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**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF CALIFORNIA**

In the Matter of the Rating Practices of

**ALLSTATE INSURANCE COMPANY  
and ALLSTATE INDEMNITY COMPANY,**

Respondents.

File No. NC-2018-00001

**RESPONDENTS' MOTION TO  
COMPEL DISCOVERY AGAINST  
THE CALIFORNIA DEPARTMENT  
OF INSURANCE**

Respondents, Allstate Insurance Co. and Allstate Indemnity Co. (together "Allstate"), pursuant to the Corrected Post-Scheduling Conference Order and CCR § 2614.9, move to compel the California Department of Insurance (the "CDI") to produce documents responsive to Allstate's First Requests for the Production of Documents ("Requests"), and state as follows:

**INTRODUCTION**

In response to Allstate's Requests, the CDI made repetitive blanket objections to every document request and has not produced a single document to Allstate.<sup>1</sup> According to the CDI, because this matter is an investigation of Allstate, the purpose of discovery to collect information

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<sup>1</sup> Copies of Allstate's Requests and the CDI's Responses are attached hereto as Exhibits 1 and 2.

from Allstate, not share information with Allstate. The CDI considers discovery in this matter to be a one-way street.

Allstate agrees that this is in an investigation. However, the CDI has elected to conduct its investigation through a hearing process under a non-compliance matter number, using rules and procedures (including discovery procedures) reserved for enforcement proceedings and, further, has allowed non-governmental entities to “intervene” in this “investigation” as co-investigators with authority to independently demand information from Allstate. Thus, the CDI has transformed a straight forward investigation into a multi-party adversarial hearing in which the CDI and its civilian co-investigators will gather and present evidence, including witnesses (and multiple expert witnesses) subject to cross-examination, to this tribunal which will rely on that evidence in issuing a “proposed decision” to the Commissioner. Having elected to proceed in this manner, the CDI cannot now deny Allstate the opportunity to conduct discovery that will allow Allstate to both examine and challenge whatever evidence may be put forth by the CDI.

### **BACKGROUND OF DISCOVERY DISPUTE**

#### **A. CDI’s Investigation.**

In 2016, the CDI initiated an investigation into whether the rates approved as part of Allstate’s current Class Plans had been selected using certain rating practices described in a bulletin issued by the Commissioner on February 18, 2015 (the “Bulletin”) that concluded that those practices (hereinafter referred to “Price Optimization”) were improper and required any insurer that had used Price Optimization in selecting filed rates to revise and to refile those rates. The CDI explicitly defined “Price Optimization” as “any method of taking into account an individual’s or class’s willingness to pay a higher premium relative to the other individuals or

classes.” The CDI requested that any questions about the Bulletin be directed to Summer Volkmer, Attorney, Legal Division, Rate Enforcement Bureau.

Allstate’s current Class Plans were originally filed with the CDI in September 2011 (California State Tracking Numbers 11-8148; 11-8149) (the “Class Plans”). The Class Plans were reviewed and approved by, among others, Betsy Page and Srinvasa Ramanujam at the CDI and was ultimately accepted by the Consumer Watchdog and its actuarial expert. According to the CDI and Intervenors, the use of price optimization techniques in insurance rating was well understood by that time. Indeed, the document request that the CDI and Stevenson jointly submitted seeks any document that Allstate might have relating even generally to price optimization starting in 2006.

Consumer Watchdog’s review and acceptance of Allstate’s Class Plans arose from the Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation filed on November 14, 2011 in *In the Matter of the Rate and Class Plan Applications*, File Nos. PA-2011-00011 and PA-2011-00013. Consumer Watchdog requested a public hearing to “present and elicit evidence that Allstate uses rating factors and/or rules contained in the Class Plan Filing that appear to violate Proposition 103 and/or the Commissioner’s regulations.” Petition at ¶ 6. According to Consumer Watchdog, the rates sought by Allstate were excessive and, thus, it requested that the CDI order Allstate “to revise its rating factors and/or rules and class plan so that [Allstate’s] rating factors and/or rules do not violate the Insurance Code or the regulations, provide additional explanation and data supporting the changes to base rates by coverages, and take such further corrective action as deemed necessary.” Petition at ¶ 9. Consumer Watchdog retained AIS Risk Consultants, Inc. as an actuarial expert. Allan Schwartz spent over 100 hours performing his review and analysis of Allstate’s filings and the additional material requested

from Allstate, which included information about changes to the Class Plan rating factors and other Class Plan changes that were impacting certain base rates.<sup>2</sup> Allstate provided the information to the CDI and Consumer Watchdog over a period of several months.

On July 16, 2012, the CDI, Consumer Watchdog and Allstate entered into a Stipulation as a “complete and final settlement that resolves all issues between the Parties regarding the Rate Applications and Class Plan Applications.” Stipulation at ¶ 1. Based on the Parties’ agreement, the Class Plans were approved by the CDI, with an effective date of August 6, 2012, and Consumer Watchdog withdrew its Petition.

The CDI’s current decision to re-review the rates previously approved as part of the Class Plans followed its receipt of notice that the United States District Court for the Northern District of California had stayed the *Stevenson* litigation accusing Allstate of using Price Optimization on the ground that the CDI has primary jurisdiction over that issue. The CDI initiated an investigation and sent Allstate a request for certain information. After coming to an accord in July 2016 as to the information that Allstate would provide to the CDI in response to its request, all communication stalled as of September 2016, when Allstate requested that the CDI outline the procedures that would apply if the CDI confirmed that there was no evidence of Allstate’s use of price optimization. After nearly two years of inaction and following an inquiry by the *Stevenson* federal court as to the status of any administrative proceedings, the CDI abandoned its customary approach to investigations into its licensees, declined to move forward in the manner it had begun in 2016, and, instead, issued a Notice that it would conduct its investigation of Allstate via a hearing process.

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<sup>2</sup> In total, AIS Risk Consultants sought over \$76,000 as compensation for its work in connection with Consumer Watchdog’s Petition.

### **B. Stevenson and Consumer Watchdog's Intervention in the CDI's Investigation.**

Despite the clear statutory requirements that investigations be conducted solely by the Commissioner and that investigative proceedings and materials be confidential during the investigation, over Allstate's objections, the Public Advisor has allowed Stevenson and Consumer Watchdog to intervene in the CDI's investigation. Neither Stevenson nor Consumer Watchdog has any investigatory authority. Stevenson is an Allstate auto policyholder who sued Allstate in a putative class action lawsuit seeking damages. She never challenged Allstate's rates with the CDI, and she has absolutely no role or experience as an investigator or with rates and rating-factors. However, her national team of eight lawyers have filed multiple putative class action lawsuits against Allstate in multiple states challenging Allstate's filed rates and demanding damages and fees on similar grounds.

Consumer Watchdog is, as its name suggest, an organization that purports to act for consumers in challenging class plan and rate filings. And, indeed, Consumer Watchdog did just that with respect to Allstate Class Plan. Consumer Watchdog, acting through the same lawyers and actuary that previously reviewed Allstate's Class Plans and found them to be acceptable and consistent with Proposition 103 and California law, seeks not only to conduct a second review of Allstate's filings, but has been the most vociferous voice in encouraging the CDI to prevent Allstate from obtaining any discovery from the CDI, including, not surprisingly, any communications that Consumer Watchdog has had with the CDI about Price Optimization, generally or with respect to this matter.

### **C. Allstate's Discovery Requests.**

Consistent with the narrow scope of the CDI's investigation, Allstate served document requests limited to the narrow issues of Price Optimization, the Class Plans and the CDI's

investigation. This discovery dispute centers on the CDI's present refusal to produce documents on broad and repetitive grounds. The parties have met and conferred over the CDI's objections without any successful resolution. The CDI has not proposed any way in which it would agree to produce responsive information by narrowing the requests. While the CDI indicated on a meet and confer call that it would consider withdrawing certain relevancy objections, the CDI never followed up with Allstate on that consideration.

### ARGUMENT

#### **I. THE CDI SHOULD BE ORDERED TO PRODUCE RESPONSIVE DOCUMENTS.**

The CDI has refused to produce any documents at this time. During the meet and confer call, the CDI took the position that, because this is an investigation, Allstate is not entitled to receive any information or documentation other than such evidence as the CDI (in conjunction with the Intervenors) elects to present at the hearing, because (according to the CDI), investigations do not involve two-way information sharing.

It is the CDI, however, that has determined to conduct its investigation via a hearing and it is the CDI that directed that the hearing be governed by the rules that apply to adversarial non-compliance proceedings and which include discovery regulations that authorize discovery among *all parties*. Having elected to investigate by hearing and to proceed in accordance with those hearing procedures and discovery rights that pertain to adversarial adjudications, the CDI cannot now refuse to comply with those very procedures in order to unfairly prevent Allstate from meaningful participation in the hearing. Allstate is entitled to challenge whatever information the CDI, working with its "co-investigators", might elect to submit as evidence at the hearing. It requires discovery in order to do that.

Allstate's discovery is targeted at issues that are relevant to, and probative of, the subject of this investigation; namely, whether Allstate used Price Optimization in selecting the factors ultimately approved in its Class Plans with the involvement, oversight, and participation of both the CDI and Consumer Watchdog. Presumably, the CDI will seek to introduce evidence of its current review of Allstate's Class Plans for the use of Price Optimization and will seek to take a position as to the kind of activity that falls afoul of the Bulletin and whether Allstate engaged in that activity. Everything that the CDI has reviewed, considered, rejected, and discussed with non-CDI personnel (including the Intervenor) related to its original review of the Class Plans, the negotiated and agreed adjustments to the rates within the Class Plans, the CDI's development of its position as to what constitutes the rating activity that violated California rating laws as stated in the Bulletin, the CDI's interpretations and applications of the Bulletin, and its current review of Allstate's Class Plans are clearly relevant to, and probative of, this investigation into Allstate's rating practices and whether they violate the Bulletin and thus, would be admissible at the hearing.

