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**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

17 EILEEN-GAYLE COLEMAN  
 18 and ROBERT CASTRO, on  
 19 behalf of themselves and all others  
 similarly situated,

Plaintiffs,

vs.

22 UNITED SERVICES  
 23 AUTOMOBILE ASSOCIATION  
 24 and USAA GENERAL  
 INDEMNITY COMPANY,

Defendants

) Case No. 3:21-cv-00217-RSH(KSC)  
 )  
 ) **PLAINTIFFS' NOTICE OF**  
 ) **RENEWED MOTION AND**  
 ) **RENEWED MOTION FOR**  
 ) **CLASS CERTIFICATION**  
 ) **Hearing:**  
 ) Date:  
 ) Courtroom: 3B  
 ) Judge: Hon. Robert S. Huie  
 )  
 ) PER CHAMBERS RULES, NO ORAL  
 ) ARGUMENT UNLESS SEPARATELY  
 ) ORDERED BY THE COURT  
 )

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1 PLEASE TAKE NOTICE THAT Plaintiffs Eileen-Gayle Coleman and  
2 Robert Castro (“Plaintiffs”), hereby renew their motion to the Court, pursuant to  
3 Federal Rule of Civil Procedure 23(a) and 23(b)(3), for an Order certifying two  
4 classes defined in the accompanying Memorandum in Support and called the  
5 “Good Driver Class” and the “Discrimination Class.”

6 This motion is based on this Notice of Motion, the accompanying  
7 Memorandum in Support, the seven accompanying exhibits, all pleadings and  
8 documents filed in this case, and on such further written and oral argument as may  
9 be presented at or before the time the Court takes this motion under submission.

10 *Signature Block on Next Page*

1 Dated: June 27, 2023

2 /s/ Michael Lieder

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 ) **IN SUPPORT OF THEIR**  
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TABLE OF CONTENTS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I. INTRODUCTION ..... 1

II. ARGUMENT ..... 3

    A. Both Classes Will Prove the Essential Elements of Their Claims Through a Common Body of Evidence that Will Generate Class-Wide Answers to Class-Wide Questions and Will Predominate over Individualized Questions (If Any)..... 4

        1. The questions posed by the claim of the Good Driver Class will result in common, class-wide answers..... 5

            a. First Element. .... 5

            b. Second Element..... 5

            c. Third Element..... 5

            d. Fourth Element..... 6

            e. Fifth Element..... 8

            f. Sixth Element..... 9

        2. The questions posed by the claims of the Discrimination Class will result in common, class-wide answers. .... 10

            a. First Element. .... 11

            b. Second Element ..... 12

            c. Third Element ..... 12

            d. Fourth Element..... 12

            e. Fifth Element ..... 13

            f. Sixth Element..... 13

            g. Seventh Element ..... 14

    B. Class Adjudication Is the Best Method for Resolving Plaintiffs’ and Class Members’ Claims..... 15

    C. Both the Good Driver Class and the Discrimination Class Satisfy the Requirements of Rule 23(a)..... 16

        1. The Proposed Classes Contain More than 100,000 Members Each, Satisfying Numerosity. .... 16

1           2. There Are Many Common Questions of Law and Fact.....17  
2           3. The Class Representatives’ Claims Are Typical of the Class. ....17  
3           4. Rule 23(a)(4) Adequacy Is also Satisfied. ....18  
4       D. The Classes Are Properly Defined. ....18  
5       E. The Court Should Appoint Plaintiffs’ Lawyers as Class Counsel. ....19  
6   III. CONCLUSION.....19

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF AUTHORITIES**

**Page(s)**

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*Absolute USA, Inc. v. Harman Prof'l, Inc.*,  
 No.: 2:21-cv-06410-MEMF(MAAx), 2023 U.S. Dist. LEXIS  
 26835 (C.D. Cal. Feb. 14, 2023)..... 11

*Brown v. DirecTV, LLC*,  
 330 F.R.D. 260 (C.D. Cal. 2019)..... 18

*Buchanan v. Tata Consultancy Servs.*,  
 No.15-cv-01696-YGR, 2017 U.S. Dist. LEXIS 212170 (N.D. Cal.  
 Dec. 27, 2017)..... 7

*Candelore v. Tinder, Inc.*,  
 19 Cal. App. 5th 1138 (2018) ..... 12

*Carnegie v. Household Int'l*,  
 376 F.3d 656 (7th Cir. 2004) ..... 16

*Correa v. Pac. Mar. Ass'n*,  
 No. 2:17-cv-03060-AB, 2018 U.S. Dist. LEXIS 217525 (C.D. Cal.  
 June 12, 2018)..... 11

*EEOC v. Gen. Tel. Co. of Northwest, Inc.*,  
 885 F.2d 575 (9th Cir. 1989) ..... 7

*Ellis v. Costco Wholesale Corp.*,  
 657 F.3d 970 (9th Cir. 2011) ..... 18

*Hanlon v. Chrysler Corp.*,  
 150 F.3d 1011 (9th Cir. 1998) ..... 18

*Hemmings v. Tidyman's Inc.*,  
 285 F.3d 1174 (9th Cir. 2002) ..... 7

*James v. US Bancorp*,  
 No. 5:18-cv-01762-FLA, 2021 U.S. Dist. LEXIS 195569  
 (C.D. Cal. June 4, 2021) ..... 14

1 *Koire v. Metro Car Wash*,  
 2 40 Cal. 3d 24 (1985) ..... 12

3 *Leyva v. Medline Indus.*,  
 4 716 F.3d 510 (9th Cir. 2013) ..... 9

5 *Lozano v. AT&T Wireless Servs., Inc.*,  
 6 504 F.3d 718 (9th Cir. 2007) ..... 17

7 *McDonnell Douglas Corp. v. Green*,  
 8 411 U.S. 792 (1973)..... 14

9 *Nangle v. Penske Logistics*,  
 10 No. 11cv807-CAB (BLM), 2012 U.S. Dist. LEXIS 202955  
 (S.D. Cal. Oct. 30, 2012) ..... 19

11 *In re Neurontin Mktg. & Sales Practices Litig.*,  
 12 712 F.3d 21 (1st Cir. 2013)..... 10

13 *Nguyen v. Radient Pharm. Corp.*,  
 14 287 F.R.D. 563 (C.D. Cal. 2012)..... 16

15 *Wal-Mart Stores, Inc. v. Dukes*,  
 16 564 U.S. 338 (2011)..... 17

17 *Waterbury v. AI Solar Power Inc.*,  
 18 2016 U.S. Dist. LEXIS 74222 ..... 18

19 **Statutes**

20 Cal. Mil. & Vet. Code § 394(a) ..... *passim*

21 Cal. Ins. Code § 1860.1 ..... 8

22 Cal. Ins. Code § 1861.03(a) ..... 11

23 Cal. Ins. Code § 1861.16(b) ..... 1, 5, 8, 17

24 Cal. Ins. Code § 11628(f)(1) ..... 8

25 Unruh Civil Rights Act ..... *passim*

26

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22  
23  
24  
25  
26  
27  
28

**Rules**

Fed. R. Civ. P. 23(a).....4, 16  
Fed. R. Civ. P. 23(a)(1).....16  
Fed. R. Civ. P. 23(a)(2).....17  
Fed. R. Civ. P. 23(a)(3).....17  
Fed. R. Civ. P. 23(a)(4).....18  
Fed. R. Civ. P. 23(b)(3).....*passim*  
Fed. R. Civ. P. 23(g)(1).....19

1  
2  
3  
4  
5  
6  
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8  
9  
10  
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**I. INTRODUCTION**

USAA is a financial services group composed of several companies operated under common management and control. Two of those companies, United Services Automobile Association (“United Services”) and USAA General Indemnity Corporation (“GIC”) are defendants here (collectively “USAA”). They provide coverage to different segments of the military and their family members. This case is about auto insurance provided by these companies.

Current or former commissioned or senior non-commissioned officers whose highest rank was in pay grades E-7 or higher (and their families) who obtain auto insurance from USAA are automatically assigned to United Services. Current or former enlisted people whose highest rank was in pay grades E-1 through E-6 (and their families) are eligible for coverage only through GIC. GIC almost invariably charges its insureds higher premiums than they would have to pay under United Services’ rates for the same coverage. Plaintiffs allege that the combination of the segmentation of enlisted personnel and officers and the rate disparities is unlawful in two respects.

First, they claim that it violates Section 1861.16(b) of the California Insurance Code, which requires that insurance companies under common ownership, as United Services and GIC are, must “sell a good driver discount policy to a good driver” from the commonly owned company “which offers the lowest rates for that coverage.” Policyholders assigned to GIC are not offered the lowest rates: they are charged higher premiums for the same coverage than identically situated policyholders placed in United Services. That is, “good drivers” with GIC policies (enlisted people and their families) pay more than identically situated policyholders with United Services (officers and their families).

Second, Plaintiffs claim that separating enlisted personnel from officers and charging the enlisted personnel higher rates intentionally discriminates against enlisted policyholders based on their military status in violation of the Unruh Civil

1 Rights Act, Cal. Civ. Code 51 *et seq.*, and section 394(a) of California’s Military  
2 and Veterans Code. The Court has upheld both claims against USAA’s motion to  
3 dismiss. ECF No. 22. If supported by the facts, both are viable legal claims.

4 In April 2022, Plaintiffs moved to certify these claims for class-wide  
5 adjudication under Fed. R. Civ. P. 23(b)(3). ECF No. 58. But they were hampered  
6 by lack of data. Although the parties had agreed in December 2021 that USAA  
7 would produce data about the coverages and risk characteristics of GIC  
8 policyholders for ten dates (two per year), USAA by April had produced a  
9 spreadsheet for only one date and that spreadsheet was incomplete. As a result,  
10 instead of presenting completed analyses in support of class certification, Plaintiffs  
11 were able to support their motion with declarations from their two expert witnesses  
12 that only described the analyses that they intended to conduct when presented with  
13 the agreed data. ECF No. 58-2, 58-3.

14 On March 21, 2023, the Court denied Plaintiffs’ motion for class  
15 certification for failure to establish Rule 23(b)(3) predominance. ECF No. 109. The  
16 Court stated that it was not “ruling that Plaintiffs are not capable of meeting the  
17 burden of” establishing predominance, only that “they have not done so” on the  
18 showing made. *Id.* at 19.

19 In September 2002, about five months after Plaintiffs moved for class  
20 certification, USAA produced substantially accurate and complete data about GIC  
21 insureds. That production allowed Plaintiffs’ experts to perform the analyses that  
22 they previously only could describe. The parties have exchanged expert merits  
23 opening and rebuttal reports and all experts have been deposed. As a result,  
24 Plaintiffs also now know the criticisms of their experts’ analyses made by USAA’s  
25 experts.

26 With this data and expert discovery – which concluded on February 23, less  
27 than a month before the Court ruled on class certification – Plaintiffs now can  
28 present the analyses that their experts previously only could attempt to describe

1 and can rebut USAA’s challenges to that expert work with additional analyses. In  
2 short, Plaintiffs can now definitively show that they are “capable of” providing  
3 common answers to the factual questions concerning liability and damages through  
4 common proof. Plaintiffs now satisfy the predominance requirement.

5 **II. ARGUMENT**

6 With the benefit of the additional data and expert analyses, Plaintiffs ask the  
7 Court to revisit class certification and to certify two classes, under Rule 23(b)(3),  
8 defined as follows:

9 The Good Driver Class

10 All enlisted persons who (a) at any time on or after December 28,  
11 2017, purchased or renewed an automobile insurance policy including  
12 collision coverage from GIC, (b) qualified as good drivers under Cal.  
13 Ins. Code § 1861.025 according to USAA’s records,<sup>1</sup> (c) were not  
14 offered a good driver discount from United Services, (d) paid more for  
15 that policy than they would have paid in United Services, and (e) at  
any time in which clauses (a) through (d) have been satisfied, garaged  
vehicles in the State of California.

16 The Discrimination Class

17 All enlisted persons who (a) at any time on or after February 4, 2018,<sup>2</sup>  
18 purchased or renewed an automobile insurance policy including  
19 collision coverage from GIC, (b) paid more for that policy than they  
would have paid in United Services,<sup>3</sup> and (c) at any time in which

---

20  
21 <sup>1</sup> The phrase “according to USAA’s records” is new. Plaintiffs have added it as  
22 clarification. Throughout the litigation have relied on USAA’s records to identify  
23 good drivers.

24 <sup>2</sup> If the Court decides that the limitations period is only two years, the start date  
25 should be February 4, 2019. In their original motion for class certification, Plaintiffs  
26 argued that the statute of limitations for the discrimination claims should be three  
years. The Court declined to address the statute of limitations issue in its decision  
ECF No. 109, at 7 n.10. As a result, Plaintiffs do not repeat the argument here.

27 <sup>3</sup> The clause in the Good Driver Class definition limiting membership to persons  
28 “who paid more for that policy than they would have paid in USAA” and the  
identical clause in the Discrimination Class definition do not make the definitions  
“failsafe.” See Section IV.D below.



1 clauses (a) through (b) have been satisfied, garaged vehicles in the  
2 State of California.

3 Class certification proponents must show that that they meet four class-  
4 qualifying prerequisites under Rule 23(a): “(1) the class is so numerous that joinder  
5 of all members is impracticable; (2) there are questions of law or fact common to  
6 the class; (3) the claims or defenses of the representative parties are typical of the  
7 claims or defenses of the class; and (4) the representative parties will fairly and  
8 adequately protect the interests of the class.” Proponents of a Rule 23(b)(3) class  
9 also must show that the questions of law or fact common to class members  
10 predominate over any questions affecting only individual members, and that a class  
11 action is superior to other available methods for fairly and efficiently adjudicating  
12 the controversy.” Plaintiffs satisfy all these requirements. Because the Court held  
13 that the Rule 23(a) requirements were satisfied but the predominance requirement  
14 was not, Plaintiffs start with Rule 23(b)(3).

15 **A. Both Classes Will Prove the Essential Elements of Their Claims**  
16 **Through a Common Body of Evidence that Will Generate Class-Wide**  
17 **Answers to Class-Wide Questions and Will Predominate over**  
18 **Individualized Questions (If Any).**

19 With the benefit of the data that USAA produced after Plaintiffs filed their  
20 first motion for class certification, and the added work that plaintiffs’ experts have  
21 been able to perform with that data, Plaintiffs clearly can demonstrate the  
22 predominance of common questions. And guided by the Court’s March 21, 2023  
23 Order, Plaintiffs now do so proceeding question by question for each element of  
24 their claims. For each factual question, they specify the common—not  
25 individualized—proof that will be used to generate “common, class-wide answers  
26 to the questions posed by the elements of Plaintiffs’ claims.” ECF No. 109, at 19.  
27  
28

1           **1. The questions posed by the claim of the Good Driver Class will**  
2           **result in common, class-wide answers.**

3           The Good Driver Class brings a claim for violating Section 1861.16(b) of  
4 the California Insurance Code. The claim raises four factual liability elements: (a)  
5 common ownership of GIC and United Services; (b) assignment to GIC, (c)  
6 eligibility for a good driver discount, and (d) purchase of a Good Driver Discount  
7 policy from GIC at a price higher than the same policyholder would have paid for a  
8 Good Driver Discount policy with the same coverage from United Services. Next,  
9 the claim raises legal issues that the Court already has decided but could recur if  
10 there is an appeal. The final element is the amount of restitution to which class  
11 members are entitled. Each element raises a question that will be answered in the  
12 same manner for all class members.

13           **a. First Element.** *Are GIC and United Services “insurers having common*  
14 *ownership or operating in California under common management or control”?*  
15 Cal. Ins. Code § 1861.16(b). This is a class-wide question and will have one class-  
16 wide answer. USAA admits the facts showing that GIC and United Services are  
17 under common management or control, Answer ¶ 9, and Plaintiffs anticipate that  
18 this will be stipulated at any trial.

19           **b. Second Element.** *Did USAA assign all Good Driver Class members to*  
20 *GIC?* Plaintiffs anticipate that this also will be stipulated at any trial. If not, proof  
21 of every class member’s assignment to GIC rather than United Services will be  
22 made with common proof from the spreadsheets that USAA produced in this case.  
23 Thus, determination of this question will not require individual adjudications and  
24 should take up minimal time at a trial.

25           **c. Third Element.** *Were all Good Driver Class members eligible for a*  
26 *Good Driver Discount policy?* Again, Plaintiffs anticipate that this will be  
27 stipulated at any trial. If not, proof of every class member’s eligibility for a good  
28 driver discount policy will be derived from common evidence in a field in the

1 spreadsheets that USAA produced in this case. Plaintiffs will not introduce  
2 evidence or otherwise claim that any policyholder was entitled to a Good Driver  
3 Discount but denied one. Determination of this question will not require individual  
4 adjudications and should take up minimal time at a trial.

