.

### 9. When will I get my payment?

Payments and policy credits will be made after the Effective Date, which comes after Court grants “final approval” to the Settlement and after any appeals are resolved (*see* “The Court’s Final Approval Hearing” below). It is uncertain when the Court will decide to approve or disapprove the proposed Settlement and whether any appeals will be filed. Please be patient.

### 10. What am I giving up to get a payment?

If the Settlement becomes final, Settlement Class Members who do not timely request exclusion from the Settlement will be releasing Farmers per the Amended Settlement Agreement and Release as follows:

**QUESTIONS? CALL 1-855-964-0518 OR VISIT [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com)**

“As of the Effective Date, Plaintiffs and each Settlement Class Member, each on behalf of itself and on behalf of its respective heirs, assigns, beneficiaries and successors (“Releasing Parties”), shall automatically be deemed to have fully and irrevocably released and forever discharged Farmers and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns, and the present and former directors, officers, employees, agents, insurers, members, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, predecessors, successors and assigns of each of them (“Released Parties”), of and from any claims that were or could have been alleged based on the facts pleaded in the First Amended Complaint dated October 29, 2015 and/or any subsequent amended complaint filed in conjunction with the Court’s approval of the Settlement (“Released Claims”).”

This means you will no longer be able to sue Farmers regarding any of the claims described in the Settlement Agreement.

The Settlement Agreement is available at [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com). The Settlement Agreement provides more detail regarding the release and describes the released claims with specific descriptions in necessary, accurate legal terminology, so read it carefully. You can talk to the law firms representing the Settlement Class listed in the section “The Lawyers Representing You” for free or you can, at your own expense, talk to your own lawyer if you have any questions about the released claims or what they mean.

## **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you do not want to participate in this proposed Settlement and you want to keep the right to sue Farmers about the legal issues in this case, then you must take steps to opt out of the Settlement. This is called asking to be excluded from, or sometimes called “opting out” of, the Settlement Class.

### **11. If I exclude myself, can I get anything from this Settlement?**

No. If you exclude yourself, you may not apply for any benefits under the Settlement and you cannot object to the proposed Settlement. If you ask to be excluded, however, you will retain any right you have to sue or be part of a different lawsuit against the Defendants in the future. You will not be bound by anything that happens in this lawsuit.

### **12. If I do not exclude myself, can I sue later?**

No, not over the issues raised in this case.

### **13. How do I get out of the Settlement?**

If you wish to exclude yourself from the Settlement Class, you must send a letter to the Settlement Administrator identifying:

- (1) the name and case number of this lawsuit (*Harris, et al. v. Farmers Insurance Exchange, et al. Superior Court of California, County of Los Angeles, Case No. BC 57948*);
- (2) your full name, current address, and telephone number;
- (3) a statement that you wish to exclude yourself from the Settlement Class; and
- (4) your signature.

**QUESTIONS? CALL 1-855-964-0518 OR VISIT [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com)**

To be effective you must submit the above information to the following address **postmarked no later than Month Day, 2020**:

Farmers PO Settlement Administrator  
P.O. Box 5053  
Portland, OR 97208-5053

This is a firm deadline for requesting exclusion from the proposed Settlement. You cannot ask to be excluded on the phone, by email, or at the website.

## THE LAWYERS REPRESENTING YOU

### 14. Do I have a lawyer in the case?

The Court approved the law firms of Mehri & Skalet PLLC, Tycko & Zavareei LLP and Berger Montague, P.C., as Class Counsel to represent the Settlement Class. You will not be charged separately for these lawyers. If you wish to be represented by your own lawyer in this case, you may hire one at your own expense.

### 15. How will the lawyers be paid?

Class Counsel will apply to the Court for an award of attorneys' fees of up to \$4,950,000 plus costs and expenses for investigating the facts, litigating the cases, and negotiating the Settlement. To date, Class Counsel have not received any payment for their services in conducting this Litigation on behalf of the Settlement Class Representatives and the Settlement Class, nor have Class Counsel been reimbursed for their costs and expenses to date in this case. Class Counsel will also request the Court to award a service award of \$5,000 to each of the three Settlement Class Representatives in recognition of their service to the Settlement Class. The amount of the fees, expenses and service award will be determined by the Court. Class Counsel's contact information is as follows:

CLASS COUNSEL		
MEHRI & SKALET PLLC Cyrus Mehri, Esq. Jay Angoff, Esq. 1250 Connecticut Ave. NW, Suite 300 Washington, DC 20036	TYCKO & ZAVAREEI LLP Hassan Zavareei, Esq. Andrea Gold, Esq. 1828 L Street, N.W., Suite 1000 Washington, DC 20036	BERGER MONTAGUE, P.C. Peter Kahana, Esq. Jeff Osterwise, Esq. 1818 Market Street, Suite 3600 Philadelphia, PA 19103

## OBJECTING TO THE SETTLEMENT

### 16. How do I tell the Court if I do not like the Settlement?

You can object to the Settlement if you do not like some part of it. You must state the reasons you think the Court should not approve the Settlement. To object, send a letter (as instructed below) saying that you object to the proposed Settlement. You must include:

- a. the case name and case number of this Litigation (*Harris, et al. v. Farmers Insurance Exchange, et al. Superior Court of California, County of Los Angeles, Case No. BC 57948*);

**QUESTIONS? CALL 1-855-964-0518 OR VISIT [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com)**

- b. your full name, current address, and phone number;
- c. an explanation of the basis upon which you claim to be a Settlement Class member;
- d. all grounds for the objection;
- e. the identity of all counsel who represent you;
- f. a statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing;
- g. your signature.

Mail the objection to each of the following address so that it is postmarked no later than **Month Day, 2020**. This is a firm deadline. Objections postmarked after this date will not be recognized.

Farmers PO Settlement Administrator  
P.O. Box 5053  
Portland, OR 97208-5053

### 17. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you cannot object to the Settlement and you will not be eligible to apply for any benefits under the Settlement because the case no longer affects you.

## THE COURT'S FINAL APPROVAL HEARING

### 18. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at x:xx x.m. on **Month Day, 2020**, at the Superior Court of California, County of Los Angeles, \_\_\_\_\_ . At the Final Approval Hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. The Court may also consider Class Counsel's request for attorneys' fees, costs and expenses, and Service Awards. If there are objections received by the deadline, the Court may consider them. After the Final Approval Hearing, the Court will decide whether to approve the Settlement and how much to award in attorneys' fees, costs and expenses, as well as Service Awards.

The Final Approval Hearing may be moved to a different date or time without additional notice, so it is recommended that you periodically check [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com) or call the toll-free number for updated information.

### 19. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. If you send in a written objection, you do not have to come to the Final Approval Hearing to talk about it. As long as you mailed your written objection on time, the Court may consider it. You may also pay your own lawyer to attend the Final Approval Hearing, but their attendance is not necessary.

## IF YOU DO NOTHING

### 20. What happens if I do nothing?

If you are a Settlement Class Member and received a notice by email or in the mail telling you that you will receive an automatic payment or policy credit, you do not need to do anything in order to receive your payment or policy credit (provided the Court approves the Settlement). If you *did not* receive a notice by email or in the mail telling you that you will receive an automatic payment or policy credit and do nothing, you *will not* get a payment or policy credit from this Settlement. In addition, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendant about the claims in this case, ever again.

## GETTING MORE INFORMATION

### 21. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. The Settlement Agreement and a copy of the Judgement (once it is available) will be at [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com). You also may write with questions to Farmers PO Settlement, P.O. Box 5053, Portland, OR 97208-5053, or send an e-mail to [info@FarmersPriceOptimizationSettlement.com](mailto:info@FarmersPriceOptimizationSettlement.com).

# EXHIBIT 6

## **If You Purchased Automotive Vehicle Insurance from Farmers from August 18, 2015 to March 31, 2017, You May Be Eligible for a Payment from a Class Action Settlement.**

*Para una notificación en Español, visitar [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com).*

A \$15,000,000 settlement has been reached in a class action lawsuit alleging that Farmers Insurance Exchange and Mid-Century Insurance Company (“Farmers”) used optimization/elasticity of demand (a method of taking into account an individual’s or class’s willingness to pay a higher premium relative to other individuals or classes) as a rating factor when setting insurance rates, and that this method violated California law. Farmers denies the allegations in the lawsuit and denies that it did anything wrong. The Court has not decided who is right. Those included in the Settlement Class have legal rights and options, such as receiving settlement benefits or excluding themselves from or objecting to the settlement.

**WHO IS INCLUDED?** The Settlement Class includes all California Policy Holders of Defendants Farmers Insurance Exchange (“FIE”) and Mid-Century Insurance Company (“Mid-Century”) who: (1) had 9 or more years of tenure/persistency as a FIE and/or Mid-Century policyholder as of August 18, 2015 or who reached 9 or more years of tenure/persistency as a FIE and/or Mid-Century policyholder on or before March 31, 2017, and (2) were FIE and/or Mid-Century policyholders at any time during the period extending from August 18, 2015 through March 31, 2017.

**SETTLEMENT BENEFITS.** Farmers will pay \$15 million to a Settlement Fund to make payments or give policy credits to eligible Settlement Class Members as well as to pay Class Counsel’s attorneys’ fees, costs, notice and administration expenses, and Service Awards. The maximum estimated amounts for the deductions from the \$15 million Settlement Fund are as follows: Class Counsel’s attorneys’ fees (\$4,950,000), costs (\$275,000), notice and administration expenses (\$522,387) and Service Awards (\$15,000). After these fees and costs are deducted from the Settlement Fund, the remaining funds (approximately \$9,237,613) will be divided by the total number of Settlement Class Members (approximately 615,000) to calculate the payment amount for each Settlement Class Member. All Settlement Class Members will receive an equal payment amount (estimated at \$15.02). If the Settlement is approved, payments or policy credits will *automatically* be made to Settlement Class Members identified in Farmers’ records. If you did not receive a notice by mail or in your email and believe you should be included, visit the website or call the toll-free number below.

**OTHER OPTIONS.** If you do not want to be legally bound by the Settlement, you must exclude yourself by **Month Day, 2020**. If you do not timely exclude yourself, you will release any claims you have and will not be able to sue Farmers for any claim relating to the lawsuit. If you stay in the Settlement, you may object to it by **Month Day, 2020**. The Detailed Notice available at the website or by calling the toll-free number below includes information on how to exclude yourself or object. The Court will hold a hearing on **Month Day, 2020** to consider whether to approve the Settlement and a request by Class Counsel for attorneys’ fees of up to 33% of the Settlement Fund plus Class Counsel’s costs and expenses, and Service Awards to the Class Representatives in the amount of \$5,000 each. You may appear at the hearing, but you are not required to attend. You may also hire your own attorney, at your own expense, to appear or speak for you at the hearing.

For more information regarding the Settlement, call the toll free number or visit the Settlement Website. To obtain a copy of the Judgement (once it is available), visit the Settlement Website.

# EXHIBIT 7

## **Introduction**

The rates Farmers Insurance Exchange and Mid-Century Insurance Company (collectively “Farmers”) charge for auto insurance have always been subject to approval by the California Department of Insurance (the “CDI” or “Department”). In the last few years—long after the CDI had approved Farmers’ system of calculating rates—the Department began studying computer programs used by some insurers that enabled them to quote or charge policy holders rates that, in part, were influenced by elasticity of demand or their willingness to pay a higher price. Farmers states, and the Department has verified, that Farmers has never used a specific computer program for this purpose.

However, in determining California auto insurance premiums, Farmers has traditionally considered various characteristics of the individual driver, including the length of time the driver has been insured with Farmers. The Plaintiffs in this case have argued that in considering an insured’s tenure with Farmers in connection with rate setting, Farmers has also considered price optimization/elasticity of demand (a.k.a., any method of taking into account an individual’s or class’s willingness to pay a higher premium relative to other individuals or classes) as a rating factor in violation of California law. Farmers disagrees with Plaintiffs’ argument, denies that it engaged in price optimization or any wrongful conduct, and has only charged premiums reviewed by the CDI and approved by the Commissioner of Insurance. Nevertheless, in the interests of resolving this dispute Farmers has now filed and the California Department of Insurance has approved a new rating system that does not consider an insured’s tenure with Farmers in determining his or her premium. In addition, Farmers hereby agrees to the following:

## **Injunctive Relief**

1. Farmers will not use any form of price optimization software or program, nor in any way consider price optimization/elasticity of demand in connection with, or in the development of, California private passenger auto rates or class plans, unless and until such time as such practices are explicitly authorized under California law or by the California Department of Insurance.
2. Farmers will not initiate a challenge, in any way, to the Commissioner's 2/18/15 Notice re price optimization (“the Notice”) or the Commissioner's legal authority to regulate the use of price optimization software or the consideration of price optimization/elasticity of demand or price sensitivity in connection with, or in the development of, rates and class plans for California private passenger auto. However, if accused of price optimization or the allegedly improper consideration of price optimization/elasticity of demand, Farmers reserves the right to defend itself against any such accusation and does not waive any argument it may make in defense of such a claim, including that the Notice was unlawful or the Commissioner lacked the legal authority to regulate the use of price optimization software or the consideration of price optimization/elasticity of demand.

# EXHIBIT 8

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# EXHIBIT 9

## **Renewal Insert-Farmers Insurance Exchange**

In determining California auto insurance premiums, Farmers Insurance Exchange (“Farmers”) has traditionally considered the risk characteristics of individual drivers. In 2015, three Farmers policyholders filed a class action complaint alleging that Farmers also improperly considered a non-risk-based characteristic - the willingness of the individual policyholder to pay a higher price - in calculating premiums. Farmers disagrees with that allegation and denies that it engaged in any wrongful conduct. Nevertheless, in the interests of resolving this dispute, Farmers agreed to a settlement in the amount of \$15,000,000, including all attorneys’ fees, costs of administration, and service fees. That settlement has been approved by the Superior Court of the State of California. To reduce the costs of administering that settlement, Farmers will apply premium credits to current Farmers policyholders. Specifically, current Farmers policyholders who (1) had 9 or more years of tenure with Farmers as of August 18, 2015 or who reached 9 or more years of tenure with Farmers on or before March 31, 2017, and (2) were Farmers policyholders at any time during the period from August 18, 2015 through March 31, 2017, will each be credited \$\_\_\_\_. You are one of those policyholders. If you choose to renew your Farmers policy, Farmers will credit this amount to your renewal premium, i.e., Farmers will reduce your renewal premium by this amount. However, you need not renew your Farmers policy in order to receive the benefits of the settlement. If you choose not to renew your policy with Farmers, you will receive a paper check for the same amount ( \$ \_\_ ) from the Settlement Administrator.

## **Renewal Insert-Mid Century Insurance Company**

In determining California auto insurance premiums, Mid Century Insurance Company (“Mid Century”) has traditionally considered the risk characteristics of individual drivers. In 2015, three Mid Century policyholders filed a class action complaint alleging that Mid Century also improperly considered a non-risk-based characteristic - the willingness of the individual policyholder to pay a higher price - in calculating premiums. Mid Century disagrees with that allegation and denies that it engaged in any wrongful conduct. Nevertheless, in the interests of resolving this dispute, Mid Century agreed to a settlement in the amount of \$15,000,000, including all attorneys’ fees, costs of administration, and service fees. That settlement has been approved by the Superior Court of the State of California. To reduce the costs of administering that settlement, Mid Century will apply premium credits to current Mid Century policyholders. Specifically, current Mid Century policyholders who (1) had 9 or more years of tenure with Mid Century as of August 18, 2015 or who reached 9 or more years of tenure with Mid Century on or before March 31, 2017, and (2) were Mid Century policyholders at any time during the period from August 18, 2015 through March 31, 2017, will each be credited \$ \_\_\_. You are one of those policyholders. If you choose to renew your Mid Century policy, Mid Century will credit this amount to your renewal premium, i.e., Mid Century will reduce your renewal premium by this amount. However, you need not renew your Mid Century policy in order to receive the benefits of the settlement. If you choose not to renew your policy with Mid Century, you will receive a paper check for the same amount ( \$ \_\_\_ ) from the Settlement Administrator.

# **EXHIBIT 2**

## AMENDED SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) is made and entered into this ~~29<sup>th</sup>~~18<sup>th</sup> day of ~~August~~November 2019, by and among (1) Plaintiffs, Roger Harris, Duane Brown, Brian Lindsey (“Plaintiffs”), individually, and on behalf of the Settlement Class, and (2) Farmers Insurance Exchange and Mid Century Insurance Company (collectively “Farmers” or “Defendants”), subject to preliminary and final approval as required by the California Rules of Court. As provided herein, Plaintiffs, Class Counsel and Farmers hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and upon entry by the Court of a Final Order and Judgment and ~~dismissal~~achievement of the ~~administrative investigation into Plaintiffs’ allegations (CDI File No. NC-2017-00003) (without prejudice to reinstatement in the event the Settlement does not receive Final Approval and/or the Effective Date does not occur)~~, all claims of the Settlement Class against Farmers in the action titled *Harris, et al. v. Farmers Insurance Exchange, et al.*, Superior Court of California, County of Los Angeles, Case No. BC 57948 (“Action”), shall be settled and compromised upon the terms and conditions contained herein.

### **I. Recitals**

1. On April 22, 2015, Plaintiffs filed a class action complaint in the Superior Court of California alleging five causes of action pertaining to Farmers’

alleged use of price optimization/elasticity of demand (a.k.a., a method of taking into account an individual's or class's willingness to pay a higher premium relative to other individuals or classes) as a rating factor in violation of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq. ("UCL"), the California Insurance Code, and as unjust enrichment.

2. Plaintiffs filed a First Amended Complaint on October 29, 2015.

3. On November 30, 2015, Farmers filed a Demurrer to the First Amended Complaint ("Demurrer"). On December 30, 2015, Plaintiffs filed their Response in Opposition to Farmers' Demurrer, and on January 8, 2016, Farmers filed its Reply in support of its Demurrer.

4. On January 25, 2016, the Court sustained in part and denied in part Farmers' Demurrer. The Court overruled Farmers' Demurrer to Plaintiffs' causes of action under the UCL and for unjust enrichment. The Court sustained without leave to amend Farmers' Demurrer as to Plaintiffs' cause of action for violation of California Insurance Code Section 1861.10. The Court granted Farmers' request for a stay of the case pending proceedings before the California Department of Insurance (the "Department") pursuant to the primary jurisdiction doctrine.

5. For the next several months, the Department informally investigated whether Farmers was using price optimization or elasticity of demand as a rating factor. Then, both in response to the Superior Court's order and also on his own

motion, on April 14, 2017 the Commissioner announced that he would hold a hearing on “whether Farmers has violated California insurance law by using illegal price optimization” titled *In the Matter of the Rating Practices of Farmers Insurance Exchange and Mid-Century Insurance Company* (CDI File No. NC-2017-00003).

6. The Commissioner invited Plaintiffs to participate in the Department Proceeding and stated that he would convey his findings to the Superior Court.

7. Both Plaintiffs and Consumer Watchdog (“CWD”) subsequently intervened in the Department Proceeding.

8. The Department Proceeding continued for over two years and included significant motion practice and discovery. The Parties also entered into a Joint Statement of Issues in which the Parties stipulated to the following facts:

- a. The Commissioner approved Farmers’ 2008 Class Plans and associated rate filings;
- b. Farmers did not directly use price optimization software in the development of the 2008 Class Plans or any rate filings based on those Class Plans;
- c. Farmers calculated rates and premiums in a manner consistent with the 2008 Class Plans as filed with the Commissioner;

9. During that time, Farmers also filed two separate Petitions for Writ of Administrative Mandamus – one in August of 2017 and another in November of 2018 – related to the conduct and scope of the Department Proceeding.

10. After several continuances as the Parties engaged in discovery and

other disputes, the Department Proceeding was set for final evidentiary hearing on January 7, 2019.

11. In December of 2018, the Parties agreed to a mediation before the Hon. Harry W. Low (Ret.) and requested that the evidentiary hearing in the Department Proceeding be continued. The Chief Administrative Law Judge presiding over the Department Proceeding, Judge Rosi, granted that request.

12. On February 19, 2019, the Parties participated in a full day mediation with Judge Low. The mediation did not result in a settlement on that date.

13. For the next several months, the Parties continued their discussions and negotiations both in writing and over the telephone, with the participation of Judge Low. Chief Administrative Law Judge Rosi continued the evidentiary hearing in the Department Proceeding pending such settlement talks.

14. On June 5, 2019, the Parties executed a Memorandum of Understanding wherein the Parties agreed to the material terms of the settlement, the finalization of which is contingent on (1) the execution of a full and binding Settlement Agreement; (2) the Commissioner of Insurance's dismissal of the Department Proceeding (CDI File No. NC -2017-00003) (without prejudice to reinstatement in the event the Settlement does not receive Final Approval and/or the Effective Date does not occur); (3) the entry by the Court of a Final Order and Judgment (i) affirming certification of the Settlement Class, (ii) finding the Settlement Agreement to be fair,

adequate and reasonable, (iii) finding that the Notice to the Class of the Settlement Agreement is fair, adequate and reasonable, (iv) resolving any and all objections to the Settlement Agreement, (v) dismissing with prejudice the Settlement Class Members' claims against the Released Persons with each party to bear its own costs; (4) the expiration of the deadline for seeking appellate review of the Final Order and Judgment if no appeal is sought, or the day following the date all appellate courts with jurisdiction to review the Final Judgment and Order with no possibility of further appellate review.

15. On June 6, 2019, Plaintiffs and Farmers filed a Stipulated Request for a Stay of the Department Proceeding pending the Settlement of the Action.

16. On June 7, 2019, the Parties filed a Notice of Settlement with the Court advising the Court of the Memorandum of Understanding and requesting a stay of all proceedings until the filing of this Settlement Agreement and a Motion for Preliminary Approval.

17. The Parties now agree to settle the Action in its entirety, without any admission of liability, with respect to all Released Claims of the Releasing Parties (definitions below). The Parties intend this Agreement to bind Plaintiffs, Farmers, and all Settlement Class Members.

18. Plaintiffs' proposed Second Amended Complaint is attached hereto as Exhibit 1. Plaintiffs will file this proposed Second Amended Complaint with the

Court as the operative complaint in the Action at the time that Plaintiffs file their Motion for Preliminary Approval.

19. On November 18, 2019, the Parties entered into an Amended Settlement Agreement.

**NOW, THEREFORE,** in light of the foregoing, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows.

**II. Definitions**

In addition to the terms defined at various points within this Agreement, the following Defined Terms apply throughout this Agreement:

~~19.20.~~ “Action” means *Harris, et al. v. Farmers Insurance Exchange, et al.*, Superior Court of California, Case No. BC 57948.

~~20.21.~~ “Class Counsel” means:

MEHRI & SKALET PLLC  
Cyrus Mehri, Esq.  
Jay Angoff, Esq.  
1250 Connecticut Ave. NW  
Suite 300  
Washington, DC 20036

TYCKO & ZAVAREEI LLP  
Hassan A. Zavareei, Esq.  
Andrea Gold, Esq.  
1828 L Street Northwest  
Suite 1000  
Washington, DC 20036

BERGER MONTAGUE, P.C.  
Peter Kahana, Esq.  
Jeff Osterwise, Esq.  
1818 Market Street, Suite 3600  
Philadelphia, PA 19103

~~21-22.~~ “Class Period” means the period from August 18, 2015, through March 31, 2017.

~~22-23.~~ “Class Representatives” mean Roger Harris, Duane Brown, and Brian Lindsey.

~~23-24.~~ “Court” means the Superior Court of California, County of Los Angeles.

~~24-25.~~ “Depository Bank” shall mean BB&T or its successor; or another bank acceptable to the parties with the capacity to hold a qualified settlement fund.

~~25-26.~~ “Department Proceeding” means the California Department of Insurance administrative investigatory non-compliance hearing, California Department of Insurance File No. NC-2017-00003.

~~26-27.~~ “Effective Date” means the day following: (A) the entry by the Court of the Final Order and Judgment: (i) affirming certification of the Settlement Class; (ii) finding the Settlement Agreement to be fair, adequate and reasonable; (iii) finding that the Notice to the Class of the Settlement Agreement was fair, adequate and reasonable; (iv) resolving any and all objections to the fairness and reasonableness of the Settlement Agreement, if any; ~~(v) dismissing the Settlement Class Members’ Released Claims with prejudice against Released Persons with each Party to bear its own costs,~~ and (B) the expiration of the deadline for seeking appellate review of the Final Order and Judgment if no appeal is sought; or the day

following the date all appellate courts with jurisdiction affirm the Final Judgment and Order with no possibility of further appellate review existing; and (C) the Commissioner's dismissal of the Department Proceeding (without prejudice to reinstatement in the event the Settlement does not receive Final Approval and/or the Effective Date does not occur).

27.28. "Final Approval" means the date that the Court enters an order granting final approval to the Settlement and determines the amount of fees, costs, and expenses awarded to Class Counsel and the amount of any Service Awards to the Class Representatives. ~~The proposed Final Approval Order shall be in a form agreed upon by Class Counsel and Farmers. In the event that the Court issues separate orders addressing the foregoing matters, then Final Approval means the date of the last of such orders.~~

28.29. "Final Approval Order" means the final order that the Court enters upon Final Approval, ~~which shall be substantially in the form attached as an Exhibit 2, but may include additional or revised terms ordered by the Court~~ that ~~do~~does not affect the financial terms or Releases provided for herein. All Parties will in good faith support and pursue preliminary and final class-wide approval of the material terms of this Agreement. In the event that the Court issues separate orders addressing the

matters constituting Final Approval, then the Final Approval Order includes all such orders.

~~29-30~~. “Farmers” means Farmers Insurance Exchange and its affiliate, Mid Century Insurance Company.

~~30-31~~. “Net Settlement Amount” means the Settlement Amount, minus Court approved attorneys’ fees, costs and expenses, any notice and administration expenses, and Court-approved Service Awards to Plaintiffs. The Net Settlement Amount will be allocated ~~pro-rata~~ (to Settlement Class Members such that each Settlement Class Member will receive an equal Settlement Class Member Payment from the Net Settlement Amount, except that Settlement Class Members that jointly hold an ownership interest in any Policy or Policies shall receive a joint Settlement Class Member Payment.

~~31-32~~. “Non-Renewing Current Policy Holder” means a Settlement Class Member who continues to have his or her Policy as of the Effective Date and who declines to renew his or her Policy within six months after the Payment Date.

~~32-33~~. “Notice” means the notices that the Parties will ask the Court to approve in connection with the Motion for Preliminary Approval of the Settlement.

~~33-34~~. “Notice Program” means the methods provided for in this Agreement for giving the Notice and consists of Postcard Notice, Email Notice, Long Form

Notice, and Publication Notice (all defined herein below), which shall be substantially in the forms as the Exhibits attached hereto as Exhibits 3-6.

~~34.35.~~ “Opt-Out Period” means the period that begins the day after the earliest date on which the Notice is first mailed, and that ends ~~no later than 30 days before the Final~~ 120 days after Preliminary Approval ~~Hearing.~~ The deadline for the Opt-Out Period will be specified in the Notice.

~~35.36.~~ “Parties” means Plaintiffs and Farmers.

~~36.37.~~ “Past Policy Holder” means a Settlement Class Member who no longer holds his or her Policy as of the Effective Date.

~~37.38.~~ “Payment Date” means that date occurring after the Effective Date on which the Court orders the payment of the Settlement Class Member Payments to begin.

~~38.39.~~ “Plaintiffs” means Roger Harris, Duane Brown, and Brian Lindsey.

~~39.40.~~ “Policy” means any private passenger auto insurance policy maintained by Farmers in the state of California.

~~40.41.~~ “Policy Holder” means ~~any~~ each person who has an ownership interest in a Policy or Policies during the Class Period.

~~41.42.~~ “Preliminary Approval” means the date that the Court enters, without material change, an order preliminarily approving the Settlement, ~~substantially in the form of the exhibit attached to the Motion for Preliminary Approval.~~

~~42.43.~~ “Publication Notice” means a mutually agreed notice of the Settlement published in California in the following publications in the publications identified in paragraph ~~70~~71 to apprise Settlement Class Members of the Settlement.

~~43.44.~~ The “Releases” means all of the releases contained in Paragraph 88 hereof.

~~44.45.~~ “Released Claims” means all claims to be released as specified in Paragraph 88 hereof.

~~45.46.~~ “Released Parties” means those persons released as specified in Paragraph 88 hereof.

~~46.47.~~ “Releasing Parties” means Plaintiffs and all Settlement Class Members, and each of their respective heirs, assigns, beneficiaries and successors.

~~47.48.~~ “Renewing Current Policy Holder” means a Settlement Class Member who continues to have his or her Policy as of the Effective Date and who renews his or her Policy within six months after the Payment Date.

~~48.49.~~ “Service Award” means any Court-ordered payment to Plaintiffs for serving as Class Representatives that is in addition to any payment otherwise due Plaintiffs as Settlement Class Members.

~~49.50.~~ “Settlement” means the settlement into which the Parties have entered to resolve the Action. The terms of the Settlement are as set forth in this Agreement.

~~50.51.~~ “Settlement Administration Costs” means all costs of the Settlement Administrator regarding notice and settlement administration.

~~51.52.~~ “Settlement Administrator” means Epiq Systems, Inc.

~~52.53.~~ “Settlement Class” means all Policy Holders of Defendants Farmers Insurance Exchange (“FIE”) and Mid Century Insurance Company (“MCA”) who: (1) had 9 or more years of tenure/persistence as a FIE and/or MCA policyholder as of August 18, 2015 or who reached 9 or more years of tenure/persistence as a FIE and/or MCA policyholder on or before March 31, 2017, and (2) were FIE and/or MCA policyholders of Defendants at any time during the period extending from August 18, 2015 through March 31, 2017. Excluded from the Settlement Class are (a) officers, directors, and employees of any member of the Farmers Insurance Group of Companies; (b) the judge overseeing the proposed settlement and the judge’s immediate family and (c) all Policy Holders who make a timely election to be excluded.