The Corrected Post-Scheduling Conference Order gives Allstate the right to take the discovery necessary for Allstate to present its case, response and defenses, including discovery depositions and the cross examination of witnesses. The CDI possesses information that may be used by Allstate at the hearing – including information relating to the prior review of the Class Plans by the CDI and Consumer Watchdog which included their granular involvement in revisions to the very rates that they are currently investigating.

Due process demands that Allstate be afforded a reasonable opportunity to be heard, including the opportunity to both present *and rebut evidence*. Accordingly, CDI's blanket relevancy objection because this is an investigation should be denied.

**II. THIS TRIBUNAL SHOULD ORDER CDI TO PRODUCE DISCOVERY ABOUT THE INVESTIGATION, PRICE OPTIMIZATION AND ITS REVIEW, ANALYSIS AND APPROVAL OF THE CLASS PLANS.**

**A. CDI's Investigatory Information Is Relevant.**

Incredibly, the CDI has raised relevancy objections to basic investigatory information that has been (or will be) reviewed, collected, or relied upon for the purposes of this very investigation. For example, citing its relevancy objection, the CDI has refused to produce documents that CDI has “relied on, may rely on, or use to support your position(s) or for any other purpose in this investigatory proceeding.” (Request No. 27). The CDI similarly has refused to produce “statements made by any party pertaining to the subject matter of this investigatory proceeding” (Request No. 23), communications to third parties about the investigation (Request No. 17), and documents received by the CDI from third parties about the investigation. (Request No. 12). Perhaps most egregious is the CDI's relevancy objection to the production of any “documents that reflect, refer to, or relate to any review, comments, communications, investigations or analyses of Allstate's automobile class plans or rate filings for evidence of price optimization.” (Request No. 3).

Documents in the CDI's possession, custody or control that relate to its investigation and whether there was any use of price optimization – either supporting or refuting Allstate's position – are clearly relevant and discoverable. Indeed, even Stevenson admitted that this information is relevant in her responses to Allstate's document requests. *See* Stevenson's Response to Respondents' First Request for the Production of Documents, Request Nos. 3, 4 and 19. The discovery of such information is essential to Allstate's defense in this hearing.



## **B. Discovery Concerning Price Optimization Is Relevant.**

Next, Allstate seeks specific information related to the Commissioner's Bulletin regarding Price Optimization. *See* Request Nos. 4-10 & 12-17. This includes documents or information relating to: (i) the CDI's responses to questions or inquiries received from any person about the Bulletin (Request No. 4), and (ii) interpretive materials given by the CDI to third parties about the Bulletin (Request No. 5), including communications to third parties (including the NAIC) about the remedies identified in the Bulletin and the meaning of "Price Optimization" as defined in the Bulletin (Request Nos. 6, 7, 10).

This investigation focuses on the potential use of Price Optimization in Allstate Class Plans filed in September 2011 and subject to a rate hearing before being approved in July 2012. That term is defined in the Bulletin. Nonetheless, the CDI (and the Intervenors in particular) seem to want to rewrite the definition of "Price Optimization" adopted by the CDI in the Bulletin to include an insurer's consideration of any non-risk based factor as Price Optimization. Given that, Allstate is entitled to discovery with respect to the CDI's development of the definition of Price Optimization as expressed in the Bulletin, its articulation of what it considers to be unlawful Price Optimization in its communications with third-parties, and its interpretation and application of the Bulletin.

For example, in their September 4, 2018 Request for Production of Documents directed to Allstate, the CDI defined Price Optimization as:

"ANY method, INCLUDING predictive modeling, that takes into account the elasticity of demand of ANY individual or class, INCLUDING but not limited to: an individual or class's willingness to pay a higher premium relative to other individuals or classes; the likelihood that an individual or class will purchase a policy from YOU; the likelihood that an individual or class will renew an existing policy from YOU; and the likelihood that an individual or class will purchase a policy from a carrier other than YOU."

In her Responses to Allstate's Requests at page 4, General Objection 12, Stevenson defined Price Optimization as:

any method, including predictive modeling, that takes into account any non-risk-based characteristic of any individual or class, including but not limited to an individual or class's willingness to pay a higher premium relative to other individuals or classes; the likelihood that an individual or class will purchase an Allstate policy; the likelihood that an individual or class will renew an existing Allstate policy; and the likelihood that an individual or class will purchase a policy from a carrier other than Allstate.

This is an investigation as to whether Allstate engaged in Price Optimization and the CDI, its co-investigators, or their expert witnesses should not be permitted to investigate or introduce evidence about any alleged rate selection methods that fall outside of the scope of the definition of illegal Price Optimization as adopted in the Bulletin. However, to the extent that any such testimony is going to be offered by any of them, Allstate is entitled to discovery regarding what they previously considered or referred to as Price Optimization, because such evidence is relevant to the issue to be decided and it also goes directly to the veracity and credibility of the testimony.

**C. Discovery Concerning CDI's Prior Review, Analysis, Stipulation and Approval of Class Plans Is Relevant to the Investigation.**

The CDI previously reviewed and analyzed *the very same* Class Plan filings that are subject to of this investigation. Further, those Class Plan filings were the subject of a rate proceeding captioned *In the Matter of the Rate and Class Plan Applications*, File Nos. PA-2011-00011 and PA-2011-00013, that was commenced by Consumer Watchdog to specifically address the content of Allstate's Class Plan filings. As the CDI's own discovery requests underscore, the use of price optimization as a rate selection tool was clearly known within the industry well before Allstate 2011 filings. Yet, after months of interactions and Allstate's producing

additional information in response to Consumer Watchdog requests, the CDI and Consumer Watchdog concluded that, as revised, Allstate's Class Plans complied with Proposition 103 and California's auto rating laws. That is, the CDI and Consumer Watchdog agreed that Allstate's Class Plans, and the rates selected and rating rules stated in the Class Plans were not excessive, in adequate or unfairly discriminatory. As a result, Allstate's Class Plan was approved.

Price Optimization is not expressly barred by California statutory law or regulation. Rather, as the Bulletin explains, the Commissioner barred Price Optimization because, in his view, rates that are developed using Price Optimization are unfairly discriminatory. However, both the CDI and Consumer Watchdog have previously concluded that Allstate's rates, as indicated in the Class Plan are NOT unfairly discriminatory and, to the contrary, meet the requirements of California's rating laws.

Given that, the scope of what the CDI considered and all materials relating to its approval of Allstate's Class Plans (as revised), as well as the CDI's knowledge of, and consideration of the rate selection methods used by Allstate is clearly relevant, as some or all of the issues currently raised may have already been considered and addressed (either directly or indirectly) in the prior proceeding. Materials in the CDI's files, including its communications with Consumer Watchdog may directly or indirectly address Allstate's alleged use of price optimization. At the very least, it is relevant to questions regarding Allstate's compliance with the law. Such information also may be relevant to the veracity of the positions taken by the CDI and with Allstate.

The CDI's role in connection with the review of Allstate's Class Plans, its position on what constitutes Price Optimization and its related communications with third parties, including Consumer Watchdog, Stevenson or other insurers or insureds, is relevant to Allstate's defense

and ability to rebut the testimony and evidence relied upon by the CDI and the Intervenors. This information goes directly to the scope of the investigation of Allstate's Class Plans.

**D. Evidence Related to Allstate's Jurisdictional Defenses Is Relevant.**

Allstate has raised concerns and objections with the CDI as to the jurisdiction and nature of this investigation. First, going back to when the CDI first notified Allstate of an investigation in May 2016, Allstate sought clarification that the investigation would be kept confidential as required by California law. Allstate has proposed a form of Protective Order that would require all information remain confidential pending the completion of the investigation. Despite sending the CDI and co-investigators its proposal on September 24, 2018, there has been no response. Second, Allstate also has objected to the intervention and participation of Stevenson and Consumer Watchdog as an illegal delegation of investigatory authority. Accordingly, Allstate sought very limited discovery about the confidentiality of investigations (Request No. 11) and the procedures for "a primary jurisdictional referral" that was referred to in the Notice of Hearing. (Request No. 18). Because these jurisdictional defenses are at issue in this hearing, the discovery is relevant and the CDI should be required to provide responsive information to Request Nos. 11 and 18.

**E. CDI's Other Boilerplate Objections Have No Merit.**

The CDI's responses also contain a number of boilerplate objections without any explanation of how they might even apply to the particular Request. Such objections are improper and a misuse of the discovery process. *See Korea Data Sys. Co. v. Superior Court I*, 51 Cal. App. 4th 1513, 1516 ( Cal. Ct. App. 1997) ("the use of 'boiler plate' objections ... may be sanctionable"); *Standon Co. v. Superior Court*, 225 Cal. App. 3d 898, 901 ( Cal. Ct. App. 1990) (construing "vague, ambiguous, and unintelligible" objections as

“‘nuisance’ objection[s], and not as an attempt to justify a complete failure to comply.”). For example, in response to Request Nos. 1-16, 18, 19, 25, and 27, the CDI objects on the grounds that they are overbroad and unduly burdensome. However, the CDI provides no basis or reason for why each of the Requests is overbroad or unduly burdensome. Given that the CDI primarily rests on its relevancy objections, it appears the CDI has done nothing to determine the extent of work needed to locate and produce relevant information. Allstate may be willing to narrow the scope to address the CDI’s objections, but it cannot do so without being provided the underlying reason for the objection.