5 **d. Fourth Element.** *Did GIC charge higher prices to all Good Driver*  
6 *Class members for their Good Driver Discount policies than United Services*  
7 *would have charged them for the same coverage?* This will be the heart of the  
8 case. Plaintiffs will answer the question through common proof in the form of  
9 expert testimony from an actuary, Jonathan Griglack. Plaintiff's proofs will track  
10 Griglack's October 17, 2022 expert report and December 2, 2022 expert rebuttal  
11 report, copies of which are Exhibits 1 and 2 to this brief. As set out in those  
12 reports:

13 i. GIC and United Services offer the same insurance coverages  
14 for private automobile insurance. Ex. 1, ¶ 14.

15 ii. GIC charges uniform base rates to all its policyholders, and  
16 United Services charges uniform base rates to all its policyholders. These  
17 base rates do not vary from policyholder to policyholder within each  
18 company. *Id.*, ¶ 15.

19 iii. Without exception, during the class period, GIC's base rates  
20 have been higher than United Services' base rates. *Id.*

21 iv. GIC and United Services use the same "rating factors" and  
22 "categories" to adjust base rates for the risks posed by insureds to arrive at  
23 policy premiums. These "rating factors" and "categories" do not vary from  
24 policyholder to policyholder. One of the rating factors is for whether a  
25 person is a statutory good driver. *Id.* ¶¶ 17-18.

26 v. Premiums for United Services and GIC policyholders are  
27 calculated in the same manner. *Id.* ¶ 23. This process leaves no room for  
28

1 subjectivity when calculating premiums. It is the same, for each insured, for  
2 each policy. *Id.* ¶ 25.

3 vi. Based on the data in spreadsheets produced by USAA for all  
4 GIC policyholders for eight sample dates (two per year), 97% of GIC  
5 policyholders with collision insurance and Good Driver discounts during the  
6 class period paid higher premiums than they would have paid for the same  
7 coverage with United Services. *Id.* ¶ 49.<sup>4</sup> Griglack identifies each of those  
8

9  
10  
11 <sup>4</sup> USAA's experts have challenged Plaintiffs' experts' reliance on premium prices  
12 measured on eight sample dates because, they say, that method does not account  
13 for possible changes in premiums between those dates. That challenge cannot  
14 defeat class certification. First, it is entirely speculative: USAA's experts have  
15 proffered no evidence that measuring premium prices on more frequent dates  
16 would have any effect, much less a material effect, on class members' damages.  
17 Any party can challenge an adversary's expert by asking "what if." But merely  
18 asking that question, which is all that USAA's experts have done here, without  
19 answering with credible alternative calculations, which they have not done, neither  
20 shifts nor carries any legal or factual burden. See *Hemmings v. Tidyman's Inc.*, 285  
21 F.3d 1174, 1188 (9th Cir. 2002) (holding that plaintiffs' expert's testimony  
22 properly was not excluded because defendant "may not rest an attack on an  
23 'unsubstantiated assertion of error' and instead "must 'produce credible evidence  
24 that curing the alleged flaws would also cure the statistical disparity'"); *EEOC v.*  
25 *Gen. Tel. Co. of Northwest, Inc.*, 885 F.2d 575, 582-83 (9th Cir. 1989) (holding  
26 that trial court erred by adopting defendants' suggestion that plaintiffs' expert's  
27 methodology had "critical flaws" because defendants did not support that  
28 suggestion with any credible analysis proving that the flaws, if they were flaws,  
would change outcomes); *Buchanan v. Tata Consultancy Servs.*, No.15-cv-01696-  
YGR, 2017 U.S. Dist. LEXIS 212170, at \*23-24 (N.D. Cal. Dec. 27, 2017)  
(declining to exclude plaintiffs' expert report for not controlling for more variables  
when it was conceded that the available data were insufficient to control for most  
of them and defendant proffered no evidence that controlling for them would  
change outcomes). Second, unlike USAA's experts, Griglack performed two  
analyses to see if measuring premiums on more dates would matter. Both analyses  
indicate that it wouldn't change the outcome. Ex. 1, ¶¶ 44-48; Ex. 2, ¶ 7. Third, the  
validity and accuracy of Griglack's work is a class-wide question in any event:  
either he is correct or incorrect that measuring premiums on more data would not  
matter. In either case, the answer will be the same for all class members.

1 policyholders by policy number. The class is made up of those GIC  
2 policyholders. See Good Driver Class definition.

3 For purposes of class certification, the issue is not whether the trier of fact  
4 will ultimately credit Griglack's analysis, which uses the base rates, rating factors  
5 and relativities set forth in USAA's class plans and follows the instructions as to  
6 how to calculate premiums set forth in sections 3 and 4 of USAA's rating manual.  
7 Rather, what is dispositive is that these opinions resolve common questions with  
8 common answers, eliminating all individual questions about whether GIC charged  
9 higher prices to all Good Driver Class members for their Good Driver Discount  
10 policies than United Services would have charged them for the same coverage.

11 In sum, the uniform manner in which premiums are calculated for both GIC  
12 and United Services policyholders, the uniformly higher base rates paid by GIC  
13 policyholders, the shared rating factors used by both companies, and the identical  
14 coverages provided by both companies, all of which eliminate subjectivity, and,  
15 finally, the uniformly higher prices paid by Good Driver Class members as shown  
16 by Griglack's analysis of about 200,000 class member policies will allow the trier  
17 of fact to establish common, class-wide answers to the predominating liability  
18 question for this claim: whether class members paid more for Good Driver policies  
19 with GIC than they would have paid for the same coverage with United Services.  
20 Common questions predominate over individualized ones, satisfying the  
21 predominance requirement of Rule 23(b)(3).

22 **e. Fifth Element.** Was USAA required by Section 1861.16(b) to sell class  
23 members a Good Driver Discount policy at the lower United Services rate rather  
24 than the higher GIC rate? This is a question of law, and is no longer a question  
25 before this Court: the Court resolved it when denying USAA's motion to dismiss.  
26 ECF No. 22 at 3. Similarly, the Court already also has rejected USAA's common  
27 legal defenses based on Cal. Ins. Code §§ 1860.1 and 11628(f)(1). *Id.* at 12. Thus,  
28 if the factual predicates are established, then USAA was required to sell class

1 members a Good Driver Discount policy at the lower United Services rate rather  
2 than the higher GIC rate. If that is true for one class member, it will be true for all.  
3 There will be no individualized legal defenses.

4 **f. Sixth Element.** *What is a reasonable estimate of the amount of damages*  
5 *that each Good Driver Class member has suffered?* As applied to damages  
6 questions, the predominance requirement means that Plaintiffs must “show that  
7 their damages stemmed from the defendant’s actions that created legal liability”  
8 and can “feasibly and efficiently be calculated once the common liability questions  
9 are adjudicated.” *Leyva v. Medline Indus.*, 716 F.3d 510, 514 (9th Cir. 2013). In  
10 almost every class action, factual determinations of the amount of damages owed  
11 to individual class members must be made, but those determinations do not defeat  
12 or detract from class treatment. *Id.*

13 Here, damages are tethered to liability; they flow from the actions that create  
14 legal liability. For the Good Driver class, liability is created by charging GIC  
15 policyholders higher premiums for a Good Driver policy than they would have  
16 been charged if they’d been able to purchase the same coverage from United  
17 Services instead. The damage stemming from that act is the resulting price  
18 differential – the extra increment paid by GIC policyholders.

19 The feasibility and efficiency of calculating those damages for each class  
20 member is proved by Schwartz’s opening and rebuttal reports, which are Exhibits 3  
21 and 4. His calculations are based directly on Griglack’s calculations using USAA’s  
22 rating methodology for both GIC and United Services as set forth in its class plans  
23 and rating manual of the difference as of each sample date between the premiums  
24 that each class member was charged in GIC and the amounts they would have been  
25 charged under United Services’ rates. Ex. 3, ¶ 6. Schwartz has already made those  
26 calculations for the approximately 200,000 Good Driver Class Members. *Id.*, ¶¶ 5,  
27 14. The calculations prove the feasibility and efficiency of calculating damages  
28



1 using the same evidence and methodology class-wide. Common issues of damages  
2 predominate.<sup>5</sup>

3 **2. The questions posed by the claims of the Discrimination Class will**  
4 **result in common, class-wide answers.**

5 The Discrimination Class brings claims for violating the Unruh Civil Rights  
6 Act and Section 394 of California’s Military and Veterans Code. Plaintiffs will  
7 need to establish five factual liability elements for their Unruh Act claims: (a) GIC  
8 and United Services are “business establishments”; (b) Discrimination Class  
9

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10  
11 <sup>5</sup> USAA’s experts challenge Schwartz’s damages calculations because, they  
12 contend, he should have combined all GIC and United Services policyholders into  
13 a single risk pool and then engaged in all the actuarial calculations and  
14 discretionary judgments involved in proposing and gaining approval of a set of  
15 rates. One of USAA’s experts, Nancy Watkins, acknowledges that what she says  
16 Schwartz should have done is infeasible because of “the thousands of calculations  
17 and assumptions” it would require. Ex. 5, at 12-13. Presumably because it is  
18 infeasible, neither of USAA’s experts has attempted to do it or otherwise create  
19 their own damages model. *See id.* at 12-13 (“I have not analyzed what those new  
20 rates would be; nor have I analyzed whether the resulting premiums for any  
21 particular GIC policyholder would be higher or lower than what they pay currently  
22 or paid in the past”); Ex. 6, 61:22-62:20 (“That’s nothing that I’ve attempted to do.  
23 I’m not opining that it’s impossible to do. It’s nothing that I have investigated.”).  
24 For the reasons explained in footnote 4 above, these concessions, by themselves,  
25 resolve USAA’s challenges to Schwartz’s damages calculations. But USAA’s  
26 argument is especially inappropriate in the damages context. A defendant should  
27 not be heard to argue that “this violation has no remedy because calculating losses  
28 would be too complicated.” It’s well established that “the burden of proof as to  
damages is lower than that for causation, and the fact finder is afforded a greater  
deal of freedom to estimate damages where the defendant, as here, has created the  
risk of uncertainty. The damages inquiry does not allow a defendant to benefit  
from the scope of its wrongdoing; this is why even speculation has its place in  
estimating damages, and doubts should be resolved against the wrongdoer.” *In re*  
*Neurontin Mktg. & Sales Practices Litig.*, 712 F.3d 21, 50 (1st Cir. 2013) (internal  
citations and quotation marks omitted). Finally, the validity and accuracy of  
Schwartz’s work, like Griglack’s work discussed in footnote 4, is a class-wide  
question. The validity of USAA’s challenge to it will be the same for all class  
members.

1 members were denied full and equal services; (c) class members’ military status  
2 was a substantial motivating reason for USAA’s conduct; (d) class members were  
3 harmed; and (e) USAA’s conduct was a substantial factor in causing class  
4 members’ harm. *See Absolute USA, Inc. v. Harman Prof’l, Inc.*, No.: 2:21-cv-  
5 06410-MEMF(MAAx), 2023 U.S. Dist. LEXIS 26835, at \*49 (C.D. Cal. Feb. 14,  
6 2023) (listing elements in a race discrimination case).

7 The first element of an Unruh Act claim is not relevant to a Section 394  
8 claim because the latter statute is not limited to discrimination by businesses.  
9 Courts have not laid out the other elements of Section 394 claims so neatly, but  
10 they have identified “substantial or motivating reason” as a requirement in several  
11 decisions. *See, e.g., Correa v. Pac. Mar. Ass’n*, No. 2:17-cv-03060-AB (FFMx),  
12 2018 U.S. Dist. LEXIS 217525, at \*17 (C.D. Cal. June 12, 2018). Plaintiffs  
13 nonetheless do not contest that elements (b) through (e) of an Unruh Act claim  
14 apply to their Section 394 claim as well. USAA may raise another factual liability  
15 element (f), that it has an adequate non-discriminatory business justification for its  
16 actions. Next, there are legal issues going to liability that the Court already has  
17 decided but could recur if there is an appeal. The statute of limitations issue  
18 mentioned above is another common legal issue. Finally, the claims have two  
19 remedial elements in the form of restitution for past violations and enhanced  
20 awards under the Unruh Act. As shown below, each element raises a question that  
21 will be answered in the same manner for all class members.

22 **a. First Element.** *Are GIC and United Services business*  
23 *establishments within the meaning of the Unruh Act?* This is a class-wide question  
24 and will have one class-wide answer. USAA admits that GIC and United Services  
25 write auto insurance, Answer ¶ 9, and Cal. Ins. Code § 1861.03(a) expressly  
26 subjects insurance companies to the Unruh Civil Rights Act. Plaintiffs anticipate  
27 that USAA will stipulate at any trial that they are business establishments.  
28



1           **b.     Second Element.** *Has USAA denied Discrimination Class members*  
2 *full and equal services?* Charging members of a protected group higher prices for  
3 identical services denies them equal services. *See, e.g., Candelore v. Tinder, Inc.,*  
4 *19 Cal. App. 5th 1138, 1153-54 (2018) (discussing Koire v. Metro Car Wash, 40*  
5 *Cal. 3d 24, 29 (1985)).* Plaintiffs will prove through Griglack’s testimony,  
6 discussed above, that USAA charges Discrimination Class members higher prices  
7 for identical services than it charges identically situated officers. And, for the  
8 reasons discussed above, his opinions will resolve common questions with  
9 common answers, eliminating all individual questions about whether GIC charged  
10 higher prices to all Discrimination Class members for their policies than United  
11 Services would have charged them for the same coverage.

12           **c.     Third Element.** *Is enlisted personnel’s military status a substantial*  
13 *motivating factor in USAA’s conduct?* To prove that military status was a  
14 substantial motivating factor, Plaintiffs will have to show USAA acted out of  
15 “generalized assumptions about an individual’s personal characteristics.”  
16 *Candelore, 19 Cal. App. 5th at 1149.* Plaintiffs will prove that two types of actions  
17 show that USAA engages in generalized assumptions about the risk characteristics  
18 of enlisted insureds and officers. First, USAA separates them into different  
19 insurance companies, which would not be appropriate if it thought that they  
20 presented similar risks. Second, it assigns so much higher base rates to GIC than to  
21 United Services that over 90% of GIC insureds pay higher premiums than do  
22 officers who present identical risk characteristics on every one of the roughly 30  
23 rating factors that USAA tracks. Ex. 1, ¶ 19 (identifying risk factors); ¶ 49 (about  
24 94% of all GIC insureds pay more than they would under United Services’ rates).  
25 This is common evidence, equally applicable to all members of the Discrimination  
26 Class.

27           **d.     Fourth Element.** *Were class members harmed?* Plaintiffs will prove  
28 harm through Griglack’s testimony that during the class period, 97.1% of GIC

1 policyholders with collision insurance paid higher premiums than they would have  
2 paid for the same coverage with United Services. *Id.* ¶ 49. The class is made up of  
3 those GIC policyholders. See Discrimination Class definition. Griglack identified  
4 the Discrimination Class members by applying the uniform rating process  
5 summarized above to the data about each GIC insured produced by USAA. *Id.* ¶¶  
6 4-5. Griglack's process for calculating the premiums was the same for each insured  
7 for each sample date, thereby constituting common evidence. And the criticisms of  
8 USAA's experts fail for the same reasons set out in footnote 4.

9       **e. Fifth Element.** *Was USAA's conduct a substantial factor in*  
10 *causing class members' harm?* In this case, the answer to this question follows  
11 from the answers to the questions *b* and *d*. USAA's decisions to separate the two  
12 groups of insureds and impose higher rates on GIC policyholders is a substantial  
13 factor in the harm that those policyholders suffer from paying higher premiums.  
14 This will be established completely with common evidence.

15       The primary legal question when Plaintiffs filed the Complaint was whether  
16 the Unruh Act and Section 394 bar discrimination against one group of military  
17 personnel in favor of another or only discrimination against members of the  
18 military in favor of persons who are not in the military. That is no longer a  
19 question before this Court because the Court resolved it when denying USAA's  
20 motion to dismiss. ECF No. 22 at 17-19. USAA is likely to revive the question if  
21 there is an appeal. If so, the question is common to all Discrimination Class  
22 members.

23       As mentioned in footnote 1 above, another legal question is whether the  
24 statute of limitations is two years or three years. The resolution of that question  
25 will apply to all members of the Discrimination Class.