~~53.54.~~ “Settlement Class Member” means ~~any person~~ each Policy Holder included in the Settlement Class who does not timely opt-out of the Settlement.

~~54.55.~~ “Settlement Class Member Payment” means the ~~pro-rata~~ equal distribution that will be made from the Net Settlement Amount to each Settlement

Class Member (or jointly to Settlement Class Members who jointly hold an ownership interest in a Policy or Policies), as described in Paragraph 31.

~~55.56.~~ “Settlement Amount” means the \$15,000,000 that Farmers is obligated to pay under the Settlement. The Settlement Amount is all inclusive and will be used to pay the ~~“Settlement Class Member Payment,”~~ Payments, any attorneys’ fees, costs and Service Awards ordered by the Court, any Settlement Administration Costs including the costs of Settlement Administrator and the costs of all forms of Notice and the Notice Program, and any *cy pres* payment required under this Agreement. Any and all costs incurred by Farmers in the process of making Policy credits to Renewing Current Policy Holders shall be borne by Farmers separately and not out of the Settlement Amount.

~~56.57.~~ “Settlement Website” means the website that the Settlement Administrator will use as a means for Settlement Class members to obtain notice of and information about the Settlement, through and including hyperlinked access to this Agreement, the Long Form Notice, the order preliminarily approving this Settlement, the Final Judgment, and such other documents as Class Counsel agree to post or that the Court orders posted on the website. ~~These documents shall remain on the Settlement Website at least until Final Approval.~~ The URL of the Settlement Website shall be [www.FarmersPriceOptimizationSettlement.com](http://www.FarmersPriceOptimizationSettlement.com), or such other URL as Class Counsel and Farmers agree upon in writing.

### III. Certification of the Settlement Class

~~57-58~~. For Settlement purposes only, Plaintiffs and Farmers agree to ask the Court to certify the Settlement Class under California Code of Civil Procedure Section 382.

### IV. Monetary Settlement

~~58-59~~. Subject to approval by the Court, the total monetary consideration to be provided by Farmers pursuant to the Settlement shall be \$15,000,000~~.00~~, inclusive of the amount paid to Settlement Class Members, any and all attorneys' fees, costs and expenses awarded to Class Counsel, any Service Awards to the Class Representatives, all costs and expenses incurred by the Settlement Administrator and any *cy pres* payment.

~~59-60~~. Within 10 days of Preliminary Approval of the Settlement, Farmers shall deliver to the Settlement Administrator \$500,000 from the Settlement Amount to be deposited in a Qualified Settlement Fund account for this matter at the Depository Bank. This amount is estimated to be necessary to pay for the Notice Program and administration of the Settlement by the Settlement Administrator.

~~60-61~~. Within 10 days of the Effective Date Farmers shall deliver to the Settlement Administrator that portion of the Settlement Amount necessary to pay the Settlement Class Member Payments due to the Past Policy Holders and the attorneys' fees and costs payable to Class Counsel, which amount shall be deposited

in the Qualified Settlement Fund account for this matter at the Depository Bank maintained by the Settlement Administrator. The Settlement Administrator shall deliver such Settlement Class Member Payments to the Past Policy Holders in accordance with the Court's Final Approval Order.

~~61.62.~~ In order to reduce the costs of administration of the Settlement, Farmers shall retain that portion of the Settlement Amount that is allocated to Settlement Class Members who are Renewing Current Policy Holders, who will beginning on the Payment Date, at its own cost and expense, directly credit the Policies of those Renewing Current Policy Holder Settlement Class Members at the time of renewal of their Policies. At the conclusion of the renewal cycle, Farmers shall deliver to the Settlement Administrator that portion of the Settlement Amount necessary to satisfy the Settlement Class Member Payments due to the Non-Renewing Current Policyholders, whose payments will be then be delivered by the Settlement Administrator by paper check. Farmers shall report to the Court as to the status of all Settlement Class Member Payments made to Renewing Current Policy Holders on a semi-annual basis following the Payment Date.

**V. Prospective Injunctive Relief**

~~62.63.~~ Without admitting any liability or that it is required by law to do so, Farmers agrees to the practices outlined in the attached Exhibit 7.

**VI. Settlement Approval**

~~63-64.~~ Upon execution of this Agreement by all Parties, Class Counsel shall promptly move the Court for an Order granting Preliminary Approval of this Settlement (“Preliminary Approval Order”). ~~The proposed Preliminary Approval Order that will be attached to the motion shall be in a form agreed upon by Class Counsel and Farmers substantially similar to Exhibit 8 attached hereto.~~ The motion for Preliminary Approval shall request that the Court: (1) approve the terms of the Settlement as within the range of fair, adequate and reasonable; (2) provisionally certify the Settlement Class pursuant to California Code of Civil Procedure Section 382 for settlement purposes only; (3) appoint Class Counsel as counsel for the Settlement Class; (4) appoint Plaintiffs as Class Representatives of the Settlement Class (5) approve the Notice Program set forth herein and approve the form and content of the Notices of the Settlement; (6) approve the procedures set forth herein below for Settlement Class members to exclude themselves from the Settlement Class or to object to the Settlement; (7) stay the Action pending Final Approval of the Settlement; and (8) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, Class Counsel and counsel for Farmers, at which the Court will conduct an inquiry into the fairness of the Settlement, determine whether it was made in good faith, and determine whether to approve the Settlement and Class Counsel’s application for attorneys’ fees, costs and expenses and for Service Awards to the Class Representatives (“Final Approval Hearing”).

## **VII. Settlement Administrator**

~~64~~65. The Settlement Administrator shall administer various aspects of the Settlement as described in the next paragraph hereafter and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, providing Mailed and Email Notice to Settlement Class members and distributing the Settlement Amount as provided herein.

~~65~~66. The duties of the Settlement Administrator, in addition to other responsibilities that are described in the preceding paragraph and elsewhere in this Agreement, are as follows:

- a. Use the name and address information for Settlement Class members provided by Farmers in connection with the Notice process approved by the Court, for the purpose of mailing the Mailed Notice and sending the Email Notice, and later mailing distribution checks to Past Policy Holder Settlement Class Members and Non-Renewing Current Policy Holder Settlement Class Members, and to Renewing Current Policy Holder Settlement Class Members where it is not feasible or reasonable for Farmers to make the payment by a credit to the their Policies;
- b. Arrange for the Publication Notice;
- c. Establish and maintain a Post Office box for requests for exclusion from the Settlement Class;

- d. Establish and maintain the Settlement Website;
- e. Establish and maintain an automated toll-free telephone line for Settlement Class members to call with Settlement-related inquiries, and answer the questions of Settlement Class members who call with or otherwise communicate such inquiries;
- f. Respond to any mailed Settlement Class member inquiries;
- g. Process all requests for exclusion from the Settlement Class;
- h. Provide weekly reports to Class Counsel and Farmers that summarizes the number of requests for exclusion received that week, the total number of exclusion requests received to date, and other pertinent information;
- i. In advance of the Final Approval Hearing, prepare an affidavit to submit to the Court confirming that the Notice Program was completed, describing how the Notice Program was completed, providing the names of each Settlement Class member who timely and properly requested exclusion from the Settlement Class, and other information as may be necessary to allow the Parties to seek and obtain Final Approval;
- j. Pay invoices, expenses and costs upon approval by Class Counsel and Farmers, as provided in this Agreement; and

k. ~~any~~Any other Settlement-administration-related function at the instruction of Class Counsel and Farmers, including, but not limited to, verifying that settlement funds have been distributed.

#### **VIII. Notice to Settlement Class members**

~~66.67.~~As soon as practicable after Preliminary Approval of the Settlement, the Settlement Administrator shall implement the Notice Program provided herein, using the forms of Notice approved by the Court in the Preliminary Approval Order. The Notice shall include, among other information: a description of the material terms of the Settlement including the injunctive relief; a date by which Settlement Class members may exclude themselves from or “opt-out” of the Settlement Class; a date by which Settlement Class members may object to the Settlement; the date upon which the Final Approval Hearing is scheduled to occur; and the address of the Settlement Website at which Settlement Class members may access this Agreement and other related documents and information. Class Counsel and Farmers shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices and publications provided under or as part of the Notice Program shall not bear or include the Farmers logo or trademarks or the return address of Farmers, or otherwise be styled to appear to originate from Farmers.

~~67-68.~~ The Notice also shall include a procedure for Settlement Class members to opt-out of the Settlement Class. A Settlement Class member may opt-out of the Settlement Class at any time during the Opt-Out Period, provided the opt-out notice is postmarked no later than the last day of the Opt-Out Period. Any Settlement Class member who does not timely and validly request to opt-out shall be bound by the terms of this Agreement. Requests for exclusion from the Settlement must be delivered to the Settlement Administrator via mail.

~~68-69.~~ The Notice also shall include a procedure for Settlement Class members to object to the Settlement and/or to Class Counsel's application for attorneys' fees, costs and expenses and/or Service Awards to the Class Representatives. ~~Objections to the Settlement, to the application for fees, costs, expenses, and/or to the Service Awards must be mailed to the Clerk of the Court, Class Counsel, and Farmers' counsel. For an objection to be considered by the Court, the objection must be submitted no later than the last day of the Opt-Out Period, as specified in the Notice. If submitted by mail, an objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by private courier (e.g., Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.~~ A Settlement Class member may submit an objection, via mail, to the Settlement

Administrator at any time during the Opt-Out Period, provided the objection is postmarked no later than the last day of the Opt-Out Period.

~~69.70. For an objection to be considered by the Court, the A written objection must also set forth:~~

- a. the name of the Action;
- b. the objector's full name, address and telephone number;
- c. an explanation of the basis upon which the objector claims to be a Settlement Class member;

d. all grounds for the objection, ~~accompanied by any legal support for the objection known to the objector or objector's counsel;~~

e. ~~the number of times in which the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;~~

~~f.e. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;~~

~~g. a copy of any orders related to or ruling upon objector's counsel's or objector's counsel's law firm's in connection with prior objections that were issued~~

~~by a trial or appellate court in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years;~~

~~h. any and all agreements that relate to the objection or the process of objecting whether written or oral between objector or objector's counsel and any other person or entity;~~

~~i. the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing;~~

~~j. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection;~~

~~k.f.~~ a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

~~l.g.~~ the objector's signature ~~(an attorney's signature is not sufficient).~~

Class Counsel and/or Farmers may conduct limited discovery on any objector consistent with the California Code of Civil Procedure.

~~70-71.~~ Notice shall be provided to Settlement Class members in four different ways: Email notice to Settlement Class members for whom Farmers has email addresses ("Email Notice") and who have agreed to accept their Policy statements and/or information by email; postcard Notice ("Postcard Notice") to those Settlement Class members who have not agreed to accept their Policy statements

and/or information by email or for whom Farmers does not have current email addresses; Long-Form Notice with details regarding the Settlement (“Long Form Notice”) on the Settlement Website; and a mutually agreed Publication Notice published in California in the following publications to apprise Settlement Class members of the Settlement: the Los Angeles Times, East Bay Times/Mercury News, Sacramento Bee, San Diego Union-Tribune, San Francisco Chronicle, Facebook (California IP addresses only) and Google Display Network (California IP addresses only). Email Notice and Postcard Notice shall collectively be referred to as “Mailed Notice.” Not all Settlement Class members will receive all forms of Notice, as detailed herein. The cost of all forms of Notice and the Notice Program shall be paid out of the Settlement Amount. A Spanish version of the Long Form Notice shall be provided to Settlement Class Members who request it. The Postcard Notice, Email Notice, and Publication Notice shall inform Settlement Class members, in Spanish, of the availability of the Spanish version of the Long Form Notice.

~~71.72.~~ Farmers, with the assistance of the Settlement Administrator as appropriate, shall create a list of Settlement Class members and their electronic mail and/or postal addresses based on readily available information already within its possession. Farmers will bear the expense of extracting the necessary data to make this list of Settlement Class members. Farmers will provide the list of Settlement

Class members and their electronic mail and/or postal addresses to the Settlement Administrator to provide Notice. ~~by November 30, 2019.~~

~~72.~~73. The Settlement Administrator shall run the physical addresses through the National Change of Address Database and shall mail to all such Settlement Class members Postcard Notice. The Settlement Administrator shall also send out Email Notice to all Settlement Class members receiving Notice by that method. The initial Mailed Postcard and Email Notice shall be referred to as “Initial Mailed Notice.”

~~73.~~74. The Settlement Administrator shall perform reasonable address traces for all Initial Mailed Notice postcards that are returned as undeliverable. By way of example, a “reasonable” tracing procedure would be to run addresses of returned postcards through the Lexis/Nexis database that can be utilized for such purpose. No later than 60 days ~~before the Final Approval Hearing~~after preliminary approval, the Settlement Administrator shall complete the re-mailing of Postcard Notice to those Settlement Class members whose new addresses were identified as of that time through address traces (“Notice Re-mailing Process”). The Settlement Administrator shall send Postcard Notice to all Settlement Class members’ whose emails were returned as undeliverable and complete such Notice pursuant to the deadlines described herein as they relate to the Notice Re-mailing Process.

~~74.75.~~The Notice Program (which is composed of both the Initial Mailed Notice and the Notice Re-mailing Process) shall be completed no later than 60 days ~~before the Final~~after entry of a Preliminary Approval Hearing Order.

~~75.76.~~Within the provisions set forth in this Section VIII, further specific details of the Notice Program shall be subject to the agreement of Class Counsel and Farmers.

## **IX. Final Approval Order and Judgment**

~~76.77.~~Plaintiffs' Motion for Preliminary Approval of the Settlement will include a request to the Court for a scheduled date on which the Final Approval Hearing will occur. Plaintiffs shall file their Motion for Final Approval of the Settlement, and application for attorneys' fees, costs and expenses and for Service Awards for the Class Representatives no later than ~~45~~105 days ~~before the Final Approval Hearing~~after preliminary approval. At the Final Approval Hearing, the Court will hear argument on Plaintiffs' Motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees, costs, and expenses and for the Service Awards for the Class Representatives. One week prior to the Final Approval Hearing, Plaintiffs may file supplemental briefing in support of final approval of the Settlement. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class members (or their counsel) who object to the Settlement or to Class Counsel's application for

attorneys' fees, costs, expenses or the Service Awards application, provided the objectors submitted timely objections that meet all of the requirements listed in the Agreement.

At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order granting Final Approval of the Settlement and entering final judgment thereon and whether to approve Class Counsel's request for attorneys' fees, costs, expenses and Service Awards. ~~The proposed Final Approval Order shall be in a form agreed upon by Class Counsel and Farmers, and shall be substantially in the form of Exhibit 2 attached.~~

Such proposed Final Approval Order shall, among other things:

- a. Determine that the Settlement is fair, adequate and reasonable;
- b. Finally certify the Settlement Class for settlement purposes only;
- c. Determine that the Notice provided satisfies Due Process requirements;
- d. ~~Enter~~ Provide for the future entry of judgment dismissing the Action

with prejudice ~~and with court costs to be assessed to Plaintiffs;~~

- e. d. Bar and enjoin all Releasing Parties from asserting any of the Released Claims hereof, bar and enjoin all Releasing Parties from pursuing any Released Claims against Farmers or its affiliates at any time, including during any appeal from the Final Approval Order, and retain jurisdiction over the enforcement of the Court's injunctions;

~~f.e.~~ Release Farmers and the Released Parties from the Released Claims;  
and

~~g.f.~~ Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including Farmers, all Settlement Class Members, and all objectors, to administer, supervise, construe and enforce this Agreement in accordance with its terms.

**X. Distributions From The Settlement Amount**

~~77.78.~~ In exchange for the mutual promises and covenants in this Agreement, including, without limitation, the Releases and ~~the dismissal of the Action upon Final Approval,~~ occurrence of the Effective Date, ~~and the Commissioner's dismissal of the Department Proceeding (without prejudice to reinstatement in the event the Settlement does not receive Final Approval and/or the Effective Date does not occur),~~ Farmers shall be responsible for paying the Settlement Amount, from which Settlement Class Member Payments shall be paid to the Settlement Class Members.

~~78.79.~~ Unless a Renewing Current Policy Holder has contacted the Settlement Administrator to request a paper check instead of a Policy credit, Farmers shall credit the Policies of all Renewing Current Policy Holders their Settlement Class Member Payments at the time of ~~the~~ their next Policy renewal ~~of their Policies.~~

~~79.80.~~ Settlement Class Member Payments to Renewing Current Policy Holders shall be made first by crediting a Policy for those Policy ~~Holder's~~

Policies Holders at the time of their next Policy renewal ~~of the Policies~~, or by mailing a standard size check if it is not feasible or reasonable to make the payment by a credit. Farmers shall notify Renewing Current Policy Holders of any such credit on the Policy statement on which the credit is reflected and provide a brief explanation that the credit has been made as a payment in connection with the Settlement. The form and substance of this notification shall be mutually agreed upon by the Parties and shall be substantially similar to the language of Exhibit 79. Farmers will bear all costs and expenses associated with implementing the Policy credits and notification discussed in this paragraph.

~~80.~~81. If the next Policy renewal date ~~of the Policy~~ ~~off~~ for a Policy Holder does not occur within six (6) months of the Payment Date, the Policy Holder shall receive his or her Settlement Class Member Payment via check from the Settlement Administrator. Within 10 days after the Payment Date, Farmers shall provide the Settlement Administrator with a list of the Settlement Class members who have Policies that do not have a Policy renewal date within six (6) months of the Effective Date. Settlement Class Member Payments to such Settlement Class Members shall be made by mailing a standard size check. The Settlement Administrator shall be responsible for mailing such checks.

~~81.~~82. After Farmers has processed all Settlement Class Member Payments to Renewing Current Policy Holders with a Policy renewal ~~date~~ date occurring within

six (6) months of the Payment Date, Farmers shall notify the Settlement Administrator of that portion of the Settlement Amount necessary to fund the Settlement Class Member Payments to Non-Renewing Current Policy Holders by check.

~~82-83~~. Settlement Class Member Payments to Non-Renewing Current Policy Holders shall be made by mailing a standard size check. The Settlement Administrator shall be responsible for mailing such checks.

~~83-84~~. Within 10 days after Effective Date, Farmers shall provide the Settlement Administrator with a list of Past Policy Holder Settlement Class Members in order to send checks to Past Policy Holders for their Settlement Class Member Payments.

~~84-85~~. Settlement Class Member Payments to Past Policy Holders shall be made by mailing a standard size check. The Settlement Administrator shall be responsible for mailing such checks.

~~85-86~~. The amount of the Net Settlement Amount attributable to uncashed or returned checks sent by the Settlement Administrator shall be held by the Settlement Administrator one year from the date that the first distribution check is mailed by the Settlement Administrator. During this time the Settlement Administrator shall make a reasonable effort to locate intended recipients of settlement funds whose checks were returned (such as by running addresses of returned checks through the

Lexis/Nexis database that can be utilized for such purpose) to effectuate delivery of such checks. The Settlement Administrator shall make only one such additional attempt to identify updated addresses and re-mail or re-issue a distribution check to those for whom an updated address was obtained.

**a. Disposition of Residual Funds**

~~§6-87.~~ Within 2 years after the date the Settlement Administrator mails the first Settlement Class Member Payment, any remaining amounts such as resulting from uncashed checks (“Residual Funds”) in the Qualified Settlement Fund shall be distributed pursuant to a California Code of Civil Procedure 384(b). Specifically, the parties agree that, consistent with the requirements of Section 384, the Court may open any judgment to direct payment of any amounts remaining in the Qualified Settlement Fund, plus interest, to the Center for Auto Safety, www.autosafety.org, or other court approved cy pres recipient ~~or recipients selected by Class Counsel with input from Farmers.~~ While most known for strengthening highway safety standards to save lives, for decades the Center for Auto Safety has provided tools to educate consumers in California and across the country on different types of auto insurance coverage and discount strategies to save consumers on costs of insurance premiums. Neither the Parties or counsel for the Parties have any interest or involvement in the governance or the work of Center for Auto Safety.

Class Counsel shall seek the Court’s approval of distribution to the *cy pres*

~~recipients-recipient.~~ If the Court does not approve the *cy pres* recipient, Class Counsel with input from Farmers will propose another *cy pres* recipient for the Court's approval.

**b. Release**

~~87.~~88.As of the Effective Date, Plaintiffs and each Settlement Class Member, each on behalf of itself and on behalf of its respective heirs, assigns, beneficiaries and successors (“Releasing Parties”), shall automatically be deemed to have fully and irrevocably released and forever discharged Farmers and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns, and the present and former directors, officers, employees, agents, insurers, members, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, predecessors, successors and assigns of each of them (“Released Parties”), of and from any claims that were or could have been alleged based on the facts pleaded in the First Amended Complaint dated October 29, 2015 and/or any subsequent amended complaint filed in conjunction with the Court’s approval of the Settlement (“Released Claims”).

**c. Payment of Attorneys’ Fees, Costs, and Service Awards**

~~88.~~89.Class Counsel will ask the Court to approve Service Awards to the Plaintiffs in the amount of \$5,000.~~00~~ each to be paid out of the Settlement Amount.

The Service Awards will be capped at \$5,000 per Class Representative. The Service Awards are to be paid by the Settlement Administrator directly to the Class Representatives within 10 days of the Effective Date. The Service Awards shall be paid to the Class Representatives in addition to the Class Representatives' Settlement Class Member Payments. Farmers agrees not to oppose Class Counsel's request for the Service Awards. The Parties agree that the Court's failure to approve the Service Awards, in whole or in part, shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination.

89.90. Class Counsel agree to cap their request for attorneys' fees at 33% of the gross Settlement Amount. Farmers agrees not to oppose Class Counsel's request for attorneys' fees of up to 33% of the Settlement Amount, and not to oppose Class Counsel's request for reimbursement of reasonable costs and expenses. Any award of attorneys' fees, costs, and expenses to Class Counsel shall be payable solely out of the Settlement Amount. The Parties agree that the Court's failure to approve, in whole or in part, any award for attorneys' fees shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination.

90.91. Within 714 days of the Effective Date, the Settlement Administrator shall pay Class Counsel all Court-approved attorneys' fees, costs, and expenses.

~~91-92~~. The Parties negotiated and reached agreement regarding attorneys' fees and costs, and the Service Awards, only after reaching agreement on all other material terms of this Settlement.

**d. Termination of Settlement**

~~92-93~~. This Settlement may be terminated by either Class Counsel or Farmers by serving on counsel for the opposing Party and filing with the Court a written notice of termination within 15 days (or such longer time as may be agreed in writing between Class Counsel and Farmers) after any of the following occurrences:

- a. Class Counsel and Farmers agree to termination;
- b. the Court rejects, materially modifies, materially amends or changes, or declines to finally approve the Settlement;
- c. an appellate court vacates or reverses the Final Approval Order, and the Settlement is not reinstated and finally approved without material change by the Court on remand within 360 days after such reversal;
- d. the Effective Date does not occur;
- e. the Department Proceeding is not dismissed by the Insurance Commissioner of the California Department of Insurance following the Court's issuance of the Preliminary Approval Order and prior to the Court's issuance of the Final Approval Order (in which case notice of termination may be served and filed at any time prior to issuance of the Final Approval Order); provided however, that

such dismissal is without prejudice to reinstatement if the Settlement does not otherwise become effective; or

f. any other ground for termination provided for elsewhere in this Agreement.

~~93-94.~~ Farmers also shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within 14 days after its receipt from the Settlement Administrator of any report indicating that the number of Settlement Class members who timely request exclusion from the Settlement Class equals or exceeds ~~the percentage specified in the separate letter executed concurrently with this Settlement by Class Counsel and Farmers. The percentage shall be confidential except to the Court, which shall upon request be provided with a copy of the letter for *in camera* review.~~ 5%.

e. **Effect of a Termination**

~~94-95.~~ In the event of a termination, this Agreement shall be considered null and void; all of Plaintiffs', Class Counsel's, and Farmers' obligations under the Settlement shall cease to be of any force and effect; and the Parties shall return to the status *quo ante* in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective Settlement rights, claims and defenses will be retained and preserved. Any Party may move to reinstate the Department Proceeding. Any and all costs and/or

expenses associated with the Notice and administration of the Settlement prior to its termination shall be borne by Farmers.

~~95.96.~~ The Settlement shall become effective on the Effective Date unless earlier terminated in accordance with the provisions hereof.

~~96.97.~~ In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made or filed with the Court.

~~97.98.~~ In the event the Settlement is terminated in accordance with the provisions of this Agreement, or if the Settlement does not receive Final Approval, or if the Effective Date does not occur, Plaintiffs may seek to re-institute the Department Proceeding.

~~98.99.~~ In the event the Settlement does not receive Final Approval, or a Final Approval ~~order~~Order is reversed on appeal, or the ~~Department Proceeding~~Effective Date is not ~~dismissed after the Court issues the Preliminary Approval Order,~~otherwise achieved then this Settlement Agreement shall be of no force or effect, the Parties shall be returned to their status in the litigation as if the Settlement was never executed, and, in such event, the ~~parties~~Parties agree that this Settlement

Agreement, and any and all negotiations, documents and discussions associated with it, shall be without prejudice to the rights of any party, and shall not be deemed or construed to be an admission or evidence of any violation of any statute, law or regulation or of any liability or wrongdoing by Defendants or of the truth of any of the claims or allegations made by Plaintiffs in the Action.

~~99.100.~~ 100.100. All Parties expressly reserve all of their rights if the Settlement does not become final, including but not limited to Farmers' right to oppose class certification and Plaintiffs' right to seek re-institution of the Department Proceeding.

~~100.101.~~ 101.101. If the Settlement does not receive final and non-appealable Court approval, Farmers shall not be obligated to make any payments or provide any other monetary or non-monetary relief to Plaintiffs or the Settlement Class Members, any attorneys' fees, costs, or expenses to Class Counsel, and/or any Service Awards to Plaintiffs.

**f. No Admission of Liability**

~~101.102.~~ 102.102. Farmers continues to dispute its liability for the claims alleged in the Action, and maintains that its private passenger auto insurance policy pricing practices and representations concerning those practices complied, at all times, with applicable laws and regulations. Farmers does not admit any liability or wrongdoing of any kind, by this Agreement or otherwise. Farmers has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of

burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

~~102.~~103. Class Counsel believe that the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel fully investigated the facts and law relevant to the merits of the claims, conducted significant formal discovery including extensive written discovery and depositions over a period of approximately 2 years, and conducted independent investigation of the challenged practices. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class members.

~~103.~~104. The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability or wrongdoing of any kind whatsoever.

~~104.105.~~ Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by the Plaintiffs or Settlement Class members, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency or other tribunal.

~~105.106.~~ In addition to any other defenses Farmers may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding that may be instituted, prosecuted or attempted in breach of this Agreement or the Releases contained herein.

#### **XIX. Miscellaneous Provisions**

~~106.107.~~ With the exception of the claims brought on behalf of the Settlement Class and resolved pursuant to the terms of the Settlement, Class Counsel have no intention to represent any person or entity covered as a Settlement Class member in any complaint filed in this Action to re-litigate the claims covered by any of the complaints in this Action.

~~107.~~108. Gender and Plurals. As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

~~108.~~109. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

~~109.~~110. Cooperation of Parties. The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

~~110.~~111. Obligation To Meet And Confer. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted.

~~111.~~112. Integration. This Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

~~112.~~113. No Conflict Intended. Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

~~113.~~114. Governing Law. Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the State of California, without regard to the principles thereof regarding choice of law.

~~114.~~115. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required. Any signature submitted by facsimile or through email of an Adobe PDF shall be deemed an original.

~~115.~~116. Jurisdiction. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice program and the Settlement Administrator. As part of their agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. ~~The Court shall retain~~

~~jurisdiction over the enforcement of the Court's injunction barring and enjoining all Releasing Parties from asserting any of the Released Claims and from pursuing any Released Claims against Farmers or its affiliates at any time, including during any appeal from the Final Approval Order.~~

~~116.117.~~ Notices. All notices to Class Counsel provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

MEHRI & SKALET PLLC  
Jay Angoff, Esq.  
1250 Connecticut Avenue NW  
Suite 300  
Washington, DC 20036  
*Class Counsel*

TYCKO & ZAVAREEI, LLP  
Andrea Gold, Esq.  
1828 L Street NW  
Suite 1000  
Washington, DC 20036  
*Class Counsel*

BERGER MONTAGUE, P.C.  
Jeff Osterwise, Esq.  
1818 Market Street  
Suite 3600  
Philadelphia, PA 19103  
*Class Counsel*

HINSHAW & CULBERTSON LLP  
James C. Castle  
633 West 5th Street  
47th Floor  
Los Angeles, CA 90071-2043  
*Counsel for Farmers*

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice program.

117.118. Modification and Amendment. This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and counsel for Farmers and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

118.119. No Waiver. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

119.120. Authority. Class Counsel (for the Plaintiffs and the Settlement Class Members), and counsel for Farmers (for Farmers), represent and warrant that the persons signing this Agreement have full power and authority to bind the person, partnership, corporation or entity included within the definitions of Plaintiffs and Farmers, for whom they are signing, to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

~~120.~~121. Agreement Mutually Prepared. Neither Farmers nor Plaintiffs, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

~~121.~~122. Independent Investigation and Decision to Settle. The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action (including but not limited to approximately 2 years of contested discovery in the Department Proceeding); and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law, subsequently occurring or otherwise.

~~122.~~123. Receipt of Advice of Counsel. Each Party acknowledges, agrees,

and specifically warrants that he, she or it has fully read this Agreement and the Release contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Release and the legal effects of this Agreement and the Release, and fully understands the effect of this Agreement and the Release.

*Counsel for Plaintiffs on Behalf Named Plaintiffs*

Dated: \_\_\_\_\_ MEHRI & SKALET, PLLC  
Cyrus Mehri, Esq.

Jay Angoff, Esq.

\_\_\_\_\_  
By: \_\_\_\_\_

Dated: \_\_\_\_\_ TYKO & ZAVAREEI LLP  
Hassan A. Zavareei, Esq.  
Andrea Gold, Esq.