Next, the CDI’s objections on vagueness and ambiguity (response to Request Nos. 1-20, 22-25, and 27) are baseless and rejected for the same reason: the CDI does not offer any way for which Allstate can try to clarify the Request so as to remove the objection. The CDI should be required to state the specific reason why it cannot understand the request or withdraw the objections.

Finally, the CDI asserts various alleged privileges in response to all 27 Requests. For each response, the CDI does not specify if it has any responsive documents to which a particular privilege is being asserted. Instead, the CDI objects and lists a series of so-called privileges: the attorney-client privilege, work-product doctrine, the common interest doctrine, and the deliberative process and/or the executive privilege. Based on the CDI’s response, it is impossible to know whether there is any basis for the application of any privilege or alleged protection. It is well-settled that “[a] party asserting the privilege must ‘prove the preliminary facts to show that the privilege applies.’” *Citizens for Ceres v. Superior Court of Stanislaus County*, 217 Cal. App. 4th 889, 911 (Cal. Ct. App. 2013) quoting *Mize v. Atchison, Topeka & Santa Fe Railway Co.*, 46 Cal. App. 3d 436, 447 (Cal. Ct. App. 1975). Because the CDI has

failed to meet its burden, the various alleged privileges have not been established and the CDI cannot withhold documents on the basis of a blanket privilege assertion.

To be clear, Allstate is not seeking documents that are shielded by the attorney-client privilege or work-product doctrine. However, the extent to which either may apply requires that the CDI provide additional information from which Allstate and this Tribunal can determine the potential application of such privileges.

With respect to the common interest doctrine and the deliberative process and/or the executive privilege, the CDI similarly has failed to meet its burden of demonstrating why any of those asserted privileges apply to any specific document. As a preliminary matter, it is important to note that the deliberative process and/or executive privilege cannot apply to any document as to which the CDI also asserts protection under the common interest doctrine. Where it applies, the common interest doctrine *only* serves to prevent a waiver of the attorney-client privilege or work product doctrine by the sharing of the document with a third-party to the attorney-client relationship. *See Citizens for Ceres*, 217 Cal. App. 4th at 915. It does not prevent a waiver of the deliberative process and/or executive privilege. Thus, any information as to which the common interest doctrine is asserted necessarily means that any deliberative process and/or executive privilege that may have applied to such documents was waived. Allstate, however, has no basis to assess which documents might fall into which of these buckets because no information about the responsive documents that have been withheld has been provided to Allstate. Because the CDI has failed to meet its initial burden, the privileges asserted by the CDI fail.

The common interest doctrine does not create privilege. Rather, as noted above, it operates only to prevent the disclosure of attorney-client privileged material from waiving the privilege where a qualifying common interest exists. Hence, a party seeking to invoke the doctrine first must establish that the communicated information is protected by the attorney-client privilege or work product doctrine in the first instance. *See Oxy Resources California LLC v. Superior Court*, 115 Cal. App. 4th 874, 890 (Cal. Ct. App. 2004). Assuming, *arguendo*, that the CDI makes that showing (which it has not at this juncture), the CDI then also bears the additional burden of establishing the existence of the common interest such that the disclosure of the document to a third-party outside the attorney-client relationship did not waive the existing privileges.

California does not recognize an independent statutory common interest privilege. *Citizens for Ceres*, 217 Cal. App. 4th at 917. Rather, “in limited situations, the alignment of the parties’ common interests may mean disclosures between them are reasonably necessary to accomplish the purposes for which they are consulting counsel.” *Id.* at 916. Simply because Stevenson’s or Consumer Watchdog’s lawyers have had communications with the CDI does not mean that the common interest doctrine protects all such communications. As cautioned by California courts, merely alleging a common interest “does *not* mean there is ‘an expanded attorney-client relationship encompassing all parties and counsel who share a common interest.’” *Id.* at 914 (quotation omitted, emphasis in original).

*Citizens for Ceres* illustrates the showing that is necessary for the common interest doctrine to apply. There, the Court conducted a fact intensive inquiry of the circumstances and relationship to determine the interests of the parties claiming the common interest, concluding that the city and developer waived any underlying privilege for communications during an

investigatory review period before the project was approved by the city. *Citizens for Ceres*, 217 Cal. App. 4th at 921-22. The Court found that during a review process the law presumes that an agency is neutral and objective and that its interest is in compliance with the law. *Id.* at 917. Here, too, the CDI's interest in the investigation is neutral and objective and its interest is in compliance. As the CDI has pointed out, its "role is primarily investigatory in nature." Response at p. 1. In contrast, Stevenson's interest is that of an Intervenor, who also is the plaintiff in a putative class action lawsuit where she is seeking damages. Stevenson is not neutral and objective and her interest is not simply compliance. Similar to the lack of common interest during the agency review period in *Citizens for Ceres*, here, there is no common interest where the CDI is acting in an "investigatory role."

The CDI and Stevenson are not joint clients. Stevenson's lawyers do not represent the CDI. Consumer Watchdog's lawyers do not represent the CDI. The CDI's lawyers do not represent Stevenson or Consumer Watchdog. Hence, any privilege that could arise respecting their communications can arise (i) only as to materials independently protected by the attorney-client privilege or the work product doctrine and (ii) even then, only if the parties have a qualifying common interest. Here, the CDI has made no showing that every document it is withholding under the common interest doctrine is subject to the attorney client privilege or work product doctrine. More significantly, the common interest doctrine does not save the CDI's sharing of any such privileged documents from effective a waiver of the privilege, because there can be no common interest among the CDI and Intervenors at this investigatory stage.

It is unclear as to whether the CDI is withholding documents under the deliberative/executive privilege. The California Supreme Court has recognized the deliberative process



privilege is intended to “prevent injury to the quality of executive decisions.”<sup>3</sup> *Times Mirror Co.*, 53 Cal. 3d at 1341. The key question in every case is “whether the disclosure of materials would expose an agency’s decision making process in such a way as to discourage candid discussion within the agency and thereby undermine the agency’s ability to perform its functions.” *Labor & Workforce Dev. Agency v. Superior Court of Sacramento County.*, 227 Cal. Rptr. 3d 744, 756 (Cal. Ct. App. 2018) (internal quotations omitted). However, “[n]ot every disclosure which hampers the deliberative process implicates the deliberative process privilege. Only if the public interest in nondisclosure clearly outweighs the public interest in disclosure does the deliberative process privilege spring into existence. The burden is on the Governor to establish the conditions for creation of the privilege.” *Cal. First Amendment Coalition v. Superior Court*, 67 Cal. App. 4th 159, 172-173 (Cal. Ct. App. 1998).

Here, the burden is on the CDI to demonstrate that the public’s interest in nondisclosure in this case clearly outweighs the public’s interest in disclosure. This requires the CDI to identify the Requests as to which the privilege is actually asserted, to confirm that the CDI has not waived the privilege by sharing the documents in question, and to demonstrate a public interest in nondisclosure that justifies the application of the privilege. The CDI has done none of those things.

Further, while there are conceivably historic materials as to which a deliberative privilege could apply, no action being taken by the CDI in this matter can enjoy that privilege given the participation of Intervenors. Beyond the fact that that deliberative privilege assumes the

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<sup>3</sup> The California Supreme Court has treated these privileges as one and the same so for the purposes of this discussion, only the term deliberative process privilege will be addressed. See *Times Mirror Co. v. Superior Court*, 53 Cal. 3d 1325, n. 10 (Cal. Ct. App. 1991) (acknowledging that the terms “executive privilege” and “deliberative process privilege” refer to the same concept and using the terms interchangeably in the opinion).


confidential and private deliberation of the executive (which cannot occur in the presence of the Intervenor) the mere fact that the CDI invited Stevenson and welcomed Consumer Watchdog as its co-investigators constitutes the acknowledgment by the CDI that the public has an interest in the disclosure of its decision making and proceedings. Because the CDI cannot satisfy its burden to establish the existence of a deliberative process, its objections on those grounds should be withdrawn and it should produce any documents withheld on the basis of that privilege.

**CONCLUSION**

For the foregoing reasons, Allstate respectfully requests that this Tribunal grant Allstate's Motion to Compel and require CDI to produce all documents responsive to Allstate's First Set of Requests for Production.

DATE: November 2, 2018

DLA PIPER LLP

By:   
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MIKE O'DAY, Esq.  
Attorneys for Allstate Insurance Company and  
Allstate Indemnity Company

**ORDER**

Upon consideration of Respondents' Motion Compel Discovery Against the CDI; the Tribunal having reviewed the Motion and any opposition thereto, and having determined that granting the relief requested is just and proper, and that good and sufficient cause appearing therefore, IT IS HEREBY ORDERED:

1. The Motion is GRANTED.

2. CDI shall within 10 business days of the entry of this ORDER, complete its production of any and all documents in its possession, custody, or control that are responsive to the subpoena identified in the Motion and over which CDI does not claim any privilege or protection against production to Respondents.

3. CDI shall within 30 days of entry of this ORDER, produce to Respondents a log of any and all documents in its possession custody, or control that are responsive to the subpoena identified in the Motion and that it withholds from Respondents on the basis of any privilege or protection. Such privilege log shall include, for each document contained therein, sufficient information to enable Respondents to test the validity of the claim of privilege or protection.