26       **f. Sixth Element.** *Has USAA had a legitimate, non-discriminatory*  
27 *reason for insuring enlisted personnel and officers through separate companies*  
28 *and charging enlisted personnel substantially higher premiums than officers*

1 *posing identical risk characteristics?* Under the framework established by the  
2 United States Supreme Court in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792,  
3 802-03 (1973), which has been held applicable to Unruh Act claims, *James v. US*  
4 *Bancorp*, No. 5:18-cv-01762-FLA (SPx), 2021 U.S. Dist. LEXIS 195569, at \*16-  
5 17 (C.D. Cal. June 4, 2021), USAA may proffer a legitimate, non-discriminatory  
6 reason for separating enlisted personnel from senior non-commissioned officers  
7 and commissioned officers and setting higher base rates resulting in higher  
8 premiums for the enlisted personnel. It has not yet done so. If it does, that reason  
9 necessarily will be common to all Discrimination Class members.

10 **g. Seventh Element.** *What is a reasonable estimate of the amount of*  
11 *restitution to which Discrimination Class members are entitled?* Just as for the  
12 Good Driver Class, Schwartz’s damages calculations for the Discrimination Class  
13 flow from the actions that create legal liability. He has developed two damages  
14 methodologies for the Discrimination Class. Both start with the difference on each  
15 sample date between what USAA charges GIC policyholders and the lower  
16 amounts that they would have been charged using the United Services rates, which  
17 is the source of the harm that Discrimination Class members suffer.

18 The first methodology largely ends there. If on any of the eight sample dates,  
19 United Services would have charged an insured *more* than GIC did, Schwartz  
20 offsets that difference against the damages for the dates when the United Services’  
21 premiums would have been lower. Ex. 3, ¶¶ 8-9. In the second methodology,  
22 Schwartz calculated damages for Discrimination Class members by increasing the  
23 indicated premium for United Services insureds on each sample date by an amount  
24 equal to the calculated damages for GIC insureds for that date. *Id.*, ¶ 10. This  
25 methodology calculates damages based on a hypothetical “but for” world in which  
26 USAA did not charge enlisted insureds discriminatorily high rates but instead  
27 increased United Services rates enough to offset the reduced premiums from  
28 enlisted insureds. Ex. 7, at 140:14-142:3. Because of the hypothetical increase in

1 United Services premiums, some Discrimination Class members with recoveries  
2 under the first methodology would not recover anything under the second  
3 methodology and all other class members would recover smaller amounts.

4 The feasibility and efficiency of calculating those damages for each class  
5 member is proved by Schwartz’s opening and rebuttal reports. He has already  
6 made those calculations using both methodologies for all Discrimination Class  
7 members. Ex. 3, ¶¶ 5, 14. USAA’s experts attacks on his methodologies do not  
8 defeat predominance for the reasons set forth in footnote 5. And if Plaintiffs  
9 prevail on their Unruh Act claim, remedial calculations will be even easier. The  
10 Act provides for a remedy of the greater of \$4,000 or three times damages. Most  
11 class members will be entitled to \$4,000 because most class members’ actual  
12 damages are less than \$1,333. For all these reasons, the damage calculations  
13 reinforce that common issues predominate in this case.

14 **B. Class Adjudication Is the Best Method for Resolving Plaintiffs’ and**  
15 **Class Members’ Claims.**

16 To satisfy Rule 23(b)(3), a class action also must be “superior to other  
17 available methods for fairly and efficiently adjudicating the controversy.” Fed. R.  
18 Civ. P. 23(b)(3). The superiority analysis encompasses: “(A) the class members’  
19 interests in individually controlling the prosecution or defense of separate actions;  
20 (B) the extent and nature of any litigation concerning the controversy already  
21 begun by or against class members; (C) the desirability or undesirability of  
22 concentrating the litigation of the claims in the particular forum; and (D) the likely  
23 difficulties in managing a class action.” *Id.*

24 Class members have no interest in individually controlling the litigation of  
25 their claims. Plaintiffs have already devoted three years to this case and their  
26 lawyers have spent about \$500,000 on litigation costs, primarily expert fees, on  
27 this case. The choice here is between a class action and no litigation. Because the  
28 average damages for class members is under \$1,000, individual plaintiffs would

1 have to spend an inordinate amount on experts to create the model necessary to  
2 calculate the differences between the premiums they paid and the premiums that  
3 would have been payable under United Services rates. This is true even if the  
4 plaintiffs recovered \$4,000 under the Unruh Act. *See Carnegie v. Household Int'l*,  
5 376 F.3d 656, 661 (7th Cir. 2004) (Posner, J.) (“only a lunatic or a fanatic sues for  
6 \$30”). No class members have brought individual actions against USAA, which  
7 reinforces the infeasibility of individual litigation. Effectively foreclosing litigation  
8 by denying a class should be especially unpalatable when USAA continues to  
9 engage in the challenged practices. And it makes sense to concentrate the litigation  
10 in this District, which houses several large military bases and where many of  
11 California’s veterans reside. ECF No. 58-14, at 8 (Figure 2).

12 This case will be easy to manage as a class action for two reasons. First, as  
13 shown above, all or essentially all issues are common. There should not be a need  
14 to devote resources to individual issues. Second, this case does not present genuine  
15 disputes of material fact. Plaintiffs intend to file a motion for summary judgment  
16 applicable to all class members; USAA likely will do likewise. Even if a trial  
17 proves necessary, it will primarily involve expert testimony and almost certainly  
18 will not require testimony from or about any class members.

19 **C. Both the Good Driver Class and the Discrimination Class Satisfy the**  
20 **Requirements of Rule 23(a).**

21 **1. The Proposed Classes Contain More than 100,000 Members Each,**  
22 **Satisfying Numerosity.**

23 Numerosity exists if a class is so numerous that joinder of all members is  
24 “impracticable.” Fed. R. Civ. P. 23(a)(1). Here, each class contains about 200,000  
25 members. Ex. 3, ¶ 14. As a rule of thumb, a class of 40 is enough. *Nguyen v.*  
26 *Radiant Pharm. Corp.*, 287 F.R.D. 563, 569 (C.D. Cal. 2012). The numbers here,  
27 orders of magnitude greater than 40, are more than sufficient. The Court previously  
28

1 found, and USAA has not disputed, that these large classes satisfy the numerosity  
2 requirement. ECF No. 109, at 11.

3 **2. There Are Many Common Questions of Law and Fact.**

4 Fed. R. Civ. P. 23(a)(2) requires that “there are questions of law or fact  
5 common to the class.” Class members’ claims present “common” questions if they  
6 rest on common contentions, meaning that success or failure of their claims rests  
7 on answers to the same question(s) and that *the answers* are “apt to drive the  
8 resolution of the litigation.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350  
9 (2011) (cleaned up). For purposes of Rule 23(a)(2), “[e]ven a single [common]  
10 question will. do.” *Id.* at 359. Because Plaintiffs have satisfied the predominance  
11 requirement, *a fortiori* they have satisfied the commonality requirement. In  
12 addition, USAA has never disputed that there are ample common questions and the  
13 Court has previously concluded that commonality is satisfied. ECF No. 109, at 12.  
14 Commonality is satisfied here.

15 **3. The Class Representatives’ Claims Are Typical of the Class.**

16 Typicality exists if “the claims or defenses of the representative parties are  
17 typical of the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). In ruling on  
18 typicality, courts should focus on “the defendants’ conduct and plaintiffs’ legal  
19 theory, not the injury caused to the plaintiff.” *Lozano v. AT&T Wireless Servs.,*  
20 *Inc.*, 504 F.3d 718, 734 (9th Cir. 2007). Here, Plaintiffs’ claims are typical of the  
21 claims of all other Discrimination Class members because Plaintiffs, like the other  
22 members, purchased GIC auto insurance, would have paid lower premiums if they  
23 had been charged under United Services’ rates, and claim that USAA’s practices  
24 violated the Unruh Civil Rights Act and Section 394. Plaintiffs’ claims are typical  
25 of all other Good Driver Class members because, in addition to the above facts,  
26 they received good driver discount policies and claim that USAA’s practices  
27 violated Cal. Ins. Code § 1861.16(b). USAA has not contested typicality. The  
28



1 Court has previously found that typicality is satisfied, ECF No. 109, at 12, and  
2 should do so again.

3 **4. Rule 23(a)(4) Adequacy Is also Satisfied.**

4 Demonstrating Rule 23(a)(4) adequacy requires answering two questions:  
5 “(1) do the named plaintiffs and their counsel have any conflicts of interest with  
6 other class members and (2) will the named plaintiffs and their counsel prosecute  
7 the action vigorously on behalf of the class?” *Ellis v. Costco Wholesale Corp.*,  
8 657 F.3d 970, 985 (9th Cir. 2011) (quoting *Hanlon v. Chrysler Corp.*, 150 F.3d  
9 1011, 1020 (9th Cir. 1998)). Here, Plaintiffs and counsel have no conflict with  
10 unnamed class members, and both the Plaintiffs and their counsel have and can be  
11 expected to continue to vigorously prosecute this action on behalf of the class.  
12 USAA did not contest adequacy previously. The requirement of adequacy is met,  
13 just as it was when the Court previously found that Plaintiffs are adequately  
14 representatives. ECF No. 109, at 13.

15 **D. The Classes Are Properly Defined.**

16 The parties argued in their briefing over the original motion for class  
17 certification about whether the class definitions are improperly failsafe in including  
18 the phrase “paid more for that policy [to GIC] than they would have paid in United  
19 Services.” The Court did not address the issue in its order. Plaintiffs anticipate that  
20 USAA may raise the issue again in opposition to this renewed motion.

21 “[A] failsafe class definition requires the court ‘to reach a legal conclusion  
22 on the validity of a person’s claim in order to determine whether the person is in  
23 the class,’ meaning the class is unascertainable prior to a liability determination.”  
24 *Waterbury v. AI Solar Power Inc.*, 2016 U.S. Dist. LEXIS 74222, at \*10 (S.D. Cal.  
25 June 7, 2016) (citation omitted). A definition that looks only to objective criteria to  
26 determine class membership is not failsafe. *Id.* at \*12; *see also Brown v. DirecTV,*  
27 *LLC*, 330 F.R.D. 260, 268 (C.D. Cal. 2019) (holding that class definition is not  
28

1 failsafe when it uses only “objective criteria” and “the scope and size of the class  
2 can be resolved ‘without a final determination on the merits’”).

3 The class definitions in this case are not failsafe because they look to an  
4 objective criterion: whether the GIC policyholder would pay less in USAA than in  
5 GIC. The court need not rule on the validity of the policyholder’s claim, *i.e.*, on  
6 whether USAA’s conduct violates the law, to ascertain class membership. *See*  
7 *Nangle v. Penske Logistics*, No. 11cv807-CAB (BLM), 2012 U.S. Dist. LEXIS  
8 202955, at \*6 (S.D. Cal. Oct. 30, 2012) (holding that definition that limited class  
9 members to people “subject to Defendant’s use of an automatic 30-minute wage  
10 deduction policy” is not failsafe because definition “does not expressly presuppose  
11 a labor code violation”).

12 **E. The Court Should Appoint Plaintiffs’ Lawyers as Class Counsel.**

13 If the Court certifies one or both classes, it must also appoint class counsel.  
14 Fed. R. Civ. P. 23(g)(1). Only Plaintiffs’ lawyers have expressed interest in the  
15 position and, in its prior opposition to certification, USAA did not oppose  
16 appointment of Plaintiffs’ lawyers if the classes are certified. The Court did not  
17 reach this issue in its prior decision on class certification. ECF No. 109. Plaintiffs  
18 are willing to stand on the arguments for appointment that they made in their prior  
19 motion. ECF No. 58, at 24-25. The only significant difference is that, instead of  
20 expending over \$100,000 on the case as was true in early April 2022, Plaintiffs’  
21 lawyers now have expended over \$500,000 on the case, primarily on expert fees.

22 **III. CONCLUSION**

23 The expert reports demonstrate that Plaintiffs can establish the fact of injury  
24 and reasonable estimates of the amounts of damages for every member of the two  
25 proposed classes in a common, efficient manner. The inability to make this  
26 demonstration because of USAA’s failure to produce the necessary data was the  
27 biggest gap in Plaintiffs’ prior motion for class certification. The Court should  
28 grant Plaintiffs’ motion and certify the two proposed classes.



1  
2 Dated: June 27, 2023

3 /s/ Michael Lieder

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**CERTIFICATE OF SERVICE**

I, Michael Lieder, am the ECF user whose identification and password are being used to file this document. In compliance with the Southern District of California Electronic Case Filing Administrative Policies and Procedures Section 2(f)(4), I attest that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing’s content and have authorized the filing.

Dated: June 27, 2023

Respectfully submitted,

/s/ Michael Lieder

# EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

EILEEN-GAYLE COLEMAN and  
ROBERT CASTRO, on behalf of  
themselves and all others similarly  
situated,

Case No. 3:21-cv-217-RSH-KSC

Plaintiffs,

v.

UNITED SERVICES AUTOMOBILE  
ASSOCIATION and USAA GENERAL  
INDEMNITY COMPANY

Defendants.

**Expert Report of Jonathan Griglack**

**I. Introduction**

1. I previously have submitted a declaration in this case dated April 6, 2022, an amended declaration dated May 23, 2022, a rebuttal declaration dated June 23, 2022, and a declaration in connection with Plaintiffs' motion to amend the class definitions dated October 4, 2022. Those declarations summarize my qualifications<sup>1</sup>. They have not changed materially since those declarations.

2. SGRisk is an independent property-liability actuarial consulting firm, founded in 1980, that offers complete actuarial and financial expertise in areas of ratemaking, reserving, and self-insurance. Our level of expertise covers all non-life coverages including auto liability, general liability, professional liability, etc. All actuaries on staff, including me, are Fellows of the Casualty Actuarial Society and members of the American Academy of Actuaries. I have worked with Benjamin

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<sup>1</sup> Amended JBG Class Cert Declaration Coleman v USAA 5-23-2022, ¶1-2

Newville and Scott Brown on this project. CVs of all three of us are attached for reference.

3. SGRisk’s rate for purposes of its work is \$400 an hour. SGRisk’s compensation is not contingent upon the opinions I render or the outcome of this litigation. To date, SGRisk has invoiced \$213,700 in this case.

## II. Purpose and Scope

4. SGRisk, LLC has been retained by the firms of Mehri & Skalet, PLLC, Mason LLP, and Consumer Watchdog (collectively the “plaintiffs’ counsel”) in connection with a lawsuit in the Southern District of California in which the Firms represent plaintiffs with claims against USAA Automobile Association (“USAA”) and USAA General Indemnity Company (“GIC”) (collectively “USAA group”). Plaintiffs’ counsel originally asked us to utilize USAA group’s rating methodology to compare the premiums that GIC charged policyholders to those premiums that would have been charged under USAA as of ten dates from 2017 through 2021. The dates were agreed upon to be every March 31<sup>st</sup> and September 30<sup>th</sup> of the five-year span.

5. Recently, Plaintiffs moved to revise the class definition<sup>2</sup> to include only those insureds who had a policy effective from December 28, 2017 through September 30, 2021. We therefore excluded two of the ten dates, specifically March 31, 2017 and September 30, 2017, from our analysis. Additionally, the provided data file as of March 31, 2018 includes policies prior to December 28,

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<sup>2</sup> Good Driver Class:

All (a) enlisted persons (b) who at any time on or after December 28 , 2017, purchased or renewed an automobile insurance policy from GIC and (c) paid more for that policy than they would have paid in USAA, if the policy (d) included collision coverage on one or more vehicles garaged in the State of California, and (e) covered one or more persons who qualified as good drivers under Cal. Ins. Code § 1861.025 but were not offered a good driver policy from USAA .

Discrimination Class:

All (a) enlisted persons, (b) who at any time on or after December 28 , 2017, purchased or renewed an automobile insurance policy from GIC that was effective on or after February 4, 2018, and (c) paid more for their GIC policy than they would have paid in USAA, if (d) the policy included collision coverage on one or more vehicles garaged in the State of California.

2017. These were excluded to remain consistent with the revised definition of the class.

6. USAA group differentiates between USAA and GIC based on the policyholder's military status. Enlisted personnel in pay grades E-1 through E-6 and veterans whose highest rank was in those grades, along with un-remarried widow(er)s of enlisted personnel, are placed in GIC, while current and former military officers (including high-level non-commissioned officers) – those in pay grades E-7 and above -- are placed in USAA. USAA and GIC use the same rating methodology outlined in Section IV, the only difference being the published base rates and certain relativities. The base rates and relativities appear in the rating manuals that apply to both companies.