\_\_\_\_\_  
By: \_\_\_\_\_

Dated: \_\_\_\_\_ BERGER MONTAGUE, P.C.  
Peter Kahana, Esq.  
Jeff Osterwise, Esq.

\_\_\_\_\_  
By: \_\_\_\_\_

Dated: \_\_\_\_\_

ROGER HARRIS

\_\_\_\_\_

Dated: \_\_\_\_\_

DUANE BROWN

\_\_\_\_\_

Dated: \_\_\_\_\_

BRIAN LINDSEY

\_\_\_\_\_

Dated: \_\_\_\_\_

FARMERS INSURANCE EXCHANGE

\_\_\_\_\_

MID CENTURY INSURANCE  
COMPANY

Dated: \_\_\_\_\_

\_\_\_\_\_

Dated: \_\_\_\_\_

*Counsel for Defendants*

HINSHAW & CULBERTSON LLP  
James C. Castle, Esq.

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# **EXHIBIT 3**

1 Harvey Rosenfield, SBN 123082  
2 Pamela Pressley, SBN 180362  
3 **CONSUMER WATCHDOG**  
4 6330 San Vicente Blvd., Suite 250  
5 Los Angeles, CA 90048  
6 Tel. (310) 392-0522  
7 Fax (310) 392-8874  
8 harvey@consumerwatchdog.org  
9 pam@consumerwatchdog.org

10 *Attorneys for Intervenor, Consumer Watchdog*

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12  
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BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF CALIFORNIA

In the Matter of the Rating Practices of

FARMERS INSURANCE EXCHANGE  
and MID-CENTURY INSURANCE  
COMPANY.

FILE NO.: NC-2017-00003

**PRE-FILED DIRECT TESTIMONY OF  
ALLAN I. SCHWARTZ**

PUBLIC - REDACTED VERSION

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1 **I. QUALIFICATIONS**

2 Q. Please state your name and address?

3 A. My name is Allan I. Schwartz. My address is 4400 Route 9 South, Freehold, New Jersey.

4  
5 Q. By whom are you employed and in what capacity?

6 A. I am President of AIS Risk Consultants, an actuarial consulting firm which I started in  
7 November 1984. In that capacity I have performed consulting work for a variety of clients  
8 covering a wide spectrum of actuarial projects.

9  
10 Q. What was your previous employment history?

11 A. From May 1988 to January 1990, I was Assistant Commissioner with the New Jersey  
12 Department of Insurance (NJDOI). In that position, I was responsible for all property/liability  
13 filings, excluding workers' compensation, submitted to the NJDOI in addition to other  
14 responsibilities. From June 1986 until April 1988, I was Chief Actuary for the North Carolina  
15 Department of Insurance (NCDOI). I was responsible for all the actuarial work at the NCDOI,  
16 both property/liability and life/accident/health. From August 1977 to November 1984, I worked  
17 for the actuarial consulting firm of Woodward and Fondiller. My last position at that firm was  
18 Senior Actuary. Prior to that, from March 1976 to August 1977, I was employed by the National  
19 Council on Compensation Insurance (NCCI). While there, I worked on rate level analyses,  
20 benefit factor evaluations, and special projects. Before that, I attended college where I received a  
21 B.S. degree in physics from Cooper Union.

22  
23 Q. Are you a member of any actuarial societies?

24 A. I am a Fellow of the Casualty Actuarial Society, an Associate in the Society of Actuaries  
25 and a Member of the American Academy of Actuaries. I have belonged to various regional  
26 actuarial organizations and professional actuarial committees. In addition, I have served on the  
27 Property/Casualty and Life/Accident/Health Actuarial Task Forces of the National Association  
28 of Insurance Commissioners (NAIC). I was also Chairperson of a subcommittee for the NAIC

1 statistical task force. This subcommittee developed NAIC standard private passenger automobile  
2 insurance statistical data reporting requirements.

3  
4 Q. Do you have any professional designations related to insurance other than your actuarial  
5 credentials?

6 A. Yes. I have received various professional designations from the Insurance Institute of  
7 America. Those are:

8 Associate in Reinsurance

9 Associate in Claims

10 Associate in Premium Auditing

11 Associate in Underwriting

12 Associate in Insurance Accounting and Finance

13 Associate in Risk Management

14 Associate in Personal Insurance

15 In addition, I have a professional designation from LOMA in partnership with the  
16 American Institute for Chartered Property Casualty Underwriters / Insurance Institute of  
17 America. That is:

18 Associate, Customer Service

19 I also have the professional designation of Certified Rate of Return Analyst (CRRA)  
20 from the Society of Utility and Regulatory Financial Analysts. This designation is awarded  
21 based upon experience and successful completion of a written examination.

22  
23 Q. Have you received any awards in connection with your professional work?

24 A: Yes.

25 I received a Research Excellence Award from Farmers Insurance Group in connection with  
26 the paper I wrote entitled, "Actuarial Issues to be Addressed in Pricing Excess of Loss  
27 Reinsurance."  
28

1 I received the Reinsurance Association of America Award for Academic Excellence in  
2 connection with my Associate in Reinsurance designation.

3 I received the National Association of Mutual Insurance Companies Award for Academic  
4 Excellence in connection with my Associate in Insurance Accounting and Finance designation.

5 My designation of Associate, Customer Service was awarded "With Honors."  
6

7 Q: Have you met the requirements for continuing education of the actuarial profession?

8 A: Yes, I have.  
9

10 Q. In the course of your professional work have you dealt with issues of insurance  
11 ratemaking, accounting and finance?

12 A. Yes, I have.  
13

14 Q. Would you please describe some of your additional professional activities?

15 A. I have written several papers dealing with various aspects of actuarial work. These have  
16 included topics on ratemaking, reserving, and reinsurance. I have also presented lectures and  
17 taught classes on these subjects. In addition, I was editor of Fresh Air Magazine, a newsletter  
18 published by Actuaries in Regulation. This is a special interest group of the Casualty Actuarial  
19 Society composed of actuaries who work for State Insurance Departments.  
20

21 Q. Have you previously testified in regulatory proceedings and court proceedings regarding  
22 insurance rates?

23 A. Yes. I have testified in proceedings involving rates in Arkansas, California, Connecticut,  
24 Delaware, District of Columbia, Florida, Georgia, Maine, Massachusetts, Nevada, New Jersey,  
25  
26  
27  
28

1 New Mexico, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Texas, Vermont  
2 and Virginia.<sup>1</sup>

3  
4 Q. Have you prepared insurance rate filings on behalf of insurance companies?

5 A. Yes. I have prepared insurance rate filings for a number of insurance companies for  
6 submission to the New Jersey Department of Banking and Insurance.

7  
8 Q. Do you have a resume setting forth your professional background?

9 A. Yes. It is attached as Exhibit C1.

10 **II. SUMMARY**

11 Q. On what issues will you be offering testimony in this proceeding?

12 A. I will be discussing from an actuarial perspective the issues set forth in the Notice of  
13 Hearing issued by the Commissioner dated April 14, 2017.<sup>2</sup> Those issues are:

14 (1) whether Farmers has violated California insurance law by using illegal price  
15 optimization;

16 (2) how Farmers implemented any such illegal price optimization in its rate and/or class  
17 plans;

18 (3) how any such illegal price optimization impacted Farmers' policyholders.

19 While I will discuss factual items related to the above issues, I will not testify about  
20 whether Farmers activities were legal or illegal.

21  
22 Q. What did your analysis reveal?

23 A. It is my conclusion that:  
24

25 <sup>1</sup> In several of these jurisdictions, I have testified on behalf of the Department of Insurance,  
26 including in California. Other entities that I have provided testimony on behalf of include, but  
are not limited to, Attorneys General and the state Consumer (or Public) Advocate.

27 <sup>2</sup> The Notice was signed by John Finston, General Counsel.  
28

1 (1) Farmers<sup>3</sup> did engage in price optimization by taking into account an individual's or  
2 class's willingness to pay a higher premium relative to other individuals or classes, as  
3 well as not seeking to arrive at an actuarially sound estimate of the risk of loss and  
4 other future costs of a risk transfer.

5 (2) The price optimization was implemented by charging certain policyholders'  
6 premiums higher than the actuarially indicated values for the "persistence" rating  
7 factor (or rating variable).

8 (3) Certain Farmers policyholders were impacted by being charged premiums higher than  
9 appropriate, because of Farmers' use of a value for the persistence rating factor  
10 higher than the actuarially indicated value.<sup>4</sup>

11  
12 Q. Can you explain what a rating factor (or variable) is?

13 A. A rating factor is a characteristic that impacts the premium charged to policyholders.

14 In California, for private passenger automobile insurance, there are three mandatory  
15 rating factors—those being (i) the insured's driving safety record, (ii) the number of miles he or  
16 she drives annually and (iii) the number of years of driving experience the insured has.<sup>5</sup> There  
17 are also sixteen optional rating factors, with one of those optional factors being persistence.<sup>6,7</sup>

18  
19 Q. Can you provide more explanation of the persistence rating factor?

20 \_\_\_\_\_  
21 <sup>3</sup> References to Farmers also include Mid-Century Insurance Company.

22 <sup>4</sup> Morgan Bugbee testified that: (i) California regulations require insurance companies to use the  
23 indicated costs, (ii) California requires insurance companies to use the actuarial cost estimate and  
24 (iii) the actuarial point estimate is the best actuarial estimate. Exhibit H-47, Bugbee deposition,  
July 12, 2018; 45:19-22, 56:2-6, 63:13-16.

25 <sup>5</sup> 10 CCR § 2632.5(c).

26 <sup>6</sup> 10 CCR § 2632.5(d).

27 <sup>7</sup> Exhibit C9 shows the different rating factors used by Farmers, and the categories or classes  
28 within each rating factor.

1 A. Persistency is a measure of how long the policyholder has had insurance coverage from  
2 the insurance company (or an affiliate).<sup>8</sup>

3  
4 Q. How do rating factors, and the values assigned to those factors, impact the premium paid  
5 by a policyholder?

6 A. For each rating factor used by the insurance company, a value is assigned for each  
7 policyholder. Those rating factor values are then combined to arrive at the premium charge for  
8 the policyholder.

9 This can be seen from the enclosed California Auto Premium Calculation Worksheet  
10 used by Farmers.<sup>9</sup> The Semi Annual Premium is the Base Rate multiplied by the values for each  
11 of the rating factors. Therefore, if the value assigned to a particular rating factor is excessive, the  
12 resulting Premium will also be excessive. This example shows a policyholder with persistency  
13 class 9,<sup>10</sup> with a persistency rating factor value of 0.97. This is the group of policyholders who  
14 were overcharged because the actuarially indicated persistency factor was less than 0.97. A  
15 lower value for the persistency rating factor would result in a lower premium. This was also the  
16 class of policyholders that was subject to price optimization, since these policyholders have a  
17 lower elasticity of demand.

18  
19 Q. What sources of information did you use in your analysis?

20 A. I used various sources of information including discovery documents, deposition  
21 transcripts and exhibits, Farmers' filings, as well as other generally accepted sources of  
22 information including, but not necessarily limited to, various actuarial publications.

23  
24 <sup>8</sup> A more detailed explanation is contained in 10 CCR § 2632.5(d)(11).

25 <sup>9</sup> Exhibit C19, Bates Farmers 000001, 001210.

26 <sup>10</sup> Farmers class plan defines Persistency 9 policyholders as follows: "9 or more years of Farmers  
27 persistency." (see Exhibit C9.)

1  
2 Q. Are the data and information you relied upon in this testimony the type reasonably relied  
3 upon by actuaries working in the field of property casualty insurance?

4 A. Yes.

5 **III. FARMERS USED PRICE OPTIMIZATION**

6 Q. In evaluating whether Farmers used price optimization, what criteria did you use?

7 A. I relied on the California Department of Insurance *NOTICE REGARDING UNFAIR*  
8 *DISCRIMINATION IN RATING: PRICE OPTIMIZATION*, dated February 18, 2015. (Exhibit  
9 C2).

10 That Notice states in part:

11 For purposes of this Notice, "Price Optimization" is defined as any  
12 method of taking into account an individual's or class's willingness to  
13 pay a higher premium relative to other individuals or classes.

14 Price Optimization does not seek to arrive at an actuarially sound  
15 estimate of the risk of loss and other future costs of a risk transfer.  
16 Therefore, any use of Price Optimization in the ratemaking/pricing  
17 process or in a rating plan is unfairly discriminatory in violation of  
18 California law. [Footnote omitted.]

16 Q. Is elasticity of demand related to price optimization?

17 A. Yes.

18  
19 Q. Can you explain what is meant by elasticity of demand?

20 A. Yes. One definition related to this follows:<sup>11</sup>

21 Elasticity is a measure of a variable's sensitivity to a change in another  
22 variable. In business and economics, elasticity refers the degree to  
23 which individuals, consumers or producers change their demand or the  
24 amount supplied in response to price or income changes. It is  
25 predominantly used to assess the change in consumer demand as a  
26 result of a change in a good or service's price.

27 <sup>11</sup> <https://www.investopedia.com/terms/e/elasticity.asp>; accessed October 1, 2018  
28

1 Q. How is elasticity of demand related to companies, such as Farmers, being able to  
2 overcharge certain customers?

3 A. The same definition also discusses that issue as follows:<sup>12</sup>

4 Beyond prices, the elasticity of a good or service directly affects the  
5 customer retention rates of a company. Businesses often strive to sell  
6 goods and services that have inelastic demand; doing so means the  
7 customers will remain loyal and continue to purchase the good or  
8 service even in the face of a price increase.

9 Farmers, by identifying which customers have a low elasticity of demand (i.e., inelastic  
10 demand), could charge those policyholders higher prices, while still having a high retention of  
11 the business.

12 Q. How is elasticity of demand related to price optimization?

13 A. Elasticity of demand is used in implementing price optimization.

14 By evaluating the elasticity of demand for various customers, an insurance company can  
15 implement price optimization by charging higher rates to policyholders with a low elasticity of  
16 demand.

17 That is what Farmers did—charge higher than actuarially indicated rates to policyholders  
18 who Farmers expected would remain as policyholders despite the inflated premiums.

19 Q. Prior to Farmers making the class plan filing that is currently in effect, were the issues of  
20 price optimization and elasticity of demand well known in the actuarial and insurance fields?

21 A. Yes. Prior to Farmers making the class plan filing that is currently in effect, the issue of  
22 price optimization and elasticity of demand were well known in the actuarial and insurance  
23 fields.

24  
25 Q. Can you give an example of that?  
26  
27

---

28 <sup>12</sup> *Ibid.*

1 A. A paper by Sholom Feldblum entitled "Personal Auto Premiums: An Asset Share Pricing  
2 Approach For Property/Casualty Insurance," which was published in the 1996 Proceedings of the  
3 Casualty Actuarial Society, discussed these issues. (Exhibit C3.) See for example the following  
4 statement in that paper:

5 Traditional ratemaking procedures are cost-based. The pricing actuary  
6 equates premiums with anticipated losses and expenses, so economic  
7 profits are eliminated. In practice, insurers seek to optimize certain  
8 goals, such as profits or market share. The price elasticity of demand  
9 becomes a crucial determinant of optimal strategy. That is, premium  
10 rates and relativities affect consumer demand and the mix of insureds,  
11 thereby affecting insurer profitability. (Page 242.)

12 Q. Prior to Farmers making the class plan filing that is currently in effect, were the issues of  
13 price optimization and elasticity of demand well known to Farmers?

14 A. Yes. Prior to Farmers making the class plan filing that is currently in effect, the issues of  
15 price optimization and elasticity of demand were well known to Farmers.

16 This is confirmed by various documents produced by Farmers.

17 Q. Can you cite to some of the documents that demonstrates that prior to Farmers making  
18 the class plan filing that is currently in effect, the issues of price optimization and elasticity of  
19 demand were well known to Farmers?

20 A. Yes. Some of those documents are as follows:

21 1) A September 19, 2017 e mail from Bill Martin; Senior Vice President – Farmers  
22 Personal Auto Insurance; to various people, including Russina Sgoueva, with a Subject Line  
23 "2008 Plan Analysis." (Exhibit C4, Bates Farmers 063176 – 063181.)

24 An excerpt from that e mail follows:

25 [REDACTED]

1 As will be discussed later, that is what Farmers did in its Class Plan, subsidizing newer  
2 business by charging excessive rates to longer tenured policyholders.<sup>13</sup>

3 2) An April 11, 2008 e mail from Bill Martin to various people, including Russina  
4 Sgoureira, with subject line "Another article on Pricing Strategy in Insurance," with an  
5 attachment "priceOpt article [1].pdf." (Exhibit C5, Bates Farmers 061756 – 061757.) An  
6 excerpt from that e mail follows:

7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]

15 3) A January 18, 2017 e mail from Chris Maydak to Morgan Bugbee with a subject  
16 line of "Policyholder Tenure Indications."<sup>14</sup> (Exhibit C6, Bates Farmers 031511 – 031513.) An  
17 excerpt from that e mail follows:

18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]

22 This shows clearly that Farmers was aware that long tenured policyholders (i.e., those  
23 with a long/high persistency) could be overcharged and would likely renew anyway.

25 <sup>13</sup> Long tenure and long persistency policyholders refer to the same issue.

27 <sup>14</sup> Other people included in the e mail trail included Steve Norling-Christensen, CPCU; Director  
28 – Product Management, California Auto.

1           4)     A Multidimensional Auto Pricing (MAP 2 – revisited) memo.<sup>15</sup> (Exhibit C7,  
2 Bates Farmers 053153 – 053156.) An excerpt from that memo follows:

3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]

8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]

15           This memo is consistent with what Farmers did in its California Auto Class Plan, where  
16 the long term tenured (i.e. long persistency) business was charged a rate higher than the indicated  
17 rate in order to subsidize the rate charged to newer business. This shows the use of price  
18 optimization by Farmers.

19           5)     A May 2007 Presentation entitled “Retention-Elasticity Modeling.” (Exhibit C8,  
20 Bates Farmers 053062 – 053086.) This showed for a Multivariate Rank of Auto Retention  
21 Model Variables that the most important variable was [REDACTED]

22 [REDACTED]  
23 [REDACTED] (page 16.)

26 <sup>15</sup> While the memo is not dated, it contains the following statement, [REDACTED]  
27 [REDACTED]  
28 [REDACTED] Hence the memo was written prior to 2007R1.

1 Q. Can you explain what is meant by Multivariate Rank of Auto Retention Model  
2 Variables?

3 A. Multivariate means that the different factors that impact retention were analyzed together  
4 instead of one at a time separately.<sup>16</sup> This takes into account possible interactions and overlaps  
5 between the variables being used to evaluate retention.

6 Rank means ordering the variables considered from high to low in terms of its importance  
7 in explaining retention rates.<sup>17</sup>

8 Policy Tenure was ranked first, meaning that the tenure of the policy had the most  
9 significant impact on the retention of the policy.

10 The Higher Retaining Segment was identified by Farmers as Older Policies. This means  
11 that these older longer tenured (i.e., higher persistency) policies had a higher retention.

12  
13 Q. How does this relate to the issue of whether Farmers engaged in price optimization?

14 A. This is again consistent with what Farmers did in its California Auto Class Plan, where  
15 the older tenured business was charged a rate higher than the indicated rate in order to subsidize  
16 the rate charged to newer business.

17 Documents produced by Farmers show that Farmers was aware that long tenured/high  
18 persistency policyholders were more likely to renew, even if those policyholders were being  
19 overcharged.

20 **IV. FARMERS' IMPLEMENTATION OF PRICE OPTIMIZATION**

21 Q. How did Farmers implement Price Optimization?

22 A. Farmers implemented Price Optimization by selecting higher rate relativities for certain  
23 policyholders than the indicated rate relativities.

24

25

26 <sup>16</sup> Farmers model included eleven different factors in trying to evaluate or explain retention. (see  
27 Exhibit C8, Bates Farmers 053077.)

28

17

[REDACTED]

1 Q. What is a rate relativity?

2 A. A rate relativity is the value assigned to a policyholder (or group of policyholders) for a  
3 particular rating factor. For example, within the first mandatory rating factor of driver safety  
4 record, there will be different categories of policyholders grouped together. Each group of  
5 policyholders is assigned a numerical value for the rating factor depending on the characteristics.

6 As an example, using the Farmers California Auto Premium Calculation Worksheet  
7 (Exhibit C19, Bates Farmers 000001, 001210), for safety record the driver class category value  
8 was (7/N) and the rate relativity values were 1.32 for the liability coverages and 1.41 for the  
9 physical damage coverages.

10 A rate relativity higher than average results in a higher premium based upon that rating  
11 factor. Conversely, a rate relativity lower than average results in a lower premium based upon  
12 that rating factor.

13

14 Q. How are the rate relativity values derived?

15 A. The rate relativities would be derived based upon the applicable regulations in  
16 conjunction with actuarial procedures.

17

18 Q. Are you contending that Farmers did not properly derive actuarially sound indicated rate  
19 relativities?

20 A. No.

21 For the purpose of this proceeding we are not contending that Farmers used incorrect  
22 procedures in deriving actuarially sound indicated rate relativities. Instead, Farmers chose not to  
23 use its own calculations of the indicated rate relativities and selected higher rate relativities for  
24 those policyholders with a persistency rating factor category of 9.

25

26 Q. Were the rate relativities selected by Farmers in excess of Farmers' calculation of the  
27 actuarially sound indicated rate relativities?

28 A. Yes. Farmers selected rate relativities that were in excess of Farmers' calculation of the

1 actuarially sound indicated rate relativities.

2 Q. How did Farmers' use of rate relativities in excess of the actuarially sound indicated  
3 values impact policyholders with a persistency rating factor category of 9?

4 A. Those policyholders were known by Farmers to have a lower elasticity of demand and  
5 were likely to renew with Farmers even though they were charged inflated premiums in excess  
6 of those based upon an actuarially sound estimate of the cost of risk transfer. Hence, Farmers  
7 chose to charge those policyholders excessive premiums. That constitutes the use of price  
8 optimization by Farmers.

9  
10 Q. Can you further explain the basis for your conclusion that Farmers engaged in Price  
11 Optimization by overcharging policyholders with a Persistency of 9 or more years with Farmers?

12 A. Yes.

13 First it should be documented that Farmers overcharged that group of policyholders.  
14 That can be seen from comparing the indicated rate relativities derived by Farmers to the rate  
15 relativities selected by Farmers for its persistency rating factor—category 9, which is shown in  
16 the following table.

17 Persistency Rating Factor - Category 9

18

19 <u>Coverage</u>	20 <u>Balanced</u> <u>Cred Wght</u> <u>Indication</u>	21 <u>Selected</u> <u>Relativity</u>	22 <u>Ratio</u> <u>Selected to</u> <u>Indication</u>	23 <u>Percent</u> <u>Excess</u> <u>Charge</u>
24 Bodily Injury / Property Damage	0.94	0.98	1.043	4.3%
25 Uninsured Motorists	0.90	0.98	1.089	8.9%
26 Medical Payments	0.87	0.98	1.126	12.6%
27 Comprehensive	0.91	0.98	1.077	7.7%
28 Collision	0.89	0.98	1.101	10.1%

Source: Mid-Century Class Plan Filing, Exhibits 4 and 5 (Exhibit C9, Bates Farmers 000001,  
001310, 001311, 000328, 000339, 000351, 000363, 000375, 000386, 000740, 000751, 000763,

1 000775, 000787, 000798).<sup>18</sup>

2 This shows that Farmers overcharged these policyholders from about 4% to 13%  
3 depending upon the coverage involved. As previously discussed, a higher rate relativity means a  
4 higher premium. Farmers' higher selected rate relativities compared to Farmers' actuarially  
5 sound indicated rate relativities means that these policyholders were overcharged. The percent  
6 overcharge by coverage is given in the previous table.

7  
8 Q. Why did you conclude that Farmers used Price Optimization in overcharging these  
9 policyholders?

10 A. Persistency category 9 are long term tenured policyholders with Farmers. As discussed  
11 previously, these are the types of policyholders that Farmers concluded it could overcharge  
12 because their low elasticity of demand meant those policyholders were less price sensitive than  
13 other policyholders. And in fact, Farmers did charge those persistency category 9 policyholders  
14 more than the actuarially sound premium.

15 The Multidimensional Auto Pricing (MAP 2 – revisited) memo stated in part, 

16   
17  
18 (Exhibit C7, Bates Farmers 053155.)

19 The e mails from Bill Martin also reference Price Optimization, elasticity and subsidies.  
20 (Exhibit C5, Bates Farmers 061756 – 061757.) This is clearly what was happening with regard to  
21 the persistency rating factor, wherein Farmers used the Persistency 9 policyholders to subsidize  
22 other policyholders because the Persistency 9 policyholders had a low elasticity of demand.

23 Farmers' decision not to use the actuarially indicated rating factor for Persistency 9  
24 policyholders was set out in a June 26, 2018 e mail from Chris Maydak to various people,  
25  
26

27 <sup>18</sup> From filing dated August 6, 2008, SERFF Tracking #: FARM-125764656 State Tracking #:  
28 08-11149 Company Tracking #: ACA0801-405120.

1 including Matt Antol, Alissa Vreman and Matt Laitner. (Exhibit C10, Bates Farmers 014748 –  
2 014749.) That e mail states in part:



3  
4  
5 This makes it clear that Farmers was not selecting the persistency rating factor based on  
6 the actuarially indicated rate. Instead, Farmers wanted to use a higher value for the persistency  
7 rating factor (i.e., lower discount) on more tenured business (those in persistency category 9),  
8 thereby inflating the rate for those policyholders, in order to include a subsidy on new business  
9 rates in order to be more competitive in the marketplace.

10  
11 Q. How is a higher persistency factor and a lower discount related?

12 A. A discount essentially means a reduction in rates or the rate relativity. So, if the average  
13 rate relativity was 1.00, a 7% discount would result in a rate relativity of 0.93. If the discount  
14 was lowered from 7% to 3%, the rate relativity would then be 0.97. This is an increase of  
15 4.3%.<sup>20</sup> So lowering the discount from 7% to 3%, is equivalent to a premium increase of 4.3%.

16  
17 Q. Does Proposition 103 address the issue of giving consideration to competition in setting  
18 rates?

19 A. Yes. Proposition 103 states in part:

20 1861.05. (a) No rate shall be approved or remain in effect which is  
21 excessive, inadequate, unfairly discriminatory or otherwise in violation  
22 of this chapter. In considering whether a rate is excessive, inadequate  
23 or unfairly discriminatory, ***no consideration shall be given to the  
degree of competition*** and the commissioner shall consider whether  
24 the rate mathematically reflects the insurance company's investment  
25 income. (Emphasis added.)

26 Without giving a legal opinion, it appears that it is possible that Farmers' consideration of  
27 competition in setting the persistency discount is contrary to the provisions of Proposition 103.

28 <sup>19</sup> 

<sup>20</sup> 4.3% = [ 0.97 / 0.93 – 1 ] X 100%

1  
2 Q. Are there other documents which indicate the basis for why Farmers is overcharging long  
3 term policyholders?

4 A. Yes. A June 5, 2018 e mail (Exhibit C11, Bates Farmers 027926) distributed a work in  
5 progress presentation for the CA Auto HOPC (Exhibit C12, Bates Farmers 027927 - 027991) in  
6 connection with a conference call with CA SEDs. A page in that draft presentation dealt with the  
7 persistency discount indications as derived by Farmers. (Bates Farmers 027959.) That stated in

8 part,

9  
10 That page also stated,

11  
12 a revised document was prepared. (Exhibit C13, Bates Farmers  
13 017288 – 017350.) The revised page dealing with the persistency discount then stated,

14  
15 (Bates Farmers 017317.)

16 No explanation was provided as to what the discussion with SEDs involved, or why it  
17 resulted in the decision not to implement the deeper persistency discounts that were indicated.

18 However, it appears that Farmers decided to subsidize new business by overcharging  
19 long persistency business, by not giving that long persistency business the discounts that were  
20 indicated. In doing that, Farmers was aware that long term persistency policyholders had a lower  
21 elasticity of demand and would be more willing to pay a higher price. The actions by Farmers  
22 appear to be a clear case of price optimization.

23  
24 Q. You previously mentioned SEDs. Can you explain what that is?

25 A. SED is short for State Executive Director.<sup>21</sup>  
26

27 <sup>21</sup> Exhibit H-50, Alissa Vreman deposition, July 30, 2018; 32:1.  
28

1 In California there were four SED's covering different regions.<sup>22</sup>

2 SEDs oversaw the Farmers agents.<sup>23</sup>

3 Q. Is it well known in the insurance industry that long term policyholders with an insurance  
4 company tend to have better experience and also lower elasticity of demand?

5 A. Yes.

6  
7 Q. Can you give examples showing that it is well known in the insurance industry that long  
8 term policyholders with an insurance company tend to have better experience and also lower  
9 elasticity of demand?

10 A. Yes.

11 One example is the paper *Optimal Growth for P&C Insurance Companies*<sup>24</sup> (Exhibit  
12 C14), which states in part:

13 It is generally well established that new business produces higher loss  
14 and expense ratios and lower retention ratios than renewal business.<sup>25</sup>

15 Another example is the paper *The Aging Phenomenon and Insurance Prices*<sup>26</sup> (Exhibit  
16 C15), which states in part:

17 Insurers typically earn greater profits on policies that have been with  
18 the insurer for a number of renewal cycles than on newer business.  
19 This tendency is known as the aging phenomenon and is believed to  
20 occur on all lines of business.<sup>27</sup>

21 An additional example is the paper *Large Scale Analysis of Persistency and Renewal*

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22 <sup>22</sup> *Ibid.*, 32:9-16.

23 <sup>23</sup> Exhibit H-49, Russina Sgoureva deposition, July 31, 2018; 59:1-14.

24 <sup>24</sup> This paper was in the Casualty Actuarial Society publication *Variance* – Volume 6, Issue 1.