DATE: \_\_\_\_\_

\_\_\_\_\_  
ADMINISTRATIVE LAW JUDGE,  
CALIFORNIA DEPARTMENT OF INSURANCE

# **EXHIBIT 1**

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In the Matter of the rating practices of

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**ALLSTATE INSURANCE COMPANY  
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**RESPONDENTS' FIRST REQUESTS  
FOR THE PRODUCTION OF  
DOCUMENTS TO THE CALIFORNIA  
DEPARTMENT OF INSURANCE**

Respondents, Allstate Insurance Co. and Allstate Indemnity Co. (together, "Allstate"), by their attorneys, DLA Piper LLP (US), in accordance with the August 23, 2018 Post-Scheduling Conference Order and the following instructions and definitions, request that the California Department of Insurance respond to these Requests and produce the following documents and things for copying and inspection at the offices of DLA Piper LLP (US), 555 Mission Street, Suite 2400, San Francisco, CA 94105-2933, or as otherwise agreed to by the parties, on or before October 4, 2018. Although these Requests seek answers as of the date of

the response to them, they are continuing in nature so that any additional information responsive to these Requests that you acquire or that becomes known to you shall be furnished to Allstate promptly after such information is acquired or becomes known.

### **INSTRUCTIONS AND DEFINITIONS**

The following definitions and instructions are applicable to all requests herein:

A. The term “document” shall have the broadest meaning under the California Evidence Code section 250 and includes any written, printed, typed, recorded, or graphic matter, however produced, reproduced or stored, in the actual or constructive possession, custody or control of the party served with these requests, including, but not limited to, work papers, summaries, records, correspondence, memoranda, handwritten notes, records or summaries of negotiations, records or summaries of interviews or conversations, audio or video recordings, photographs, corporate minutes, diaries, telephone logs, schedules, drawings, statistical statements, discs, data cards, films, data processing files, computer printouts and other computer readable records, and all drafts and modifications thereof, and all non-identical copies of any such items. Any such document bearing on any sheet or part thereof, any marks such as initials, stamped indices, comments or notations or any character or characters which are not part of the signed text or photographic reproduction thereof is to be considered a separate document. Where there is any question about whether a tangible item otherwise described in these requests falls within the definition of “documents,” such tangible items shall be produced.

B. “Allstate” means Allstate Insurance Co. and Allstate Indemnity Co., and each of their agents, employees, representatives, predecessors, successors or others acting on their behalf.

C. “You,” “Your,” “CDI,” or the “Department” means the California

Department of Insurance, its present and former council, officers, directors, members, commissioner, agents, consultants, managers, subsidiaries, affiliates, employees, representatives, groups, divisions, attorneys, predecessors, successors or others acting on its behalf.

D. “Stevenson” means putative intervenor Andrea Stevenson and her present and former agents, consultants, representatives, attorneys, or others acting on her behalf.

E. The term “person” shall mean and refer to a natural person or any business, firm, association, organization, partnership, business, trust, limited liability company, corporation or public entity.

F. The term “2015 Bulletin” means the February 18, 2015 “Notice Regarding Unfair Discrimination in Rating: Price Optimization” issued by the Department to Property & Casualty Insurers Doing Business in California.

G. The term “Notice of Hearing” means the Notice of Hearing issued to Allstate by the Department on April 27, 2018.

H. The term “Department’s investigation” means the CDI’s investigatory hearing set forth in the Notice of Hearing.

I. The term “Stevenson lawsuit” means the case captioned *Andrea Stevenson v. Allstate Ins. Co. and Allstate Indemnity Co.*, Case No. 15-cv-04788 (N.D. Cal.).

J. If the party served with these requests claims that any document requested herein is privileged, constitutes attorney’s work product, or is withheld on any other ground, you shall provide the undersigned counsel with the following information:

(a) Sufficient information about the identity, nature or any subject matter of the document so that the propriety of the claim of privilege may be presented for determination by the Court;

(b) The date of the document or portion of the document to which that stated privilege is said to apply;

(c) The basis for asserting the claim of privilege, and the precise ground on which the document is withheld;

(d) The full name and job title for each author, addressee, recipient (or person copied) on the document;

(e) The source of the document;

(f) Attachments to the document; and

(g) The number of pages comprising the document.

### **DOCUMENTS TO BE PRODUCED**

#### **REQUEST NO. 1**

All documents that reflect, refer to, or relate to your review, analysis, comments or approval of Allstate's personal automobile class plans or rate filings since January 1, 2011.

#### **REQUEST NO. 2**

All communications between you and any person, including Allstate, that reflect, refer to, or relate to the review, analysis, comments or approval of Allstate's personal automobile class plans or rate filings since January 1, 2011.

#### **REQUEST NO. 3**

All documents that reflect, refer to, or relate to any review, comments, communications, investigation or analyses of Allstate's automobile class plans or rate filings for evidence of price optimization.

#### **REQUEST NO. 4**

All documents that reflect, refer to, or relate to any questions or inquiries you received from any person about the 2015 Bulletin.

#### **REQUEST NO. 5**

All documents that reflect, refer to, or relate to any interpretive materials about the



meaning or application of the 2015 Bulletin.

**REQUEST NO. 6**

All documents that reflect, refer to, or relate to the enforcement of the 2015 Bulletin, including, without limitation, any communications regarding the remedies in the 2015 Bulletin.

**REQUEST NO. 7**

All documents that reflect, refer to, or relate to the definition of “Price Optimization” as used in the 2015 Bulletin.

**REQUEST NO. 8**

All documents that reflect, refer to, or relate to any standards, checklists, protocols, training material, policies or procedures for reviewing the personal automobile class plans and/or rate filings for evidence of price optimization and/or compliance with the 2015 Bulletin.

**REQUEST NO. 9**

All documents that reflect, refer to, or relate to how the Department evaluates personal automobile class plans and/or rate filings for evidence of price optimization and/or compliance with the 2015 Bulletin.

**REQUEST NO. 10**

All communications between you and the NAIC that reflect, refer to, or relate to the 2015 Bulletin, price optimization, and any positions reflected in the 2015 Bulletin.

**REQUEST NO. 11**

All communications between you and the NAIC, including, without limitation any Memorandum of Understanding, that reflect, refer to, or relate to any California law, regulation(s) or standard(s) for the confidentiality of investigations.

**REQUEST NO. 12**

All documents received by you that reflect, refer to, or relate to the Stevenson litigation, the Notice of Hearing, the Department's investigation, Allstate, the 2015 Bulletin, price optimization or elasticity of demand.

**REQUEST NO. 13**

All communications between you and Stevenson that reflect, refer to, or relate to the Stevenson litigation, the Notice of Hearing, the Department's investigation, Allstate, the 2015 Bulletin, price optimization or elasticity of demand.

**REQUEST NO. 14**

All communications between you and Jay Angoff that reflect, refer to, or relate to the Stevenson litigation, the Notice of Hearing, the Department's investigation, Allstate, the 2015 Bulletin, price optimization or elasticity of demand.

**REQUEST NO. 15**

All communications between you and J. Robert Hunter and/or the Consumer Federation that reflect, refer to, or relate to the Stevenson litigation, the Notice of Hearing, the Department's investigation, Allstate, the 2015 Bulletin, price optimization or elasticity of demand.

**REQUEST NO. 16**

All communications between you and Consumer Watchdog that reflect, refer to, or relate to the Stevenson litigation, the Notice of Hearing, the Department's investigation, Allstate, the 2015 Bulletin, price optimization or elasticity of demand.

**REQUEST NO. 17**

All communications between you and any person that reflect, refer to, or relate to the Stevenson litigation, the Notice of Hearing, the Department's investigation, Allstate, the 2015

Bulletin, price optimization or elasticity of demand.

**REQUEST NO. 18**

All documents that reflect, refer to, or relate to the procedures applicable to what is referred to in the Notice of Hearing as “a primary jurisdiction referral.”

**REQUEST NO. 19**

The most recent resume or curriculum vitae of each person you intend to call as an expert witness and all reports of each person you intend to call as an expert witness in this investigatory proceeding.

**REQUEST NO. 20**

All documents produced by each person you intend to call as an expert witness at the trial of this matter in connection with his or her assignment in this investigatory proceeding.

**REQUEST NO. 21**

All documents reflecting the opinions and basis thereof for each person you intend to call as an expert witness at the trial of this matter in connection with his or her assignment in this investigatory proceeding.

**REQUEST NO. 22**

All documents provided to, reviewed by or relied upon by each person you intend to call as an expert witness at the trial of this matter in connection with his or her assignment in this investigatory proceeding.

**REQUEST NO. 23**

All statements made by any party pertaining to the subject matter of this investigatory proceeding.

**REQUEST NO. 24**

All statements made by any witnesses proposed to be called at the hearing of this matter relating to the subject matter of this investigatory proceeding.

**REQUEST NO. 25**

All investigative reports made by any person relating to the subject matter of this investigatory proceeding.

**REQUEST NO. 26**

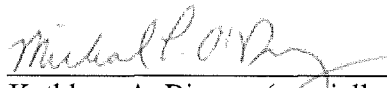
All documents you intend to introduce as evidence at the hearing of this investigatory proceeding.

**REQUEST NO. 27**

All documents not produced in response to the requests above that you have relied on, may rely on, or use to support your position(s) or for any other purpose in this investigatory proceeding.