### III. Summary of Conclusions

7. The data provided by USAA group, while missing some information and containing defects which are highlighted in Section V, are sufficient to identify policyholders who paid more in GIC than they would have paid under USAA base rates and relativities, and to reasonably estimate the differences between the amounts that they paid and would have paid. Our review and use of the data was performed under the guidance of Actuarial Standard of Practice (“ASOP”) 23 and the procedures outlined within it.

8. The consistency of results for GIC policyholders among the eight sample spreadsheets reflects that the sample is sufficient to identify policyholders who paid more in GIC than they would have paid under USAA base rates and relativities and to reasonably estimate the differences between the amounts that they paid and would have paid.

9. On a total basis, about 97.1% of policyholders with collision coverage, about 97.0% of policyholders with collision coverage and good driver discount, and about 93.8% of all policyholders paid more in GIC than they would have paid in USAA.

10. The difference between the amount that policyholders in GIC with collision coverage paid and what they would have paid in USAA is \$169.4 million. The difference between the amount that policyholders in GIC with collision coverage who qualified for a good driver discount paid and what they would have paid in USAA is \$149.6 million.

## IV. Methodology

### A. Overview

11. The calculation of an individual's premium is straight forward: simple arithmetic using addition, subtraction, and multiplication is performed numerous times to derive the premium of a vehicle which is then added to the premiums for all other vehicles, if any, under a policy to obtain a final premium.

12. We performed this arithmetic on data contained in eight spreadsheets provided to us on September 7, 2022 by USAA group, which collectively comprise Appendix B. The data contained within these spreadsheets is the underlying data of our analysis. The spreadsheets were identical or virtually identical in their formatting.

13. The process, rules, and rates for calculating premiums in California are set out in USAA group rate and class plan filings<sup>3</sup>, which are publicly available on California's System for Electronic Rate and Form Filing (SERFF). Two key sections of the filings are the "Rule Manual" and the rating manual or "Base Rates, Rating Factors, and Relativities," section of the class plan. The rating manuals applicable to our analysis are attached as Appendices A-1 through A-3. The rule manual outlines the process undertaken to determine a premium for a USAA group policyholder.<sup>4</sup> Appendix A-4 is the latest rule manual applicable to the period we are analyzing.

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<sup>3</sup> A rate filing involves a change in the overall rate level. A class plan filing involves the distribution of the rate to individual policyholders based on their rating characteristics. The CDI defines class plan as follows:

§ 2632.3. Class Plan. The term "class plan" means the following:

(a) the schedule of rating factors and discounts, and their order and manner of analysis as required by Section 2632.7, in the development of rates and premiums charged for a policy of automobile insurance.

(b) in accordance with Section 2632.2, the analysis or consideration of types or limits of coverage or deductibles, make, model, value, cost of repair, and auto symbols of the insured vehicles.

<sup>4</sup> Both the Rule Manual and the Rating Manual contain information applicable to all four of USAA group's insurance companies. Counsel has asked that we

## B. Base Rate

14. USAA and GIC offer the same 11 insurance coverages for private automobile insurance. Each company assesses a base rate for each type of coverage. The base rate is defined as the premium that would be charged if the insured was considered a baseline risk.

15. Although GIC charges the same base rates to all its policyholders and USAA charges the same base rates to all its policyholders, throughout the period from December 28, 2017 through September 30, 2021, the GIC base rates differed from the USAA base rates. Notably, GIC base rates have without exception been larger than the USAA base rates throughout the period. As a result, an insured in GIC is immediately at a higher starting premium than an insured in USAA purchasing the same coverage.

## C. Rating Factors, Relativities, and Categories<sup>5</sup>

16. This base rate is then multiplied by the relativities associated with a variety of rating factors to reflect specific risk characteristics for each individual and for each vehicle on the policy. A rating factor is a risk-related characteristic of the policyholder or the vehicle that affects the premium.

17. For each rating factor there are categories, ranging from two (whether a person is a good driver or not) up to 999 (number of territories in CA). For example, a rating factor that is used in determining premium is Years of Driving Experience (“YDE”). USAA group has 73 categories of risk for YDE, ranging for 0 years to 72+ years.

18. USAA group assigns relativities to each category for each type of insurance coverage. USAA and GIC use the same rating factors and the same categories for each rating factor. Continuing the example in the previous paragraph, GIC has relativities for each category of YDE from 0 years to 72+ years, where the riskier drivers, based upon YDE, are assigned relativities greater

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concentrate solely on USAA and GIC, so the other two companies were not analyzed.

<sup>5</sup> While the CDI identifies three mandatory and fifteen optional “rating factors”, some of these factors have multiple subcategories. Additionally, the CDI identifies several “rating characteristics” that function like rating factors. Given that all are involved in the rating process, the term “rating factor(s)” in this report encompasses “rating factors”, “subcategories of rating factors”, and “rating characteristics”.



than 1.00 indicating that they are riskier than the baseline driver while drivers in experience categories classified as less risky than the baseline are assigned relativities less than 1.00. Again, the relativity corresponding to an insured’s category of risk is multiplied by the base rate to reflect the risk exposure posed by an insured. For example, continuing the YDE rating factor example, ten years of driving experience is a category within the rating factor, and the relativity associated with the category of ten years driving experience for GIC BI is 0.99, as of December 28, 2017.

19. For most factors, USAA and GIC have used identical relativities throughout the period. For some categories of eight rating factors USAA relativities have been higher, whereas for other categories of some of those rating factors GIC’s have been higher. Table 1 below shows the factors that use the same or different set of relativities or values.

<b>Rating Factors’ Relativities Comparison Between USAA and GIC</b>	
<u>Rating Factors For Which Relativities Differ</u>	<u>Rating Factors For Which Relativities Are the Same</u>
	Stated Amount Factor
	Expense Fees
Pure Premium Band <sup>6</sup>	Increased Limit Factors (MP/UMUIIMBI)
Increased Limit Factors (BI/PD) <sup>6</sup>	Deductible Relativities
Premier Operator Discount	Symbol
Years of Driving Experience	Model Year
Conviction Surcharges <sup>6</sup>	Antitheft
Accident Surcharges <sup>6,7</sup>	Passive Restraint Discount
Annual Mileage	New Vehicle Discount
Other Misc. Vehicles (Relativities for CP and CL coverages for Three Types of Vehicles) <sup>8</sup>	Away-At-School Discount
	Good Student Discount
	Good Driver Discount
	Mature Driver Improvement Course
	Military Installation Garaging
	Storage Discount

<sup>6</sup> As stated in Footnote 5, CDI regulations do not define these specific factors as rating factors, but we refer to them as such since they have the same effect as a rating factor.

<sup>7</sup> Of the 63 relativities (7 coverages x 9 categories) for accident surcharges, GIC and USAA have only one differing relativity for one category for one coverage. This is true throughout the period. All other relativities are the same.

<sup>8</sup> These are not rating factors but rather additional vehicles that can be rated where the relativities and factors that apply to these vehicles are consistent among all companies in USAA group, with few exceptions.

<p>Multi-Policy Discount                  Persistency Discount                  Gender<sup>9</sup>                  Marital Status                  Misc. Factors (Car Replacement Assistance,                  Ride Share Gap Coverage, Vehicle Usage,                  Vehicle Injury Rating, Driver Training, Operator                  Status, Multi-Car Discount)                  All Other Coverages and Factors for                  Motorcycles and Other Misc. Vehicles</p>
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*Table 1: Rating Factor Comparison*

20. This process of multiplying a base rate by a relativity is carried out for all rating factors that apply to that specific coverage, for each coverage the insured wishes to purchase, and for each vehicle that will be insured under the policy.

21. An expense fee is added by coverage and a good driver discount is applied at the end. Both expense fees and good driver discounts are the same for USAA and GIC throughout the period. The final step is to simply add the products for each coverage together to generate a premium per vehicle, and then those premiums are added for a cumulative annual policy premium for the policyholder. That amount is then divided by two to get to the charged premium for each six-month policy.

22. While miscellaneous vehicles such as motorcycles, antique vehicles, etc. have additional steps to properly rate them, these steps are no more than simply multiplying one more additional relativity, substituting in a new expense fee, or using a flat rate for a coverage. Factors, with few exceptions, are the same between USAA and GIC for miscellaneous vehicles with those exceptions being CP and CL rates for snowmobiles, golfcarts, and trailers.

23. While it is not included in all filings used in our analysis, California currently requires in class plans a “Rating Logic” section of the rate filing. In this section, USAA group provides a few examples of the premium calculation for hypothetical policyholders. One set of these examples of premium calculation is attached as Appendix A-5. Each page shows a different hypothetical insured and gives a clearer picture as to the process we’ve replicated. Again, this process is exactly the same for each of the USAA group companies and is consistent across the timeframe December 28, 2017 to September 30, 2021. The class plan expressly provides that it applies to both companies, and it provides definitions of

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<sup>9</sup> Effective March 5, 2020, gender was removed as a rating factor from all companies.

rating factors and provides additional details--again, that expressly apply to both USAA and GIC.

24. USAA group's rule manual also describes how to assign operators to vehicles when a policyholder has multiple vehicles and/or the policy covers multiple operators. "Total Base Premium" is determined for each vehicle and driver on the policy, based on Bodily Injury coverage, one of the multiple coverages that USAA group provides. Then the highest rated driver is assigned to the highest rated vehicle, the next highest rated driver is assigned to the second highest rated vehicle (if there is a second vehicle), and so on until all operators are assigned to a vehicle<sup>10</sup>. If there are more vehicles than operators, vehicles without an assigned operator are treated as excess vehicles, and for many rating factors excess vehicles are in their own category.

25. USAA group made multiple rate filings within the period. Each of these filings prescribed the same premium generating process i.e., start with base rates and multiply by relativities for specific rating factors. This process leaves no room for subjectivity when calculating premiums. It is the same process, for each insured, for each policy within the period being analyzed. The arithmetic does not change and the only variation between the rate filings, other than the elimination of gender as noted in footnote 9 above, is the updates made to base rates and/or relativities.

26. As an example, in demonstrating how premium is derived, I've selected a vehicle from the March 31, 2019 spreadsheet<sup>11</sup>, specifically member ID 5903562. The following are a select few highlights from the policy covering this

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<sup>10</sup> The Rule Manual also describes how to determine the rate for each vehicle and operator:

For Vehicles: Base Rate × Pure Premium Band Relativity × Increased Limit Relativity × Liability Symbol Relativity × Model Year Relativity × Vehicle Age Relativity × Annual Mileage Factor × Usage Factor × Storage Discount.

For Operators: Years Driving Experience Factor × Gender Factor × Marital Status Factor × Driver Training Discount × Good Student Discount × Mature Driver Improvement Course Discount × Occasional Operator Discount × Away at School Discount × Accident Factor × Conviction Factor × Premier Operator Discount × Good Driver Discount.

<sup>11</sup> Appendix B-3, CA\_GIC\_inforce-2019-03-31\_20220909.xlsx, row 45

particular vehicle: this policy appears to be the insureds first policy with the company; the insured selects bodily injury limits of \$15,000/\$30,000<sup>12</sup>, property damage limit of \$5,000, and comprehensive and collision deductibles of \$500; garages their car in pure premium band 944, has one at-fault accident but no convictions, has 8 years of driving experience, drives 8,000 miles annually; and does not qualify for the premier operator discount but does qualify for the good driver discount. The steps and results of rating this vehicle are shown in Appendix C-2.

27. The calculations in this example closely resemble the calculations shown in Appendix A-5. Appendix A-5 also shows that there are over twenty rating factors in connection with which multiplicative relativities are applied to the base rate in a similar manner to the example above. While some relativities are higher than 1.00 indicating additional exposure to loss for the insurer, some are less than 1.00. For example, for discounts, the highest relativity is 1.00 which indicates that the discount does not apply. Policyholders receiving the discount are assigned relativities of less than 1.00. Depending on the type of coverage, an expense fee is added after the multiplicative calculations. The only multiplicative relativity applying to the expense fee is the good driver discount.

28. The rating factors that apply to each coverage are set forth in the rule manual. The relativities that apply to a policyholder's rating characteristics depend on the company that policyholder was placed in. Shown on the various pages in Appendices A-1 through A-3 are a series of tables identifying each rating factor, the types of coverage for which they apply, each characteristic applicable to each rating factor, and the relativity for that characteristic and coverage. Often the first or second column relates to the policyholder or vehicle characteristic, with the subsequent columns referring to the appropriate relativity to use. Relating back to Table 1, many of these rating factors have the same relativities across USAA and GIC, but eight also differ (although one of them, "Accidents," does so in only one instance).

29. In our report, we replicate the methodology, base rates, and relativities USAA group has set out in its filings with the CDI. We do this by using the USAA base rates and relativities, which USAA group has set forth in the Base Rates, Rating Factors and Relativities section of its class plans, and data produced by the USAA group for each GIC insured.

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<sup>12</sup> \$15,000/\$30,000 indicates the policyholder is covered up to \$15,000 per person and \$30,000 per accident

30. Calculations are the same as prescribed in USAA group’s rate filing. In short, we take the appropriate, corresponding USAA base rates and multiply them by the respective USAA relativities. These premiums are subtracted from corresponding GIC premiums to calculate the difference between USAA and GIC premiums for the same policyholder.

31. We use the same process for each of the eight dates for which USAA group has produced data for each GIC policyholder within the redefined period. These eight dates provide a sample of the premiums charged on all effective policies between 2017 through 2021.

#### V. Data – Adequacy and Assumptions

32. During the course of our work, we relied upon information and data supplied by USAA group and their defense counsel. After systematic reviews of each iteration of data received prior to September 7, we informed Plaintiffs’ counsel, who notified counsel for USAA group, of potential defects found in the data. After reviewing the iteration of data produced September 7, we concluded that while defects remained, the data Defendants produced was sufficient for us to perform the premium comparisons that Plaintiffs’ counsel had asked of us. To accurately rate vehicles throughout the period, we took various actions described below to handle the remaining small number of defects.

33. In total, we rated almost two million vehicles over the specified period. We were unable to rate, and hence excluded from our analysis, a small number of vehicles because of data defects. The following table summarizes the number of vehicles unable to be rated, compared to the total number of vehicles, by spreadsheet and in total:

	3/31/2018*	9/30/2018	3/31/2019	9/30/2019	3/31/2020	9/30/2020	3/31/2021	9/30/2021	<b>Total</b>
Unratable	708	1,261	1,234	1,247	1,250	1,302	1,262	1,262	<b>9,526</b>
Total # Vehicles	127,715	242,649	248,107	257,184	265,060	272,344	274,302	272,421	<b>1,959,782</b>
Percent Unratable	0.55%	0.52%	0.50%	0.48%	0.47%	0.48%	0.46%	0.46%	<b>0.49%</b>

\*(from 12/28/17-3/31/18)

34. Two types of defects in USAA group’s spreadsheets caused 97% of the total unratable vehicles:

a. Vehicle indicators of “-” and “UNKNOWN” appeared 8,475 times throughout the eight spreadsheets. These indicators were responsible for

about 89% of the small number of vehicles our models could not rate (see above). We brought this issue to the attention of USAA group in August, but we never received information regarding these vehicles. For the policies that had vehicles with these indicators, as well as other ratable vehicles, the other ratable vehicles were accurately rated. Additionally, we excluded vehicles with indicators “-” and “UNKNOWN” from tabulation of the number of vehicles for the multi car discount, both because of the lack of information provided for those indicators, and because when we removed “-” and “UNKNOWN” from the vehicle count, calculated premiums of the ratable vehicles matched given premiums.

b. None of the rule/rating manuals from the period use the symbol “9” for coverages CP and CL but the spreadsheets do. While “9” is a valid indicator for CP and CL deductible relativities, the same is not true for the symbol relativity itself. Our model could not rate a vehicle with a symbol of “9” for CP or CL if the policy has those coverages for the vehicle. Yet 762 vehicles throughout the eight spreadsheets, 8% of the total unratable vehicles, had CP and CL coverage and a symbol of “9”. USAA group has not explained what relativity should be used in those instances although we brought it to the group’s attention in August. Again, for policies with an unratable vehicle because of the symbol “9”, we rated other vehicles under those policies. For example, in the March 31, 2019 spreadsheet, there were 88 vehicles that had CL coverage but a symbol of “9”, but only 9 were for policies where the vehicle with symbol “9” was the only vehicle i.e., 79 vehicles with symbol “9” were in policies with other vehicles which were rated.