25 <sup>25</sup> New business having higher loss ratios (i.e., worse experience) and lower retention is  
26 equivalent to stating that long term business has better experience and higher retention ratios.

27 <sup>26</sup> This paper was in the Casualty Actuarial Society publication *Proceedings* – 1989.

28 <sup>27</sup> The higher profits on renewal business is because of the more favorable experience.

1 *Discounts for Property and Casualty Insurance*<sup>28</sup> (Exhibit C16) which states in part:

2       The data do indicate that new business universally has a higher loss  
3       ratio and a lower retention rate than renewal business across all the 25  
4       books of business.

5       In summary, it is well known in the insurance industry that long term persistency  
6       business has more favorable experience and a lower elasticity of demand than new business.

7       The documents provided in discovery show clearly that Farmers also knew about this.  
8       Furthermore, the pricing by Farmers for long term persistency policyholders took this into  
9       account. By doing this, Farmers used price optimization to determine the rates, prices and  
10       premiums to charge long term persistency policyholders.

11 Q.    Are there actuarial standards of practice that are relevant to Farmers use of price  
12       optimization to overcharge policyholders?

13 A.    Yes.

14       Actuarial Standard of Practice No. 12, *Risk Classification* (Exhibit C17), states in part:

15       Rates within a risk classification system would be considered equitable  
16       if differences in rates reflect material differences in expected cost for  
17       risk characteristics. In the context of rates, the word *fair* is often used  
18       in place of the word *equitable*. (Section 3.2.1)

19       Farmers use of selected rate relativities for persistency class 9 that are higher than  
20       Farmers calculation of the actuarially sound indicated rate relativities results in rates that are not  
21       fair or equitable, in that those policyholders were overcharged.

22       Actuarial Standard of Practice No. 41, *Actuarial Communications* (Exhibit C18), states in  
23       part:

24       Actuarial Report—In addition to the actuarial findings, an actuarial  
25       report should identify the data, assumptions, and methods used by the  
26       actuary with sufficient clarity that another actuary qualified in the  
27       same practice area could make an objective appraisal of the  
28       reasonableness of the actuary's work as presented in the actuary's  
29       report. (Section 3.3.3)

30       Farmers did not adequately document the basis for its decision to charge persistency class  
31       9 policyholders' rates higher than those based upon Farmers indicated rate relativities. Farmers

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32 <sup>28</sup> This paper was in the Casualty Actuarial Society publication E-Forum, Winter 2009.

1 has not supported its use of an inflated excessive rate relativity factors.

2  
3 Q. Are actuaries required to follow the applicable Actuarial Standards of Practice?

4 A. Yes. Actuaries are professionally required to follow the applicable Actuarial Standards  
5 of Practice.

6 **V. IMPACT ON POLICYHOLDERS FROM FARMERS' USE OF PRICE**

7 **OPTIMIZATION**

8 Q. Were Farmers' policyholders impacted by Farmers' use of Price Optimization?

9 A. Yes.

10  
11 Q. How were Farmers' policyholders impacted by Farmers' use of Price Optimization?

12 A. As previously discussed, all policyholders with a persistency category of 9 were  
13 overcharged by Farmers. The amount of overcharge varied by coverage, as shown in the  
14 following table.

15 Persistency Rating Factor - Category 9

16  
17

<u>Coverage</u>	<u>Balanced Cred Wght Indication</u>	<u>Selected Relativity</u>	<u>Ratio Selected to Indication</u>	<u>Percent Excess Charge</u>
Bodily Injury / Property Damage	0.94	0.98	1.043	4.3%
Uninsured Motorists	0.90	0.98	1.089	8.9%
Medical Payments	0.87	0.98	1.126	12.6%
Comprehensive	0.91	0.98	1.077	7.7%
Collision	0.89	0.98	1.101	10.1%

18  
19  
20  
21  
22

23  
24 Source: Mid-Century Class Plan Filing, Exhibits 4 and 5 (Exhibit C9, Bates Farmers 000001,  
25 001310, 001311, 000328, 000339, 000351, 000363, 000375, 000386, 000740, 000751, 000763,  
26 000775, 000787, 000798).<sup>29</sup>

27  
28 <sup>29</sup> From filing dated August 6, 2008, SERFF Tracking #: FARM-125764656 State Tracking #:  
08-11149 Company Tracking #: ACA0801-405120.

1 Q. How can the amount of premium overcharges to those Farmers' policyholders be  
2 calculated?

3 A. The premiums for the Farmers policyholders that were overcharged can be recalculated  
4 using Farmers values for the actuarially sound indicated rate relativities for persistency, as  
5 opposed to the Farmers' selected rate relativities. This can be done for every year that Farmers  
6 overcharged its policyholders. The difference between these premium values, compared to the  
7 actual amounts charged by Farmers, would constitute the premium overcharges to the  
8 policyholders.

9  
10 Q. Where would the information needed to recalculate the premiums in this manner be  
11 available?

12 A. The information needed to recalculate the premium overcharges in this manner should be  
13 available from Farmers.

14  
15 Q. Can you give a rough estimate of the amount of overcharges based upon information that  
16 you have available?

17 A. It is possible to do a very rough calculation of the aggregate amount of overcharges.

18 During 2015, Farmers Insurance Exchange and Mid-Century Insurance Company had a  
19 combined private passenger automobile insurance written premiums of about \$1.1 billion for  
20 liability and \$0.81 billion for physical damage.<sup>30</sup>

21 Using information from Farmers in discovery, about █% of premium falls into  
22 persistency category 9.<sup>31</sup>

23  
24  
25  
26 <sup>30</sup> CDI market share reports (Exhibit C20).

27 <sup>31</sup> Bates Farmers 028687 (Exhibit C21).

1 Based upon the previous table, the overcharges are roughly in the range of 5% to 6% for  
2 liability and 9% to 10% for physical damage.<sup>32</sup>

3 Combined these values (using the lower end of the range for the percent overcharges)  
4 gives a rough estimate for annual overcharges of amount \$26 million, as shown in the following  
5 table.<sup>33,34</sup>

6 Rough Calculation of Overcharge to Persistency Class 9  
7 (Amounts in Millions)

8 <u>Coverage</u>	9 <u>Annual Premium</u>	8 <u>Percent in Persistency Class 9</u>	9 <u>Overcharge Percent</u>	9 <u>Dollar Overcharge</u>
10 Liability	\$1,100	20%	5%	\$11
11 Physical Damage	\$810	20%	9%	\$15
12 Combined	\$1,910			\$26

13 **VI. CONCLUSION**

14 Q. Can you summarize your testimony?

15 A. Yes.

16 Farmers used price optimization in charging premiums to some portion of its  
17 policyholders. Farmers did this by overcharging policyholders in the persistency rating factor  
18 category 9, taking into account the willingness of those policyholders to pay inflated premiums.

19 This was implemented by Farmers using rate relativity values for persistency category 9  
20 that were higher than Farmers' calculation of the actuarially sound indicated values.

21 The impact on these Farmers policyholders was that they were overcharged.

22  
23 <sup>32</sup> BI/PD premiums are much higher than for uninsured motorists or medical payment, so the  
24 overall average will be closer to the BI/PD value. Collision premiums are higher than that for  
25 comprehensive.

26 <sup>33</sup> Using the higher end of the range for the percent overcharges gives an annual dollar value of  
27 \$29 million.

28 <sup>34</sup> When more detailed information is provided by Farmers, a more accurate calculation of  
amount of overcharges can be calculated.

1 The amount of overcharges to these policyholders can determined by recalculating the  
2 premiums using the indicated relativities for each year there was an overcharge, and then  
3 comparing that to the premiums actually charged by Farmers to those policyholders.

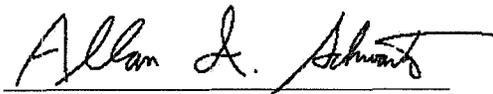
4 A rough estimate of the annual amount of overcharges is about \$26 million to \$29 million  
5 a year.

6  
7 Q. Does this complete your pre-filed direct testimony?

8 A. Yes, it completes my pre-filed testimony at this time.

9  
10 I, Allan I. Schwartz, declare under penalty of perjury as prescribed by California law that  
11 the statements contained herein are true and correct to the best of my knowledge.

12 Executed on October 4, 2018 in Freehold, New Jersey.

13  
14   
15 Allan I. Schwartz

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11  
12 **BEFORE THE INSURANCE COMMISSIONER**  
13 **OF THE STATE OF CALIFORNIA**  
14

15 In the Matter of the Rating Practices of  
16  
17 **FARMERS INSURANCE**  
18 **EXCHANGE and MID-CENTURY**  
19 **INSURANCE COMPANY.**

20 DOI File No.: NC-2017-00003

21 **PUBLIC – CONSUMER WATCHDOG’S**  
22 **EXHIBITS TO PRE-FILED DIRECT**  
23 **TESTIMONY OF ALLAN I. SCHWARTZ**  
24  
25  
26  
27  
28

1 Consumer Watchdog hereby submits the following list of exhibits to Pre-filed Direct Testimony  
 2 of Allan I. Schwartz:  
 3

No.	Description
C1	Curriculum Vitae for Allan I. Schwartz
C2	“Notice Regarding Unfair Discrimination in Rating: Price Optimization,” California Department of Insurance, February 18, 2015
C3	Excerpt from “Personal Automobile Premiums: An Asset Share Pricing Approach for Property/Casualty Insurance,” Sholom Feldblum, 1996 Proceedings of the Casualty Actuarial Society, Vol. 83, Part 2, No. 59
C4	CONFIDENTIAL – E-mail from Morgan Bugbee, FCAS, MAAA, Chief Auto Actuary, Auto Product Manager, to various recipients, Re: Fw: 2008 Plan Analysis, September 19, 2007
C5	CONFIDENTIAL – E-mail from Bill Martin, Senior Vice President, Farmers Personal Auto Insurance, to various recipients, Fw: Another article on Pricing Strategy Innovation in Insurance, April 11, 2008
C6	CONFIDENTIAL – E-mail from Steve Norling-Christensen, CPCU, Director – Product Management, California Auto, to various recipients, Re: Policyholder Tenure Indications, January 19, 2007
C7	CONFIDENTIAL – Multidimensional Auto Pricing (MAP 2 – revisited), Bates Farmers 053153–053156
C8	CONFIDENTIAL – Excerpt from the May 2007 Presentation, “Retention-Elasticity Modeling,” Bates Farmers 053062–053086
C9	Excerpt from the Mid-Century Insurance Company Class Plan Filing, Exhibits 4 and 5, August 6, 2008, Bates Farmers 000001, 001310, 001311, 000328, 000339, 000351, 000363, 000375, 000386, 000740, 000751, 000763, 000775, 000787, 000798
C10	CONFIDENTIAL – E-mail from Morgan Bugbee, FCAS, MAAA, Chief Auto Actuary,

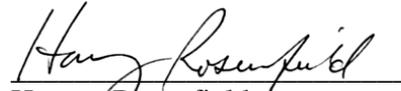
1		Auto Product Manager, to various recipients, Re: Groupings for the Driver Class (RTCL)
2		variable for emblem, June 26, 2008
3	C11	CONFIDENTIAL – E-mail from Russina Sgourea, Vice President, California Auto,
4		Farmers Insurance Group, to various recipients, Subject: discussion document for 9 am
5		conf call with CA SEDs, June 5, 2008
6	C12	CONFIDENTIAL – Excerpt from the presentation for the CA Auto HOPC, June 11, 2008,
7		Bates Farmers 027927–027991
8	C13	CONFIDENTIAL – Excerpt from the revised presentation for the CA Auto HOPC, June
9		11, 2008, Bates Farmers 017288–017350
10	C14	Excerpt from “Optimal Growth for P&C Insurance Companies,” Luyand Fu, Casualty
11		Actuarial Society, Vol. 6, Issue 1
12	C15	Excerpt from “The Aging Phenomenon and Insurance Prices,” Stephen P. Darcy and Neil
13		A. Doherty, Casualty Actuarial Society, 1989 Proceedings
14	C16	Excerpt from “Large Scale Analysis of Persistency and Renewal Discounts for Property
15		and Casualty Insurance,” Cheng-Sheng Peter Wu and Hua Lin, Casualty Actuarial Society
16		<i>E-Forum</i> , Winter 2009
17	C17	Excerpt from Actuarial Standard of Practice No. 12, “Risk Classification (for All Practice
18		Areas),” Revised Edition, Adopted by Actuarial Standards Board December 2005, Doc.
19		No. 101
20	C18	Excerpt from Actuarial Standard of Practice No. 41, “Actuarial Communications,”
21		Adopted by Actuarial Standards Board March 2002, Doc. No. 086
22	C19	Excerpt from the Mid-Century Insurance Company Class Plan Filing, August 6, 2008, Mid-
23		Century Insurance Company California Auto Premium Calculation Worksheet Using Base
24		Rates and Relativity Tables October 1, 2009 Rates, Bates Farmers 000001, 001210
25	C20	California Department of Insurance 2015 California P & C Market Share Report, Line of
26		Business: Private Passenger Auto Liability
27	C21	CONFIDENTIAL - Farmers Insurance Exchange’s Persistency Category 9 table, Bates
28		

Dated: October 9, 2018

CONSUMER WATCHDOG

Harvey Rosenfield

Pamela Pressley



Harvey Rosenfield

Attorneys for CONSUMER WATCHDOG

**EXHIBIT C1**

**ALLAN I. SCHWARTZ**  
President  
AIS Risk Consultants, Inc.  
4400 Route 9 South  
Freehold, New Jersey 07728  
732-780-0330

**EDUCATION**

Cooper Union, B.S., Physics, 1975

**PROFESSIONAL AFFILIATIONS**

Casualty Actuarial Society, Fellow - 1981, Associate - 1979

Society of Actuaries, Associate - 1983

American Academy of Actuaries, Member - 1979

Associate in Reinsurance - June 1998  
(Received Reinsurance Association of America Award for Academic Excellence)

Associate in Claims - September 1998

Associate in Premium Auditing - May 1999

Associate in Underwriting - June 1999

Associate in Insurance Accounting and Finance - June 2002  
(Received National Association of Mutual Insurance Companies Award for Academic Excellence)

Associate in Risk Management - September 2002

Associate in Personal Insurance – January 2008

Associate, Customer Service – March 2008 (With Honors)

Certified Rate of Return Analyst – April 2011

Casualty Actuarial Society Course on Interest Rate Models - March 2002

Association for Studies in Non-Life Insurance

International Actuarial Association

Casualty Actuarial Society Examination Committee : 1983-1984

Casualty Actuarial Society - Committee on Management Data and Information : 1988

Conference of Actuaries in Public Practice - Committee on Surveys : 1985

Self-Insurance / Statistics Committee - International Association for Industrial Accident Boards and Commissions (IAIABC) : 1985

Property/Casualty Actuarial Task Force of the National Association of Insurance Commissioners (NAIC) : 1987 - 1989

Statistical Task Force of the NAIC : 1988 - 1989

Life / Accident / Health Actuarial Task Force of the NAIC : 1987

Middle Atlantic Actuarial Club : 1987

Casualty Actuaries of the Southeast : 1987

Editor - Fresh Air Newsletter (Published by Actuaries in Regulation) : 1987 - 1988

### **PUBLICATIONS**

"Workers' Compensation and Investment Income" : Best's Review, Property / Casualty Insurance Edition, 10/82

"A Note on Calendar Year Loss Ratios" : Proceedings of the Casualty Actuarial Society, 11/82

"An Actuary's Analysis of the Security of a Self-Insured" : Business Insurance, 9/26/83

"Actuarial Issues to be Addressed in Pricing Excess of Loss Reinsurance" : Proceedings of the Los Angeles Chapter CPCU Technical Conference, 6/84 (Received Research Excellence Award from Farmers Insurance Group)

"An Actuarial Analysis of Self-Insurance" : The Self-Insurer, Volume 1, Issue 3, 1984

"Loss and Loss Expense Reserving" : The Self-Insurer, Volume 1, Issue 4, 1984

"The ABC's of Reinsurance" : The Self-Insurer, Volume 2, Issue 4, 1985

"Actuarial Implications of Claims-Made Policies" : The Journal of the Independent Reinsurance Underwriters Association, Volume I, Number 1, October 1985

"Considerations in the Regulatory Analysis of Workers' Compensation Rate Filings" : Best's Review, Property / Casualty Insurance Edition, 8/88

"Delays in Payment of Private Passenger Auto Premium Receipts / Commissions : Impact on Calculation of Investment Income", Journal on Insurance Regulation, Volume 7, No. 3, March 1989

"Various Studies Related to Workers' Compensation", State of California - Workers' Compensation Rate Study Commission, Volume V, March 1992

### **LECTURES PRESENTED**

"Reserving Losses for Self-Insureds" & "Actuarial Sufficiency of Self-Insurance Programs" : Eleventh Workers' Compensation College of the IAIABC - 4/84

"Problems, Trends, and History of Self-Insurance" : 1984 IAIABC Central States Association Conference - 6/84

"Actuarial Issues to be Addressed in Pricing Excess of Loss Reinsurance" : Los Angeles CPCU Technical Conference - 6/84

"Types of Security Available for the Self-Insured Employer" : 1984 Mid-Year Meeting of the National Council of Self-Insurers - 9/84

"Actuarial Implications of Claims-Made Policies" : Fall 1985 Meeting of the Independent Reinsurance Underwriters Association - 10/85

"North Carolina Medical Malpractice Closed Claim Study" : Duke University - Conference on Developing Information Bases for Medical Malpractice Claim Studies - 5/87

"A Regulator's Perspective on Rate Filings" : Casualty Actuarial Society Seminar on Ratemaking - 3/88

"Understanding the Insurance Industry and Regulation" : Public Citizen's Taming the Insurance Giant Conference - 2/90

"Analyzing Insurance Company Rate Filings" : National Association of Attorneys General Insurance Committee Meeting - 4/90

"Where Does All The Money Go - Insurance Profitability" : Workers Compensation in New York - 5/95

### **WORK EXPERIENCE**

#### **AIS RISK CONSULTANTS, INC.**

President - 11/84 to Present

Responsibilities include performing actuarial analyses for all lines of property/casualty insurance. Loss reserve and rate level studies for insurance companies, reinsurance companies, state insurance funds, self-insurers, captive insurers, brokerage firms and attorneys. Work also involves projection of payment patterns, excess insurance studies, production of management information systems and development of individual risk rating plans.

I have provided expert testimony in insurance rate proceedings in Arkansas, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Massachusetts, Nevada, New Jersey, New Mexico, North Carolina, Oklahoma, Rhode Island, South Carolina, Texas, Vermont and Virginia.

I have worked on health insurance rate filings in California, Colorado, Massachusetts, New Jersey, New Mexico, Oregon and Vermont during the last several years. This involved the review of rate filings and the preparation of analyses which could be submitted to the state insurance regulatory agency. My work in health insurance includes providing actuarial assistance to the NAIC Consumer Representatives during the last several years dealing with various issues such as the Medical Loss Ratio calculation.

## NEW JERSEY DEPARTMENT OF INSURANCE

Assistant Commissioner - 5/88 to 1/90

Supervised a staff of 20+ which regulated rates, rules and policy forms in New Jersey for property/casualty insurance to determine compliance with the applicable statutes and regulations. Also responsible for the statistical section for property/casualty insurance. This section gathers and analyzes data related to property/casualty insurance. Provided advice to the Insurance Commissioner and other senior staff members of the Insurance Department regarding the impact of proposed legislation, regulations and overall policy directives.

Provided recommendations in regard to the financial analysis and condition of insurers, including excess profits reports.

## NORTH CAROLINA DEPARTMENT OF INSURANCE

Chief Actuary - 6/86 to 4/88

Responsible for all actuarial studies performed in the Department of Insurance covering property / casualty / life / health / accident insurance.

Work included the analysis of filings made by insurance companies to see that they are in compliance with the insurance laws and regulations of the State of North Carolina. Also interacted with the legal staff of the Insurance Department in drafting proposed insurance laws and regulations.

Responsible for the analysis of the loss and loss adjustment expense reserves established by insurance companies to meet the liabilities they have incurred in the past, but which will not be payable until some time in the future.

Involved in various special projects relating to the financial analysis of insurance operations. These included the review of reinsurance contracts, the financial analysis of the North Carolina State Property Fire Insurance Fund and a study of medical malpractice closed claims.

Was in charge of a staff of six, including four professional and two clerical people. Other duties involved the writing of computer programs, providing expert testimony at rate hearings and assisting the Insurance Commissioner prepare for legislative committees.

WOODWARD & FONDILLER

Senior Actuary - 8/77 to 11/84

Consulting property/casualty actuarial studies (see description under AIS Risk Consultants, Inc.)

NATIONAL COUNCIL ON COMPENSATION INSURANCE

Actuarial Trainee - 3/76 to 8/77

Performed ratemaking analyses and prepared rate filings for workers' compensation insurance. Regularly evaluated the impact of changes in workers' compensation benefits. Also assisted the Director of Research with special studies related to data collection, ratemaking procedures and benefit evaluations.

Allan I. Schwartz - Expert Testimony – Insurance Rate Proceedings (Partial List)

Wilmington, Delaware, September 2016  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

San Francisco, California, November 2015 & January 2016  
State Farm General Insurance Company Homeowners Insurance Rate Hearing

Wilmington, Delaware, October 2015  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Wilmington, Delaware, December 2014  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Raleigh, North Carolina, November 2014  
North Carolina Rate Bureau Homeowners Insurance Rate Hearing

Wilmington, Delaware, February 2014  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Boston, Massachusetts, October 2013  
Massachusetts Property Ins. Underwriting Association Homeowners Insurance Rate Hearing

Austin, Texas, April 2013  
State Farm Lloyds Homeowners Insurance Rate Hearing

Montpelier, Vermont, March 2013  
Blue Cross and Blue Shield of Vermont Health Insurance Rate Hearing

Wilmington, Delaware, December 2012  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Boston, Massachusetts, June 2012  
Workers Compensation Rating and Inspection Bureau of Massachusetts Rate Hearing

San Francisco, California, April 2012  
Mercury Casualty Company Homeowners Insurance Rate Hearing

San Francisco, California, January 2012  
California State Automobile Association Inter-Insurance Bureau Homeowners Insurance  
Pre Filed Testimony

Wilmington, Delaware, October 2011  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Raleigh, North Carolina, July 2011  
North Carolina Rate Bureau Dwelling Fire and Extended Coverage Insurance Rate Hearing

Allan I. Schwartz - Expert Testimony – Insurance Rate Proceedings (Partial List)

Wilmington, Delaware, November 2010  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

San Francisco, California, November 2010  
Allstate Insurance Company Your Choice Automobile Pre Filed Testimony

Santa Fe, New Mexico, August 2010  
Blue Cross Blue Shield of New Mexico Health Insurance Rate Hearing

Austin, Texas, July 2010  
Texas Automobile Insurance Plan Association Automobile Insurance Rate Hearing

Santa Fe, New Mexico, November 2009  
Industry Title Insurance Rate Hearing

Tallahassee, Florida, November 2009  
Citizens Property Insurance Company Homeowners Insurance Rate Hearing

Wilmington, Delaware, September 2009  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Austin, Texas, April 2009  
State Farm Lloyds Homeowners Insurance Rate Hearing

Raleigh, North Carolina, July 2008  
North Carolina Rate Bureau Automobile Insurance Rate Hearing

San Francisco, California, May 2008  
GeoVera Insurance Company Earthquake Insurance Rate Hearing

San Francisco, California, May 2008  
Allstate Insurance Company Homeowners Insurance Rate Hearing

San Francisco, California, March 2008  
Fireman's Fund Insurance Company Earthquake Insurance Rate Hearing

Tallahassee, Florida, February 2008  
Service Insurance Company Commercial Multi Peril Insurance Rate Hearing

Tallahassee, Florida, January 2008  
Hartford Insurance Group Homeowners Insurance Rate Hearing

Boston, Massachusetts, January 2008  
Arbella Insurance Company Automobile Insurance Rate Hearing

Allan I. Schwartz - Expert Testimony – Insurance Rate Proceedings (Partial List)

Boston, Massachusetts, January 2008  
Premier Insurance Company Automobile Insurance Rate Hearing

Boston, Massachusetts, January 2008  
Hanover Insurance Company Automobile Insurance Rate Hearing

Boston, Massachusetts, January 2008  
Safety Insurance Company Automobile Insurance Rate Hearing

Boston, Massachusetts, January 2008  
Commerce Insurance Group Automobile Insurance Rate Hearing

San Francisco, California, November 2007  
Explorer Insurance Company Automobile Insurance Rate Hearing

Wilmington, Delaware, November 2007  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Boston, Massachusetts, October 2007  
Massachusetts Property Ins. Underwriting Association Homeowners Insurance Rate Hearing

San Francisco, California, May 2007  
Allstate Insurance Company Automobile Insurance Rate Hearing

Tallahassee, Florida, March 2007  
Nationwide Insurance Company Homeowners Insurance Rate Hearing

Austin, Texas, August 2006  
Industry Title Insurance Rate Hearing

Key West, Florida, August 2006  
Citizens Property Insurance Company Homeowners Insurance Rate Hearing

Boston, Massachusetts, January 2006  
Massachusetts Property Ins. Underwriting Association Homeowners Insurance Rate Hearing

Tallahassee, Florida, October 2005  
NCCI Workers Compensation Insurance Rate Hearing

Raleigh, North Carolina, September 2005  
North Carolina Rate Bureau Automobile Insurance Rate Hearing

San Francisco, California, August 2005  
Safeco Insurance Company Earthquake Insurance Rate Hearing

Allan I. Schwartz - Expert Testimony – Insurance Rate Proceedings (Partial List)

Boston, Massachusetts, April 2005  
Massachusetts Workers Compensation Insurance Rate Hearing

Austin, Texas, July 2004  
Medical Protective Insurance Company Medical Malpractice Insurance Rate Hearing

Trenton, New Jersey, June 2004  
Medical Protective Insurance Company Medical Malpractice Insurance Rate Hearing

Austin, Texas, December 2003  
Industry Title Insurance Rate Hearing

Boston, Massachusetts, April 2003  
Massachusetts Workers Compensation Insurance Rate Hearing

Los Angeles, California, March 2003  
SCPIE Medical Malpractice Insurance Rate Hearing

Raleigh, North Carolina, July 2002  
North Carolina Rate Bureau Automobile Insurance Rate Hearing

Tallahassee, Florida, February 2002  
NCCI Workers Compensation Insurance Rate Hearing

Raleigh, North Carolina, September 2001  
North Carolina Rate Bureau Automobile Insurance Rate Hearing

Trenton, New Jersey, September 2001  
Liberty Mutual Fire Insurance Company Automobile Insurance Rate Hearing

Boston, Massachusetts, August 2001  
Massachusetts Automobile Insurance Bureau Rate Hearing

Trenton, New Jersey, July 2001  
State Farm Indemnity Automobile Insurance Rate Hearing

Austin, Texas, March 2001  
Industry Automobile Benchmark Rate Hearing

Trenton, New Jersey, January 2001  
Selective Insurance Company Automobile Insurance Rate Hearing

Tallahassee, Florida, October 2000  
NCCI Workers Compensation Insurance Rate Hearing

Allan I. Schwartz - Expert Testimony – Insurance Rate Proceedings (Partial List)

Boston, Massachusetts, August 2000  
Massachusetts Automobile Insurance Bureau Rate Hearing

Austin, Texas, December 1999  
Automobile Insurance Plan Association Rate Hearing

Raleigh, North Carolina, December 1999  
North Carolina Rate Bureau Automobile Insurance Rate Hearing

Austin, Texas, November 1999  
Industry Title Insurance Rate Hearing

Tallahassee, Florida, September 1999  
NCCI Workers Compensation Insurance Rate Hearing

Austin, Texas, September 1999  
Industry Texas Automobile Insurance Benchmark Rate Hearing

Boston, Massachusetts, August 1999  
Massachusetts Automobile Insurance Bureau Rate Hearing

Austin, Texas, June 1999  
Industry Property Insurance Benchmark Rate Hearing

Allan I. Schwartz - Expert Testimony – Court Proceedings (Partial List)

- > City Of Parma, Ohio, v. Ohio Bureau of Workers' Compensation, In the Court of Common Pleas Cuyahoga County, Ohio Case No. CV 13 814017 : Declarations dated October 19, 2016 and March 5, 2017
- > Munoz et al. v. PHH et al., Case No.: 1:08-cv-759-DAD-BAM, United States District Court - Eastern District Of California, Expert Reports (June 24, 2016 and July 22, 2016) and Deposition (August 16, 2016)
- > City of Cleveland, Ohio v. Stephen Buehrer, Administrator, Ohio Bureau of Workers' Compensation, In the Court of Common Pleas Cuyahoga County, Ohio Case No. CV-13-809883 : Declaration dated July 28, 2015, Deposition August 11, 2016, Court Testimony in January 2017
- > Columbia Casualty Company v. Neighborhood Risk Management Corporation Case No. 1:14-cv-00048-AJN, United States District Court Southern District Of New York : Expert Report dated November 24, 2014
- > Hall, et al. v. Bank of America, N.A., et al. Case No. 1:12-cv-22700-FAM (S.D. Fla.), Expert Report dated November 13, 2013; Deposition December 10, 2013
- > San Allen, Inc., et al., V. Stephen Buehrer Administrator, Ohio Bureau Of Workers' Compensation, State Of Ohio, Cuyahoga County, In The Court Of Common Pleas, Case No. CV-07-644950 : Testified in 2012, provided declarations and was deposed in few years before 2012 trial
- > Mark Kunzelmann, et al. v Wells Fargo Bank, N.A. and Wells Fargo Insurance, Inc., United States District Court; Southern District Of Florida; Case No. 11-CV-81373-DMM : Provided declaration in 2012
- > Vlaho Miletak v. Allstate Insurance Company, et al.; In The United States District Court For The Northern District Of California; San Jose Division; NO. C 06-03778 JW : Provided expert report in 2011
- > In re California Title Insurance Antitrust Litigation; United States District Court Northern District Of California; No. 08-cv-1341-JSW (NMC) : Declaration Of Allan I. Schwartz In Support Of Plaintiffs' Motion For Class Certification (2011)
- > Benjamin Fogel, on behalf of himself and the class, v. Farmers Group, Inc.; Fire Underwriters Association; Truck Underwriters Association; Zurich Financial Services, Superior Court Of The State Of California For The County Of Los Angeles, Case No. BC300142 : Provided declaration and was deposed in 2009

**EXHIBIT C2**

**DEPARTMENT OF INSURANCE****NOTICE REGARDING UNFAIR DISCRIMINATION IN RATING:  
PRICE OPTIMIZATION****TO: Property & Casualty Insurers Doing Business in California****DATE: February 18, 2015**

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For purposes of this Notice, "Price Optimization" is defined as any method of taking into account an individual's or class's willingness to pay a higher premium relative to other individuals or classes.