DATED: September 4, 2018

DLA Piper LLP (US)

By:   
Kathleen A. Birrane (specially appearing)  
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DLA Piper LLP (US)  
The Marbury Building  
6225 Smith Avenue  
Baltimore, Maryland 21209  
(410) 580-3000

Counsel for Respondents  
Allstate Insurance Company and  
Allstate Indemnity Company

I, MICHAEL P. O'DAY, declare that:

I am over the age of 18 years and not a party to the above-referenced matter. On the 4th day of September, 2018, at Baltimore, MD, I emailed and/or sealed into an envelope and deposited for overnight mail, postage thereon fully prepaid, true copies of the following documents in the above-entitled matter:

**RESPONDENTS' FIRST REQUESTS FOR THE PRODUCTION OF DOCUMENTS**

A true copy of each document serviced is attached hereto. Said copies were addressed as follows:

(Via Electronic Mail)  
Jay Angoff, Esq.  
Cyrus Mehri, Esq.  
Christine H. Monahan, Esq.  
Mehri & Skalet, PLLC  
1250 Connecticut Avenue NW, Suite 300  
Washington, DC 20036  
[jay.angoff@findjustice.com](mailto:jay.angoff@findjustice.com)  
[cyrus@findjustice.com](mailto:cyrus@findjustice.com)  
[sskalet@findjustice.com](mailto:sskalet@findjustice.com)  
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Philadelphia, PA 19103  
[pkahana@bm.net](mailto:pkahana@bm.net)  
[josterwise@bm.net](mailto:josterwise@bm.net)

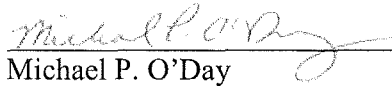
(Via Electronic Mail)  
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Daniel Goodell, Esq.  
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San Francisco, CA 94105  
Robert.Binion@insurance.ca.gov  
Jennifer.McCune@insurance.ca.gov  
Daniel.Goodell@insurance.ca.gov  
Jon.phenix@insurance.ca.gov

I declare under penalty of perjury that the foregoing is true and correct. Executed on  
September 4, 2018 at Baltimore, Maryland.

  
Michael P. O'Day

## **EXHIBIT 2**

1 CALIFORNIA DEPARTMENT OF INSURANCE  
LEGAL DIVISION  
2 RATE ENFORCEMENT BUREAU  
DANIEL M. GOODELL, Bar No. 142502  
3 JENNIFER MCCUNE, Bar No. 160089  
ROBERT BINION, Bar No. 228563  
4 JON PHENIX, Bar No. 307327  
45 Fremont Street, 24th Floor  
5 San Francisco, CA 94105  
Telephone: 415-538-4424  
6 Facsimile: 415-904-5729  
Daniel.Goodell@insurance.ca.gov  
7 Jennifer.McCune@insurance.ca.gov  
Robert.Binion@insurance.ca.gov  
8 Jon.Phenix@insurance.ca.gov

9 Attorneys for The California Department of Insurance

10 **BEFORE THE INSURANCE COMMISSIONER**  
11 **OF THE STATE OF CALIFORNIA**

13 In the Matter of the Rates, Rating Plans, or  
Rating Systems of

14 **ALLSTATE INSURANCE**  
15 **COMPANY and ALLSTATE**  
16 **INDEMNITY COMPANY,**

17 Respondents.

File No. NC-2018-00001

**CDI'S RESPONSES TO RESPONDENTS'  
FIRST REQUESTS FOR THE  
PRODUCTION OF DOCUMENTS**

18  
19 **PRELIMINARY STATEMENT**

20 The California Department of Insurance (hereafter "CDI") hereby submits its responses to  
21 Respondents First Request for Production of Document to CDI ("Requests"). CDI has not  
22 completed the investigation of the facts relating to this matter and has not yet completed  
23 discovery. CDI's role is primarily investigatory in nature. All of the responses contained herein  
24 are based solely upon information and documents which are presently available to, and  
25 specifically known by CDI and disclose only those contentions that presently occur to CDI. It is  
26 anticipated that further discovery, independent investigation, legal research and analysis will  
27 supply additional facts and lead to additions, changes, and variations from the answers herein.



1 The following responses are given without prejudice to the right to produce evidence or  
2 witnesses CDI may later discover. CDI accordingly reserves the right to change any and all  
3 responses herein as additional facts are ascertained, witnesses are identified and legal research is  
4 completed. The responses contained herein are made in a good-faith effort to supply as much  
5 information as is presently known, but should in no way prejudice CDI in relation to further  
6 discovery, research or analysis. The aforementioned statement pertains to and should be  
7 incorporated by reference in each and every response.

8 **GENERAL OBJECTIONS**

9 CDI incorporates the following general objections, as though fully set forth in each of its  
10 responses to Respondents' Requests.

11 1. CDI bases all of its responses upon only such information and documents that are  
12 presently available and known to CDI. CDI reserves its right to respond further to these Requests  
13 and to provide additional evidence of any subsequently discovered information or in rebuttal to  
14 other parties' information.

15 2. CDI objects to each Request to the extent it seeks privileged information including  
16 but not limited to information and documents protected by the attorney-client privilege, the work-  
17 product doctrine, the common-interest doctrine, or other protection. CDI will not produce any  
18 privileged or otherwise protected information or documents.

19 3. CDI objects to each Request to the extent it seeks the notes, work papers, drafts,  
20 and the like of its experts.

21 4. CDI objects to each Request to the extent it seeks information or documents  
22 protected by the deliberative process or executive privilege. (Gov. Code § 1040.) CDI will not  
23 produce any privileged information or documents. (10 CCR § 2614.8(f): "Nothing in this section  
24 shall require any party to disclose information contained in a document that is privileged from  
25 disclosure by law or otherwise made legally confidential or protected as an attorney's work  
26 product.")

27 5. CDI objects to each Request to the extent it seeks documents or information not  
28

1 relevant to the issues to be decided in this proceeding, specifically “(1) whether Allstate has  
2 violated California insurance law by using illegal price optimization; (2) how Allstate  
3 implemented any such illegal price optimization in its rate and/or class plan; and (3) how any  
4 such illegal price optimization impacted Allstate’s policyholders.” See Post-Scheduling  
5 Conference Order, p. 7.

6 6. CDI objects to each Request as overly broad and unduly burdensome and seeking  
7 documents and information not relevant to this proceeding to the extent the Request seeks  
8 documents reflecting the review of class plans, rate filings, and practices of insurers other than  
9 Respondents.

10 7. CDI objects to Allstate’s definition of CDI as overly broad and ambiguous. For  
11 purposes of responding to this Request, CDI will respond on behalf of the California Department  
12 of Insurance.

13 8. CDI objects to the definition of Stevenson as vague, ambiguous regarding who  
14 Stevenson’s “present and former agents, consultants, representatives, attorneys or others acting on  
15 her behalf” are.

16 **REQUEST NO. 1**

17 All documents that reflect, refer to, or relate to your review, analysis, comments or  
18 approval of Allstate’s personal automobile class plans or rate filings since January 1, 2011.

19 **RESPONSE TO REQUEST NO. 1**

20 CDI objects to this Request on the grounds it seeks documents or information not relevant  
21 to the issues to be decided in this proceeding, specifically “(1) whether Allstate has violated  
22 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
23 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
24 optimization impacted Allstate’s policyholders.” See Post-Scheduling Conference Order, p. 7.

25 CDI objects to this Request as vague, ambiguous, overly broad and unduly burdensome  
26 with regard to the phrase “relate to” as used herein.

27 CDI objects to this Request to the extent it seeks experts’ working papers or documents

28

1 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
2 doctrine, the deliberative process and/or the executive privilege.

3 CDI objects to this Request to the extent that it seeks documents that are publicly  
4 available or otherwise equally available to Respondents.

5 **REQUEST NO. 2**

6 All communications between you and any person, including Allstate, that reflect, refer to,  
7 or relate to the review, analysis, comments or approval of Allstate's personal automobile class  
8 plans or rate filings since January 1, 2011.

9 **RESPONSE TO REQUEST NO. 2**

10 CDI objects to this Request on the grounds it seeks documents or information not relevant  
11 to the issues to be decided in this proceeding, specifically "(1) whether Allstate has violated  
12 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
13 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
14 optimization impacted Allstate's policyholders." See Post-Scheduling Conference Order, p. 7.

15 CDI objects to this Request as vague, ambiguous, overly broad and unduly burdensome  
16 with regard to the phrase "relate to" as used herein.

17 CDI objects to this Request to the extent it seeks experts' working papers or documents  
18 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
19 doctrine, the deliberative process and/or the executive privilege.

20 CDI objects to this Request to the extent that it seeks documents that are publicly  
21 available or otherwise equally available to Respondents.

22 **REQUEST NO. 3**

23 All documents that reflect, refer to, or relate to any review, comments, communications,  
24 investigation or analyses of Allstate's automobile class plans or rate filings for evidence of price  
25 optimization.

26 **RESPONSE TO REQUEST NO. 3**

27 CDI objects to this Request on the grounds it seeks documents or information not relevant  
28

1 to the issues to be decided in this proceeding, specifically “(1) whether Allstate has violated  
2 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
3 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
4 optimization impacted Allstate’s policyholders.” See Post-Scheduling Conference Order, p. 7.

5 CDI objects to this Request as vague, ambiguous, overly broad and unduly burdensome  
6 with regard to the phrase “relate to” as used herein.

7 CDI objects to this Request as vague, ambiguous, and unintelligible as phrased.

8 CDI objects to this Request as vague, ambiguous and overly broad with regard to time and  
9 scope.

10 CDI objects to this Request to the extent it seeks experts’ working papers or documents  
11 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
12 doctrine, the deliberative process and/or the executive privilege.