35. There are clear at-fault accident and conviction points data entry errors which distort our calculated premiums. The following are just two examples, one for accidents and one for convictions.

a. As of March 31, 2019, member ID 219704004 has the number of at-fault accidents listed as “8”. When running the policy information through the model, USAA premium was calculated to be \$2,753.49 while GIC premium was calculated to be \$3,569.69. The spreadsheet, however, shows GIC premium as \$1,176.41<sup>13</sup>. When at-fault accidents are changed from “8” to “1”, the model produces USAA premium of \$901.98 and GIC premium of \$1,175.98<sup>14</sup>, essentially identical to the stated GIC premium of \$1,176.41

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<sup>13</sup> Appendix C-3.1

<sup>14</sup> Appendix C-3.2



shown in the spreadsheet. Therefore, we believe the number of at-fault accidents should be “1” instead of the “8” in the spreadsheet.

b. As of March 31, 2019, member ID 214304426 has the number of conviction points listed as “8”. When running the policy information through the model, USAA premium was calculated to be \$1,252.99 while GIC premium was calculated to be \$1,470.13. The spreadsheet shows GIC premium as \$991.21<sup>15</sup>. When conviction points are changed from “8” to “1”, the model produces USAA premium of \$803.26 and GIC premium of \$985.33<sup>16</sup>, which is only 0.6% less than the stated premium shown in the spreadsheet. The number of conviction points produced should be “1” instead of the “8” in the spreadsheet.

36. These are just two instances of the data entry errors for at-fault accidents and conviction points that appear throughout the spreadsheets provided by USAA group. In all instances where at-fault accidents provided are greater than “5”, differences between calculated GIC premium versus given GIC premium are greater than 5%. We had brought the issue of apparent data entry errors involving at-fault accidents and conviction points to the attention of USAA group and they specifically claimed to have addressed the issue for the September 30, 2021 spreadsheet. The issue persists in the other seven spreadsheets.

37. Data entry errors related to at-fault accidents and conviction points are relatively easy to spot. Other types of data entry errors would be far more difficult. For example, it would be almost impossible to detect errors in the pure premium band number. We concluded it would be impractical to go through each of the spreadsheets and make changes to the given data for these types of data entry defects. Based on both our rigorous and multiple checks of our models and on the strong correlation between policyholders being shown as having more than five at-fault accidents and the existence of differences greater than 5% between the calculated and stated GIC premiums, we are of the opinion that undetected data defects probably account for a substantial percentage of the occasions in which calculated and given GIC premiums differ by more than 5%. We addressed data entry errors, as is discussed in more detail below, by comparing our calculated USAA premiums to our calculated GIC premiums rather than the GIC premiums stated in the spreadsheets.

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<sup>15</sup> Appendix C-4.1

<sup>16</sup> Appendix C-4.2



38. We addressed other defects in the data in the following ways:

a. The spreadsheets did not identify which insureds with an indicator of “WIDOWED” were in the class (because they were also enlisted) and which were not (because they were not enlisted). This was initially brought to USAA group’s attention in May. USAA group addressed this gap, in August, by providing us a list<sup>17</sup> of widow(er)s who were not enlisted and therefore would not be in the class. However, several of the policyholders identified in the list had marital statuses in the spreadsheets other than “WIDOWED”. For our analysis, we excluded a policyholder from the class only if they were on the provided list of non-enlisted persons and had an identifier of “WIDOWED” in the spreadsheets. For example, member ID 132703642 in the March 31, 2019 spreadsheet has a marital status indicator of “SINGLE”<sup>18</sup>. Therefore, even though this policyholder was in Appendix B-9 as of March 31, 2019, we treated them as a class member and included them in our analysis. In total, there were 768 instances where policyholders in Appendix B-9 did not have a “WIDOWED” marital status indicator.

b. Vehicle age, as defined by the rule manual<sup>19</sup>, was not stated directly in the spreadsheets but was calculated based upon policy effective date and model year of the vehicle being rated, both of which were provided in the spreadsheets.

c. We assumed, and USAA group confirmed, that trailers listed as “OTRTRLR” were what was defined in the rating manuals as recreational trailers and that trailers listed as “UTILTRLR” were what was defined as other trailers. The spreadsheets did not indicate whether trailers were new or more than 18 months old. To account for trailer age, we used provided trailer premiums and trailer value to back out the trailer discount (80% of new rate if older than 18 months<sup>20</sup>). After accounting for this discount, all trailers were rated to the exact premium amount provided by USAA group.

d. In the spreadsheets, extended benefits (EB) premiums were double counted: they were included in medical payments (MP) premiums and were also provided separately. As a result, we backed out stated EB premium from the stated MP premium.

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<sup>17</sup> Appendix B-9, PR-22388 Output – 8-11-22.xlsx

<sup>18</sup> Appendix B-3, CA\_GIC\_inforce-2019-03-31\_20220909.xlsx, row 224,437

<sup>19</sup> Appendix A-4, Section 4, ¶18

<sup>20</sup> Appendix A-4, Section 19, ¶B.1.a

e. Ride share gap protection<sup>21</sup> was not included in the premiums stated in the spreadsheets. We brought up this issue to USAA group in August but have not received word back. We addressed this issue by adding the relativity associated with ride share gap protection, 1.07, to a vehicle's stated coverage premiums, whenever it is indicated in the spreadsheet that a vehicle has this protection.

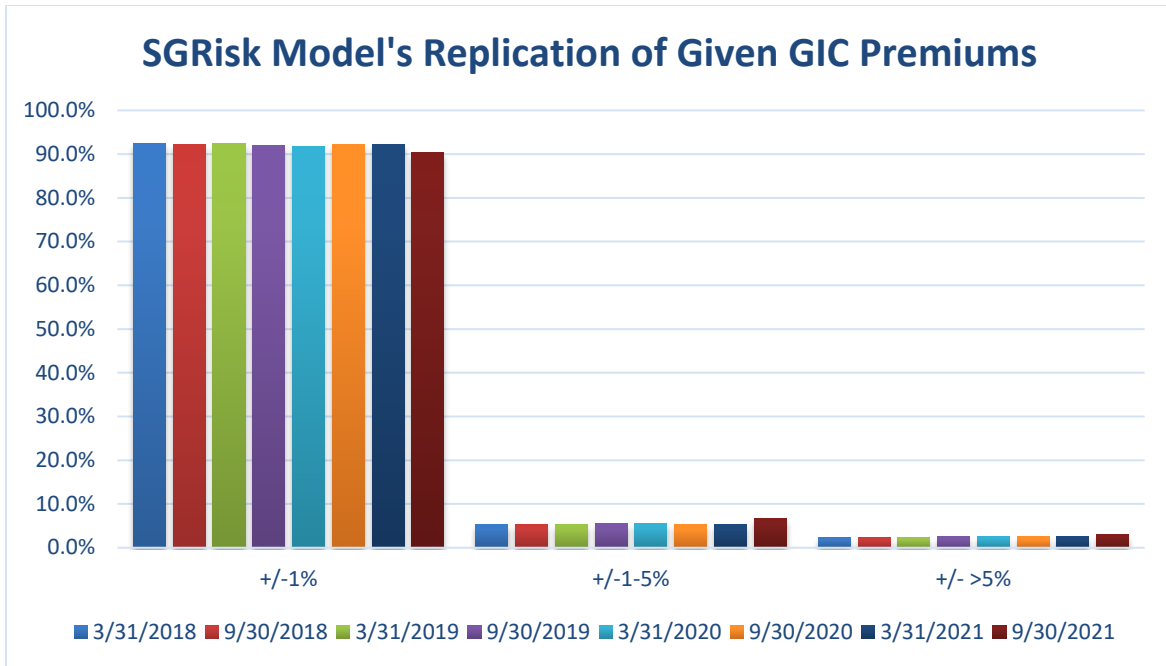
f. USAA group never included car replacement assistance (CRA) premium in the spreadsheets supplied although requested multiple times, the last of which was in August. We derived CRA premium, when applicable, using provided CP and CL premium and their corresponding factors, 6.1% and 9.7%, respectively, without corresponding expense fees and the good driver discount, if applicable, prior to calculating the six-month premium. Stated differently, CRA was derived based upon twelve-month CP and CL premium, before applying expense fees and a good driver discount when applicable, and then divided by two to obtain the corresponding half-year premium.

39. Our ability to account for these data defects in the spreadsheets is reflected in the accuracy of our models when comparing calculated GIC premiums versus given GIC premiums. Over the span of the eight spreadsheets analyzed, 97% of all policyholder premiums were within +/- 5% of given premium, with 90-92% being within +/- 1%<sup>22</sup>. The following chart depicts the accuracy of the models used:

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<sup>21</sup> Appendix A-4, Section 14, ¶E

<sup>22</sup> Appendices C-5 through C-12



40. Based on our ability to replicate or approximately replicate such a large percentage of the GIC premiums stated in the spreadsheets and our ability to address the various data defects discussed above, we have concluded under ASOP No. 23 that we can rely upon the accuracy and completeness of the data in those spreadsheets for the analysis notwithstanding the data defects<sup>23</sup>.

41. As shown above, the data defects cited led to substantial differences between the premium stated in the spreadsheet and the premium we calculated for a small percentage of individual vehicles. For some of those vehicles, the calculated USAA premium was greater than the given GIC premium stated in a spreadsheet, whereas for other vehicles the calculated USAA premium was less than the given GIC premium. This difference between calculated GIC premium and given GIC premium would potentially affect whether a policyholder may have been included or excluded from the class.

42. An example of this occurring was shown in ¶35.a i.e., member ID 219704004 as of March 31, 2019. This member has collision coverage and is a good driver and is therefore potentially part of both classes we are analyzing. If we were to use given GIC premium (\$1,176.41) compared to calculated USAA premium (\$2,753.49), this particular policyholder would not be a class member. But we know that the calculated USAA premium is significantly higher than it

<sup>23</sup> Appendix C-1

should be because of the data entry error identified above. If we were to correct at-fault accidents from “8” to “1”, the calculated USAA premium would become \$901.98, and therefore the policyholder would be charged more in GIC than in USAA by a difference of \$274.43.

43. On a total basis, across all analyzed spreadsheets, given GIC premium and calculated GIC premium never differed by more than 0.3%<sup>24</sup>. The effect on USAA and GIC premiums because of data defects will always or almost always be directionally the same. A data entry showing more accidents or more points than was actually the case will raise the premiums under both USAA and GIC relativities, while a data entry showing that a vehicle would be driven fewer miles than was actually predicted would potentially lower the premiums under both USAA and GIC relativities. Thus, comparing the calculated USAA premium to the calculated GIC premium will more accurately identify policyholders who paid more in GIC than they would have paid in USAA, as opposed to comparing calculated USAA premium to given GIC premium. As a result, in the comparisons of GIC and USAA premiums in sections VI and VII below, the comparisons are of calculated GIC premiums to calculated USAA premiums.

## VI. Reliability of Conclusions Drawn from Eight Sample Dates

44. In order to evaluate whether we can reliably draw conclusions about which class members paid more in GIC than they would have paid in USAA and about the size of the difference between GIC and USAA premiums, we analyzed the consistency of results over time. ASOP No. 23, section 3.3 states, “if similar work has been previously performed for the same or recent periods, perform a review of the current data for consistency with the data used in the prior analysis.” If policyholders had consistent results over each of the spreadsheets spaced six months apart, there is little reason to think that for events that occurred between the six-month intervals, that for some reason were not captured at the next six-month interval, would have significantly affected results.

45. To evaluate consistency of results, we started by looking at the number of spreadsheets that a policyholder was identified in throughout the period. Over the period analyzed, there were about 212,000 policyholders in total. Of these

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<sup>24</sup> Appendices C-5 through C-12

about 212,000, the following distribution shows for how many of the eight spreadsheets analyzed that an individual policyholder was in:

Number of Spreadsheets:	1	2	3	4	5	6	7	8
Policyholders:	30,511	26,604	23,250	21,245	18,777	15,679	41,541	34,928

46. Over this period, 204,105 policyholders (96%) consistently, without variation, had their calculated GIC premium greater than their calculated USAA premium. Conversely, 3,928 policyholders (1.8%) consistently, without variation, had their calculated USAA premium greater than their calculated GIC premium. The remaining 4,502 policyholders (2.1%) had at least one switch over the period analyzed where either calculated USAA or GIC premium was greater than the other and then the converse became true.

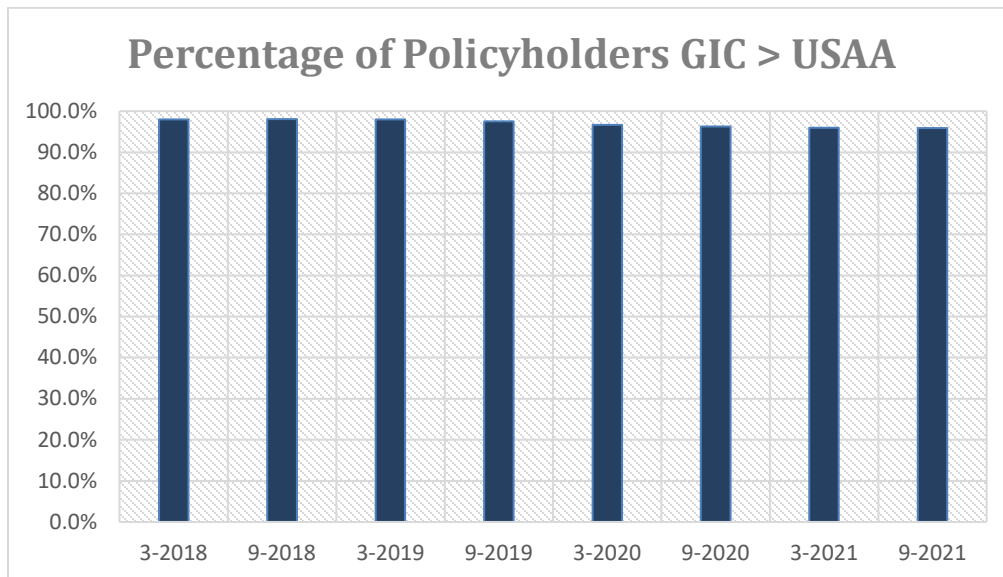
47. Reviewing the 4,502 policyholders that had at least one switch, we note that there is a total of 784,084 opportunities for a switch to occur. Stated differently, excluding policyholders who were just in one spreadsheet and therefore had no opportunity for the greater premium to switch, there was a total of 784,084 opportunities for a policyholder's premium to switch from USAA premium being greater than GIC's to USAA premium being less, or vice versa. For example, there were 34,928 policyholders in all eight spreadsheets (see above). Each one of these policyholders has seven opportunities to switch (a switch every period), or a total of 244,496 opportunities. For the 41,541 policyholders in seven spreadsheets, there are six opportunities, or 249,246 opportunities in total, for them to switch. The 4,502 policyholders that switched one or more times switched a total of 5,693 times. Therefore, of the 784,084 opportunities for a policyholder to make a switch, they did so only 0.7% of time.

48. Given the consistency of the results across periods, we conclude that it is very unlikely that any policy changes that occurred between the eight sample dates that were not accounted for in the next spreadsheet would significantly impact the results of comparing GIC premium to USAA premium.

## VII. Differences Between GIC and USAA Premiums

49. Exhibit 1 shows the percentage of policyholders bucketed into intervals based on the percent difference between the calculated USAA premiums and the calculated GIC premiums. As is shown, in total over the eight time periods analyzed, 97.1% of all GIC policyholders with collision coverage and 97.0% of GIC policyholders with collision coverage and the good driver discount paid more

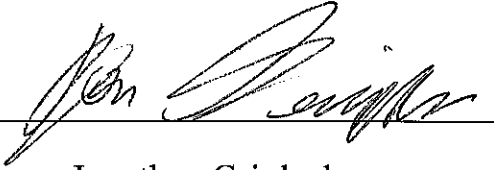
in GIC than they would have in USAA. When looking at the total GIC insured population, regardless of if they were in a class or not, 93.8% paid more under GIC rates than they would under USAA rates. The figures for each of the eight dates are quite similar, ranging from highs of 98.2% of policyholders with collision, 98.1% of policyholders with collision and good driver discount, and 96.4% for the total GIC insured population as of September 30, 2018, to lows of 96.1% of policyholders with collision, 95.9% of policyholders with collision and good driver discount, and 91.6% for the total GIC insured population as of September 30, 2021. The change over time is primarily due to a slight decrease in the difference in base rates between USAA and GIC. The chart below depicts the consistency of the results over time for good drivers with collision coverage; it would look much the same for all insureds with collision coverage or for all insureds:



50. Exhibit 2 shows the total premium dollar amounts for policyholders under both GIC rates and USAA rates, for each time period and in total. In total, over the eight sample dates analyzed, policyholders with collision were charged \$1,072.7 million in GIC premium while the corresponding premium amount under USAA rates was \$903.3 million. Therefore, the difference between the calculated GIC premium and USAA premium as of those dates is \$169.4 million. In total, policyholders with collision and the good driver discount were charged GIC premiums of \$973.7 million as of the eight sample dates and would have been charged \$824.1 million in premiums under USAA rates. The difference for this class is \$149.6 million.