Price Optimization does not seek to arrive at an actuarially sound estimate of the risk of loss and other future costs of a risk transfer. Therefore, any use of Price Optimization in the ratemaking/pricing process or in a rating plan is unfairly discriminatory in violation of California law.<sup>1</sup>

Any insurer currently using Price Optimization to adjust its rates in California shall cease this practice.

1. Any insurer that has employed Price Optimization to adjust its rates in the ratemaking/pricing process shall remove the effect of any such adjustments from any filing to be submitted subsequent to the date of this Notice.
2. Any insurer that has a factor or factors based on Price Optimization in its rating plan shall remove the factor or factors in its next filing. The insurer shall submit this filing no later than six months from the date of this Notice.

Please direct any questions about this Notice to:

Summer Volkmer  
Attorney, Legal Division, Rate Enforcement Bureau  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105

Email: [Summer.Volkmer@insurance.ca.gov](mailto:Summer.Volkmer@insurance.ca.gov)  
Phone: (415) 538-4169  
Fax: (415) 904-5490

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<sup>1</sup> The California Insurance Code prohibits insurers from charging unfairly discriminatory rates. See, e.g., Ins. Code sections 1861.05(a), 1861.137(b), 11732.5, 12120, and 12401.3(a).

**EXHIBIT C3**

**PROCEEDINGS**  
**November 10, 11, 12, 13, 1996**

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**PERSONAL AUTOMOBILE PREMIUMS:  
AN ASSET SHARE PRICING APPROACH  
FOR PROPERTY/CASUALTY INSURANCE**

SHOLOM FELDBLUM

*Abstract*

*Asset share pricing models are used extensively in life and health insurance premium determination. In contrast, property/casualty ratemaking procedures consider only a single period of coverage. This is true for both traditional methods, such as loss ratio and pure premium ratemaking, and financial pricing models, such as discounted cash flow or internal rate of return models.*

*This paper provides a full discussion of property/casualty insurance asset share pricing procedures. Section 1 compares life insurance to casualty insurance pricing. It notes why asset share pricing is so important for the former, and how it applies to the latter as well. Section 2 describes the considerations essential for an asset share pricing model. Premiums, claim frequency, claim severity, expenses, and persistency rates must be examined by*

*time since inception of the policy. Appropriate discount rates must be selected for: (a) present values of the contract cash flows during each policy year, and (b) the present value of future earnings at the inception date of the policy.*

*Sections 3 through 7 present four illustrations of asset share pricing:*

- *Section 3 is a general introduction.*
- *Section 4 illustrates pricing considerations for an expanding book of business. Since both loss costs and expense costs are higher for new business than for renewal business, traditional loss ratio or pure premium pricing methods show misleading rate indications.*
- *Section 5 discusses classification relativities. Since persistency rates and coverage combinations differ by classification, the traditional relativity analyses may be erroneous.*
- *Section 6 presents a competitive strategy illustration. Premium discounts and surcharges affect retention rates, particularly among policyholders who can obtain coverage elsewhere.*
- *Section 7 shows how underwriting cycle movements can be incorporated into pricing strategy. Expected future profits vary with the stage of the cycle; these future earnings and losses must be considered when setting premium rates.*

*Section 8 discusses several types of profitability measures: returns on premium, returns on surplus or equity, internal rates of return, and the number of years until the policy becomes profitable. Traditional financial pricing models examine a single contract period and multiple loss payment periods. For asset share pricing, these models are expanded to consider multiple contract periods. For instance, the “return on premium” is the present value of future expected profits divided by the*

*present value of future expected premium, not the single period amounts used for operating ratios.*

*Asset share models determine the long-run profitability of the insurance operations, the true task of the pricing actuary.*

#### ACKNOWLEDGEMENTS

The author is indebted to Richard Woll and Stephen D’Arcy for inspiration and criticism of this paper. Ten years ago, Richard Woll was examining the effects of business volume growth on accounting profitability versus true profitability, and he demonstrated the powerful effects on the “costs of new business” (compare the first illustration in the paper). At about the same time, Professor D’Arcy was writing his papers on the “Aging Phenomenon” and on “Adverse Selection, Private Information, and Lowballing,” which deal with some of the same issues as this paper covers, though it treats them differently. Professor D’Arcy sent early drafts of his papers to the author, he provided helpful critiques of the author’s previous papers on this subject at a CAS conference, and he sent written comments on an earlier draft of this paper. The contributions of Richard Woll and Stephen D’Arcy greatly improved this paper.

#### 1. INTRODUCTION

Asset share pricing models have long been used for life and health insurance premium determination. These models examine the profitability of the complete insurance contract from its inception to its final termination, including all renewals of the policy. That is to say, the life insurance pricing actuary does not evaluate the profitability of a block of policies in a given calendar year, policy year, or calendar/accident year. Indeed, such a valuation would not be meaningful, since a whole life insurance policy is expected to lose money in the initial year of issue but to make up for the loss in subsequent years. Rather, the life insurance actuary sets policy premiums to achieve an appropriate profit over the lifetime of the policy. Similarly, this paper applies asset share pricing methods to property/casualty lines of business.

Asset share pricing is especially important when cash flows and reported income vary by policy year. For instance, a whole life policy issued to a standard-rated thirty-year-old insured shows:

- high expense costs the first year (often greater than the gross premium),
- low mortality costs the first several years,
- higher mortality costs in later years, as the policyholder ages and the underwriting selection “wears off,” and
- statutory benefit reserves that are somewhat redundant after the second or third year because of the conservative valuation of mortality tables and interest rates; during the first several years, preliminary term reserves reduce the statutory liability.<sup>1</sup>

In property/casualty insurance, loss ratio and pure premium ratemaking methods predominate. Financial pricing models are often used to set underwriting profit targets, although these methods, like the traditional property/casualty rate making techniques, presume an insurance contract in effect for a single policy period. Most financial pricing models examine the duration of loss payments, but they do not consider the duration of the insurance contract.<sup>2</sup>

### *Life Versus Casualty Ratemaking*

The differing ratemaking philosophies for life and health insurance versus property/casualty insurance stem from several

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<sup>1</sup>On asset share pricing models for life insurance, see Anderson [8], Huffman [95], and Atkinson [10]; for health insurance, see Bluhm and Koppel [25]. Menge and Fischer [131, p. 131] explain the term “asset share” as “the equitable share of the policyholders in the assets of the company.” Similarly, Atkinson [11] explains the term as “the share of assets allocable to each surviving unit.”

<sup>2</sup>On the traditional ratemaking techniques, see McClenahan [129] and Feldblum [75]. On the development of financial pricing models, see Hanson [89], Webb [162], and Derrig [64]. For examples of the major models, see Fairley [67], Hill [92], NAIC [136], Urrutia [155], Myers and Cohn [135], Mahler [124], Woll [169], Butsic and Lerwick [39], Bingham ([20], [22]), Robbin [144], Feldblum [71], and Mahler [126]. For analyses of these models, see Hill and Modigliani [93], Derrig [65], Ang and Lai [9], D’Arcy and Doherty [61], Garven [85], D’Arcy and Garven [62], Mahler [125], and Cummins ([48], [50], [51]).

factors:

- *Cancellation*: Few individual life or health insurance policies may be canceled or non-renewed by the insurer, except for non-payment of premium. In property/casualty insurance, particularly in the commercial lines, the carrier has the right to terminate the policy at the renewal date and often to cancel the policy in mid-term.<sup>3</sup>
- *Claim costs*: Life and health insurance claim costs vary by duration since policy inception, for two reasons:
  - Policyholder age: mortality and morbidity costs rise as the insured ages.
  - Underwriting selection: medical questionnaires and examinations for life and health insurance lead to lower average initial benefit costs for insured lives. The effects of underwriting selection “wear off” after several years (Jacobs [106, p. 5]; Dahlman [55, p. 5]).

In property/casualty insurance, the relationship between expected losses and duration since policy inception is less apparent.

- *Expenses*: Expenses show a similar pattern. Whole life commission rates are high in the initial year but low for renewals.<sup>4</sup> For property/casualty companies using the independent agency distribution system, commission rates do not differ between the first year and renewal years.
- *Level premiums*: Much life insurance is provided by level premium contracts. The premium exceeds the anticipated benefits during the early policy years, when the insured is young and healthy. In later years, anticipated benefit costs exceed the

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<sup>3</sup>Renewability provisions in health insurance vary among contracts, though cancelable policies are proscribed in many jurisdictions (Barnhart [13]). Many states now proscribe mid-term cancellations of personal automobile policies; others, such as California or Massachusetts, prohibit even non-renewals.

<sup>4</sup>Lombardi and Wolfe [119]. Atkinson [11, p. 5] notes that traditional life insurance “acquisition costs usually exceed the first year premium by a wide margin. Acquisition costs may even exceed 200% of premium, especially for smaller policies.”

premiums, and they are funded by the policy reserves built up in earlier years. In contrast, property/casualty insurance rates may be revised each year. No “policy reserves” are held to shift costs among accounting periods.

### *Developments in Casualty Insurance*

These differences are valid, and asset share pricing is therefore more common for life and health insurance premium development. But property/casualty insurance is taking on several of the attributes that motivate asset share pricing.

- *Commissions:* Most personal lines insurance policies are now issued by direct writers, whose commission rates are higher in the first year than in renewal years.
- *Cancellations:* Although the insurer may have the right to cancel or non-renew the contract, it rarely does so. Profitability depends on the stability of the book of business, and carriers seek to strengthen policyholder loyalty.
- *Loss costs:* As will be discussed below, expected loss costs are greater for new business than for renewal business.<sup>5</sup>

The question faced by all insurers is the same: “*Is it profitable to write the insurance policy?*” A financially strong carrier does not focus on reported results or cash flows for the current year. Rather, it examines whether the stream of future profits, both from the original policy year and from renewal years, justifies underwriting the contract. Asset share pricing enables the actuary to provide quantitative estimates of long-term profitability.

## 2. ASSET SHARE COMPONENTS

Asset share pricing is not yet common in property/casualty insurance for several reasons:

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<sup>5</sup>Most actuarial studies of this phenomenon have concentrated on personal automobile insurance. Unpublished studies by the author and his colleagues show the same phenomenon in other lines, particularly for workers compensation.

young male drivers. We use the same ratio of renewal to first year fixed expenses as in the previous illustration, 3.8% to 17.8%, and increase the fixed expenses by 5% per annum. For adult drivers,  $\$88 \times 3.8\% \equiv 17.8\% = \$19$ ; this is then increased by 5% per annum to give all the fixed expense entries.

As before, the loss costs shown in the exhibit are discounted to the beginning of the corresponding policy year. The present values of future profits and premiums at the original policy issuance date are determined at a 12% interest rate, which is the assumed cost of capital. The original premium has been selected such that the ratio of the present value of all future profits to the present value of all future premiums is 7.0% for both classes.

#### *Asset Share Results*

The indicated premiums are \$475 for adults and \$1,272 for young male drivers. Note that:

- The loss cost relativity is 2.50, or  $\$1,000 \equiv \$400$ .
- The fixed expense cost relativity is 1.33, or  $\$117 \equiv \$88$ .
- The rate relativity is 2.68, or  $\$1,272 \equiv \$475$ .

Pricing procedures used in the 1960s would have set the rate relativity equal to the loss cost relativity, or 2.50. Since the fixed expense relativity is only 1.33, expense flattening procedures would have reduced the rate relativity. But the persistency differences between the two classes show that even the loss cost relativity is too low. A premium rate relativity of 2.68 is needed to equalize the returns between these two classes.

### 6. ILLUSTRATION 3—COMPETITIVE STRATEGY

The “business expansion” illustration presented in Section 4 took the environment as given and asked, “Is the growth strategy profitable?” The illustration in Section 5, “classification relativ-

ities,” took the insured population as given and asked: “What prices are equitable?”

This is the traditional ratemaking perspective: the actuary aligns premiums with anticipated losses and expenses for a given insured population. *Competitive strategy reverses the question: “How can the pricing structure create a more profitable consumer base?”*

Some insurers have excelled at this task. New products, such as package policies in the commercial lines; modifications to existing products, such as replacement cost coverage for homeowners insurance; and classification revisions, such as retired driver discounts in personal automobile insurance, have spurred sustained growth for these carriers.

Two considerations should be kept in mind when seeking to change the insured population:

1. Any strategy may affect new business production or retention rates. For instance, the introduction of various professional liability coverages created a new clientele (“new business production”), whereas the expansion of experience rating plans increased renewals among desirable insureds (“retention rates”). Some new products, such as universal life insurance, serve both functions: they are savings vehicles for investors otherwise uninterested in life insurance, and they are replacement vehicles for insureds who might drop inefficient whole life policies.
2. Traditional ratemaking procedures are cost-based. The pricing actuary equates premiums with anticipated losses and expenses, so economic profits are eliminated. In practice, insurers seek to optimize certain goals, such as profits or market share. The price elasticity of demand becomes a crucial determinant of optimal strategy. That is, premium rates and relativities affect consumer

demand and the mix of insureds, thereby affecting insurer profitability.

*Cars and Courage*

Although courage is a splendid attribute in its place, its place is not at the wheel of an automobile.

— Ambrose Ryder [1935]

Early classification schemes had surcharges for older drivers: reactions slow as the body ages, and senior citizens lack the quick reflexes of their sons and daughters. Insurance experience, however, eventually showed the effects of youthful intrepidity, as Ambrose Ryder notes. The physical limitations of older drivers make them less capable of escaping from dangerous situations. But their awareness of these limitations make them less likely of entering into dangerous situations in the first place.<sup>54</sup>

The exposure to road hazards declines as drivers age. Older drivers, particularly after retirement, spend less time behind the wheel (Buck [32, p. 6]). They less frequently drive to work, take kids to amusement parks, or attend late parties.<sup>55</sup> As a re-

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<sup>54</sup>Ryder [146, p. 143] says: “The next question is whether a driver is a better risk because he reacts one-fifth of a second quicker than the average. Various devices have been on the market for testing the reaction times to danger signals. I think these are all very interesting and may possibly prove of value, but generally speaking the person who is quick on the trigger and who reacts very promptly is probably a less desirable risk than the more phlegmatic person who likes to think things over two or three times before he decides to do anything. The latter type will not react as quickly to the sudden danger that presents itself to his oncoming car but on the other hand neither will he be so likely to allow himself to get into a position where any sudden danger will arise that will require a one-tenth of a second reaction. Give me my choice and I will take the man who is not so quick on the trigger in everything he does in life.

“If the individual driver is going to be measured for his reactions to danger, it is even more important that he should be measured for his willingness to keep away from danger . . . . The timid soul is a much better risk than the daring young man who has the courage to drive his car at 90 miles per hour on a slippery road. The best type of risk, therefore, is the person who is really afraid to take unnecessary chances.”

<sup>55</sup>Compare also IRC [99, p. 5], which examines auto injury rate by age of the victim: “The lowest percentage of injured persons fell into the oldest age groups, with eight percent age 55 to 64 and eight percent age 65 or older.” Drivers make up a large percentage of auto accident victims, so the Insurance Research Council statistics are relevant for the analysis here, though the exact figures are not suitable.

sult, many insurers now provide discounts for older or retired drivers.

Older drivers not only have lower expected loss costs, they also have less impetus to price shop at renewal time. Younger drivers with high premiums have incentives to find lower cost coverage, and they hear about competing rates from friends at work. Older drivers, with lower premiums and often with less information about competing carriers, have less incentive and less opportunity to price shop.

This section examines the pricing of a retired driver discount. The relevant considerations for the asset share model include:

- expected loss costs by policyholder age,
- persistency rates by policyholder age and policy duration,
- price elasticity of demand: that is, the effects of price on retention rates.

#### *An Illustration*

The actual data used to price a retired driver discount are complex, though the principles are straightforward. To see their importance, let us consider a simple illustration, from both a traditional ratemaking perspective and from an asset share pricing perspective.

Suppose an automobile insurance policy is offered, with a life of five years. That is, each insured purchases coverage for six years, though not necessarily with the same carrier each year. Cost and persistency assumptions are as follows:

1. Expected loss plus expense costs, including a reasonable profit, are \$100 the first year, \$90 the second year, \$80 the third year, \$70 the fourth year, and \$60 the fifth and sixth years.
2. The market is competitive, and consumers are most sensitive to price at early durations. Your major competitor

**EXHIBIT C9**

**State:** California **Filing Company:** Mid-Century Insurance Company  
**TOI/Sub-TOI:** 19.0 Personal Auto/19.0001 Private Passenger Auto (PPA)  
**Product Name:** A-CA-2008-PA-F  
**Project Name/Number:** Private Passenger Auto Class Plan Filing/ACA0801-405120

### Filing at a Glance

Company: Mid-Century Insurance Company  
 Product Name: A-CA-2008-PA-F  
 State: California  
 TOI: 19.0 Personal Auto  
 Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
 Filing Type: Auto Class Plan  
 Date Submitted: 08/06/2008  
 SERFF Tr Num: FARM-125764656  
 SERFF Status: Closed-Approved  
 State Tr Num: 08-11149  
 State Status: Approved  
 Co Tr Num: ACA0801-405120  
  
 Effective Date: 04/01/2009  
 Requested (New):  
 Effective Date: 04/01/2009  
 Requested (Renewal):  
 Author(s): Jeanette Campion, Chris SalvaCruz  
 Reviewer(s): Polly Chan (primary), Kam Fong  
 Disposition Date: 08/04/2009  
 Disposition Status: Approved  
 Effective Date (New):  
 Effective Date (Renewal):

**Farmers Insurance Group  
Mid-Century Insurance Company  
State of California**

**Line of Business: Private Passenger Auto Liability**

**Filing History**

Here are the class plan filings for this line over the last three years under the new product.

Company:	<u>Mid-Century Insurance Co.</u>
Line of Insurance:	<u>Private Passenger Auto Liability</u>

<u>Date of Original Filing Letter</u>	<u>Subject</u>	<u>California D.O.I. Filing Number</u>
November 9, 2007	Class Plan	07-7250
November 21, 2006	Class Plan	06-8798
November 21, 2006	Class Plan	06-8788
August 11, 2006	Class Plan	06-5495

**Farmers Insurance Group  
Mid-Century Insurance Company  
State of California**

**Line of Business: Private Passenger Auto Physical Damage**

**Filing History**

Here are the class plan filings for this line over the last three years under the new product.

Company: Mid-Century Insurance Co.  
Line of Insurance: Private Passenger Auto Physical Damage

<u>Date of Original Filing Letter</u>	<u>Subject</u>	<u>California D.O.I. Filing Number</u>
November 9, 2007	Class Plan	07-7250
November 21, 2006	Class Plan	06-8798
November 21, 2006	Class Plan	06-8788
August 11, 2006	Class Plan	06-5495

Mid-Century Insurance Company  
State of California

Exhibit 4

Line of Business: Private Passenger Auto  
Sequential Analysis Summary Table - Legend

- 15) Other - Alternative Fuel  
0 - Not a hybrid vehicle  
1 - A hybrid vehicle
- 16) Persistency  
0 - 0 Years of Farmers Persistency  
1 - 1 Year of Farmers Persistency  
2 - 2 Years of Farmers Persistency  
3 - 3 Years of Farmers Persistency  
4 - 4 Years of Farmers Persistency  
5 - 5 Years of Farmers Persistency  
6 - 6 Years of Farmers Persistency  
7 - 7 Years of Farmers Persistency  
8 - 8 Years of Farmers Persistency  
9 - 9 or More Years of Farmers Persistency
- 17) Anti-Theft  
0 - No Anti-Theft  
1 - Anti-Theft
- 18) Liability Symbols
- 19) Other - Model Year  
0 - 2009 Model Year  
1 - 2008 Model Year  
2 - 2007 Model Year  
3 - 2006 Model Year  
4 - 2005 Model Year  
5 - 2004 Model Year  
6 - 2003 Model Year  
7 - 2002 Model Year  
8 - 2001 Model Year  
9 - 2000 Model Year  
10 - 1999 Model Year  
11 - 1998 Model Year  
12 - 1997 Model Year  
13 - 1996 Model Year  
14 - 1995 Model Year  
15 - 1994 Model Year  
16 - 1993 Model Year  
17 - 1992 Model Year  
18 - 1991 Model Year  
19 - 1990 Model Year  
20 - 1989 Model Year  
21 - 1988 Model Year  
22 - 1987 Model Year  
23 - 1986 Model Year  
24 - 1985 Model Year and older
- 20) Other - ESC  
0 - No Electronic Stability Control  
1 - Electronic Stability Control
- 21) Other - Claims Frequency
- 22) Other - Claims Severity

**Mid-Century Insurance Company**  
**State of California**  
**Line of Business: Private Passenger Auto**  
**Sequential Analysis Summary Table - BIPD**

Exhibit 4

Variable Type	Variable Name	Variable Categories	Average PPBOPF	Unadjusted Average Loss	Loss Residual	Adjusted Indicated Relativity	Balanced Indicated Relativity	Balanced Cred Wgtd Indication
Other	Antilock Brake	0	211.04	184.36	-26.68	0.87	0.89	0.89
		1	214.76	228.56	13.80	1.06	1.08	1.08
Other	High Performance	0	213.57	211.51	-2.06	0.99	1.00	1.00
		1	198.19	150.19	-47.99	0.76	0.77	0.80
Other	Alternative Fuel	0	213.33	210.34	-2.99	0.99	1.00	1.00
		1	234.84	222.64	-12.20	0.95	0.96	1.41
Other	Persistency	0	279.78	295.55	15.77	1.06	1.07	1.07
		1	214.29	239.87	25.59	1.12	1.14	1.14
		2	210.64	234.45	23.81	1.11	1.13	1.13
		3	210.01	218.27	8.26	1.04	1.06	1.06
		4	210.30	217.98	7.68	1.04	1.05	1.05
		5	209.92	215.93	6.01	1.03	1.05	1.05
		6	209.25	215.61	6.36	1.03	1.05	1.05
		7	207.30	213.80	6.50	1.03	1.05	1.05
		8	204.85	209.05	4.21	1.02	1.04	1.04
		9	204.87	189.30	-15.57	0.92	0.94	0.94
Other	Liability Symbols	0	177.52	131.92	-45.60	0.74	0.76	0.76
		1	168.82	76.60	-92.22	0.45	0.47	0.82
		2	169.53	111.22	-58.31	0.66	0.67	0.83
		3	190.22	129.96	-60.26	0.68	0.70	0.83
		4	216.63	154.23	-62.41	0.71	0.73	0.85
		5	207.74	156.19	-51.55	0.75	0.77	0.84
		6	218.06	158.13	-59.94	0.73	0.74	0.85
		7	225.05	183.32	-41.73	0.81	0.84	0.87
		8	217.81	177.08	-40.73	0.81	0.83	0.88
		9	218.38	183.92	-34.47	0.84	0.86	0.88
		10	224.43	193.82	-30.62	0.86	0.89	0.88
		11	217.57	182.46	-35.11	0.84	0.86	0.87
		12	222.50	189.58	-32.92	0.85	0.87	0.87
		13	216.69	195.65	-21.04	0.90	0.93	0.92
		14	218.61	204.47	-14.15	0.94	0.96	0.96
		15	218.59	208.99	-9.60	0.96	0.98	0.98
		16	220.51	215.57	-4.94	0.98	1.00	1.00
		17	221.08	220.63	-0.45	1.00	1.02	1.02
		18	213.28	211.83	-1.45	0.99	1.02	1.02
		19	215.49	226.55	11.06	1.05	1.08	1.08
		20	217.55	228.02	10.47	1.05	1.08	1.07
		21	212.61	219.63	7.02	1.03	1.06	1.06
		22	215.17	230.11	14.94	1.07	1.10	1.09
		23	212.32	214.37	2.05	1.01	1.04	1.03
		24	218.65	231.31	12.66	1.06	1.09	1.08
		25	220.32	233.26	12.94	1.06	1.09	1.08
		26	219.13	241.51	22.38	1.10	1.13	1.12
		27	220.76	250.31	29.55	1.13	1.16	1.16
28	220.40	250.26	29.86	1.14	1.17	1.16		

6/2/2009

Exh4.xls

Exhibit C9 - 5

Farmers000339

Mid-Century Insurance Company  
 State of California  
 Line of Business: Private Passenger Auto  
 Sequential Analysis Summary Table - UM

Exhibit 4

Variable Type	Variable Name	Variable Categories	Average PPBOPF	Unadjusted Average Loss	Loss Residual	Adjusted Indicated Relativity	Balanced Indicated Relativity	Balanced Cred Wgtd Indication
Other	Alternative Fuel	0	35.84	32.83	-3.01	0.92	1.00	1.00
		1	45.17	40.38	-4.79	0.89	0.98	1.46
Other	Persistency	0	45.58	45.61	0.03	1.00	1.10	1.15
		1	36.80	42.94	6.14	1.17	1.28	1.25
		2	36.06	41.01	4.95	1.14	1.25	1.16
		3	35.72	39.64	3.92	1.11	1.22	1.13
		4	35.36	38.79	3.43	1.10	1.20	1.12
		5	35.29	37.79	2.49	1.07	1.17	1.10
		6	35.17	37.24	2.08	1.06	1.16	1.10
		7	34.68	36.42	1.75	1.05	1.15	1.10
		8	34.16	34.88	0.72	1.02	1.12	1.08
		9	34.56	27.31	-7.25	0.79	0.87	0.90

**Mid-Century Insurance Company**  
**State of California**  
**Line of Business: Private Passenger Auto**  
**Sequential Analysis Summary Table - Medical**

Exhibit 4

Variable Type	Variable Name	Variable Categories	Average PPBOPF	Unadjusted Average Loss	Adjusted Loss Residual	Adjusted Indicated Relativity	Balanced Indicated Relativity	Balanced Cred Wgtd Indication
Other	Passive Restraint	0	25.42	13.38	-12.04	0.53	0.54	0.54
		1	30.07	30.87	0.80	1.03	1.05	0.98
		2	28.44	26.60	-1.84	0.94	0.95	0.96
		3	29.44	31.82	2.38	1.08	1.10	1.11
		4	30.03	35.42	5.38	1.18	1.20	0.73
Other	Antilock Brake	0	25.53	25.69	0.16	1.01	1.02	1.02
		1	31.24	30.24	-1.00	0.97	0.98	0.98
Other	High Performance	0	29.08	28.81	-0.26	0.99	1.01	1.01
		1	24.14	11.68	-12.46	0.48	0.49	0.62
Other	Alternative Fuel	0	29.03	28.48	-0.55	0.98	1.00	1.00
		1	30.30	25.28	-5.03	0.83	0.85	1.39
Other	Persistency	0	42.49	47.92	5.44	1.13	1.18	1.18
		1	33.72	42.99	9.27	1.27	1.33	1.34
		2	33.16	42.36	9.20	1.28	1.33	1.33
		3	32.94	41.86	8.93	1.27	1.33	1.30
		4	32.43	40.83	8.40	1.26	1.31	1.27
		5	31.60	38.82	7.21	1.23	1.28	1.24
		6	31.13	37.13	6.00	1.19	1.24	1.21
		7	30.74	35.72	4.98	1.16	1.21	1.20
		8	30.45	34.43	3.97	1.13	1.18	1.19
		9	26.22	21.77	-4.45	0.83	0.87	0.87
Other	Liability Symbols	0	24.94	22.09	-2.84	0.89	0.95	0.95
		1	15.08	10.59	-4.50	0.70	0.75	0.80
		2	18.99	11.82	-7.17	0.62	0.67	0.79
		3	18.23	12.10	-6.13	0.66	0.71	0.81
		4	20.22	13.36	-6.85	0.66	0.71	0.80
		5	20.84	13.71	-7.14	0.66	0.71	0.79
		6	22.67	14.90	-7.77	0.66	0.71	0.77
		7	23.35	15.54	-7.81	0.67	0.72	0.77
		8	23.31	16.09	-7.21	0.69	0.74	0.79
		9	23.31	16.99	-6.32	0.73	0.78	0.82
		10	25.91	18.62	-7.28	0.72	0.77	0.79
		11	26.06	19.52	-6.54	0.75	0.81	0.82
		12	27.14	20.68	-6.46	0.76	0.82	0.83
		13	28.12	22.37	-5.75	0.80	0.86	0.86
		14	29.50	24.02	-5.47	0.81	0.88	0.87
		15	29.41	25.18	-4.23	0.86	0.92	0.92
		16	30.54	26.81	-3.73	0.88	0.94	0.94
		17	30.92	28.09	-2.83	0.91	0.98	0.97
		18	31.51	29.56	-1.95	0.94	1.01	1.01
		19	32.64	31.79	-0.85	0.97	1.05	1.04
		20	32.47	33.18	0.71	1.02	1.10	1.10
		21	33.82	35.16	1.35	1.04	1.12	1.12
		22	33.42	35.63	2.21	1.07	1.15	1.14
		23	34.21	37.06	2.85	1.08	1.16	1.16
		24	32.83	37.72	4.89	1.15	1.24	1.22
		25	35.41	40.84	5.43	1.15	1.24	1.23
		26	35.76	42.24	6.48	1.18	1.27	1.22
		27	36.25	43.84	7.59	1.21	1.30	1.25
28	35.76	44.15	8.39	1.23	1.33	1.23		