13 CDI objects to this Request to the extent that it seeks documents that are publicly  
14 available or otherwise equally available to Respondents.

15 **REQUEST NO. 4**

16 All documents that reflect, refer to, or relate to any questions or inquiries you received  
17 from any person about the 2015 Bulletin.

18 **RESPONSE TO REQUEST NO. 4**

19 CDI objects to this Request on the grounds it seeks documents or information not relevant  
20 to the issues to be decided in this proceeding, specifically “(1) whether Allstate has violated  
21 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
22 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
23 optimization impacted Allstate’s policyholders.” See Post-Scheduling Conference Order, p. 7.

24 CDI objects to this Request as vague, ambiguous and overly broad with regard to the  
25 phrase “relate to” as used herein.

26 CDI objects to this Request to the extent it seeks experts’ working papers or documents  
27 protected by the attorney-client privilege, the work-product doctrine, the common-interest

28

1 doctrine, the deliberative process and/or the executive privilege.

2 CDI objects to this Request to the extent that it seeks documents that are publicly  
3 available or otherwise equally available to Respondents.

4 **REQUEST NO. 5**

5 All documents that reflect, refer to, or relate to any interpretive materials about the  
6 meaning or application of the 2015 Bulletin.

7 **RESPONSE TO REQUEST NO. 5**

8 CDI objects to this Request on the grounds it seeks documents or information not relevant  
9 to the issues to be decided in this proceeding, specifically “(1) whether Allstate has violated  
10 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
11 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
12 optimization impacted Allstate’s policyholders.” See Post-Scheduling Conference Order, p. 7.

13 CDI objects to this Request as vague, ambiguous and overly broad with regard to the  
14 phrases “relate to” and “interpretive materials” as used herein.

15 CDI objects to this Request to the extent it seeks experts’ working papers or documents  
16 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
17 doctrine, the deliberative process and/or the executive privilege.

18 CDI objects to this Request to the extent that it seeks documents that are publicly  
19 available or otherwise equally available to Respondents.

20 **REQUEST NO. 6**

21 All documents that reflect, refer to, or relate to the enforcement of the 2015 Bulletin  
22 including, without limitation, any communications regarding the remedies in the 2015 Bulletin.

23 **RESPONSE TO REQUEST NO. 6**

24 CDI objects to this Request on the grounds it seeks documents or information not relevant  
25 to the issues to be decided in this proceeding, specifically “(1) whether Allstate has violated  
26 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
27 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price

1 optimization impacted Allstate's policyholders." See Post-Scheduling Conference Order, p. 7.

2 CDI objects to this Request as vague, ambiguous and overly broad with regard to the  
3 phrases "relate to" and "enforcement" as used herein.

4 CDI objects to this Request as vague, ambiguous and unintelligible with regard to the  
5 phrase "remedies in the 2015 Bulletin."

6 CDI objects to this Request to the extent it seeks experts' working papers or documents  
7 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
8 doctrine, the deliberative process and/or the executive privilege.

9 CDI objects to this Request to the extent that it seeks documents that are publicly  
10 available or otherwise equally available to Respondents.

11 CDI objects to this Request as overly broad and unduly burdensome and seeking  
12 documents and information not relevant to this proceeding to the extent it seeks documents  
13 reflecting the review of class plans, rate filings, and practices of insurers other than Respondents.

14 **REQUEST NO. 7**

15 All documents that reflect, refer to, or relate to the definition of "Price Optimization" as  
16 used in the 2015 Bulletin.

17 **RESPONSE TO REQUEST NO. 7**

18 CDI objects to this Request on the grounds it seeks documents or information not relevant  
19 to the issues to be decided in this proceeding, specifically "(1) whether Allstate has violated  
20 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
21 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
22 optimization impacted Allstate's policyholders." See Post-Scheduling Conference Order, p. 7.

23 CDI objects to this Request as vague, ambiguous and overly broad with regard to the  
24 phrase "relate to" as used herein.

25 CDI objects to this Request to the extent it seeks experts' working papers or documents  
26 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
27 doctrine, the deliberative process and/or the executive privilege.

28

1 CDI objects to this Request to the extent that it seeks documents that are publicly  
2 available or otherwise equally available to Respondents.

3 **REQUEST NO. 8**

4 All documents that reflect, refer to, or relate to any standards, checklists, protocols,  
5 training material, policies or procedures for reviewing the personal automobile class plans and/or  
6 rate filings for evidence of price optimization and/or compliance with the 2015 Bulletin.

7 **RESPONSE TO REQUEST NO. 8**

8 CDI objects to this Request on the grounds it seeks documents or information not relevant  
9 to the issues to be decided in this proceeding, specifically "(1) whether Allstate has violated  
10 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
11 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
12 optimization impacted Allstate's policyholders." See Post-Scheduling Conference Order, p. 7.

13 CDI objects to this Request as vague, ambiguous and overly broad with regard to the  
14 phrase "relate to" as used herein.

15 CDI objects to this Request to the extent it seeks experts' working papers or documents  
16 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
17 doctrine, the deliberative process and/or the executive privilege.

18 CDI objects to this Request to the extent that it seeks documents that are publicly  
19 available or otherwise equally available to Respondents.

20 CDI objects to this Request as overly broad and unduly burdensome and seeking  
21 documents and information not relevant to this proceeding to the extent it seeks documents  
22 reflecting the review of class plans, rate filings, and practices of insurers other than Respondents.

23 **REQUEST NO. 9**

24 All documents that reflect, refer to, or relate to how the Department evaluates personal  
25 automobile class plans and/or rate filings for evidence of price optimization and/or compliance  
26 with the 2015 Bulletin.

27 ///

28

1     **RESPONSE TO REQUEST NO. 9**

2             CDI objects to this Request on the grounds it seeks documents or information not relevant  
3 to the issues to be decided in this proceeding, specifically “(1) whether Allstate has violated  
4 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
5 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
6 optimization impacted Allstate’s policyholders.” See Post-Scheduling Conference Order, p. 7.

7             CDI objects to this Request as vague, ambiguous and overly broad with regard to the  
8 phrase “relate to” as used herein.

9             CDI objects to this Request to the extent it seeks experts’ working papers or documents  
10 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
11 doctrine, the deliberative process and/or the executive privilege.

12             CDI objects to this Request to the extent that it seeks documents that are publicly  
13 available or otherwise equally available to Respondents.

14             CDI objects to this Request as overly broad and unduly burdensome and seeking  
15 documents and information not relevant to this proceeding to the extent it seeks documents  
16 reflecting the review of class plans, rate filings, and practices of insurers other than Respondents.

17     **REQUEST NO. 10**

18             All communications between you and the NAIC that reflect, refer to, or relate to the 2015  
19 Bulletin, price optimization, and any positions reflected in the 2015 Bulletin.

20     **RESPONSE TO REQUEST NO. 10**

21             CDI objects to this Request on the grounds it seeks documents or information not relevant  
22 to the issues to be decided in this proceeding, specifically “(1) whether Allstate has violated  
23 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
24 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
25 optimization impacted Allstate’s policyholders.” See Post-Scheduling Conference Order, p. 7.

26             CDI objects to this Request as vague, ambiguous and overly broad with regard to the  
27 phrase “relate to” as used herein.



1 CDI objects to this Request to the extent it seeks experts' working papers or documents  
2 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
3 doctrine, the deliberative process and/or the executive privilege.

4 CDI objects to this Request to the extent that it seeks documents that are publicly  
5 available or otherwise equally available to Respondents.

6 **REQUEST NO. 11**

7 All communications between you and the NAIC, including, without limitation any  
8 Memorandum of Understanding, that reflect, refer to, or relate to any California law, regulation(s)  
9 or standard(s) for the confidentiality of investigations.

10 **RESPONSE TO REQUEST NO. 11**

11 CDI objects to this Request on the grounds it seeks documents or information not relevant  
12 to the issues to be decided in this proceeding, specifically "(1) whether Allstate has violated  
13 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
14 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
15 optimization impacted Allstate's policyholders." See Post-Scheduling Conference Order, p. 7.

16 CDI objects to this Request as vague, ambiguous and overly broad with regard to the  
17 phrase "relate to" as used herein.

18 CDI objects to this Request as vague, ambiguous and overly broad as to time and scope.

19 CDI objects to this Request to the extent it seeks experts' working papers or documents  
20 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
21 doctrine, the deliberative process and/or the executive privilege.

22 CDI objects to this Request to the extent that it seeks documents that are publicly  
23 available or otherwise equally available to Respondents.

24 **REQUEST NO. 12**

25 All documents received by you that reflect, refer to, or relate to the Stevenson litigation,  
26 the Notice of Hearing, the Department's investigation, Allstate, the 2015 Bulletin, price  
27 optimization or elasticity of demand.

1 **RESPONSE TO REQUEST NO. 12**

2 CDI objects to this Request on the grounds it seeks documents or information not relevant  
3 to the issues to be decided in this proceeding, specifically “(1) whether Allstate has violated  
4 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
5 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
6 optimization impacted Allstate’s policyholders.” See Post-Scheduling Conference Order, p. 7.

7 CDI objects to this Request as vague, ambiguous and overly broad with regard to the  
8 phrase “relate to” as used herein.

9 CDI objects to this Request as vague, ambiguous with regard to the term “Stevenson  
10 litigation” in light of the defined term “Stevenson lawsuit.”

11 CDI objects to this Request as compound.

12 CDI objects to this Request as overly broad and unduly burdensome on the basis that it  
13 calls for all documents received by CDI that reflect, refer to, or relate to Allstate, price  
14 optimization, or elasticity of demand without limitations as to time or scope.