10-17-2022

Date



Jonathan Griglack



# EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

EILEEN-GAYLE COLEMAN and  
ROBERT CASTRO, on behalf of  
themselves and all others similarly  
situated,

Case No. 3:21-cv-217-RSH-KSC

Plaintiffs,

v.

UNITED SERVICES AUTOMOBILE  
ASSOCIATION and USAA GENERAL  
INDEMNITY COMPANY

Defendants.

**Rebuttal Report of Jonathan Griglack**

**I. Introduction**

1. I previously have submitted a report in this case dated October 17, 2022, and declarations dated April 6, 2022, May 23, 2022, June 23, 2022, October 4, 2022, November 9, 2022, and November 29, 2022. Those declarations and report summarize my qualifications<sup>1</sup>. They have not changed materially since those declarations and report.

2. On October 17<sup>th</sup>, 2022, we<sup>2</sup> received a copy of the expert report of Bruce A. Strombom which analyzed the methodology and results of the analysis performed and described in my amended declaration, dated May 23, 2022. I have prepared this report as rebuttal to Mr. Strombom's report.

**II. Strombom Expert Report Summary**

3. In his report, Mr. Strombom has three main critiques of the methodology described in my declarations in support of Plaintiffs' class

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<sup>1</sup> Amended JBG Class Cert Declaration Coleman v USAA 5-23-2022, ¶1-2

<sup>2</sup> I often refer to "we" in this report because I worked closely with other actuaries at SGRisk.

certification motion to calculate what GIC insureds would pay under USAA rates and relativities:

- i. First, Mr. Strombom claims that the methodology is based upon a flawed premise given that I did not combine both GIC and USAA insureds, re-rate the entire population, and get approval of these new rates from the CDI.
- ii. Mr. Strombom's second critique is that the methodology I used does not calculate the amount of premium GIC insureds actually paid because I do not account for changes throughout a policy period as opposed to every six months.
- iii. Finally, Mr. Strombom asserts that I cannot accurately calculate the premiums GIC insureds would have paid under USAA rates and relativities, and hence cannot accurately calculate the difference between the "actual" and "but-for" premiums, because I do not take into account changes throughout a policy period.

### III. Summary of My Opinions

4. Mr. Strombom's report does not contain any affirmative analyses. He does not, for example, attempt to calculate what percentage of GIC insureds paid more in GIC than they would have in USAA. In effect, his report is another rebuttal to my class certification declarations.

5. Mr. Strombom has three main critiques of our analysis, one of which focuses on damages. The damages discussion distorts what we have been asked to do. We have not been asked to calculate damages. Allan I. Schwartz covers damages in his report. We have been asked simply to determine the difference between what GIC insureds paid and what they would have paid under USAA's actual rates and relativities. Therefore, my focus in this rebuttal report concerns Mr. Strombom's second and third critiques.

6. For Mr. Strombom's second critique, he attempts to make his argument based on the premium changes for the two plaintiffs' policies from 2017 through 2021. His analysis of those premium changes sheds no light on the issues in this case. I have calculated the differences between the amounts that GIC charged insureds and the amounts they would have been charged under USAA's rates, not the changes in GIC premiums over time. But even if Mr. Strombom's analysis of premium changes had some significance for the case, his sample size for October 1, 2019 is 98% smaller than the initial 94 policy sample he used in his June 2, 2022 declaration. He makes no claim as to which sample more accurately portrays the roughly 212,000 policies we analyzed over the entire period. He also

presents no evidence about whether the plaintiffs had more, fewer, or the same number of premium changes as GIC insureds as a whole. Finally, putting aside Mr. Strombom's miniscule sample size, his analysis is skewed by his inclusion of policy changes from 2017, apparent errors in his analysis, and his misleading failure to include plaintiff policy periods in which there were no mid-policy changes that affected premiums paid.

7. Mr. Strombom simply assumes without any discussion that the third critique is important. He does not present any evidence contesting the existence of a strong correlation between premium changes in GIC and premium changes that GIC insureds would have experienced under USAA rates and relativities. We analyzed this correlation and found it to be a near perfect positive correlation of 0.993 (perfect positive correlation is 1.00). This means that policy changes that produce premium changes in GIC would also almost always produce comparable changes in USAA premiums. As a result, they will have minimal effect on the differences between what GIC has charged its insureds and what they would have been charged under the USAA rates and relativities.

#### IV. Analysis of Mr. Strombom's Second Critique

8. Mr. Strombom contends that we cannot accurately derive the actual paid premiums under GIC and USAA rates because we are only using sample dates<sup>3</sup> of data throughout the period being analyzed. His critique is essentially meaningless because of at least three methodological flaws.

9. First, as discussed in greater detail below, he never recognizes that what is important is the accuracy of our estimate of the differences between the calculated GIC premium and the "but-for" USAA premium. He continues to focus only on one side of the equation i.e., the GIC premium. His analysis of the supposed deficiencies of the eight-date sample methodology is beside the point without a showing that it makes our estimates of the differences between the two premiums inaccurate.

10. Second, Mr. Strombom tries to make his point about the impact of changes in policies between the sample dates by reviewing only the two Plaintiffs' policy data. Over the analyzed period, the plaintiffs each had two vehicles for their respective policies. Even though Mr. Strombom critiques the sample size used in

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<sup>3</sup> Mr. Strombom uses the term "snapshot" throughout his report. This is synonymous with "spreadsheet" and "sample date(s)" in my expert report dated October 17, 2022.

our analysis, he thus is relying on information from 30 vehicles.<sup>4</sup> Our analysis contemplated close to 2 million vehicles<sup>5</sup>. In other words, Mr. Strombom seems to imply that his sample of 0.0015% of total vehicles is largely indicative of the almost 2 million vehicle sample. Using instead the number of policies, Mr. Strombom implies that less than 0.0009% of the total number of policies in the period (2 policies compared to about 212,000) is indicative of the roughly 212,000 policies.

11. Mr. Strombom provides no scientific basis for drawing a conclusion based on such a small sample. In his declaration dated June 2, 2022, Mr. Strombom uses a 94-policy sample for one six-month period.<sup>6</sup> In that sample, which does not include the two plaintiffs, only 30% of the sample members actually have a policy adjustment. Mr. Strombom gives no indication which sample he believes is more representative of the universe of GIC insureds.

12. Third, Mr. Strombom also neglects that almost all policy changes will be picked up at the next sample date. He gives an example of a policyholder with two changes during a six-month period that lowers the GIC premium from \$1,600 (or \$266.67 per month) to \$1,000 (or \$166.67 per month) by the end of the period. But assuming no further changes, that policyholder's premium at the start of the next period would be \$166.67 per month. On average, the changes would occur 90 days into the policy, which is directly implied from the 94-policy sample he used in his previous declaration<sup>7</sup>. Thus, in his example, not only would the average difference between the starting and ending premium during that six-month period be \$300 instead of \$600, but as of the next sample date (and until the next change in policy) the calculated premium would equal the actual premium.

13. But even if we put aside these issues and consider his two-person sample on its own terms, his analysis is flawed, misleading, and actually suggests that changes between sample dates have little impact on the analysis:

- i. Mr. Strombom's analysis includes premium payments under policies effective prior to December 28, 2017, which I have excluded from my analysis and are irrelevant if the Court adopts the revised class date to

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<sup>4</sup> The relevant data covers eight six-month periods. (Strombom mentions ten but as explained in my October 17 report, we have excluded two of them.) Plaintiff Coleman ceased being insured by GIC before the last period, making a total of 15 periods in which the plaintiffs were insured. Fifteen periods multiplied by two vehicles a period is 30 vehicles.

<sup>5</sup> Griglack Expert Report, ¶33

<sup>6</sup> Strombom Report, ¶24.a.

<sup>7</sup> Griglack Reply Declaration, June 23, 2022, footnote 3

which the parties have agreed. The largest difference he identifies between “initial premium”<sup>8</sup> and premium paid for Plaintiff Coleman predates the agreed class period. Thus, eliminating this period reduces his calculation of the average differences between “initial premium” and premium paid for Coleman from \$546.14 to -\$91.10, and the percent difference from 4.1% to -0.9%.

- ii. As shown on Exhibit A to this rebuttal report, by far the largest difference that Mr. Strombom shows between “initial premium” and premium paid for Plaintiff Castro does not reconcile to what our model output provided regarding “initial premium.” This cannot be explained by the difference between our sample date, March 31, 2021, and his date of April 1, 2021<sup>9</sup>; no adjustments or events appear to take place on March 31, 2021 that would lead to such a significant difference. The difference between our calculated “initial premium” to paid premium is significantly smaller than the difference Mr. Strombom presents in his exhibit.

By taking the difference of total “initial premium” to the total actual paid premium and comparing to the total “initial premium” for the period as shown on Exhibit A, we derive a -1.4% difference for Castro and a 0.8% difference for Coleman. This is significantly less than the 7.4% difference for Castro and 4.1% for Coleman shown on Mr. Strombom’s Exhibit 1. Again, it’s important to reiterate that what we were asked to do wasn’t to compare “initial premium” to actual premium but rather compare GIC premium to corresponding USAA premium.

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<sup>8</sup> Mr. Strombom defines initial premium “as the premium as of the effective date of the policy. Any policy adjustments that occur prior to or on the effective date are included in Initial Premium and are not counted as adjustments.” The provided underlying detail/data is minimal at best. He provides no reason why adjustments prior to the effective date of the upcoming policy were included in that policy as opposed to the current policy. Additionally, it is unclear how the data provided corresponds to Mr. Strombom’s Exhibit 1. We were unable to match the table of payments at the top of each tab in “Payment History – Coleman, Castro.xlsx” to corresponding payments highlighted in Exhibit 1.

<sup>9</sup> As he had done previously, Mr. Strombom uses April 1 and October 1 sample dates as opposed to the March 31 and September 30 sample dates for which the USAA group produced data. Although I was able to identify the policies Mr. Strombom is analyzing for the two plaintiffs, his failure to use the dates that USAA group used in producing data would cause unnecessary complications if he tried to extend his analysis to a substantial number of class members.

- iii. In paragraph 24.b of his report, Mr. Strombom calculates the average number of premium changes in a six-month period and makes several statements about the size of the differences between “initial premium” and the premium actually paid by omitting the seven periods in which there were no policy changes. A less misleading calculation would include those no-change periods. Those calculations then would show an average of 1.1 (not 1.75) premium changes per six-month period, with the difference between the “initial premium” and amount actually paid being more than 5% for 37% (not 58%) of the sample of policies, more than 10% for 16% (not 25%) of the sample of policies, and more than \$100 for 26% (not 42%) of the sample of policies.

#### V. Analysis of Mr. Strombom’s Third Critique

14. Mr. Strombom’s third critique is that because we do not consider changes in premiums between the eight sample dates, we not only cannot calculate accurately what was paid to GIC, but also what would have been paid under the USAA rates and relativities and, most important, what the differences between the GIC and USAA premiums would have been. But his “analysis” of the Plaintiffs’ premiums focuses solely on the GIC premium side of the equation as opposed to comparing the effect of mid-policy changes on actual GIC premiums to “but-for” USAA premiums. Thus, his statements about USAA premiums and the comparison between GIC and USAA premiums are completely unsupported.

15. Given that the proposed classes are both defined as insureds who pay more in GIC than they would have in USAA, the USAA premium is half of the equation. Therefore, to quantify the impact that any mid-policy change may have on both premiums, I analyzed the correlation between changes in each policy’s GIC premium from one period to the next to the change in that policy’s “but-for” premium under USAA’s base rates and relativities from one period to the next.

16. Correlation is a measure of the extent that two variables are linearly related. In my analysis the two variables I looked at were the change in GIC premium, on a policy level basis, across the applicable periods and USAA premium, across the same applicable periods, again on a policy level basis. For example, if a policy had GIC premium calculated on March 31, 2020 of \$500 and calculated premium at September 30, 2020 of \$750, this would indicate a 50% increase in GIC premium. That percent increase was compared to the same policy’s percent increase (or decrease) in USAA premium over the same time period.




17. When comparing the two variables for roughly all 212,000 policies effective throughout the entire period, I calculated a correlation of 0.993, or almost 1.00, which indicates near perfect positive correlation. Stated differently, whenever GIC premiums increased from one period to the next, USAA premiums would almost always increase as well. In my opinion, this correlation would also hold true for mid-policy changes. That is to say, whenever GIC premiums increase in the middle of a policy period, the corresponding USAA premiums will almost always increase in a corresponding manner.

12-2-2022

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Date



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Jonathan Griglack

# EXHIBIT 3

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

EILEEN-GAYLE COLEMAN and  
ROBERT CASTRO, on behalf of  
themselves and all others similarly  
situated,

Case No. 21-CV-00217-RSH-KSC

Plaintiffs,

v.

UNITED SERVICES AUTOMOBILE  
ASSOCIATION and USAA GENERAL  
INDEMNITY COMPANY

Defendants.

**REPORT OF ALLAN I. SCHWARTZ  
REGARDING CALCULATION OF DAMAGES**

I, Allan I. Schwartz, hereby state as follows from my own personal knowledge:

**I – QUALIFICATIONS**

1. I previously submitted a declaration in this case dated April 7, 2022 that inter alia sets forth my qualifications, which are still essentially the same.<sup>1,2</sup>

2. My qualifications to offer testimony of the nature provided in this case is consistent with a recent ruling by Chief Administrative Law Judge Kristen L. Rosi,

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<sup>1</sup> My CV is included as Exhibit A.

<sup>2</sup> I also submitted a response declaration dated June 24, 2022.

Administrative Hearing Bureau, California Department of Insurance, which denied Allstate Insurance Company's Motion to Strike my testimony.<sup>3</sup> My testimony in that case dealt with Allstate's alleged illegal rating system for private passenger automobile insurance in California and the impact / harm to policyholders resulting from that rating system.

3. In preparing this declaration I have considered my knowledge based upon my education and decades of experience in this field, as well as documents reviewed during the regular course of my work, such as Actuarial Standards of Practice.

4. The specific documents that I considered in preparing this report are identified throughout this report. I also took into account documents commonly used by actuaries (e.g., Actuarial Standards of Practice). The types of documents I relied upon, and the procedures I used, are commonly accepted within the actuarial profession.

## **II – SUMMARY OF RESULTS**

5. My prior declaration dealing with class certification set forth damage formulas to use in this case. At the time that declaration was prepared, data / information from Defendants to implement those formulas was not yet available. Now that Defendants

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<sup>3</sup> File No.: NC-2018-00001, Decision dated October 14, 2022.

Just one sentence out of my 63 page report, which also referenced 34 attached exhibits, was stricken.

have provided sufficient data / information<sup>4</sup>, I have calculated the numerical results using those formulas. The following table summarizes those results.<sup>5</sup>

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<sup>4</sup> A more detailed description of the data is given in the report from Jonathan Griglack of SGRisk dated October 17, 2022.

The “Request For Status Conference With Magistrate Judge Crawford To Discuss Timing Of Expert Rebuttal Reports And Remaining Case Schedule” filed by the Defendants dated October 11, 2022 stated “Plaintiffs and their experts have had the complete and accurate data on which to perform their analyses since September 7”.

<sup>5</sup> A partial list of the damages by policyholder is contained in Exhibit B. Complete information regarding damages for all policyholders is contained in the Excel file provided to Defendants. A complete listing in an Excel file can be provided to the Court.

Summary of Damages by Class

Evaluation Date	Damages for Class		
	<u>Good Driver</u>	<u>Discrimination (P)</u>	<u>Discrimination (A)</u>
3/31/2018	\$ 9,786,567	\$ 11,280,552	\$ 8,793,279
9/30/2018	\$ 18,853,467	\$ 21,599,104	\$ 14,081,937
3/31/2019	\$ 19,904,800	\$ 22,611,869	\$ 14,715,639
9/30/2019	\$ 20,285,248	\$ 22,993,841	\$ 14,755,291
3/31/2020	\$ 20,083,155	\$ 22,721,133	\$ 14,470,847
9/30/2020	\$ 20,054,313	\$ 22,744,289	\$ 14,378,927
3/31/2021	\$ 20,576,811	\$ 23,075,898	\$ 14,392,400
9/30/2021	\$ 20,856,722	\$ 23,235,217	\$ 14,493,112
Combined	\$ 150,401,083	\$ 170,145,027	\$ 109,576,928

Notes

Good Driver Class damages based on Primary Damages Methodology.