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Exhibit C9 - 7

Farmers000363

**Mid-Century Insurance Company**  
**State of California**  
**Line of Business: Private Passenger Auto**  
**Sequential Analysis Summary Table - Comprehensive**

Exhibit 4

Variable Type	Variable Name	Variable Categories	Average PPBOPF	Unadjusted Average Loss	Adjusted Loss Residual	Adjusted Indicated Relativity	Balanced Indicated Relativity	Balanced Cred Wgtd Indication
Other	High Performance	0	60.03	55.41	-4.62	0.92	1.00	1.00
		1	104.64	118.85	14.21	1.14	1.22	1.22
Other	Alternative Fuel	0	61.13	56.69	-4.44	0.93	1.00	1.00
		1	74.96	63.63	-11.33	0.85	0.92	1.36
Other	Persistency	0	89.34	88.82	-0.52	0.99	1.08	1.08
		1	62.02	72.30	10.28	1.17	1.26	1.26
		2	60.83	68.70	7.86	1.13	1.23	1.23
		3	60.94	66.29	5.35	1.09	1.18	1.18
		4	60.91	63.64	2.72	1.04	1.13	1.13
		5	60.82	62.15	1.33	1.02	1.11	1.11
		6	60.56	60.53	-0.04	1.00	1.08	1.08
		7	60.04	59.24	-0.81	0.99	1.07	1.07
		8	59.79	58.11	-1.68	0.97	1.05	1.05
		9	57.47	48.08	-9.39	0.84	0.91	0.91
Other	Anti-Theft	0	60.23	55.42	-4.81	0.92	1.00	1.00
		1	73.82	67.30	-6.53	0.91	0.99	0.99

**Mid-Century Insurance Company  
State of California  
Line of Business: Private Passenger Auto  
Sequential Analysis Summary Table - Collision**

Exhibit 4

Variable Type	Variable Name	Variable Categories	Average PPBOPF	Unadjusted Average Loss	Loss Residual	Adjusted Indicated Relativity	Balanced Indicated Relativity	Balanced Cred Wgtd Indication
Other	Antilock Brake	0	174.24	170.00	-4.24	0.98	1.01	1.01
		1	245.52	236.22	-9.29	0.96	1.00	1.00
Other	High Performance	0	220.21	214.41	-5.80	0.97	1.00	1.00
		1	290.44	282.20	-8.25	0.97	1.00	1.00
Other	Alternative Fuel	0	221.56	215.71	-5.85	0.97	1.00	1.00
		1	288.51	284.29	-4.22	0.99	1.01	1.31
Other	Persistency	0	320.35	336.06	15.70	1.05	1.13	1.13
		1	237.95	285.01	47.05	1.20	1.29	1.29
		2	232.66	274.58	41.91	1.18	1.27	1.27
		3	232.89	252.68	19.79	1.08	1.17	1.17
		4	231.59	245.95	14.35	1.06	1.14	1.14
		5	228.61	238.93	10.31	1.05	1.13	1.13
		6	225.62	233.81	8.19	1.04	1.12	1.12
		7	222.07	228.31	6.24	1.03	1.11	1.11
		8	220.58	223.05	2.46	1.01	1.09	1.09
9	195.44	160.68	-34.76	0.82	0.89	0.89		

10) Other - Type of Use	<ul style="list-style-type: none"> <li>1 - Pleasure</li> <li>2 - Short Commute</li> <li>3 - Long Commute</li> <li>4 - Farm</li> <li>5 - Occupational</li> <li>6 - Service</li> <li>7 - Retail</li> <li>8 - Commercial</li> <li>9 - Emergency</li> <li>A - Livery</li> </ul>
11) Other - Student Away at School	<ul style="list-style-type: none"> <li>1 - Student Away at School</li> <li>2 - All Other</li> </ul>
12) Other - Training	<ul style="list-style-type: none"> <li>0 - All Other</li> <li>1 - I.D.T. Program - 0 Years of Driving Experience</li> <li>2 - I.D.T. Program - 1 Year Driving Experience</li> <li>3 - I.D.T. Program - 2 Years of Driving Experience</li> <li>4 - I.D.T. Program - 3 Years of Driving Experience</li> <li>5 - I.D.T. Program - 4 to 5 Years of Driving Experience</li> <li>6 - I.D.T. Program - 6 to 8 Years of Driving Experience</li> <li>7 - Senior Defensive Driver Discount</li> <li>97 - Excess Vehicle</li> </ul>
13) Other - Passive Restraint	<ul style="list-style-type: none"> <li>0 - No Passive Restraint</li> <li>1 - Automatic Seat belts</li> <li>2 - Air Bag (driver)</li> <li>3 - Air Bag (driver and passenger)</li> <li>4 - Air Bag and Automatic Seat belts (driver and passenger)</li> </ul>
14) Other - Antilock Brake / ESC	<ul style="list-style-type: none"> <li>0 - No Antilock brakes and No Electronic Stability Control</li> <li>1 - Antilock brakes and No Electronic Stability Control</li> <li>2 - No Antilock brakes and Electronic Stability Control</li> <li>3 - Antilock brakes and Electronic Stability Control.</li> </ul>
15) Other - High Performance	<ul style="list-style-type: none"> <li>0 - Not a High Performance vehicle</li> <li>1 - A High Performance vehicle</li> </ul>
16) Other - Alternative Fuel	<ul style="list-style-type: none"> <li>0 - Not a Hybrid vehicle</li> <li>1 - A Hybrid vehicle</li> </ul>
17) Other - Persistency	<ul style="list-style-type: none"> <li>0 - No Years of Farmers Persistency</li> <li>1 - 1 Year of Farmers Persistency</li> <li>2 - 2 Years of Farmers Persistency</li> <li>3 - 3 Years of Farmers Persistency</li> <li>4 - 4 Years of Farmers Persistency</li> <li>5 - 5 Years of Farmers Persistency</li> <li>6 - 6 Years of Farmers Persistency</li> <li>7 - 7 Years of Farmers Persistency</li> <li>8 - 8 Years of Farmers Persistency</li> <li>9 - 9 or More Years of Farmers Persistency</li> </ul>
18) Anti-Theft	<ul style="list-style-type: none"> <li>0 - No Anti-Theft</li> <li>1 - Anti-Theft</li> </ul>
19) Liability Symbols	
20) Other - Model Year	<ul style="list-style-type: none"> <li>0 - 2009 Model Year</li> <li>1 - 2008 Model Year</li> <li>2 - 2007 Model Year</li> <li>3 - 2006 Model Year</li> <li>4 - 2005 Model Year</li> <li>5 - 2004 Model Year</li> <li>6 - 2003 Model Year</li> <li>7 - 2002 Model Year</li> <li>8 - 2001 Model Year</li> <li>9 - 2000 Model Year</li> <li>10 - 1999 Model Year</li> <li>11 - 1998 Model Year</li> <li>12 - 1997 Model Year</li> <li>13 - 1996 Model Year</li> <li>14 - 1995 Model Year</li> <li>15 - 1994 Model Year</li> <li>16 - 1993 Model Year</li> <li>17 - 1992 Model Year</li> <li>18 - 1991 Model Year</li> <li>19 - 1990 Model Year</li> <li>20 - 1989 Model Year</li> <li>21 - 1988 Model Year</li> <li>22 - 1987 Model Year</li> <li>23 - 1986 Model Year</li> <li>24 - 1985 Model Year and older</li> </ul>
21) Other - Claims Frequency	
22) Other - Claims Severity	

Mid-Century Insurance Company  
 State of California  
 Line of Business: Private Passenger Auto  
 Relativities for Each Rating Factor - BIPD

Exhibit 5

Variable Type	Variable Name	Variable Categories	Balanced		Balanced	
			Current Relativity	Proposed Relativity	Proposed Relativity	Proposed % Change
Other	Alternative Fuel	0	1.00	1.00	1.00	0.0%
		1	0.90	0.90	0.90	0.0%
Other	Persistency	0	1.01	1.00	1.01	0.0%
		1	1.01	1.00	1.01	0.0%
		2	1.01	1.00	1.01	0.0%
		3	1.00	0.99	1.00	0.0%
		4	1.00	0.99	1.00	0.0%
		5	1.00	0.99	1.00	0.0%
		6	0.98	0.97	0.98	0.0%
		7	0.98	0.97	0.98	0.0%
		8	0.98	0.97	0.98	0.0%
		9	0.98	0.97	0.98	0.0%
Other	Liability Symbol	0		1.00	0.97	
		1		0.94	0.91	
		2		0.95	0.92	
		3		0.95	0.92	
		4		0.96	0.93	
		5		0.96	0.93	
		6		0.96	0.94	
		7		0.97	0.94	
		8		0.97	0.94	
		9		0.98	0.95	
		10		0.98	0.95	
		11		0.99	0.96	
		12		0.99	0.96	
		13		1.00	0.97	
		14		1.01	0.98	
		15		1.01	0.98	
		16		1.02	0.99	
		17		1.02	0.99	
		18		1.03	1.00	
		19		1.03	1.00	
		20		1.04	1.01	
		21		1.05	1.01	
		22		1.05	1.02	
		23		1.06	1.03	
		24		1.07	1.03	
		25		1.07	1.04	
		26		1.08	1.05	
		27		1.09	1.05	
		28		1.09	1.06	
		29		1.10	1.07	
		30		1.11	1.07	
		31		1.11	1.08	
		32		1.12	1.09	
		33		1.13	1.09	
		34		1.14	1.10	
		35		1.14	1.11	
		36		1.15	1.12	

Mid-Century Insurance Company  
 State of California  
 Line of Business: Private Passenger Auto  
 Relativities for Each Rating Factor - UM

Exhibit 5

Variable Type	Variable Name	Variable Categories	Balanced Current Relativity	Balanced Proposed Relativity	Proposed % Change
Other	Alternative Fuel	0	1.00	1.00	0.0%
		1	0.90	0.90	0.0%
Other	Peristency	0	1.01	1.01	0.0%
		1	1.01	1.01	0.0%
		2	1.01	1.01	0.0%
		3	1.00	1.00	0.0%
		4	1.00	1.00	0.0%
		5	1.00	1.00	0.0%
		6	0.98	0.98	0.0%
		7	0.98	0.98	0.0%
		8	0.98	0.98	0.0%
		9	0.98	0.98	0.0%

Mid-Century Insurance Company  
State of California  
Line of Business: Private Passenger Auto  
Relativities for Each Rating Factor - Medical

Exhibit 5

Variable Type	Variable Name	Variable Categories	Balanced Current Relativity	Balanced Proposed Relativity	Proposed % Change
Other	Alternative Fuel	0	1.00	1.00	0.0%
		1	0.90	0.90	0.0%
Other	Peristency	0	1.01	1.01	0.0%
		1	1.01	1.01	0.0%
		2	1.01	1.01	0.0%
		3	1.00	1.00	0.0%
		4	1.00	1.00	0.0%
		5	1.00	1.00	0.0%
		6	0.98	0.98	0.0%
		7	0.98	0.98	0.0%
		8	0.98	0.98	0.0%
		9	0.98	0.98	0.0%
Other	Liability Symbol	0		1.06	
		1		0.86	
		2		0.87	
		3		0.87	
		4		0.88	
		5		0.88	
		6		0.89	
		7		0.90	
		8		0.90	
		9		0.91	
		10		0.92	
		11		0.92	
		12		0.93	
		13		0.94	
		14		0.95	
		15		0.96	
		16		0.96	
		17		0.97	
		18		0.98	
		19		0.99	
		20		1.00	
		21		1.01	
		22		1.02	
		23		1.03	
		24		1.04	
		25		1.05	
		26		1.06	
		27		1.07	
		28		1.08	
		29		1.09	
		30		1.11	
		31		1.12	
		32		1.13	
		33		1.15	
		34		1.16	
		35		1.17	
		36		1.19	

Mid-Century Insurance Company  
 State of California  
 Line of Business: Private Passenger Auto  
 Relativities for Each Rating Factor - Comprehensive

Exhibit 5

Variable Type	Variable Name	Variable Categories	Balanced Current Relativity	Balanced Proposed Relativity	Proposed % Change
Other	Alternative Fuel	0	1.00	1.00	0.0%
		1	0.90	0.90	0.0%
Other	Peristency	0	1.01	1.01	0.0%
		1	1.01	1.01	0.0%
		2	1.01	1.01	0.0%
		3	1.00	1.00	0.0%
		4	1.00	1.00	0.0%
		5	1.00	1.00	0.0%
		6	0.98	0.98	0.0%
		7	0.98	0.98	0.0%
		8	0.98	0.98	0.0%
		9	0.98	0.98	0.0%
Other	Anti-Theft	0	1.00	1.00	0.0%
		1	0.85	0.85	0.0%

Mid-Century Insurance Company  
 State of California  
 Line of Business: Private Passenger Auto  
 Relativities for Each Rating Factor - Collision

Exhibit 5

Variable Type	Variable Name	Variable Categories	Balanced Current Relativity	Balanced Proposed Relativity	Proposed % Change
	and	2	1.02	1.02	0.0%
	ESC	3	0.97	0.97	0.0%
<b>Other</b>	<b>Alternative Fuel</b>	0	1.00	1.00	0.0%
		1	0.90	0.90	0.0%
<b>Other</b>	<b>Peristency</b>	0	1.01	1.01	0.0%
		1	1.01	1.01	0.0%
		2	1.01	1.01	0.0%
		3	1.00	1.00	0.0%
		4	1.00	1.00	0.0%
		5	1.00	1.00	0.0%
		6	0.98	0.98	0.0%
		7	0.98	0.98	0.0%
		8	0.98	0.98	0.0%
		9	0.98	0.98	0.0%

**EXHIBIT C14**

# Optimal Growth for P&C Insurance Companies

*by Luyang Fu*

## **ABSTRACT**

It is generally well established that new business produces higher loss and expense ratios and lower retention ratios than renewal business. Ironically, to add more new business, an insurer needs higher profitability in order to generate the additional capital needed to support its exposure growth. Irrational growth is one of the top reasons for the insolvencies of property and casualty insurance companies. This study presents a method to balance the opposing forces of growth and profitability. The proposed method is straightforward and can be effectively employed by property and casualty insurers in their strategic planning process.

## **KEYWORDS**

*Aging phenomenon, constrained maximum growth, optimal growth, combined ratio, premium-to-surplus ratio, enterprise risk management.*

## 1. Introduction

Long-term profitability and sustainable growth are important goals of property and casualty (P&C) insurers. Marketing plans such as segmentation penetration, new agency appointments, and new territory entries are all subject to the overall growth strategy of an insurer. For an insurer to grow, it must either explore new markets or attract new customers in existing markets. However, such new business generally produces both higher loss and expense ratios, and increases the overall operational risk of the company. Numerous case studies have shown that rapid growth rates can cause serious financial problems for a P&C insurer, reduce long-term value to its stakeholders, or even result in bankruptcy. According to A. M. Best (2004), 17.3% of P&C insolvencies from 1969 to 2002 were caused primarily by rapid growth.

D’Arcy and Doherty (1989; 1990) and Cohen (2005) discuss the “aging phenomenon” of P&C insurance markets in which new business usually generates a much higher loss ratio than renewal business, often resulting in an underwriting loss in the first year, but improving loss ratios in subsequent years for the retained portion of that cohort of business. Wu and Lin (2009) examine eight lines of business on 25 books with \$28.7 billion of premium from 1995 to 2005 and demonstrate loss ratio improvements associated with this aging phenomenon. They find that renewal business produces loss ratios 7% to 18% lower than new business, with an average loss ratio difference of 13%. In addition to larger expected loss ratios, the expenses associated with acquiring new businesses (such as advertising, marketing, and underwriting) are higher than for renewal business. Feldblum (1996) suggests that an insurance company should price risks to take into account the expected profitability over the lifetime of the policy, including the loss ratio, expense ratio, and retention level at each renewal. An aggressive growth posture obviously means a higher proportion of a book of business is made up of new business, implying a higher combined ratio and greater underwriting risk. Therefore, an insurance company’s planned pace of growth should de-

pend on whether the expected profit from insurance operations is high enough to support the growth. Without proper enterprise risk management, an aggressive growth strategy cannot be sustained over a long period, and may result in significant underwriting losses. P&C insurers may operate in the following cycle: reduce rates aggressively to be competitive; grow the book rapidly; see loss ratios deteriorate; increase the rates to alleviate underwriting losses; and watch sales go down because rates become less competitive.

Other academic researchers have found that increasing sales growth and improving per-unit profit margins can be conflicting goals. Aghion and Stein (2008) discuss that, given the constraints on management time and other resources, doing more in one dimension often implies doing less in the other. Harrington, Danzon, and Epstein (2008) investigate medical malpractice markets and show that insurance companies often sacrifice profit margins by cutting price excessively in the soft market to maintain sales volume. Ma (2009) shows that profitability will be eroded significantly when a high growth target is achieved by lowering underwriting standards.

Actuaries have long realized that growth rates influence an insurer’s loss, reserve, profit, and surplus, and have studied these effects using traditional actuarial and accounting methods. Muetterties (1979) presents an accounting model to calculate the necessary profit margin to keep pace with increasing premium growth. Based on rather conservative assumptions, he concludes that at least a 5% before-tax underwriting margin is necessary to maintain the relationship of premium to surplus. Niswander (1984) measures the trade-off between two conflicting goals: surplus growth based on profitability and exposure growth based on competitive rates. Because the average age of loss within an exposure period may change over time as a result of growth, McClenahan (1987) examines the impact of changes in exposure growth on loss development patterns, and proposes a method to adjust the development factors. To date, only D’Arcy and Gorvett (2004) have studied optimal growth from the perspective of the managers of

insurance companies. They determine the optimal growth rate by maximizing the market value of a P&C insurance company. In their work, a three-factor econometric model is proposed in which an insurer's market value is determined by its surplus, net written premium, and combined ratio. The model parameters are derived through linear regressions using data from fifteen publicly traded firms. They then run a series of dynamic financial analysis (DFA) simulations for a variety of growth rates using the Dynamo software.<sup>1</sup> The D'Arcy and Gorvett (2004) study represents a significant milestone in pioneering the research on optimal growth for P&C insurers, but several aspects of their work may limit the benefit of their analysis for the entire P&C insurance industry. First, their method requires market values, which are only available for "stand-alone" P&C companies that are publicly traded. Mutual, reciprocal, subsidiary, and privately-held P&C companies do not have observable market values. As D'Arcy and Gorvett point out, very few of the more than 3,000 P&C insurers are both "stand-alone" and "publicly-traded." Second, their approach is sensitive to stock prices of insurance companies, which can be very volatile. For example, excluding data from AIG, D'Arcy and Gorvett (2004) found that the optimal growth rate does not exist (negative growth will lead to higher market values); while including AIG data, the optimal solution is about 10%. Third, their study is based on sophisticated dynamic financial analysis (DFA), which requires significant resources and can be difficult to understand.

In this study we examine the numerical relationship between organic growth rates and the corresponding profitability and capital needs using an approach that requires less extensive data. Analytical models are derived based on an economic equilibrium model. In the optimization process, we incorporate practical constraints for the growth of P&C insurers. This

paper extends and improves the previous study in three major aspects. First, it provides the maximum growth rate as well as the optimal growth rate under the predetermined constraints. Second, D'Arcy and Gorvett (2004) discuss that optimal positive growth may or may not exist, but they do not investigate the conditions for the existence of optimal growth. We investigate this issue and find that the existence of an optimal growth rate depends on the relative weighting assigned by a company's management to their two goals of increasing surplus and increasing sales. When the weight on surplus is above a certain threshold, a positive optimal growth rate does not exist: an insurer can increase the expected value of the enterprise by increasing premium rates and improving profit margins while shrinking premium volume. Third, from the perspective of implementation, the models are developed using simpler assumptions and formulas than those deployed in Dynamo by D'Arcy and Gorvett (2004) and are therefore relatively easy to understand and apply. Additionally, all of the data required to use this method should be readily available from a P&C company's actuarial database, and the calculations involved are easy to program in a spreadsheet, so that the proposed methods can be quickly implemented by P&C companies in their strategic financial planning.

This paper is organized in a straightforward manner. Section 2 discusses the relationship between growth rates and combined ratios, and introduces the concept of an equilibrium new business percentage (ENBP). Section 3 investigates the capital constraint on growth. Section 4 develops a conceptual framework for determining the optimal growth rate that maximizes the expected enterprise value. Section 5 provides a case study. The numerical relationship between growth rate and underwriting profit is presented. The constrained maximum growth rates and the optimal growth rates are calculated under various scenarios of market cycles, underwriting performances, and constraints. Section 6 offers a summary of the main conclusions drawn from this analysis. The appendix extends the model by subdividing the renewal book into multiple segments.

<sup>1</sup>The software is publicly available at Casualty Actuarial Society and Pinnacle Actuaries websites, [www.casact.org](http://www.casact.org) and [www.pinnacleactuaries.com](http://www.pinnacleactuaries.com).

**EXHIBIT C15**

## THE AGING PHENOMENON AND INSURANCE PRICES

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### *Abstract*

*Insurers typically earn greater profits on policies that have been with the insurer for a number of renewal cycles than on newer business. This tendency is known as the aging phenomenon and is believed to occur on all lines of business. Although the aging phenomenon is common knowledge, no mathematical methods for incorporating this phenomenon into pricing*

NEIL A. DOHERTY

### *Abstract*

*Insurers typically earn greater profits on policies that have been with the insurer for a number of renewal cycles than on newer business. This tendency is known as the aging phenomenon and is believed to occur on all lines of business. Although the aging phenomenon is common knowledge, no mathematical methods for incorporating this phenomenon into pricing decisions have been documented. This paper sets forth a procedure for determining the maximum acceptable loss ratio on new business that will be profitable for the insurer over its entire renewal cycle by incorporating a discounted cash flow analysis of future profits. The advantages of measuring profitability by cohorts of business, depending on when the policy was originally written, are also demonstrated.*

The authors would like to thank those individuals who assisted this study by providing data on the aging phenomenon, and also Richard Derrig and James Streff, whose comments on this phenomenon were very helpful.

## 1. INTRODUCTION

A well known but little documented tendency of property-liability insurance contracts is for the loss ratio on mature business, the book of policies that has been with the insurer for a number of renewal cycles, to exhibit constant improvement. The cause of this tendency, termed the aging phenomenon or seasoning of business, has been addressed by Kunreuther and Pauly [5] and D'Arcy and Doherty [4] and theorized to be the result of the accumulation of private information by the contracting insurer. This information allows the insurer to classify the policyholders properly as valid information about the risk is collected, as opposed to

the initial information included in the application and obtained in the initial underwriting screening. Such information could include a verified loss history, as the insurer knows about claims that occur during the coverage period, the condition of the insured property and the degree of cooperation demonstrated by the insured in settling any claims. This insurer also is able to renew policies selectively to weed out the least desirable risks. The remaining policyholders represent a continually improving book of business as more high-risk insureds are properly classified and appropriately charged and the culling process continues to cancel policyholders whose risk profile is higher than the indicated rate level would reflect. For example, a private passenger automobile insured with one at-fault accident may have proven to be such an uncooperative defense witness that the insurer is unwilling to renew the policy even at the classification rate for one accident. As the contracting insurer has an advantage in access to this information, competition does not work to reduce the premium level on this desirable business in proportion to the improvement in loss experience.

The aging phenomenon is believed to occur for all lines of property-liability insurance, although little published information confirms this belief. Eight insurers have provided the authors with confidential information demonstrating this effect, subject to the condition that they not be identified, and many other insurers have confirmed that the trend also occurs on their business as well. The disparity of record keeping techniques and internal procedures among insurers makes exact measurement of the extent of aging impossible at this point. However, the widespread confirmation of this trend and its importance in pricing and marketing strategy calls for an analysis of the effect of aging on insurance pricing.

The purpose of this paper is to incorporate the aging phenomenon into a pricing model. The initial model is based on fairly simple assumptions in order to clearly demonstrate the effect of aging on prices and to derive numerical results. The assumptions are later altered to reflect more realistic conditions in additional models. Hopefully, individuals with access to their company's databases will be encouraged to generate additional tests of these models.

## 2. NOTATION

The following notation will be used in the initial model:

$P$  = premium level per policy

**EXHIBIT C16**

# Large Scale Analysis of Persistency and Renewal Discounts for Property and Casualty Insurance

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## Abstract

In this paper, we study the issue of whether a price discount for renewal business is warranted for property and casualty insurance. The discount is motivated by the fact that new business with insurance coverage lapse, or new business in general, may perform worse than renewal business. The study is based on a total of 25 books of insurance business with a total amount of almost \$29 billion of premium. The data cover all the primary property and casualty lines of business, including personal Auto and Homeowners as well as commercial Business Owners Policies, Auto, WC, GL and Property. The data do indicate that new business universally has a higher loss ratio and a lower retention rate than renewal business across all the 25 books of business. We will attempt to offer reasons as to why such difference exists between new and renewal business for insurance.

**Keywords:** Persistency discount, renewal discount, loss ratio, retention.

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## 1. INTRODUCTION

It may be known to the property and casualty insurance industry that new business possesses higher risk than renewal business. Stable and persisting insureds are generally bringing in more profits to insurers, while insureds who frequently switch from one carrier to another are usually poor risks [1]. For example, the research report by Conning [2] indicates that new business loss ratios can vary from 10% higher to more than 30% higher than renewal business, depending on the line of business and underwriting cycle. As a result, the industry may want to surcharge new business or award discounts to their renewal business.

One primary principle for insurance pricing is that “*A rate is an estimate of the expected value of future costs*” [3]. In other words, two risks with same characteristics should be charged the same rate. Therefore, such price differentiation between new and renewal business has caused some debate in the past because some people believed that insurance rates should not be unfairly discriminatory due to the length of an insured staying with a carrier. For example, in California, over the last decade, the new business surcharge or persistent discount debate has been one of the insurance regulation focuses. California regulators once barred automobile insurance companies from levying surcharges against new customers who drove without coverage [4]. After this bar was lifted later, consumer advocate groups also filed separate lawsuits against companies who use a customer’s lack of prior insurance as a

factor in determining premiums [5]. On the other hand, the insurance industry did propose to allow drivers who renew coverage with their current insurer to receive discounts on basis of the argument that actuarial evidence shows drivers who maintain insurance for an extended period of time with an insurer have lower loss costs [6].

Different states may have different regulations on such a new business surcharge or renewal business discount [7]. We conducted a survey with the department of insurance in various states. Regulations for some states are silent on the topic, while other states do not prohibit price differentiation as long as insurers can provide support for the discount. The survey result suggests that most of the states appear to allow the price differentiation. Table 1 in appendix summarizes the highlight of the responses from the departments of insurance we contacted.

There is a difference between persistency discount and renewal discount. The persistency discount rewards a lower rate to new business without prior insurance lapse. Hence, the discount essentially implies a surcharge to new business with insurance lapse. On the other hand, the renewal discount results in a lower rate for renewal business. Therefore, the renewal discount implies a surcharge to new business as a whole. Since insurance companies in general do not capture data well that can allow us to differentiation new business with or without prior insurance, our study focuses on the total new business.

Setting aside public policy and regulation considerations, the key actuarial and rating questions for the issue are:

- Is it true that new business in general performs worse than renewal business?
- If yes, what are the reasons for such a difference?

Several published studies before have noted that renewal business in general exhibits continuing improvement in loss ratio as the business has stayed with the same insurer for multiple terms [1,2, 8-10]. One study further attributes such improvement to the fact that as an insured stays longer with the same insurer, the insurer is able to obtain more information about the insured, including a verified loss history, the condition of the insured property and the degree of cooperation by the insured in settling claims [8]. This enhanced information about the insured enables the insurer to select desirable risks and thus improve the performance of its book. A persisting insured could also provide income over multiple terms and spread the acquisition cost and other underwriting costs over a long period of time to achieve lower average expenses per year, which provides savings to the insurer in addition to the improvement in loss ratio.

While the issue has a long history and several studies were published before on the issue, we believe that additional research, especially a study that utilizes the real industry data, can be done to help the industry gain a better understanding of it. Through our work on data mining and predictive modeling in past several years, we have studied a fairly large amount

of data from a wide range of insurers. The data enables us to review the performance difference between new and renewal business in detail. In this paper, we will share our findings and knowledge on this issue based on our experience with the industry data in the past. In addition, we will bring in macroeconomic data for insurance exposures on drivers, vehicles, property, and business [11-13] as well as insurance industry data from AM Best [14] to compare with our finding. We believe by putting all the information and data together, we can offer in-depth insights on why new business and renewal business perform differently for the property and casualty insurance.

## **2. DATA**

We have studied a total of 25 books of business with a total amount of premium of \$29 billion. The 25 different books are from a wide range of carriers, including national, multi-line carriers as well as regional, mono-line carriers, and they cover all the major primary lines of business for property and casualty insurance, including personal Auto and Homeowners, as well as commercial BOP, Auto, Property, GL, Package, and Workers' Compensation. The data as a whole spans across the last underwriting cycle from late 1990 to mid 2000. Tables 2 in the appendix shows some details of the data used in this paper. Tables 3-5 shows the performance difference in several characteristics between new business and renewal business for these 25 books.

In addition, Tables 6-9 show the historical macroeconomic data for the drivers, vehicles, homes and businesses [11-13]. The data indicates the underlying exposure information for the U.S. property and casualty insurance industry. Finally, Table 10 shows the historical industry premium data for different lines of business from AM Best [14].

## **3. RESULTS AND DISCUSSION**

Table 3 indicates that new business show a higher loss than renewal business. The data further indicates that all of the 25 books of business under study show such result. On average, the new business loss ratio is 13 points worse than the renewal business. The fact that new business has a higher loss ratio than renewal business is the primary reason why insurance companies are interested in offering a price discount for their renewal business.