15 CDI objects to this Request to the extent it seeks experts’ working papers or documents  
16 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
17 doctrine, the deliberative process and/or the executive privilege.

18 CDI objects to this Request to the extent that it seeks documents that are publicly  
19 available or otherwise equally available to Respondents.

20 **REQUEST NO. 13**

21 All communications between you and Stevenson that reflect, refer to, or relate to the  
22 Stevenson litigation, the Notice of Hearing, the Department’s investigation, Allstate, the 2015  
23 Bulletin, price optimization or elasticity of demand.

24 **RESPONSE TO REQUEST NO. 13**

25 CDI objects to this Request on the grounds it seeks documents or information not relevant  
26 to the issues to be decided in this proceeding, specifically “(1) whether Allstate has violated  
27 California insurance law by using illegal price optimization; (2) how Allstate implemented any

1 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
2 optimization impacted Allstate's policyholders." See Post-Scheduling Conference Order, p. 7.

3 CDI objects to this Request as vague, ambiguous and overly broad with regard to the  
4 phrase "relate to" as used herein.

5 CDI objects to this Request as vague, ambiguous with regard to the term "Stevenson  
6 litigation" in light of the defined term "Stevenson lawsuit."

7 CDI objects to this Request as compound.

8 CDI objects to this Request as overly broad and unduly burdensome on the basis that it  
9 calls for all communications between CDI and Stevenson that reflect, refer or relate to Allstate,  
10 price optimization, or elasticity of demand without limitations as to time or scope.

11 CDI objects to this Request as vague and ambiguous regarding Stevenson's "present and  
12 former agents, consultants, representatives, attorneys or others acting on her behalf".

13 CDI objects to this Request to the extent it seeks experts' working papers or documents  
14 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
15 doctrine, the deliberative process and/or the executive privilege.

16 CDI objects to this Request to the extent that it seeks documents that are publicly  
17 available or otherwise equally available to Respondents.

18 CDI objects to this Request as overly broad and unduly burdensome and seeking  
19 documents and information not relevant to this proceeding to the extent it seeks documents  
20 reflecting the review of class plans, rate filings, and practices of insurers other than Respondents.

21 **REQUEST NO. 14**

22 All communications between you and Jay Angoff that reflect, refer to, or relate to the  
23 Stevenson litigation, the Notice of Hearing, the Department's investigation, Allstate, the 2015  
24 Bulletin, price optimization or elasticity of demand.

25 **RESPONSE TO REQUEST NO. 14**

26 CDI objects to this Request on the grounds it seeks documents or information not relevant  
27 to the issues to be decided in this proceeding, specifically "(1) whether Allstate has violated

1 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
2 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
3 optimization impacted Allstate's policyholders." See Post-Scheduling Conference Order, p. 7.

4 CDI objects to this Request as vague, ambiguous and overly broad with regard to the  
5 phrase "relate to" as used herein.

6 CDI objects to this Request as vague, ambiguous with regard to the term "Stevenson  
7 litigation" in light of the defined term "Stevenson lawsuit."

8 CDI objects to this Request as compound.

9 CDI objects to this Request as overly broad and unduly burdensome on the basis that it  
10 calls for all communications between CDI and Jay Angoff that reflect, refer to, or relate to  
11 Allstate, price optimization, or elasticity of demand without limitations as to time or scope.

12 CDI objects to this Request to the extent it seeks experts' working papers or documents  
13 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
14 doctrine, the deliberative process and/or the executive privilege.

15 CDI objects to this Request to the extent that it seeks documents that are publicly  
16 available or otherwise equally available to Respondents.

17 CDI objects to this Request as overly broad and unduly burdensome and seeking  
18 documents and information not relevant to this proceeding to the extent it seeks documents  
19 reflecting the review of class plans, rate filings, and practices of insurers other than Respondents.

20 **REQUEST NO. 15**

21 All communications between you and J. Robert Hunter and/or the Consumer Federation  
22 that reflect, refer to, or relate to the Stevenson litigation, the Notice of Hearing, the Department's  
23 investigation, Allstate, the 2015 Bulletin, price optimization or elasticity of demand.

24 **RESPONSE TO REQUEST NO. 15**

25 CDI objects to this Request on the grounds it seeks documents or information not relevant  
26 to the issues to be decided in this proceeding, specifically "(1) whether Allstate has violated  
27 California insurance law by using illegal price optimization; (2) how Allstate implemented any

1 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
2 optimization impacted Allstate's policyholders." See Post-Scheduling Conference Order, p. 7.

3 CDI objects to this Request as vague, ambiguous and overly broad with regard to the  
4 phrase "relate to" as used herein.

5 CDI objects to this Request as vague, ambiguous with regard to the term "Stevenson  
6 litigation" in light of the defined term "Stevenson lawsuit."

7 CDI objects to this Request as compound.

8 CDI objects to this Request as overly broad and unduly burdensome with regard to all  
9 communications between CDI and J. Robert Hunter and/or Consumer Federation that reflect,  
10 refer to or relate to Allstate, price optimization, or elasticity of demand without limitations as to  
11 time or scope.

12 CDI objects to this Request to the extent it seeks experts' working papers or documents  
13 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
14 doctrine, the deliberative process and/or the executive privilege.

15 CDI objects to this Request to the extent that it seeks documents that are publicly  
16 available or otherwise equally available to Respondents.

17 CDI objects to this Request as overly broad and unduly burdensome and seeking  
18 documents and information not relevant to this proceeding to the extent it seeks documents  
19 reflecting the review of class plans, rate filings, and practices of insurers other than Respondents.

20 **REQUEST NO. 16**

21 All communications between you and Consumer Watchdog that reflect, refer to, or relate  
22 to the Stevenson litigation, the Notice of Hearing, the Department's investigation, Allstate, the  
23 2015 Bulletin, price optimization or elasticity of demand.

24 **RESPONSE TO REQUEST NO. 16**

25 CDI objects to this Request on the grounds it seeks documents or information not relevant  
26 to the issues to be decided in this proceeding, specifically "(1) whether Allstate has violated  
27 California insurance law by using illegal price optimization; (2) how Allstate implemented any

1 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
2 optimization impacted Allstate's policyholders." See Post-Scheduling Conference Order, p. 7.

3 CDI objects to this Request as vague, ambiguous and overly broad with regard to the  
4 phrase "relate to" as used herein.

5 CDI objects to this Request as vague, ambiguous with regard to the term "Stevenson  
6 litigation" in light of the defined term "Stevenson lawsuit."

7 CDI objects to this Request as compound.

8 CDI objects to this Request as overly broad and unduly burdensome with regard to all  
9 communications between CDI and Consumer Watchdog that reflect, refer to, or relate to Allstate,  
10 price optimization, or elasticity of demand without limitations as to time or scope.

11 CDI objects to this Request to the extent it seeks experts' working papers or documents  
12 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
13 doctrine, the deliberative process and/or the executive privilege.

14 CDI objects to this Request to the extent that it seeks documents that are publicly  
15 available or otherwise equally available to Respondents.

16 CDI objects to this Request as overly broad and unduly burdensome and seeking  
17 documents and information not relevant to this proceeding to the extent it seeks documents  
18 reflecting the review of class plans, rate filings, and practices of insurers other than Respondents.

19 **REQUEST NO. 17**

20 All communications between you and any person that reflect, refer to, or relate to the  
21 Stevenson litigation, the Notice of Hearing, the Department's investigation, Allstate, the 2015  
22 Bulletin, price optimization or elasticity of demand.

23 **RESPONSE TO REQUEST NO. 17**

24 CDI objects to this Request on the grounds it seeks documents or information not relevant  
25 to the issues to be decided in this proceeding, specifically "(1) whether Allstate has violated  
26 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
27 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price

1 optimization impacted Allstate's policyholders." See Post-Scheduling Conference Order, p. 7.

2 CDI objects to this Request as vague, ambiguous and overly broad with regard to the  
3 phrase "relate to" as used herein.

4 CDI objects to this Request as vague, ambiguous with regard to the term "Stevenson  
5 litigation" in light of the defined term "Stevenson lawsuit."

6 CDI objects to this Request as compound.

7 CDI objects to this Request as overly broad and unduly burdensome with regard to all  
8 communications between CDI and any person that reflect, refer to, or relate to Allstate, price  
9 optimization, or elasticity of demand without limitations to time or scope.

10 CDI objects to this Request to the extent it seeks experts' working papers or documents  
11 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
12 doctrine, the deliberative process and/or the executive privilege.

13 CDI objects to this Request to the extent that it seeks documents that are publicly  
14 available or otherwise equally available to Respondents.

15 CDI objects to this Request as overly broad and unduly burdensome and seeking  
16 documents and information not relevant to this proceeding to the extent it seeks documents  
17 reflecting the review of class plans, rate filings, and practices of insurers other than Respondents.

18 **REQUEST NO. 18**

19 All documents that reflect, refer to, or relate to the procedures applicable to what is  
20 referred to in the Notice of Hearing as "a primary jurisdiction referral."

21 **RESPONSE TO REQUEST NO. 18**

22 CDI objects to this Request on the grounds it seeks documents or information not relevant  
23 to the issues to be decided in this proceeding, specifically "(1) whether Allstate has violated  
24 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
25 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
26 optimization impacted Allstate's policyholders." See Post-Scheduling Conference Order, p. 7.

27 CDI objects to this Request as vague, ambiguous and overly broad with regard to the

1 phrase "relate to" as used herein.