Discrimination Class (P) damages based on Primary Damages (Modified) Methodology.

Discrimination Class (A) damages based on Alternate Damages Methodology.

The combined for the Discrimination Class (P) and (A) are less than the sum of the values by year because of the offsets of negative values at some evaluation dates.

Merits Report in Support of Class Certification of Allan I. Schwartz – October 17, 2022

United States District Court For The Southern District Of California

Case No.: 21-CV-00217-RSH-KSC

Coleman, et al. v United Services Automobile Association, et al.

Page 4 of 19

6. The Good Driver Class damages were calculated based on the Primary Damages Methodology set forth in my prior declaration dated April 7, 2022. This involved the following steps:

- For each policy calculate the indicated premium at each evaluation date using both the United States Automobile Association (“USAA”) and USAA General Indemnity Company (“GIC”) rating systems filed with the California Department of Insurance (“CDI”).<sup>6</sup>
- For each policy at each evaluation date subtract the USAA value from the GIC value.<sup>7</sup>
- Limit the result of that calculation to no less than \$0 for each policy for each evaluation date.
- Taking the sum of those values at each evaluation date for all policies gives the damages at that evaluation date.
- Taking the sum of those values for a given policy across all evaluation dates gives the damages for that policy.

7. For the Discrimination Class, damages were calculated two ways. One way is a modified version of the Primary Damage Methodology, referenced herein as Discrimination (P) . The other is the Alternate Damages Methodology as

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<sup>6</sup> Those indicated premium values were calculated by Jonathan Griglack of SGRisk, as explained in his report dated October 17, 2022.

<sup>7</sup> This gives the amount by which the calculated GIC premium exceeded the calculated USAA premium. If the calculated GIC premium is less than the calculated USAA premium, the result is a negative value.



set forth in my prior declaration dated April 7, 2022, referenced herein as Discrimination (A).

8. The modified version of the Primary Damage Methodology, instead of using a minimum damage for each policy for each evaluation date of \$0, instead uses a minimum damage for each policy for all evaluation dates combined of \$0. An example may help explain the difference.

9. Let us take a situation where the GIC value minus the USAA value for a given policy at two different evaluation dates were \$150 and -\$30. Under the Primary Damages Methodology the damages for the policy would be \$150 calculated as \$150 plus maximum of (\$0 or -\$30). Under the Modified Primary Damages Methodology the damages for the policy would be \$120 calculated as the maximum of (\$150 - \$30) or 0.

10. The formula to calculate the Discrimination Class damages based on the Alternate Damages Methodology was set forth in my prior declaration dated April 7, 2022. That Alternate Methodology makes two changes to the Primary Damages Methodology. First, instead of comparing the premium based on the USAA and GIC rating systems, a modified USAA premium value per policy at each evaluation date was used. That modification was based on increasing the indicated total dollar premium for USAA policyholders to an amount equal to the calculated damages for GIC policyholders at each evaluation date. Second, the difference of the GIC premium minus the adjusted USAA premium was limited to no less than

\$0 across all evaluation dates combined, as opposed to on a per evaluation date basis. This maximum limitation value procedure is the same as described above for the Modified Primary Damages Methodology.

11. In performing these analyses, I relied upon the meaning of the legal standards as provided by counsel for the Plaintiffs. Using that meaning, I implemented a mathematical calculation of the damages.

12. Plaintiffs' counsel also requested that for the discrimination class I perform a calculation based my understanding of Cal. Civ. Code sec. 52 which states, "Whoever denies, aids or incites a denial, or makes any discrimination or distinction contrary to Section 51, 51.5, or 51.6, is liable for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than four thousand dollars (\$4,000), and any attorney's fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51, 51.5, or 51.6."

13. I performed a calculation where for each policyholder that had a positive value of damages across all evaluation dates combined for the Discrimination Class based upon both the modified primary and alternate damage methodologies, I took the maximum of three times that damage or \$4,000. Summing up the values across all policyholders gives a total amount of \$900,728,251 based on the modified primary damages methodology and

\$797,138,451 based on the alternate damages methodology for the maximum monetary awards for the discrimination class.

14. A distribution of damages by interval is set forth in the following table.<sup>8</sup>

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<sup>8</sup> The number of class members in the Discrimination Class (P) is larger than in the Good Driver Class, since a policyholder does not need to be a good driver to be in the Discrimination Class. The number of class members with damages in the Discrimination Class (A) is smaller, because using the adjusted (higher) USAA premium in the calculation results in various policyholders not having a positive damage value.

Summary of Distribution of Damages by Policyholder

Range of Damages		Plaintiff Class					
		Good Driver *		Discrimination (P) *		Discrimination (A) *	
From	To	Number	Average	Number	Average	Number	Average
\$0.01	\$300	53,327	\$163.65	50,925	\$167.49	72,761	\$152.66
\$300	\$600	45,503	\$441.93	46,340	\$441.97	50,862	\$439.45
\$600	\$900	34,317	\$743.65	35,681	\$744.01	31,971	\$737.43
\$900	\$1,200	24,796	\$1,040.05	26,648	\$1,041.35	17,982	\$1,035.37
\$1,200	\$1,500	15,931	\$1,338.34	18,082	\$1,339.79	9,597	\$1,333.05
\$1,500	\$11,216	23,306	\$2,099.68	29,548	\$2,118.97	10,626	\$1,988.54
Combined		197,180	\$762.76	207,224	\$821.07	193,799	\$565.42

\* The total number of policies evaluated was 212,535.

The percent in the good driver class with damages is 92.8%.

The percent in the discrimination class (P) with damages is 97.5%.

The percent in the discrimination class (A) with damages is 91.2%.

**III – DESCRIPTION OF DAMAGE CALCULATION**

15. The primary damage formula used for the good driver class and the alternate damage formula used for the discrimination class were explained in my prior declaration

Merits Report in Support of Class Certification of Allan I. Schwartz – October 17, 2022

United States District Court For The Southern District Of California

Case No.: 21-CV-00217-RSH-KSC

Coleman, et al. v United Services Automobile Association, et al.

Page 9 of 19

dated April 7 2022.<sup>9</sup> An explanation of these formulas was also given previously in this report.

16. The following is a summary of the steps that I used in implementing the formulas for calculating damages.

- i. I started with eight spreadsheets prepared by SGRisk, as described in the report by Jonathan Griglack dated October 17, 2022.<sup>10</sup> Those spreadsheets showed at eight different evaluation dates the premiums by vehicle for a set of GIC policyholders based upon both the GIC and

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<sup>9</sup> The Good Driver Class and Discrimination Class were originally defined in the Plaintiffs' Notice Of Motion And Motion For Class Certification dated April 8, 2022. Based upon the data provided by Defendants, the Plaintiffs have requested some revisions in the Class Definitions to the following, as set forth in the Plaintiffs' Motion To Amend Proposed Class Definitions Dated October 12, 2022.

Good Driver Class of:

"All (a) enlisted persons (b) who at any time on or after December 28 , 2017, purchased or renewed an automobile insurance policy from GIC and (c) paid more for that policy than they would have paid in USAA, if the policy (d) included collision coverage on one or more vehicles garaged in the State of California, and (e) covered one or more persons who qualified as good drivers under Cal. Ins. Code § 1861.025 but were not offered a good driver policy from USAA.

Discrimination Class of:

"All (a) enlisted persons, (b) who at any time on or after December 28 , 2017, purchased or renewed an automobile insurance policy from GIC that was effective on or after February 4, 2018, and (c) paid more for their GIC policy than they would have paid in USAA, if the policy (d) included collision coverage on one or more vehicles garaged in the State of California."

<sup>10</sup> For my analysis I relied on the spreadsheets prepared by SGRisk. Such reliance is consistent with Actuarial Standard Of Practice No. 23 : Data Quality, in particular Section 3.5 Reliance on Data Supplied by Others and 3.6 Reliance on Other Information Relevant to the Use of Data.

USAA rating systems.<sup>11</sup> The GIC policyholders in those spreadsheets all have collision coverage on at least one vehicle and include only people in an enlisted category.<sup>12</sup>

- ii. The eight spreadsheets were imported into a single spreadsheet in separate tabs.
- iii. A numeric value of 1 was assigned to good drivers and 0 otherwise.
- iv. The data by vehicle at each evaluation date was converted into data by policyholder at each evaluation date using pivot tables.<sup>13</sup>
- v. For each policyholder for each evaluation date the primary damages, modified primary damages and alternate damages were calculated based upon the formulas set forth in this report and my prior declaration.
- vi. A complete unique set of policyholders across all evaluation dates was derived by combining the policyholders for each evaluation date.

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<sup>11</sup> USAA and GIC are abbreviations for UNITED SERVICES AUTOMOBILE ASSOCIATION and USAA GENERAL INDEMNITY COMPANY, respectively.

<sup>12</sup> That is, if a widow / widower was in GIC because the spouse was in the enlisted category, that person is not included.

<sup>13</sup> Pivot table are a standard algorithm included in Excel which is considered to be accurate and reliable. I also checked values from the Pivot table against the underlying spreadsheets.

- vii. Using lookup functions the damages for all three methodologies were summarized for each policyholder at each evaluation date.<sup>14</sup>
- viii. Totals were then obtained by policyholder across all evaluation dates combined for all three damage methodologies.
- ix. For the primary damage method, none of the totals were negative since the primary damage at each evaluation date was limited to no less than \$0.
- x. For the modified primary and alternate damage formulas, I allowed negative values at the individual evaluation dates to allow for the offset of positive values at an evaluation date against negative values at another evaluation date.
- xi. The total modified primary and alternate damages for any specific policyholder across all evaluation dates combined was then limited to no less than \$0.

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<sup>14</sup> Lookup functions are a standard algorithm included in Excel which is considered to be accurate and reliable. I also checked values from the Lookup function against the underlying spreadsheets.

17. As discussed in my prior declaration, the damage formula is based upon the following:

$$D(I,J) = \text{Maximum} [ AP(I,J) - RP(I,J), 0 ]$$

Where:

$D(I,J)$  = Damage for Plaintiff (I) for Policy Number (J)

$AP(I,J)$  = Actual Premium for Plaintiff (I) for Policy Number (J)

$RP(I,J)$  = Required Premium for Plaintiff (I) for Policy Number (J)<sup>15,16</sup>

In implementing this, for the actual GIC premium, I used the calculated values as determined by SGRisk instead of the values supplied by the Defendants. In over 90% of the instances the calculated value and the supplied value were within 1% of each other. In about 3% of the instances those two values differed by more than 5%.<sup>17</sup> This could be caused by data reporting issues from the Defendants. Such data reporting issues would impact both the calculated GIC and USAA premiums for a policyholder and would likely offset each other to a large extent. Taking into account these considerations, I concluded it is appropriate to use the GIC premiums as calculated by SGRisk as opposed to the values supplied by the Defendants. This issue is discussed further in the report by SGRisk. For the USAA premium, I also used the values calculated by SGRisk.

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<sup>15</sup> The required premium was derived from a mathematical implementation of the applicable legal standards provided by Plaintiffs' counsel.

<sup>16</sup> Required Premium can also be referred to as But For Premium ("BFP").

<sup>17</sup> These difference values are based on the calculations performed by Jonathan Griglack, as explained in his report dated October 17, 2022.



The process of taking the maximum value of the difference “ $AP(I,J) - RP(I,J)$ ” and \$0 was applied at each evaluation date for the good driver class, but on a combined all evaluation dates basis for the discrimination class calculations. That was done to allow for offsetting positive values for the discrimination class at one evaluation date by possible negative values at another evaluation date. Applying the maximum formula to all evaluation dates combined for the discrimination class, as opposed to by evaluation date, is more favorable to the Defendants in terms of a lower total value for damages.

18. For the good driver class,  $RP(I,J)$  would be the calculated premium based upon the USAA rating system. This is the Primary Damages Methodology:  $RP1(I,J)$ , as set forth in my April 7, 2022 Declaration.<sup>18</sup>

19. For the discrimination class  $RP(I,J)$  would be either the Modified Primary Methodology discussed previously or the Alternate Damages Methodology:  $RP2(I,J)$  as set forth in my prior declaration. As explained therein,  $RP2(I,J)$  would be based upon an adjustment factor “A” applied to the premium calculated using the USAA rating system. The adjustment factor “A” is determined in such a manner that the increase in the indicated premium for USAA policyholders equals the damages to GIC policyholders.

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<sup>18</sup> If for a particular policyholder the USAA premium was more than the GIC premium, then  $A(I,J) - RP(I,J)$  would be less than \$0. However, that result would then be limited to \$0, since if the USAA premium was more than the GIC premium, the policyholder could buy insurance from GIC at the lower premium amount.

20. As discussed in my prior declaration, the value of “A” would be determined as follows, “RP2(I,J) can be determined based upon the change in California private passenger automobile (“PPA”) insurance premium for GIC from rating those policyholders using the USAA rating system. That dollar amount change in PPA premium can then be related to the overall PPA premium for USAA. That would result in a numerical factor that would increase the dollar amount of USAA premium by the dollar amount of decrease in premium for GIC, thereby balancing against each other.”

21. An example may explain further what the adjustment factor “A” accomplishes and how it is calculated. For the 9/30/2021 evaluation date, a calculation for the discrimination class based upon a comparison of the calculated GIC premium less the USAA premium gives a total value of \$23.2 million. The USAA premium for 6 months in 2021 is \$200.3 million.<sup>19</sup> In order to offset the \$23.2 million, the USAA premium would need to be increased by about 11.6%.<sup>20</sup>

22. Adjusting the calculated USAA premiums by policyholder upward by 11.6% and then doing a calculation based on the difference between the GIC premiums and the

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<sup>19</sup> A six month premium value was used because the USAA and GIC policies are for six months. Six month values were calculated as 50% of the annual value.

The USAA premium values were obtained from the Market Share Report on the California Department of Insurance website.

<http://www.insurance.ca.gov/01-consumers/120-company/04-mrktshare/>

<sup>20</sup>  $23.2 / 200.3 = 0.116$ ; 23.2 is the value rounded to one decimal place.

adjusted USAA premiums gives a value of \$9.79 million.<sup>21</sup> To reach \$9.79 million, the USAA premiums would only need to be increased by 4.9%.<sup>22</sup>

23. This process can then be continued in an iterative manner until the increase in USAA premiums equals the discrimination damages based on the adjusted USAA premiums for GIC policyholders.<sup>23</sup> The final adjustment factor at this evaluation date is 1.0724.<sup>24</sup> This would result in an increase in the USAA premium of \$14.5 million.<sup>25</sup> This is the same amount as the damages to GIC policyholders for this evaluation date based upon the calculated adjusted USAA premium per policyholder.

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<sup>21</sup> The \$9.79 million is the sum of the positive damage amounts by policy at the evaluation date, where the damage for each policy is calculated as the GIC premium minus the adjusted USAA premium.

<sup>22</sup>  $9.79 / 200.3 = 0.049$

<sup>23</sup> The calculations of the “A” values were done using the Excel Solver algorithm, which is considered to be accurate and reliable. I confirmed those values from Excel solver to be correct by checking that the resulting increase in the USAA premium equaled the damages to the GIC policyholders.

<sup>24</sup> This is the value rounded to 4 decimal places.

<sup>25</sup> 14.5 is the value rounded to 1 decimal place  
 $14.5 = 200.3 \times 7.237\%$

#### **IV – CONCLUSION**

24. In summary, based upon the damage formulas set forth herein and in my prior declaration, along with the data / information provided by the Defendants, I have calculated the damages for the: (i) Good Driver Class based on the primary damage formula, (ii) Discrimination Class based on the modified primary damage formula and (iii) Discrimination Class based on the alternate damage formula. For the Discrimination Class I also calculated monetary amounts reflecting both damage formulas based upon my understanding of Cal. Civ. Code sec. 52.<sup>26</sup>

25. These calculations are consistent with accepted actuarial procedures and Actuarial Standards of Practice.

26. The conclusions and opinions set forth in this declaration are based upon the documents and information I have reviewed, which have been referenced in this report. These are subject to possible revision in the future.

27. Portions of the work for this Report may have been performed under my direction by other employees of AIS. In such situations I have reviewed that work. I take full responsibility for the content of this Report.