Our experience further indicates that as the renewal business continues to age, the loss ratio will continue to improve. The renewal business' loss ratio will be close to the overall average loss ratio around 3 to 5 years after the business is on the book. In other words, insurance carries need to invest a couple years on a new business before the business turns into profit. It also suggests that long-time, loyal customers bring in the highest share of profit for the carriers. Such loss ratio-policy age pattern we have seen in our data is consistent with the study result by D'Arcy [8].

*Large Scale Analysis of Persistency and Renewal Discounts for Property and Casualty Insurance*

Another result given in Table 3 is that new business appears to have a higher turnover rate than renewal business. Similar to the loss ratio result, all of the 25 books are showing a lower retention rate for the new business. On average, renewal business has a 6 point higher retention rate than new business.

In general, there are three reasons why an insured is not retained by a carrier. First, the insured's exposure stops to exist, for example, termination of business operation or discontinued ownership of a car or a property. The second reason is because the insured voluntarily switches insurance from one carrier to another. Multiple factors may trigger an insured to switch its carrier, and they may include price shopping, dissatisfaction of the service, agent's action etc., to name a few. The third reason is because the carrier terminates the policy due to its own action. For example, insurer carriers always take underwriting action to manage the poor risks on their book, and the action may include terminating the insurance contract, raising the price, limiting the coverage, restricting the selection of payment plan, etc. Such underwriting action inevitably will result in some risks leaving the carrier to seek another carrier. We can expect that the latter two reasons, insured's voluntary switch from one carrier to another and the action by insurance carriers, are the primary reasons for the fact that new business has a lower retention rate than renewal business. Later, we will bring in additional macroeconomic data and other insurance statistics to further explain the retention difference between new and renewal business.

While Table 3 clearly indicates that loss ratio for new business is worse than renewal business, it may not support the fact that new business has more risk or higher pure premium than renewal business. This is because insurance companies may need to offer low, competitive price in the market place in order to compete for new business. However, for the data used in this study, it is not possible to compare pure premium between new and renewal business. Therefore, we have come up with another analysis to address this issue and question, and the result is given in Table 4.

For personal insurance, the rate is less flexible, so it is hard to manipulate price to compete for new business. On the other hand, the price for commercial insurance is fairly flexible because typical commercial line pricing contains several subjective and flexible price components. Commercial carriers can apply these flexible components to compete for new business price. One commonly used flexible price component is scheduled credit/debit or individual risk modification factor, IRPM. Analyzing how commercial insurance carriers apply scheduled credits and debits will allow us to understand their pricing strategy in the market place for new business. In Table 4, we show, by the major commercial lines of business, the average percentage of policies receiving credits vs. debits between new and renewal business. Table 4 indicates that, while the result is somewhat mixed for policies receiving credits, the new business appears to receive less debits than renewal business. The result does suggest that insurance companies may charge less for new business than renewal in order to compete for new business. Such pricing strategy for competing new business

may partially contribute to the fact that new business has a higher loss ratio than renewal business. However, the magnitude of credit and debit difference in Table 4 does not seem to be large enough to account for the loss ratio difference in Table 3.

The next analysis we have performed is that we selected 3 books from Table 2, all of them commercial, and for each book, and we split the data into 2 groups. One group contains the risks that were retained for the next term with the same insurer, while the other group contains the risks which were not retained. Then, between the two groups, we measure and compare two characteristics: loss ratio and business financial credit score. The result is given in Table 5.

The first characteristic for comparison is loss ratio. We find that the group which was retained for the next term has a lower loss ratio than the group which was not retained. This suggests that insurance companies appear to retain more of their “profitable business” than their “unprofitable business”.

In addition to loss ratio, we also compare a financial credit score between the 2 groups. The financial credit score data we use is developed by Dunn and Bradstreet. The score is a measurement of the likelihood for a business to fulfill its future financial obligation, such as payment on time. The score we use for comparison has a scale of 1 to 100, and the higher the score, the better the financial condition. Table 5 shows, again, a better average credit score for business retained than business not retained.

From the loss ratio and credit score comparison, we can see that the quality of the retained business is better than the quality of non-retained business. This is consistent with the fact that insurance companies do take underwriting action to manage poorer risks on their books. It also suggests that as the non-retained business becomes new business for another carrier, the quality of the new business is worse the renewal business for the carrier.

Another result given in Table 3 is that on average, the new business accounts for 20% of the total business for the 25 books under study. We can expect that an insurer’s new business should compose two different portions of risks. The first portion is the first-time insurance buyers, for example, first time drivers with a new drivers’ license, a new vehicles, a first-time home owner or property owner, or a newly established business or property that need insurance coverage, etc. In other words, from the perspective of the insurance industry as whole, this portion of risks is the “true” new business. The second portion is the risks which did not renew their insurance with prior insurance carriers. In other words, while they are “new business” for the insurer, the business is from other carrier’s renewal book. .

In order to research the two compositions of the new business, we bring in additional macroeconomic and insurance data. Tables 6 to 9 show the 20 years of statistics, from 1986 to 2006, for drivers, vehicles, homes, property, and business in the U.S. The statistics indicates the underlying exposure information for the overall US property and casualty

insurance industry, and it shows that the growth rate in the overall exposure is fairly minor, much less than the average of “20%” new business for the 25 books under study.

In addition, Table 10 shows 10-year history of premium dollars for the personal lines, commercial property lines and commercial casualty lines combined from AM Best. Again, the total industry premium growth rate over the last 10 years has been very mild and is less than the average new business percentage for the insurance data used in this study.

Another fact about insurance carriers in accepting and underwriting their new business is that typically they are tougher on the “truly new exposures”, such as newly established businesses or drivers who just obtained their driver licenses. For example, to our knowledge, many commercial line carriers will not accept a commercial risk with less than 3 years of history, or if they accept, they will apply their higher priced company or restrict their schedule credits. Therefore, many commercial line carriers have very few first time established businesses on their books. Similar experience can be applied to personal auto carriers, whose books typically have very few first-time youthful drivers.

From the macroeconomic statistics for the overall industry exposure data, the total industry premium data, and the standard insurance industry practice on accepting new business; we can conclude that the majority of an insurance company’s new business comes from other insurance company’s renewal business, and not from the truly new business as a first time insurance buyer.

Let us put together the performance comparison results and the industry exposure information from Table 3 to Table 10, and we can then begin to describe the dynamic process of new and renewal business for insurance companies. Such a dynamic cycle can make us understand why there is a difference in performance between new and renewal businesses.

Insurance companies constantly trade and swap risks between themselves. Most of the new business for an insurance company comes from other insurance companies’ renewal book. Since every insurance company underwrites its book and takes action against the poorly performing risks, one reason for insureds to leave their carriers and seek insurance for another company is due to the result of the underwriting action by the existing company, such as non-renewal or increase in renewal price. Of course, they may also voluntarily change insurance carriers due to a wide range of other reasons, such as shopping for cheaper rates or not being satisfied with their carriers for service. No matter what the reasons are for insureds to leave their insurance carriers, our study shows that overall, they possess worse characteristics, such as higher loss ratios or worse credit scores, than the insureds who stay and renew their policies with their existing insurance carriers. After leaving the existing insurance carriers, they most likely become another company’s new business, unless their exposure stops to exist. Since the new business in general possesses poorer risk characteristics, our study shows that for all the 25 different books of data under study, the

new business' performance for loss ratio and retention is universally worse than the renewal business. Sometimes, insurance carriers' business strategy of using flexible pricing components to compete for new business will worsen new business' loss ratio even more. Such a dynamic cycle suggests that renewal business is subsidizing new business for the property and casualty insurance. It is due to such differences in loss ratio, retention, and risk quality that the insurance industry is interested in deploying a price difference in their rating between new and renewal business.

#### **4. CONCLUSIONS**

We believe that the data underlying this research is very credible and can represent the general result for the property and casualty insurance industry. Our study clearly shows that for property and casualty insurance carriers, the new business performance is worse than the renewal business. The new business appears to have higher loss ratios and worse retention than renewal business. Our experience further indicates that as renewal business ages, its performance will become even better.

We believe that the reasons why new business performance is worse than the renewal business is two fold: (1) The first time insurance buyers are less experienced in dealing with managing their insurance risks, and (2) Those who are not the first time insurance buyers but seek new insurance carriers, typically have worse risk characteristics and may be price shoppers. Actuarially, new business surcharges or renewal business discounts appear to be justifiable by the data in this study.

While we believe that new business surcharge or renewal business discount can be justified, there is still an issue: if a new risk and a renewal risk are the same in their characteristics, why can they be charged differently just because one risk is a new business and the other one is a renewal business? One key reason is because insurance carriers have more knowledge of their renewal business than their new business.

When a risk has been with a carrier for several years, the carrier will know the risk's loss experience with the carrier. The carrier also knows many other details about the risk, such as its premium paying history, its coverage change and endorsement records, etc. When the risk leaves the carrier and become a new business to another company, some of the important information may not be known to the new company because such information is not captured during the new business writing and binding process. Even if the new company does collect some of the information, it is in a way that is not verifiable or can be manipulated by the insured. Also, for writing new business, there is a balance of gathering more information verse "ease to do business". Gathering too much information when writing new business may cause undue burden on agents or brokers.

For example, for commercial insurance, while many insurance companies will ask for prior loss runs for new business and will use the loss run to underwrite the new business, the data on the loss run typically is not passed to the data system and therefore is not captured in the pricing database. Therefore, prior loss history of a new business is subsequently lost after the new business is written. Unless the insurance industry enhances its information gathering practice and collect much more information for new business underwriting and pricing, the industry probably will continue to experience worse performance for their new business than their renewal business.

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## Appendices

Table 1: Summary of the Survey Responses on Price Differentiation between New and Renewal Business

State	Response from the Department of Insurance
AZ	There should be no difference in the premium that is charged between new business and renewal business if all the risk characteristics are the same
CA	Persistency is a permitted rating factor for personal auto in California
FL	It would be very unusual for companies to file a different price for new versus renewal.
IL	We do not have a rating law in Illinois. A lot of personal lines insurers give renewal discounts. Commercial rates are not filed at all.
LA	Louisiana law does not prohibit insurance companies from offering discounts for renewal policies
MO	The rating laws do not delineate between new and renewal business, rather they speak to rates in general.
NC	Does not prohibit difference for new and renewal business.
ND	We do allow companies to file renewal discounts
NJ	The NJ regulations do not prohibit companies from charging higher premium for new business versus renewal business or offer discounts for renewal business.
NM	We do allow carriers to charge more for new policies.
NY	We do allow renewal discounts and they are heavily used. These are often tied to "claim free" discounts.
OH	If a company provides support that there is a cost difference between new and renewal business then they can reflect the difference in their rates.
OR	An insurer can charge more for new business, or offer a persistency discount, provided the difference is supported statistically.
PA	If a company has reasonable, actuarial support that demonstrates the appropriateness of "lower" rates for renewal business than for new business (i.e., lower expenses and/or lower losses), rates based upon this support would be acceptable.
TX	There isn't anything that speaks directly to new business vs. renewal business for property and casualty insurance but any price difference between the two would be subject to the rate standards in the statutes.
WA	Renewal discounts are permitted in Washington, as there is no statute or regulation prohibiting them

Table 2: Summary of the Data

Line of Business	Number of Books	Total Premium, in Billions	Data Period
BOP	4	\$4.9	1995 to 2004
Commercial Package	3	\$4.7	1996 to 2004
Commercial Auto	4	\$3.6	1998 to 2005
General Liability	2	\$1.1	1995 to 2004
Commercial Property	3	\$1.7	1995 to 2002
WC	4	\$3.9	1996 to 2004
Personal Auto	3	\$2.0	1997 to 2005
Personal Home	2	\$6.8	1997 to 2003
Total	25	\$28.7	1995 to 2005

Table 3: Comparison of Loss Ratio and Retention between New Business and Renewal Business

Line of Business	Number of Books	Average % of New Business	Average of Loss Ratio Difference, New – Renewal*	Average of Retention Difference, New – Renewal*
BOP	4	19%	18%	-5%
Commercial Package	3	19%	9%	-7%
Commercial Auto	4	19%	15%	-5%
General Liability	2	22%	7%	-8%
Commercial Property	3	17%	17%	-8%
WC	4	27%	11%	-3%
Personal Auto	3	16%	12%	-3%
Personal Home	2	23%	15%	-19%
Total	25	20%	13%	-6%

\* For all the 25 books under study, the loss ratio is higher and the retention is lower for the new business than the renewal business.

Table 4: Comparison of Percentage of Policies Receiving Schedule Credits or Debits between New and Renewal Business for Commercial Lines

Line of Business	Number of Books	Average Percentage of Policies Receiving Credit		Average Percentage of Policies Receiving Debit	
		New	Renewal	New	Renewal
BOP	4	15%	16%	3%	8%
Commercial Package	3	16%	18%	5%	11%
Commercial Auto	4	20%	14%	2%	9%
General Liability	2	30%	29%	12%	23%
Commercial Property	3	29%	30%	5%	12%
WC	4	7%	7%	1%	1%

Table 5: Comparison of Loss Ratio and Financial Credit Score between Retained Business and Non-Retained Business for 3 Selected Commercial Books:

Line of Business	Total Premium	Loss Ratio Difference, Non Retained - Retained	Difference in Business Financial Score, Non Retained – Retained *
BOP	\$690 Millions	+4 points	-5
General Liability	\$533 Millions	+4 points	-2
Commercial Property	\$345 Millions	+7 points	-3

\* The business financial credit score used is published by Dunn and Bradstreet. The score is on 1-100 scale, and the higher the score the better the financial credit.

**EXHIBIT C17**



# **ACTUARIAL STANDARDS BOARD**

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**Actuarial Standard  
of Practice  
No. 12**

**Risk Classification (for All Practice Areas)**

**Revised Edition**

**Developed by the  
Task Force to Revise ASOP No. 12 of the  
General Committee of the  
Actuarial Standards Board**

**Adopted by the  
Actuarial Standards Board  
December 2005**

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**Doc. No. 101**

**ASOP No. 12—December 2005**

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## ASOP No. 12—December 2005

December 2005

**TO:** Members of the American Academy of Actuaries and Other Persons Interested in Risk Classification (for All Practice Areas)

**FROM:** Actuarial Standards Board (ASB)

**SUBJ:** Actuarial Standard of Practice (ASOP) No. 12

This booklet contains the final version of a revision of ASOP No. 12, now titled *Risk Classification (for All Practice Areas)*.

### Background

In 1989, the Actuarial Standards Board adopted the original ASOP No. 12, then titled *Concerning Risk Classification*. The original ASOP No. 12 was developed as the need for more formal guidance on risk classification increased as the selection process became more complex and more subject to public scrutiny. In light of the evolution in practice since then, as well as the adoption of a new format for standards, the ASB believed it was appropriate to revise this standard in order to reflect current generally accepted actuarial practice.

### Exposure Draft

The exposure draft of this ASOP was approved for exposure in September 2004 with a comment deadline of March 15, 2005. Twenty-two comment letters were received and considered in developing the final standard. A summary of the substantive issues contained in the exposure draft comment letters and the responses are provided in appendix 2.

The most significant changes from the exposure draft were as follows:

1. The task force clarified language relating to the interaction of applicable law and this standard.
2. The task force revised the definition of “adverse selection.”
3. The task force reworded the definition of “financial or personal security system” and included examples.
4. The words “equitable” and “fair” were added in section 3.2.1 but defined in a very limited context that is applicable only to rates.

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5. With respect to the operation of the standard, the task force added language that clarifies that this standard in all respects applies only to professional services with respect to designing, reviewing, or changing risk classification systems.
6. Sections 4.1 and 4.2 were combined into a new section 4.1, Communications and Disclosures, which was revised for clarity. The placement of communication requirements throughout the proposed standard was examined, and a sentence regarding disclosure was removed from section 3.3.3 and incorporated into section 4.1. A similar change was made by adding a new sentence in section 4.1 to correspond to the guidance in section 3.4.1.

In addition, the disclosure requirement in section 4 for the actuary to consider providing quantitative analyses was removed and replaced by a new section 3.4.4, which guides the actuary to consider performing such analyses, depending on the purpose, nature, and scope of the assignment.

The task force thanks everyone who took the time to contribute comments on the exposure draft.

The ASB voted in December 2005 to adopt this standard.

Task Force to Revise ASOP No. 12

Mark E. Litow, Chairperson

David J. Christianson	Charles L. McClenahan
Arnold A. Dicke	Donna C. Novak
Paul R. Fleischacker	Ronnie Susan Thierman
Joan E. Herman	Kevin B. Thompson
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**ASOP No. 12—December 2005**

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**ACTUARIAL STANDARD OF PRACTICE NO. 12**

**RISK CLASSIFICATION (FOR ALL PRACTICE AREAS)**

**STANDARD OF PRACTICE**

Section 1. Purpose, Scope, Cross References, and Effective Date

- 1.1 **Purpose**—This actuarial standard of practice (ASOP) provides guidance to actuaries when performing professional services with respect to designing, reviewing, or changing risk classification systems.
- 1.2 **Scope**—This standard applies to all actuaries when performing professional services with respect to designing, reviewing, or changing risk classification systems used in connection with financial or personal security systems, as defined in section 2.4, regarding the classification of individuals or entities into groups intended to reflect the relative likelihood of expected outcomes. Such professional services may include expert testimony, regulatory activities, legislative activities, or statements concerning public policy, to the extent these activities involve designing, reviewing, or changing a risk classification system used in connection with a specific financial or personal security system.

Throughout this standard, any reference to performing professional services with respect to designing, reviewing, or changing a risk classification system also includes giving advice with respect to that risk classification system.

Risk classification can affect and be affected by many actuarial activities, such as the setting of rates, contributions, reserves, benefits, dividends, or experience refunds; the analysis or projection of quantitative or qualitative experience or results; underwriting actions; and developing assumptions, for example, for pension valuations or optional forms of benefits. This standard applies to actuaries when performing such activities to the extent such activities directly or indirectly involve designing, reviewing, or changing a risk classification system. This standard also applies to actuaries when performing such activities to the extent that such activities directly or indirectly are likely to have a material effect, in the actuary's professional judgment, on the intended purpose or expected outcome of the risk classification system.

The actuary should satisfy the requirements of applicable law (statutes, regulations, case law, and other legally binding authority) and this standard. However, to the extent applicable law conflicts with this standard, compliance with such applicable law shall not be deemed a deviation from this standard, provided the actuary discloses that the actuarial assignment was performed in accordance with the requirements of such applicable law.

## ASOP No. 12—December 2005

- 1.3 Cross References—When this standard refers to the provisions of other documents, the reference includes the referenced documents as they may be amended or restated in the future, and any successor to them, by whatever name called. If any amended or restated document differs materially from the originally referenced document, the actuary should consider the guidance in this standard to the extent it is applicable and appropriate.
- 1.4 Effective Date—This standard will be effective for any professional service commenced on or after May 1, 2006.

### Section 2. Definitions

The terms below are defined for use in this actuarial standard of practice.

- 2.1 Advice—An actuary’s communication or other work product in oral, written, or electronic form setting forth the actuary’s professional opinion or recommendations concerning work that falls within the scope of this standard.
- 2.2 Adverse Selection—Actions taken by one party using risk characteristics or other information known to or suspected by that party that cause a financial disadvantage to the financial or personal security system (*sometimes referred to as antiselection*).
- 2.3 Credibility—A measure of the predictive value in a given application that the actuary attaches to a particular body of data (predictive is used here in the statistical sense and not in the sense of predicting the future).
- 2.4 Financial or Personal Security System—A private or governmental entity or program that is intended to mitigate the impact of unfavorable outcomes of contingent events. Examples of financial or personal security systems include auto insurance, homeowners insurance, life insurance, and pension plans, where the mitigation primarily takes the form of financial payments; prepaid health plans and continuing care retirement communities, where the mitigation primarily takes the form of direct service to the individual; and other systems, where the mitigation may be a combination of financial payments and direct services.
- 2.5 Homogeneity—The degree to which the expected outcomes within a risk class have comparable value.
- 2.6 Practical—Realistic in approach, given the purpose, nature, and scope of the assignment and any constraints, including cost and time considerations.
- 2.7 Risk(s)—Individuals or entities covered by financial or personal security systems.
- 2.8 Risk Characteristics—Measurable or observable factors or characteristics that are used to assign each risk to one of the risk classes of a risk classification system.

## ASOP No. 12—December 2005

- 2.9 Risk Class—A set of risks grouped together under a risk classification system.
- 2.10 Risk Classification System—A system used to assign risks to groups based upon the expected cost or benefit of the coverage or services provided.

### Section 3. Analysis of Issues and Recommended Practices

- 3.1 Introduction—This section provides guidance for actuaries when performing professional services with respect to designing, reviewing, or changing a risk classification system. Approaches to risk classification can vary significantly and it is appropriate for the actuary to exercise considerable professional judgment when providing such services, including making appropriate use of statistical tools. Sections 3 and 4 are intended to provide guidance to assist the actuary in exercising professional judgment when applying various acceptable approaches.
- 3.2 Considerations in the Selection of Risk Characteristics—Risk characteristics are important structural components of a risk classification system. When selecting which risk characteristics to use in a risk classification system, the actuary should consider the following:

- 3.2.1 Relationship of Risk Characteristics and Expected Outcomes—The actuary should select risk characteristics that are related to expected outcomes. A relationship between a risk characteristic and an expected outcome, such as cost, is demonstrated if it can be shown that the variation in actual or reasonably anticipated experience correlates to the risk characteristic. In demonstrating a relationship, the actuary may use relevant information from any reliable source, including statistical or other mathematical analysis of available data. The actuary may also use clinical experience and expert opinion.

Rates within a risk classification system would be considered equitable if differences in rates reflect material differences in expected cost for risk characteristics. In the context of rates, the word *fair* is often used in place of the word *equitable*.

The actuary should consider the interdependence of risk characteristics. To the extent the actuary expects the interdependence to have a material impact on the operation of the risk classification system, the actuary should make appropriate adjustments.

Sometimes it is appropriate for the actuary to make inferences without specific demonstration. For example, it might not be necessary to demonstrate that persons with seriously impaired, uncorrected vision would represent higher risks as operators of motor vehicles.

## ASOP No. 12—December 2005

- 3.2.2 Causality—While the actuary should select risk characteristics that are related to expected outcomes, it is not necessary for the actuary to establish a cause and effect relationship between the risk characteristic and expected outcome in order to use a specific risk characteristic.
  - 3.2.3 Objectivity—The actuary should select risk characteristics that are capable of being objectively determined. A risk characteristic is objectively determinable if it is based on readily verifiable observable facts that cannot be easily manipulated. For example, a risk classification of “blindness” is not objective, whereas a risk classification of “vision corrected to no better than 20/100” is objective.
  - 3.2.4 Practicality—The actuary’s selection of a risk characteristic should reflect the tradeoffs between practical and other relevant considerations. Practical considerations that may be relevant include, but are not limited to, the cost, time, and effort needed to evaluate the risk characteristic, the ongoing cost of administration, the acceptability of the usage of the characteristic, and the potential usage of different characteristics that would produce equivalent results.
  - 3.2.5 Applicable Law—The actuary should consider whether compliance with applicable law creates significant limitations on the choice of risk characteristics.
  - 3.2.6 Industry Practices—When selecting risk characteristics, the actuary should consider usual and customary risk classification practices for the type of financial or personal security system under consideration.
  - 3.2.7 Business Practices—When selecting risk characteristics, the actuary should consider limitations created by business practices related to the financial or personal security system as known to the actuary and consider whether such limitations are likely to have a significant impact on the risk classification system.
- 3.3 Considerations in Establishing Risk Classes—A risk classification system assigns each risk to a risk class based on the results of measuring or observing its risk characteristics. When establishing risk classes for a financial or personal security system, the actuary should consider and document any known significant choices or judgments made, whether by the actuary or by others, with respect to the following:
- 3.3.1 Intended Use—The actuary should select a risk classification system that is appropriate for the intended use. Different sets of risk classes may be appropriate for different purposes. For example, when setting reserves for an insurance coverage, the actuary may choose to subdivide or combine some of the risk classes used as a basis for rates.

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- 3.3.2 Actuarial Considerations—When establishing risk classes, the actuary should consider the following, which are often interrelated:
- a. Adverse Selection—If the variation in expected outcomes within a risk class is too great, adverse selection is likely to occur. To the extent practical, the actuary should establish risk classes such that each has sufficient homogeneity with respect to expected outcomes to satisfy the purpose for which the risk classification system is intended.
  - b. Credibility—It is desirable that risk classes in a risk classification system be large enough to allow credible statistical inferences regarding expected outcomes. When the available data are not sufficient for this purpose, the actuary should balance considerations of predictability with considerations of homogeneity. The actuary should use professional judgment in achieving this balance.
  - c. Practicality—The actuary should use professional judgment in balancing the potentially conflicting objectives of accuracy and efficiency, as well as in minimizing the potential effects of adverse selection. The cost, time, and effort needed to assign risks to appropriate risk classes will increase with the number of risk classes.
- 3.3.3 Other Considerations—When establishing risk classes, the actuary should (a) comply with applicable law; (b) consider industry practices for that type of financial or personal security system as known to the actuary; and (c) consider limitations created by business practices of the financial or personal security system as known to the actuary.
- 3.3.4 Reasonableness of Results—When establishing risk classes, the actuary should consider the reasonableness of the results that proceed from the intended use of the risk classes (for example, the consistency of the patterns of rates, values, or factors among risk classes).
- 3.4 Testing the Risk Classification System—Upon the establishment of the risk classification system and upon subsequent review, the actuary should, if appropriate, test the long-term viability of the financial or personal security system. When performing such tests subsequent to the establishment of the risk classification system, the actuary should evaluate emerging experience and determine whether there is any significant need for change.
- 3.4.1 Effect of Adverse Selection—Adverse selection can potentially threaten the long-term viability of a financial or personal security system. The actuary should assess the potential effects of adverse selection that may result or have resulted from the design or implementation of the risk classification system. Whenever the effects of adverse selection are expected to be material, the actuary should, when

## ASOP No. 12—December 2005

practical, estimate the potential impact and recommend appropriate measures to mitigate the impact.

- 3.4.2 Risk Classes Used for Testing—The actuary should consider using a different set of risk classes for testing long-term viability than was used as the basis for determining the assigned values if this is likely to improve the meaningfulness of the tests. For example, if a risk classification system is gender-neutral, the actuary might separate the classes based on gender when performing a test of long-term viability.
- 3.4.3 Effect of Changes—If the risk classification system has changed, or if business or industry practices have changed, the actuary should consider testing the effects of such changes in accordance with the guidance of this standard.
- 3.4.4 Quantitative Analyses—Depending on the purpose, nature, and scope of the assignment, the actuary should consider performing quantitative analyses of the impact of the following to the extent they are generally known and reasonably available to the actuary:
- a. significant limitations due to compliance with applicable law;
  - b. significant departures from industry practices;
  - c. significant limitations created by business practices of the financial or personal security system;
  - d. any changes in the risk classes or the assigned values based upon the actuary's determination that experience indicates a significant need for a change; and
  - e. any expected material effects of adverse selection.
- 3.5 Reliance on Data or Other Information Supplied by Others—When relying on data or other information supplied by others, the actuary should refer to ASOP No. 23, *Data Quality*, for guidance.
- 3.6 Documentation—The actuary should document the assumptions and methodologies used in designing, reviewing, or changing a risk classification system in compliance with the requirements of ASOP No. 41, *Actuarial Communications*. The actuary should also prepare and retain documentation to demonstrate compliance with the disclosure requirements of section 4.1.

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### Section 4. Communications and Disclosures

- 4.1 Communications and Disclosures—When issuing actuarial communications under this standard, the actuary should refer to ASOP Nos. 23 and 41. In addition, the actuarial communications should disclose any known significant impact resulting from the following to the extent they are generally known and reasonably available to the actuary:
- a. significant limitations due to compliance with applicable law;
  - b. significant departures from industry practices;
  - c. significant limitations created by business practices related to the financial or personal security system;
  - d. a determination by the actuary that experience indicates a significant need for change, such as changes in the risk classes or the assigned values; and
  - e. expected material effects of adverse selection.

The actuarial communications should also disclose any recommendations developed by the actuary to mitigate the potential impact of adverse selection.

- 4.2 Prescribed Statement of Actuarial Opinion—This ASOP does not require a prescribed statement of actuarial opinion (PSAO) as described in the *Qualification Standards for Prescribed Statements of Actuarial Opinion* promulgated by the American Academy of Actuaries. However, law, regulation, or accounting requirements may also apply to an actuarial communication prepared under this standard, and as a result, such actuarial communication may be a PSAO.
- 4.3 Deviation from Standard—The actuary must be prepared to justify to the actuarial profession's disciplinary bodies, or to explain to a principal, another actuary, or other intended users of the actuary's work, the use of any procedures that depart materially from those set forth in this standard. If a conflict exists between this standard and applicable law or regulation, compliance with applicable law or regulation is not considered to be a deviation from this standard.

**EXHIBIT C18**



# ACTUARIAL STANDARDS BOARD

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**Actuarial Standard  
of Practice  
No. 41**

**Actuarial Communications**

**Supersedes Interpretative Opinion No. 3**

**Developed by the  
General Committee of the  
Actuarial Standards Board**

**Adopted by the  
Actuarial Standards Board  
March 2002**

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**(Doc. No. 086)**

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March 2002

**TO:** Members of Actuarial Organizations Governed by the Standards of Practice of the Actuarial Standards Board and Other Persons Interested in Actuarial Communications

**FROM:** Actuarial Standards Board (ASB)

**SUBJ:** Actuarial Standard of Practice (ASOP) No. 41

This booklet contains the final version of ASOP No. 41, *Actuarial Communications*.

### Background

This ASOP supersedes Interpretative Opinion No. 3, *Professional Communications of Actuaries*. Two exposure drafts of this actuarial standard of practice were presented.

### First Exposure Draft

The first exposure draft was issued in November 1998, with a comment deadline of March 1, 1999 (this exposure draft is available from the ASB office). The General Committee of the ASB carefully considered the twenty-three comment letters received and made certain changes.