2 CDI objects to this Request as vague, ambiguous, overly broad as to time and scope and  
3 unduly burdensome.

4 CDI objects to this Request to the extent it seeks experts' working papers or documents  
5 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
6 doctrine, the deliberative process and/or the executive privilege.

7 CDI objects to this Request to the extent that it seeks documents that are publicly  
8 available or otherwise equally available to Respondents.

9 **REQUEST NO. 19**

10 The most recent resume or curriculum vitae of each person you intend to call as an expert  
11 witness and all reports of each person you intend to call as an expert witness in this investigatory  
12 proceeding.

13 **RESPONSE TO REQUEST NO. 19**

14 CDI objects to this Request as premature.

15 CDI objects to this Request as irrelevant, vague, ambiguous, unduly burdensome and  
16 overly broad with regard to the phrase "all reports" without further limitation.

17 CDI objects to this Request to the extent it seeks experts' working papers or documents  
18 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
19 doctrine, the deliberative process and/or the executive privilege.

20 CDI objects to this Request as overly broad and unduly burdensome and seeking  
21 documents and information not relevant to this proceeding to the extent it seeks documents  
22 regarding insurers other than Respondents.

23 Subject to and without waiving those objections, or the general objections, incorporated  
24 herein, CDI responds as follows:

25 CDI has not made a final determination regarding whether and who it will call as an  
26 expert witness in this proceeding. CDI will determine any expert witness(es) and produce any  
27 relevant, non-privileged, non-protected documents in a timely manner.

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1 **REQUEST NO. 20**

2 All documents produced by each person you intend to call as an expert witness at the trial  
3 of this matter in connection with his or her assignment in this investigatory proceeding.

4 **RESPONSE TO REQUEST NO. 20**

5 CDI objects to this Request as premature.

6 CDI objects to this Request as vague, ambiguous, and unintelligible.

7 CDI objects to this Request to the extent it seeks experts' working papers or documents  
8 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
9 doctrine, the deliberative process and/or the executive privilege.

10 Subject to and without waiving those objections, or the general objections, incorporated  
11 herein, CDI responds as follows:

12 CDI has not made a final determination regarding whether and who it will call as an  
13 expert witness in this proceeding. CDI will determine any expert witness(es) and produce any  
14 relevant, non-privileged, non-protected documents in a timely manner.

15 **REQUEST NO. 21**

16 All documents reflecting the opinions and basis thereof for each person you intend to call  
17 as an expert witness at the trial of this matter in connection with his or her assignment in this  
18 investigatory proceeding.

19 **RESPONSE TO REQUEST NO. 21**

20 CDI objects to this Request as premature.

21 CDI objects to this Request to the extent it seeks experts' working papers or documents  
22 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
23 doctrine, the deliberative process and/or the executive privilege.

24 Subject to and without waiving those objections, or the general objections, incorporated  
25 herein, CDI responds as follows:

26 CDI has not made a final determination regarding whether and who it will call as an  
27 expert witness in this proceeding. CDI will determine any expert witness(es) and produce any

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1 relevant, non-privileged, non-protected documents in a timely manner.

2 **REQUEST NO. 22**

3 All documents provided to, reviewed by or relied upon by each person you intend to call  
4 as an expert witness at the trial of this matter in connection with his or her assignment in this  
5 investigatory proceeding.

6 **RESPONSE TO REQUEST NO. 22**

7 CDI objects to this Request as premature.

8 CDI objects to this Request to the extent it seeks experts' working papers or documents  
9 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
10 doctrine, the deliberative process and/or the executive privilege.

11 CDI objects to this Request as vague, ambiguous, and unintelligible.

12 Subject to and without waiving those objections, or the general objections, incorporated  
13 herein, CDI responds as follows:

14 CDI has not made a final determination regarding whether and who it will call as an  
15 expert witness in this proceeding. CDI will determine any expert witness(es) and produce any  
16 relevant, non-privileged, non-protected documents in a timely manner.

17 **REQUEST NO. 23**

18 All statements made by any party pertaining to the subject matter of this investigatory  
19 proceeding.

20 **RESPONSE TO REQUEST NO. 23**

21 CDI objects to this Request as vague and ambiguous with regard to the term "party."

22 CDI objects to this Request to the extent it seeks experts' working papers or documents  
23 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
24 doctrine, the deliberative process and/or the executive privilege.

25 CDI objects to this Request to the extent that it seeks documents that are publicly  
26 available or otherwise equally available to Respondents.

27 CDI objects to this Request to the extent that it seeks documents or information not  
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1 relevant to the issues to be decided in this proceeding, specifically “(1) whether Allstate has  
2 violated California insurance law by using illegal price optimization; (2) how Allstate  
3 implemented any such illegal price optimization in its rate and/or class plan; and (3) how any  
4 such illegal price optimization impacted Allstate’s policyholders.” See Post-Scheduling  
5 Conference Order, p. 7.

6 **REQUEST NO. 24**

7 All statements made by any witnesses proposed to be called at the hearing of this matter  
8 relating to the subject matter of this investigatory proceeding.

9 **RESPONSE TO REQUEST NO. 24**

10 CDI objects to this Request as premature.

11 CDI objects to this Request to the extent it seeks experts’ working papers or documents  
12 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
13 doctrine, the deliberative process and/or the executive privilege.

14 CDI objects to this Request to the extent that it seeks documents that are publicly  
15 available or otherwise equally available to Respondents.

16 CDI objects to this Request to the extent that it seeks documents or information not  
17 relevant to the issues to be decided in this proceeding, specifically “(1) whether Allstate has  
18 violated California insurance law by using illegal price optimization; (2) how Allstate  
19 implemented any such illegal price optimization in its rate and/or class plan; and (3) how any  
20 such illegal price optimization impacted Allstate’s policyholders.” See Post-Scheduling  
21 Conference Order, p. 7.

22 Subject to and without waiving those objections, or the general objections, incorporated  
23 herein, CDI responds as follows:

24 CDI has not made a final determination regarding who it will call as a witness in this  
25 proceeding. CDI will determine its witness(es) and produce any relevant, non-privileged, non-  
26 protected documents in a timely manner.

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1 **REQUEST NO. 25**

2 All investigative reports made by any person relating to the subject matter of this  
3 investigatory proceeding.

4 **RESPONSE TO REQUEST NO. 25**

5 CDI objects to this Request as vague, ambiguous and overly broad with regard to scope,  
6 and unduly burdensome.

7 CDI objects to this Request as vague and ambiguous with regard to the phrase  
8 "investigative reports".

9 CDI objects to this Request to the extent it seeks experts' working papers or documents  
10 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
11 doctrine, the deliberative process and/or the executive privilege.

12 CDI objects to this Request to the extent that it seeks documents or information not  
13 relevant to the issues to be decided in this proceeding, specifically "(1) whether Allstate has  
14 violated California insurance law by using illegal price optimization; (2) how Allstate  
15 implemented any such illegal price optimization in its rate and/or class plan; and (3) how any  
16 such illegal price optimization impacted Allstate's policyholders." See Post-Scheduling  
17 Conference Order, p. 7.

18 CDI objects to this Request to the extent that it seeks documents that are publicly  
19 available or otherwise equally available to Respondents.

20 Subject to and without waiving those objections, or the general objections, incorporated  
21 herein, CDI responds as follows:

22 CDI is not aware of any responsive documents.

23 **REQUEST NO. 26**

24 All documents you intend to introduce as evidence at the hearing of this investigatory  
25 proceeding.

26 **RESPONSE TO REQUEST NO. 26**

27 CDI objects to this Request as premature.

1 CDI objects to this Request to the extent it seeks documents protected by the attorney-  
2 client privilege, the work-product doctrine, the common-interest doctrine, the deliberative process  
3 and/or the executive privilege.

4 Subject to and without waiving the above objections, or the general objections,  
5 incorporated herein, CDI responds as follows:

6 CDI has not determined which documents it intends to introduce as evidence at the  
7 hearing. CDI will identify documents it intends to produce in a timely matter, and reserves its  
8 right to identify documents and things it intends to introduce upon further discovery and receipt  
9 of Respondents' PDT and exhibits.

10 **REQUEST NO. 27**

11 All documents not produced in response to the requests above that you have relied on,  
12 may rely on, or use to support your position(s) or for any other purpose in this investigatory  
13 proceeding.

14 **RESPONSE TO REQUEST NO. 27**

15 CDI objects to this Request as premature.

16 CDI objects to this Request as vague, ambiguous, overly broad and unduly burdensome  
17 with regard to the phrase "for any other purpose."

18 CDI objects to this Request to the extent it calls for speculation.

19 CDI objects to this Request to the extent it seeks experts' working papers or documents  
20 protected by the attorney-client privilege, the work-product doctrine, the common-interest  
21 doctrine, the deliberative process and/or the executive privilege.

22 CDI objects to this Request on the grounds it seeks documents or information not relevant  
23 to the issues to be decided in this proceeding, specifically "(1) whether Allstate has violated  
24 California insurance law by using illegal price optimization; (2) how Allstate implemented any  
25 such illegal price optimization in its rate and/or class plan; and (3) how any such illegal price  
26 optimization impacted Allstate's policyholders." See Post-Scheduling Conference Order, p. 7.


27 CDI objects to this Request to the extent that it seeks documents that are publicly  
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available or otherwise equally available to Respondents.

Dated: October 4, 2018.

CALIFORNIA DEPARTMENT OF INSURANCE

By   
Daniel Goodell  
Jennifer McCune  
Robert Binion  
Jon Phenix  
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