### Coordination with the *Code of Professional Conduct*

At the same time that the General Committee of the ASB was reviewing the comment letters received on the first exposure draft, the Joint Committee on the Code of Professional Conduct was developing proposed revisions to the *Code of Professional Conduct*, including requirements with respect to actuarial communications. The second exposure draft of this proposed ASOP was deliberately delayed for over a year until the revised *Code of Professional Conduct* was adopted. It is very important that any standard of practice not conflict with the *Code of Professional Conduct* (which applies to practice in all countries, whereas actuarial standards of practice promulgated by the ASB are specific to practice in the United States). To prevent inconsistency between this proposed ASOP and the newly adopted *Code of Professional Conduct*, representatives of the General Committee and of the Joint Committee on the Code of Professional Conduct met in January 2000 to discuss the proposed ASOP and what was then the proposed new *Code of Professional Conduct*.

The new *Code of Professional Conduct* was adopted by the five U.S.-based organizations representing actuaries, effective January 1, 2001, enabling the General Committee to proceed

with the second exposure draft.

### Second Exposure Draft

The second exposure draft of this ASOP was issued in March 2001, with a comment deadline of September 15, 2001. Eighteen comment letters were received. Many commentators agreed with the changes made to the first draft. Most of the comments made with respect to the second draft dealt with language details. The General Committee carefully considered all comments received and made clarifying changes to the language in several sections. For a summary of the substantive issues contained in the second exposure draft comment letters and the committee's responses, please see appendix 2.

The most significant changes from the second exposure draft were as follows:

1. Earlier iterations of the *Code of Professional Conduct* and the proposed standard made reference to "direct" and "indirect users." The new *Code of Professional Conduct* uses only the term "principal." The committee revised the proposed standard to be consistent with the new *Code of Professional Conduct's* terminology, and added definitions of "intended audience" and "other user."
2. Several commentators suggested the standard should apply to oral as well as written communications, while others felt that oral communications should be excluded. To conform with the new *Code of Professional Conduct*, the committee expanded the scope of the proposed standard to apply to oral communications as well as written ones. Further, the committee expanded the standard to provide additional guidance for specific types of actuarial communications, including the requirement that significant actuarial findings be in written or electronic form.

The General Committee thanks everyone who took the time to contribute the particularly helpful comments and suggestions on both exposure drafts.

The General Committee would also like to thank former members Donald F. Behan, Robert V. Deutsch, Bruce D. Moore, Patricia L. Scahill, Lee R. Steeneck, Robert W. Stein and Paul B. Zeisler for their contributions to this standard.

The ASB voted in March 2002 to adopt this standard.

General Committee of the ASB

William C. Cutlip, Chairperson

William Carroll	Donna C. Novak
Janet M. Carstens	William H. Odell
Ethan E. Kra	Robert A. Potter

Actuarial Standards Board

William C. Koenig, Chairperson

Ken W. Hartwell	Alan J. Stonewall
Roland E. King	Karen F. Terry
Michael A. LaMonica	William C. Weller
Heidi Rackley	Robert E. Wilcox

# ACTUARIAL STANDARD OF PRACTICE NO. 41

## ACTUARIAL COMMUNICATIONS

(Supersedes Interpretative Opinion No. 3)

### STANDARD OF PRACTICE

#### Section 1. Purpose, Scope, Cross References, and Effective Date

- 1.1 Purpose—This actuarial standard of practice (ASOP) provides guidance to actuaries with respect to written, electronic, or oral actuarial communications. It supersedes Interpretative Opinion No. 3, *Professional Communications of Actuaries* (adopted 1970, revised 1981).
- 1.2 Scope—This standard applies to actuaries issuing actuarial communications. However, when the actuary is providing testimony in a regulatory, judicial, or legislative environment, the actuary's ability to satisfy the requirements of this standard may be limited by the constraints of that forum. When providing testimony in such a forum, the guidance in this standard nevertheless applies to the actuary to the extent practicable in the particular circumstances.
- 1.3 Cross References—When this standard refers to the provisions of other documents, the reference includes the referenced documents as they may be amended or restated in the future, and any successor to them, by whatever name called. If any amended or restated document differs materially from the originally referenced document, the actuary should consider the guidance in this standard to the extent it is applicable and appropriate.
- 1.4 Effective Date—This standard will be effective for any actuarial communication dated or occurring on or after July 15, 2002.

#### Section 2. Definitions

The terms below are defined for use in this actuarial standard of practice.

- 2.1 Actuarial Communication—A written, electronic, or oral communication to a principal or member of the intended audience by an actuary with respect to actuarial services.
- 2.2 Actuarial Findings—The results of the actuary's work, i.e., the actuary's professional conclusions, recommendations, or opinions.
- 2.3 Actuarial Report—A written or electronic presentation prepared as a formal means of conveying the actuary's findings that records and communicates the actuary's methods, procedures, and assumptions. Unless so designated by the actuary, communications such as

the following are not actuarial reports:

- a. transcripts or summaries of an oral communication of actuarial findings;
  - b. internal communications, for example within a company, organization, firm, or government agency; and
  - c. communications, during the course of an assignment, among those providing actuarial services.
- 2.4 Actuarial Services—Services provided to a principal by one acting as an actuary. Such services include the rendering of advice, recommendations, findings, or opinions based upon actuarial considerations.
- 2.5 Intended Audience—The persons to whom the actuarial communication is directed and with whom the actuary, after discussion with the principal, intends to communicate. Unless otherwise specifically agreed, the principal is always a member of the intended audience. In addition, other persons or organizations, such as regulators, policyholders, plan participants, investors, or others, may be designated by the principal, with consent of the actuary, as members of the intended audience.
- 2.6 Other User—Any user of an actuarial communication who is not a principal or member of the intended audience.
- 2.7 Principal—The actuary’s client or employer. In situations where the actuary has both a client and an employer, as is common for consulting actuaries, the facts and circumstances will determine which is the principal. When the actuary is issuing actuarial communications directly to the external client, the client will generally be the principal. When the actuary is working in an internal capacity and someone other than the actuary is communicating the results of the actuary’s work to the client, for example, where such communication by others is primarily concerned with nonactuarial matters, the actuary’s employer will generally be the principal. In this latter case, any actuary who subsequently communicates to the client will be guided by this standard.

### Section 3. Analysis of Issues and Recommended Practices

- 3.1 General Requirements for Actuarial Communications—The completion of a specific actuarial engagement or assignment typically requires significant and ongoing communications between the principal and the actuary regarding the following: the scope of the requested work; the methods, assumptions, data, and other information required to complete the work; and the development of the actuarial communication of the actuary’s work product. The requirements of this standard should be applied to the cumulative communications with respect to each specific engagement or assignment so that all of the

communications, taken together, satisfy this standard even though individual communications may not.

- 3.1.1 Principal and Scope of Engagement—The actuarial communication should, as appropriate, identify the principal(s) for whom the actuarial findings are made and should make clear the scope of the assignment, including any limitations or constraints.
- 3.1.2 Form and Content—The actuary should take appropriate steps to ensure that the form and content of the actuarial communication are clear and appropriate to the particular circumstances, taking into account the intended audience. To accomplish these actuarial communication objectives, the actuary should consider whether such actuarial communication should be made in an actuarial report. Factors to consider in making such a determination include the complexity of the actuarial engagement or assignment; the actuary’s perception of the significance of the actuarial findings; and relevant communication guidance in other ASOPs. Information included in previous actuarial communications that are available to the intended audience may be incorporated by reference, by the actuary, into an actuarial communication issued under this standard.
- 3.1.3 Timing of Communication—The actuary should issue an actuarial communication within a reasonable period following completion of the actuarial analysis underlying the engagement, assignment, or other work product, unless other arrangements, mutually satisfactory to the parties, have been made.
- 3.1.4 Identification of Responsible Actuary—The actuary issuing an actuarial communication should ensure that the actuarial communication clearly identifies the actuary as being responsible for it whenever that responsibility is not already apparent. When two or more actuaries jointly issue an actuarial communication, the communication should identify all responsible actuaries. The name of an organization with which each actuary is affiliated also may be included in the communication, but the actuary’s responsibilities are not affected by such identification.
- 3.1.5 Non-Independence—An actuary who is not financially and organizationally independent concerning any matter related to the subject of an actuarial communication should disclose in the actuarial communication any pertinent relationship that is not apparent. However, the disclosure is limited in accordance with Precept 6 of the *Code of Professional Conduct* to sources of material compensation that are known to or are reasonably ascertainable by the actuary.
- 3.1.6 Reliance on Other Sources—An actuary who makes an actuarial communication assumes responsibility for it except to the extent the actuary disclaims responsibility by stating reliance on other sources. Reliance on other sources means making use of

those sources without assuming responsibility therefor. An actuarial communication making use of any such reliance should define the extent of reliance, for example by stating whether or not checks as to reasonableness have been applied. An actuary may rely upon other sources for information except where limited or prohibited by applicable standards of practice or law or regulation.

- 3.1.7 Advocacy—When the actuary acts, or may appear to be acting, as advocate for a principal, the nature of that relationship, unless readily apparent, should be disclosed in the actuarial communication.
  - 3.1.8 Methods or Assumptions Prescribed by a Principal—If the actuary performs a service using methods or assumptions prescribed by a principal, the actuary should disclose the source of the prescribed methods or assumptions in the actuarial communication.
  - 3.1.9 Obligations Imposed by Law, Regulation, or Another Profession’s Requirements—When methods or assumptions are prescribed by law, regulation, or another profession’s requirements, the actuary should disclose that his or her work has been performed in compliance with such requirements unless this is apparent from the form and content of the communication.
- 3.2 Actuarial Communication Requirements within Other Applicable ASOPs—This general standard on actuarial communications establishes minimum requirements for all such communications. If other ASOPs contain communication requirements that are additional to or inconsistent with this standard, the requirements of such other ASOPs supersede the requirements of this ASOP. Any disclosures or additional communication requirements imposed by this standard that are not inconsistent with such ASOPs should be included in the actuarial communication.
- 3.3 Requirements for Specific Types of Actuarial Communications—The following sections give the actuary guidance regarding specific types of actuarial communications.
- 3.3.1 Oral Communications—The actuary’s oral communications should not conflict with the actuary’s written or electronic communications of related actuarial findings.
  - 3.3.2 Communication of Significant Actuarial Findings—Actuarial findings that the actuary considers to be significant should be in written or electronic form, and when appropriate, they should be incorporated into an actuarial report, unless otherwise agreed to by the principal and the actuary.
  - 3.3.3 Actuarial Report—In addition to the actuarial findings, an actuarial report should identify the data, assumptions, and methods used by the actuary with sufficient clarity that another actuary qualified in the same practice area could make an objective appraisal of the reasonableness of the actuary’s work as presented in the

actuary's report. To the extent the data, assumptions, and methods used have been described in a previous actuarial report that is available to the intended audience, the actuary may, if appropriate under the circumstances, incorporate this information by reference into the actuarial report.

- 3.4 Prescribed Actuarial Communications—Law, regulation, or another profession's standards may prescribe the form and content of a particular actuarial communication (such as a preprinted government form). In such situations, compliance with the applicable law, regulation, or standard, and with any practice-specific ASOP governing the actuarial services that are the subject of the actuarial communication shall be deemed in compliance with this standard.
- 3.5 Responsibilities to Other Users—The following sections give the actuary guidance regarding the use of actuarial communications by other users and the actuary's responsibility to such other users.
- 3.5.1 Use of Actuarial Communications by Others—An actuarial communication may be used in a way that may influence persons who are not part of the intended audience. The actuary should recognize the risks of misquotation, misinterpretation, or other misuse of such communication and should take reasonable steps to ensure that the actuarial communication is clear and presented fairly. To help prevent misuse, the actuary may include language in the actuarial communication, which may limit its distribution to other users, for example, by stating that it may only be provided to such parties in its entirety or only with the actuary's consent.
- 3.5.2 No Obligation to Communicate with Other Users—Nothing in this standard creates an obligation for the actuary to communicate with any person other than the intended audience.
- 3.6 Documentation—The actuary should create records and other appropriate documentation supporting an actuarial communication and, to the extent practicable, should take reasonable steps to ensure that this documentation will be retained for a reasonable period of time (and no less than the length of time necessary to comply with any statutory, regulatory, or other requirements). The actuary need not retain the documentation personally; for example, the actuary's employer may retain it. Such documentation should identify the data, assumptions, and methods used by the actuary with sufficient clarity that another actuary qualified in the same practice area could evaluate the reasonableness of the actuary's work. Unless the actuary has issued an actuarial report that reasonably satisfies the need for documentation, such documentation should also be available to the principal.

#### Section 4. Communications and Disclosures

- 4.1 Prescribed Statement of Actuarial Opinion—This ASOP does not require a prescribed statement of actuarial opinion (PSAO) as described in the *Qualification Standards for Prescribed Statements of Actuarial Opinion*, promulgated by the American Academy of Actuaries. However, law, regulation, or accounting requirements may also apply to an actuarial communication prepared under this standard, and as a result, such actuarial communication may be a PSAO.
- 4.2 Deviation from Standard—An actuary must be prepared to justify the use of any procedures that depart materially from those set forth in this standard. If a conflict exists between this standard and applicable law or regulation, compliance with applicable law or regulation is not considered to be a deviation from this standard.

**EXHIBIT C19**

**State:** California **Filing Company:** Mid-Century Insurance Company  
**TOI/Sub-TOI:** 19.0 Personal Auto/19.0001 Private Passenger Auto (PPA)  
**Product Name:** A-CA-2008-PA-F  
**Project Name/Number:** Private Passenger Auto Class Plan Filing/ACA0801-405120

## Filing at a Glance

Company: Mid-Century Insurance Company  
Product Name: A-CA-2008-PA-F  
State: California  
TOI: 19.0 Personal Auto  
Sub-TOI: 19.0001 Private Passenger Auto (PPA)  
Filing Type: Auto Class Plan  
Date Submitted: 08/06/2008  
SERFF Tr Num: FARM-125764656  
SERFF Status: Closed-Approved  
State Tr Num: 08-11149  
State Status: Approved  
Co Tr Num: ACA0801-405120

Effective Date: 04/01/2009  
Requested (New):  
Effective Date: 04/01/2009  
Requested (Renewal):  
Author(s): Jeanette Campion, Chris SalvaCruz  
Reviewer(s): Polly Chan (primary), Kam Fong  
Disposition Date: 08/04/2009  
Disposition Status: Approved  
Effective Date (New):  
Effective Date (Renewal):

Mid-Century Insurance Company California Auto Premium Calculation Worksheet Using Base Rates and Relativity Tables October 1, 2009 Rates										
Rating Variable	Value	BIPD	UMBI	UMPD	Med Pay	Comp	Coll	Loss of Use	Towing	Total
Limit / Deductible Value		100/300/50	30/60	C-2	5000 Reg.	\$100	\$250	No Cov.	No Cov.	
Base Rate (Group)	Regular	\$296.20	\$20.80	\$5.50	\$53.90	\$22.90	\$111.60	\$0.00	\$0.00	
Limits / Deductible Rel.		1.28	1.38		1.00	1.73	1.33			
Driver Points / Safe Driving Disc	7/N	1.32	1.32	1.32	1.32	1.41	1.41			
Annual Mileage	20,000	1.20	1.19	1.19	1.19	1.20	1.18			
Car Symbol	V					2.14	1.72			
BIPD Symbol	20	1.04								
MED Symbol	20				0.95					
Car Model Year	1993	1.01	1.00	1.00	1.01	0.89	0.82			
High Performance	No	1.00			1.00	1.00	1.00			
Passive Restraint	None				1.00					
Anti Lock Brakes	No	1.00			1.00		1.00			
Electronic Stability Control	No						1.00			
Anti Theft Discount	No					1.00				
Alternative Fuel Vehicle	No	1.00	1.00	1.00	1.00	1.00	1.00	1.0000		
Driver Class	63	0.89	0.98	0.98	1.01	0.93	0.97	0.97		
Student Away at School	No	1.00	1.00	1.00	1.00	1.00	1.00	1.00		
Driver Training	No	1.01	1.00	1.00	1.00	1.01	1.01			
Type of Use	L. Comm.	1.00	1.00	1.00	1.00	1.00	1.00	1.00		
Multi Car	Yes	0.88	0.98	1.00	0.94	0.98	0.92			
Frequency Band Factor	94605	1.00	1.11	1.00	1.14	1.04	1.29			
Severity Band Factor	94605	1.03	1.09	1.00	1.01	1.12	1.05			
Multi-Line	Auto-Home	0.83	0.83	1.00	0.83	0.83	0.83			
Persistency	9	0.97	0.97	1.00	0.97	0.97	0.97			
Good Driver	Yes	0.80	0.80	0.80	0.80	0.80	0.80			
<b>Total Semi Annual Premium</b>		<b>\$330.90</b>	<b>\$33.70</b>	<b>\$6.80</b>	<b>\$57.00</b>	<b>\$88.00</b>	<b>\$273.30</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$789.70</b>
<b>Total Monthly Premium</b>		<b>\$55.20</b>	<b>\$5.60</b>	<b>\$1.10</b>	<b>\$9.50</b>	<b>\$14.70</b>	<b>\$45.60</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$131.70</b>
<b>Total Annual Premium</b>		<b>\$661.80</b>	<b>\$67.40</b>	<b>\$13.60</b>	<b>\$114.00</b>	<b>\$176.00</b>	<b>\$546.60</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,579.40</b>

**EXHIBIT C20**

# 2015 CALIFORNIA P & C MARKET SHARE REPORT

## Line of Business: PRIVATE PASSENGER AUTO LIABILITY [19.2]

Sorted by Market Share

Source: NAIC Database

Licensed companies only

Rec #	Group #	Naic #	Company Name	Written Premium	Market Share	Earned Premium	Incurred Losses	Loss Ratio
1	176	STATE FARM GRP						
		25178	State Farm Mut Auto Ins Co	1,856,290,312	14.1924%	1,827,601,933	1,294,760,578	70.84%
				<b>1,856,290,312</b>	<b>14.1924%</b>	<b>1,827,601,933</b>	<b>1,294,760,578</b>	<b>70.84%</b>
2	69	FARMERS INS GRP						
		21652	Farmers Ins Exch	720,811,418	5.5110%	703,441,975	534,013,268	75.91%
		21687	Mid Century Ins Co	381,102,529	2.9137%	395,369,205	254,550,281	64.38%
		12963	21st Century Ins Co	291,500,526	2.2287%	291,154,338	211,260,073	72.56%
		25089	Coast Natl Ins Co	171,502,027	1.3112%	180,272,533	139,318,928	77.28%
		43699	Farmers Specialty Ins Co	58,621,241	0.4482%	46,675,631	39,821,842	85.32%
		11185	Foremost Ins Co Grand Rapids MI	17,948,200	0.1372%	18,147,177	10,733,231	59.15%
		36404	21st Century Cas Co	11,452,837	0.0876%	10,885,601	8,913,304	81.88%
		34789	21st Century Centennial Ins Co	1,754,702	0.0134%	1,542,491	1,440,510	93.39%
		11800	Foremost Prop & Cas Ins Co	358,369	0.0027%	363,537	204,840	56.35%
				<b>1,655,051,849</b>	<b>12.6538%</b>	<b>1,647,852,488</b>	<b>1,200,256,277</b>	<b>72.84%</b>
3	8	ALLSTATE INS GRP						
		36455	Allstate Northbrook Ind Co	936,943,832	7.1635%	856,906,553	593,140,462	69.22%
		30210	Esurance Prop & Cas Ins Co	153,798,844	1.1759%	152,971,811	97,124,740	63.49%
		10358	Encompass Ins Co	25,373,289	0.1940%	26,019,125	12,441,618	47.82%
		19240	Allstate Ind Co	17,448,252	0.1334%	82,641,893	88,212,798	106.74%
		19232	Allstate Ins Co	12,700,069	0.0971%	23,805,175	27,108,722	113.88%
				<b>1,146,264,286</b>	<b>8.7639%</b>	<b>1,142,344,557</b>	<b>818,028,340</b>	<b>71.61%</b>
4	660	MERCURY GEN GRP						
		27553	Mercury Ins Co	852,722,757	6.5196%	839,658,035	470,222,432	56.00%
		38342	California Automobile Ins Co	250,749,672	1.9171%	247,694,531	154,280,850	62.29%
		13250	Workmens Auto Ins Co	9,587,407	0.0733%	9,473,879	7,776,928	82.09%
		11908	Mercury Cas Co	1,554	0.0000%	1,554	1,665,651	07184.75%
				<b>1,113,061,390</b>	<b>8.5100%</b>	<b>1,096,827,999</b>	<b>633,945,861</b>	<b>57.80%</b>
5	1318	Auto Club Enterprises Ins Grp						
		15598	Interins Exch Of The Automobile Club	1,078,219,588	8.2436%	1,059,670,084	652,173,880	61.54%
				<b>1,078,219,588</b>	<b>8.2436%</b>	<b>1,059,670,084</b>	<b>652,173,880</b>	<b>61.54%</b>
6	31	BERKSHIRE HATHAWAY GRP						
		35882	Geico Gen Ins Co	519,055,925	3.9685%	508,497,226	376,693,677	74.08%
		22055	Geico Ind Co	171,433,593	1.3107%	168,906,132	130,936,229	77.52%
		22063	Government Employees Ins Co	137,844,009	1.0539%	137,095,803	98,102,020	71.56%
		41491	Geico Cas Co	128,178,665	0.9800%	118,585,277	83,594,239	70.49%
		20052	National Liab & Fire Ins Co	1,680,385	0.0128%	1,541,687	1,110,608	72.04%
		25895	United States Liab Ins Co	256	0.0000%	1,049	277	26.41%
				<b>958,192,833</b>	<b>7.3259%</b>	<b>934,627,174</b>	<b>690,437,050</b>	<b>73.87%</b>
7	1278	CSAA Ins Grp						
		15539	CSAA Ins Exch	735,149,127	5.6206%	721,225,327	545,008,023	75.57%
		37770	CSAA Gen Ins Co	27,303,686	0.2088%	25,937,245	13,680,377	52.74%
		10921	CSAA Fire & Cas Ins Co	2	0.0000%	400	343,094	85773.50%
				<b>762,452,815</b>	<b>5.8294%</b>	<b>747,162,972</b>	<b>559,031,494</b>	<b>74.82%</b>

# 2015 CALIFORNIA P & C MARKET SHARE REPORT

## Line of Business: PRIVATE PASSENGER AUTO PHYSICAL DAMAGE [21.1]

Sorted by Market Share

Source: NAIC Database

Licensed companies only

Rec #	Group #	Naic #	Company Name	Written Premium	Market Share	Earned Premium	Incurred Losses	Loss Ratio
1	176		STATE FARM GRP					
		25178	State Farm Mut Auto Ins Co	1,502,637,390	14.7730%	1,460,100,412	997,761,775	68.34%
				<b>1,502,637,390</b>	<b>14.7730%</b>	<b>1,460,100,412</b>	<b>997,761,775</b>	<b>68.34%</b>
2	69		FARMERS INS GRP					
		21652	Farmers Ins Exch	530,189,368	5.2125%	510,521,899	334,100,303	65.44%
		21687	Mid Century Ins Co	279,445,160	2.7473%	286,917,455	138,656,565	48.33%
		12963	21st Century Ins Co	232,136,381	2.2822%	230,146,900	120,883,425	52.52%
		25089	Coast Natl Ins Co	116,659,761	1.1469%	122,911,425	87,295,127	71.02%
		43699	Farmers Specialty Ins Co	40,098,891	0.3942%	31,042,165	26,758,561	86.20%
		11185	Foremost Ins Co Grand Rapids MI	32,734,280	0.3218%	30,622,839	25,888,189	84.54%
		36404	21st Century Cas Co	7,654,071	0.0753%	7,154,010	5,345,563	74.72%
		11800	Foremost Prop & Cas Ins Co	350,987	0.0035%	341,740	127,688	37.36%
				<b>1,239,268,899</b>	<b>12.1837%</b>	<b>1,219,658,433</b>	<b>739,055,421</b>	<b>60.60%</b>
3	8		ALLSTATE INS GRP					
		36455	Allstate Northbrook Ind Co	740,873,310	7.2838%	668,077,221	398,073,558	59.58%
		30210	Esurance Prop & Cas Ins Co	102,788,687	1.0106%	101,518,936	64,055,864	63.10%
		19232	Allstate Ins Co	15,181,653	0.1493%	23,167,904	12,205,405	52.68%
		10358	Encompass Ins Co	14,140,806	0.1390%	14,020,889	8,274,995	59.02%
		19240	Allstate Ind Co	13,716,030	0.1348%	62,517,079	24,349,432	38.95%
				<b>886,700,486</b>	<b>8.7175%</b>	<b>869,302,029</b>	<b>506,959,254</b>	<b>58.32%</b>
4	31		BERKSHIRE HATHAWAY GRP					
		35882	Geico Gen Ins Co	479,320,397	4.7124%	458,855,529	308,762,547	67.29%
		22055	Geico Ind Co	144,010,846	1.4158%	138,498,902	119,464,220	86.26%
		22063	Government Employees Ins Co	127,895,194	1.2574%	124,716,150	75,933,900	60.89%
		41491	Geico Cas Co	105,080,411	1.0331%	93,786,561	51,840,828	55.28%
		25895	United States Liab Ins Co	3,117	0.0000%	10,506	13,654	129.96%
				<b>856,309,965</b>	<b>8.4187%</b>	<b>815,867,648</b>	<b>556,015,149</b>	<b>68.15%</b>
5	660		MERCURY GEN GRP					
		27553	Mercury Ins Co	620,102,083	6.0965%	613,733,864	380,970,366	62.07%
		38342	California Automobile Ins Co	183,285,476	1.8019%	182,487,302	121,117,772	66.37%
		13250	Workmens Auto Ins Co	6,943,753	0.0683%	6,628,648	4,237,036	63.92%
				<b>810,331,312</b>	<b>7.9667%</b>	<b>802,849,814</b>	<b>506,325,174</b>	<b>63.07%</b>
6	1318		Auto Club Enterprises Ins Grp					
		15598	Interins Exch Of The Automobile Club	806,857,693	7.9325%	768,883,370	462,212,051	60.11%
				<b>806,857,693</b>	<b>7.9325%</b>	<b>768,883,370</b>	<b>462,212,051</b>	<b>60.11%</b>
7	1278		CSAA Ins Grp					
		15539	CSAA Ins Exch	751,645,490	7.3897%	723,164,377	458,850,295	63.45%
		37770	CSAA Gen Ins Co	16,087,634	0.1582%	14,756,413	10,957,129	74.25%
				<b>767,733,124</b>	<b>7.5479%</b>	<b>737,920,790</b>	<b>469,807,424</b>	<b>63.67%</b>

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**PROOF OF SERVICE**  
**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am a resident of the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 715 Fremont Avenue, Suite A, South Pasadena, CA 91030.

On November 20, 2019, I caused the service of the following document(s) described as:

**SUPPLEMENTAL DECLARATION OF JAY ANGOFF IN SUPPORT OF  
PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

to the person(s) listed on the Service List.

  x   **[By E-MAIL or ELECTRONIC TRANSMISSION VIA CASE ANYWHERE]**  
Pursuant to a court order, I electronically transmitted the document(s) listed above via Case Anywhere to the individual(s) listed on the Service List. The Case Anywhere system sends an e-mail notification of the electronic transmission to the parties and counsel of record who are registered with the Case Anywhere system.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 20, 2019, at South Pasadena, California.

  
\_\_\_\_\_  
Kristina Akopyan

**SERVICE LIST**

<p>1 Peter Kahana, Esq. 2 pkahana@bm.net 3 Jeff Osterwise, Esq. 4 josterwise@bm.net 5 <b>BERGER &amp; MONTAGUE, P.C.</b> 6 1818 Market Street, Suite 3600 7 Philadelphia, PA 19103 8 Tel.: (215) 875-3000 9 Fax: (215) 875-4613 10 11 <i>Attorneys for Plaintiffs</i></p>	<p>James C. Castle, Esq. jcastle@mail.hinshawlaw.com <b>HINSHAW &amp; CULBERTSON, LLP</b> 633 West Fifth Street, 47<sup>th</sup> Floor Los Angeles, CA 90071 Tel.: (213) 614-7343 Fax: (213) 614-7399  <i>Attorneys for Defendants</i> Farmers Insurance Exchange and Mid Century Insurance Co.</p>
<p>9 Andrea Gold, Esq. 10 agold@tzlegal.com 11 <b>TYCKO &amp; ZAVAREEI LLP</b> 12 1828 L Street, NW 13 Washington, DC 20036 14 Tel.: (202) 973-0900 15 Fax: (202) 973-0950 16 17 <i>Attorneys for Plaintiffs</i></p>	<p>Harvey Rosenfield, Esq. harvey@consumerwatchdog.org Pamela Pressley, Esq. pam@consumerwatchdog.org <b>CONSUMER WATCHDOG</b> 6330 San Vicente Blvd, Suite 250 Los Angeles, CA 90048 Tel.: (213) 897-2000 Fax: (213) 897-5775  <i>Attorneys for Consumer Watchdog</i></p>
<p>15 Jay Angoff, Esq. 16 jay.angoff@findjustice.com 17 Cyrus Mehri, Esq. 18 Cyrus@findjustice.com 19 <b>MEHRI &amp; SKALET PLLC</b> 20 1250 Conneticut Ave. NW, Suite 300 21 Washington, DC 2003 22 Tel.: (202) 822-5100 23 Fax: (202) 822-4997 24 25 <i>Attorneys for Plaintiffs</i></p>	<p>Laura Robbins, Esq. laura.robbs@doj.ca.gov Andrea Schoor, Esq. andrea.schoor@doj.ca.gov <b>CALIFORNIA DEPARTMENT OF JUSTICE</b> 300 South Spring Street, Suite 1702 Los Angeles, CA 90013 Tel.: (213) 897-2000 Fax: (213) 897-5775  <i>Attorneys for California Department of Insurance, Dave Jones, in his capacity as Insurance Commissioner of the State of California</i></p>