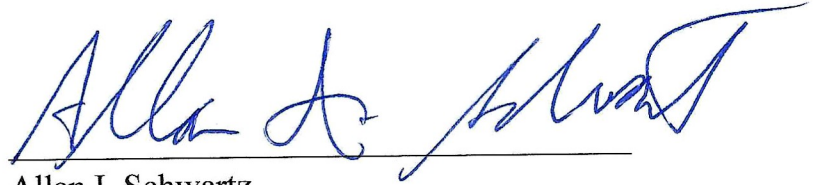
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<sup>26</sup> As previously discussed, in performing these calculations we relied on the calculated premium values supplied by SGRisk.

28. AIS Risk Consultants' rates for purposes of its work to date in this action range from \$340 to \$870. AIS's compensation is not contingent upon the opinions I render or the outcome of this litigation.

I declare under penalty of perjury under the laws of the State of California and State of New Jersey that the foregoing is true and correct.

Executed October 17, 2022 at Freehold, New Jersey.



Allan I. Schwartz

**ALLAN I. SCHWARTZ**  
President  
AIS Risk Consultants, Inc.  
4400 Route 9 South  
Freehold, New Jersey 07728  
732-780-0330

**EDUCATION**

Cooper Union, B.S., Physics, 1975

**PROFESSIONAL AFFILIATIONS**

Casualty Actuarial Society, Fellow - 1981, Associate - 1979

American Academy of Actuaries, Member - 1979

Associate in Reinsurance - June 1998  
(Received Reinsurance Association of America Award for Academic Excellence)

Associate in Claims - September 1998

Associate in Premium Auditing - May 1999

Associate in Underwriting - June 1999

Associate in Insurance Accounting and Finance - June 2002  
(Received National Association of Mutual Insurance Companies Award for Academic Excellence)

Associate in Risk Management - September 2002

Associate in Personal Insurance – January 2008

Associate, Customer Service – March 2008 (With Honors)

Certified Rate of Return Analyst – April 2011

### **PUBLICATIONS**

"Workers' Compensation and Investment Income" : Best's Review, Property / Casualty Insurance Edition, 10/82

"A Note on Calendar Year Loss Ratios" : Proceedings of the Casualty Actuarial Society, 11/82

"An Actuary's Analysis of the Security of a Self-Insured" : Business Insurance, 9/26/83

"Actuarial Issues to be Addressed in Pricing Excess of Loss Reinsurance" : Proceedings of the Los Angeles Chapter CPCU Technical Conference, 6/84 (Received Research Excellence Award from Farmers Insurance Group)

"An Actuarial Analysis of Self-Insurance" : The Self-Insurer, Volume 1, Issue 3, 1984

"Loss and Loss Expense Reserving" : The Self-Insurer, Volume 1, Issue 4, 1984

"The ABC's of Reinsurance" : The Self-Insurer, Volume 2, Issue 4, 1985

"Actuarial Implications of Claims-Made Policies" : The Journal of the Independent Reinsurance Underwriters Association, Volume I, Number 1, October 1985

"Considerations in the Regulatory Analysis of Workers' Compensation Rate Filings" : Best's Review, Property / Casualty Insurance Edition, 8/88

"Delays in Payment of Private Passenger Auto Premium Receipts / Commissions : Impact on Calculation of Investment Income", Journal on Insurance Regulation, Volume 7, No. 3, March 1989

"Various Studies Related to Workers' Compensation", State of California - Workers' Compensation Rate Study Commission, Volume V, March 1992



**LECTURES PRESENTED**

"Reserving Losses for Self-Insureds" & "Actuarial Sufficiency of Self-Insurance Programs" : Eleventh Workers' Compensation College of the IAIABC - 4/84

"Problems, Trends, and History of Self-Insurance" : 1984 IAIABC Central States Association Conference - 6/84

"Actuarial Issues to be Addressed in Pricing Excess of Loss Reinsurance" : Los Angeles CPCU Technical Conference - 6/84

"Types of Security Available for the Self-Insured Employer" : 1984 Mid-Year Meeting of the National Council of Self-Insurers - 9/84

"Actuarial Implications of Claims-Made Policies" : Fall 1985 Meeting of the Independent Reinsurance Underwriters Association - 10/85

"North Carolina Medical Malpractice Closed Claim Study" : Duke University - Conference on Developing Information Bases for Medical Malpractice Claim Studies - 5/87

"A Regulator's Perspective on Rate Filings" : Casualty Actuarial Society Seminar on Ratemaking - 3/88

"Understanding the Insurance Industry and Regulation" : Public Citizen's Taming the Insurance Giant Conference - 2/90

"Analyzing Insurance Company Rate Filings" : National Association of Attorneys General Insurance Committee Meeting - 4/90

"Where Does All The Money Go - Insurance Profitability" : Workers Compensation in New York - 5/95

## WORK EXPERIENCE

### AIS RISK CONSULTANTS, INC.

President - 11/84 to Present

Responsibilities include performing actuarial analyses for all lines of property/casualty insurance. Loss reserve and rate level studies for insurance companies, reinsurance companies, state insurance funds, self-insurers, captive insurers, brokerage firms and attorneys. Work also involves projection of payment patterns, excess insurance studies, production of management information systems and development of individual risk rating plans.

I have provided expert testimony in insurance rate proceedings in Arkansas, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Massachusetts, Nevada, New Jersey, New Mexico, North Carolina, Oklahoma, Rhode Island, South Carolina, Texas, Vermont and Virginia.

I have worked on health insurance rate filings in California, Colorado, Massachusetts, New Jersey, New Mexico, Oregon and Vermont during the last several years. This involved the review of rate filings and the preparation of analyses which could be submitted to the state insurance regulatory agency. My work in health insurance includes providing actuarial assistance to the NAIC Consumer Representatives during the last several years dealing with various issues such as the Medical Loss Ratio calculation.

### NEW JERSEY DEPARTMENT OF INSURANCE

Assistant Commissioner - 5/88 to 1/90

Supervised a staff of 20+ which regulated rates, rules and policy forms in New Jersey for property/casualty insurance to determine compliance with the applicable statutes and regulations. Also responsible for the statistical section for property/casualty insurance. This section gathers and analyzes data related to property/casualty insurance. Provided advice to the Insurance Commissioner and other senior staff members of the Insurance Department regarding the impact of proposed legislation, regulations and overall policy directives.

Provided recommendations in regard to the financial analysis and condition of insurers, including excess profits reports.

NORTH CAROLINA DEPARTMENT OF INSURANCE

Chief Actuary - 6/86 to 4/88

Responsible for all actuarial studies performed in the Department of Insurance covering property / casualty / life / health / accident insurance.

Work included the analysis of filings made by insurance companies to see that they are in compliance with the insurance laws and regulations of the State of North Carolina. Also interacted with the legal staff of the Insurance Department in drafting proposed insurance laws and regulations.

Responsible for the analysis of the loss and loss adjustment expense reserves established by insurance companies to meet the liabilities they have incurred in the past, but which will not be payable until some time in the future.

Involved in various special projects relating to the financial analysis of insurance operations. These included the review of reinsurance contracts, the financial analysis of the North Carolina State Property Fire Insurance Fund and a study of medical malpractice closed claims.

Was in charge of a staff of six, including four professional and two clerical people. Other duties involved the writing of computer programs, providing expert testimony at rate hearings and assisting the Insurance Commissioner prepare for legislative committees.

WOODWARD & FONDILLER

Senior Actuary - 8/77 to 11/84

Consulting property/casualty actuarial studies (see description under AIS Risk Consultants, Inc.)

NATIONAL COUNCIL ON COMPENSATION INSURANCE

Actuarial Trainee - 3/76 to 8/77

Performed ratemaking analyses and prepared rate filings for workers' compensation insurance. Regularly evaluated the impact of changes in workers' compensation benefits. Also assisted the Director of Research with special studies related to data collection, ratemaking procedures and benefit evaluations.

Allan I. Schwartz - Expert Testimony – Court Proceedings (Partial List)

- > Jessica Day et al. v. GEICO Casualty Company et al., In The United States District Court, Northern District Of California, San Jose Division, Declarations dated May 20, 2022 and September 15, 2022; Deposition on August 8, 2022
- > Taqueria El Primo LLC et al. v. Farmers Group, Inc. et al., In The United States District Court, District Of Minnesota, Case No. 19-CV-03071 (JRT/BRT), Declarations Dated March 30, 2021, July 12, 2021 and August 2, 2021; Deposition on October 6, 2021
- > Jeffrey A. Corbin et al. v. The Allstate Corporation, In The Circuit Court, Third Judicial Circuit, Madison County, Illinois, Case No. 2016-L-000880, Declaration Dated April 14, 2021 and April 28, 2022; Deposition on June 7, 2022 and June 15, 2022
- > Grigson et al. v. Farmers Inc., In The United States District Court For The Western District Of Texas, Austin Division, Civil Action No. 1:17-cv-00088-LY, Declarations Dated January 25, 2019 and July 17, 2019; Deposition on April 9, 2019
- > Benita Hatfield v. Kentucky Farm Bureau Mutual Insurance Company, Commonwealth Of Kentucky, 10th Judicial Circuit, Nelson Circuit Court, Division II: Affidavit dated May 30, 2017 and Deposition on July 25, 2017
- > City Of Parma, Ohio, v. Ohio Bureau of Workers' Compensation, In the Court of Common Pleas Cuyahoga County, Ohio Case No. CV 13 814017 : Declarations dated October 19, 2016 and March 5, 2017
- > Munoz et al. v. PHH et al., Case No.: 1:08-cv-759-DAD-BAM, United States District Court - Eastern District Of California, Expert Reports (June 24, 2016 and July 22, 2016) and Deposition (August 16, 2016)
- > City of Cleveland, Ohio v. Stephen Buehrer, Administrator, Ohio Bureau of Workers' Compensation, In the Court of Common Pleas Cuyahoga County, Ohio Case No. CV-13-809883 : Declaration dated July 28, 2015, Deposition August 11, 2016, Court Testimony in January 2017
- > Columbia Casualty Company v. Neighborhood Risk Management Corporation Case No. 1:14-cv-00048-AJN, United States District Court Southern District Of New York : Expert Report dated November 24, 2014
- > Hall, et al. v. Bank of America, N.A., et al. Case No. 1:12-cv-22700-FAM (S.D. Fla.), Expert Report dated November 13, 2013; Deposition December 10, 2013

Allan I. Schwartz - Expert Testimony – Court Proceedings (Partial List)

- > San Allen, Inc., et al., V. Stephen Buehrer Administrator, Ohio Bureau Of Workers' Compensation, State Of Ohio, Cuyahoga County, In The Court Of Common Pleas, Case No. CV-07-644950 : Testified in 2012, provided declarations and was deposed in few years before 2012 trial
  
- > Mark Kunzelmann, et al. v Wells Fargo Bank, N.A. and Wells Fargo Insurance, Inc., United States District Court; Southern District Of Florida; Case No. 11-CV-81373-DMM : Provided declaration in 2012
  
- > Vlaho Miletak v. Allstate Insurance Company, et al.; In The United States District Court For The Northern District Of California; San Jose Division; NO. C 06-03778 JW : Provided expert report in 2011
  
- > In re California Title Insurance Antitrust Litigation; United States District Court Northern District Of California; No. 08-cv-1341-JSW (NMC) : Declaration Of Allan I. Schwartz In Support Of Plaintiffs' Motion For Class Certification (2011)
  
- > Benjamin Fogel, on behalf of himself and the class, v. Farmers Group, Inc.; Fire Underwriters Association; Truck Underwriters Association; Zurich Financial Services, Superior Court Of The State Of California For The County Of Los Angeles, Case No. BC300142 : Provided declaration and was deposed in 2009

Allan I. Schwartz - Expert Testimony – Insurance Rate Proceedings (Partial List)

Wilmington, Delaware, October 2022  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

San Francisco, California, October 2021 (Pre-Filed Direct Testimony)  
Allstate Insurance Company and Allstate Indemnity Company Hearing on Rating Practices

Wilmington, Delaware, October 2021  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Wilmington, Delaware, October 2020  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Wilmington, Delaware, October 2019  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

San Francisco, California, October 2018 (Pre-Filed Direct Testimony)  
Farmers Insurance Exchange and Mid-Century Insurance Company Hearing on Rating Practices

Wilmington, Delaware, September 2018  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Wilmington, Delaware, September 2017  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Wilmington, Delaware, September 2016  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

San Francisco, California, November 2015 & January 2016  
State Farm General Insurance Company Homeowners Insurance Rate Hearing

Wilmington, Delaware, October 2015  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Wilmington, Delaware, December 2014  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Raleigh, North Carolina, November 2014  
North Carolina Rate Bureau Homeowners Insurance Rate Hearing

Wilmington, Delaware, February 2014  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Boston, Massachusetts, October 2013  
Massachusetts Property Ins. Underwriting Association Homeowners Insurance Rate Hearing

Allan I. Schwartz - Expert Testimony – Insurance Rate Proceedings (Partial List)

Austin, Texas, April 2013  
State Farm Lloyds Homeowners Insurance Rate Hearing

Montpelier, Vermont, March 2013  
Blue Cross and Blue Shield of Vermont Health Insurance Rate Hearing

Wilmington, Delaware, December 2012  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Boston, Massachusetts, June 2012  
Workers Compensation Rating and Inspection Bureau of Massachusetts Rate Hearing

San Francisco, California, April 2012  
Mercury Casualty Company Homeowners Insurance Rate Hearing

San Francisco, California, January 2012  
California State Automobile Association Inter-Insurance Bureau Homeowners Insurance  
Pre Filed Testimony

Wilmington, Delaware, October 2011  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Raleigh, North Carolina, July 2011  
North Carolina Rate Bureau Dwelling Fire and Extended Coverage Insurance Rate Hearing

Wilmington, Delaware, November 2010  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

San Francisco, California, November 2010  
Allstate Insurance Company Your Choice Automobile Pre Filed Testimony

Santa Fe, New Mexico, August 2010  
Blue Cross Blue Shield of New Mexico Health Insurance Rate Hearing

Austin, Texas, July 2010  
Texas Automobile Insurance Plan Association Automobile Insurance Rate Hearing

Santa Fe, New Mexico, November 2009  
Industry Title Insurance Rate Hearing

Tallahassee, Florida, November 2009  
Citizens Property Insurance Company Homeowners Insurance Rate Hearing

Wilmington, Delaware, September 2009  
Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Allan I. Schwartz - Expert Testimony – Insurance Rate Proceedings (Partial List)

Austin, Texas, April 2009

State Farm Lloyds Homeowners Insurance Rate Hearing

Raleigh, North Carolina, July 2008

North Carolina Rate Bureau Automobile Insurance Rate Hearing

San Francisco, California, May 2008

GeoVera Insurance Company Earthquake Insurance Rate Hearing

San Francisco, California, May 2008

Allstate Insurance Company Homeowners Insurance Rate Hearing

San Francisco, California, March 2008

Fireman's Fund Insurance Company Earthquake Insurance Rate Hearing

Tallahassee, Florida, February 2008

Service Insurance Company Commercial Multi Peril Insurance Rate Hearing

Tallahassee, Florida, January 2008

Hartford Insurance Group Homeowners Insurance Rate Hearing

Boston, Massachusetts, January 2008

Arbella Insurance Company Automobile Insurance Rate Hearing

Boston, Massachusetts, January 2008

Premier Insurance Company Automobile Insurance Rate Hearing

Boston, Massachusetts, January 2008

Hanover Insurance Company Automobile Insurance Rate Hearing

Boston, Massachusetts, January 2008

Safety Insurance Company Automobile Insurance Rate Hearing

Boston, Massachusetts, January 2008

Commerce Insurance Group Automobile Insurance Rate Hearing

San Francisco, California, November 2007

Explorer Insurance Company Automobile Insurance Rate Hearing

Wilmington, Delaware, November 2007

Delaware Compensation Rating Bureau Workers Compensation Insurance Rate Hearing

Boston, Massachusetts, October 2007

Massachusetts Property Ins. Underwriting Association Homeowners Insurance Rate Hearing



Allan I. Schwartz - Expert Testimony – Insurance Rate Proceedings (Partial List)

San Francisco, California, May 2007  
Allstate Insurance Company Automobile Insurance Rate Hearing

Tallahassee, Florida, March 2007  
Nationwide Insurance Company Homeowners Insurance Rate Hearing

Austin, Texas, August 2006  
Industry Title Insurance Rate Hearing

Key West, Florida, August 2006  
Citizens Property Insurance Company Homeowners Insurance Rate Hearing

Boston, Massachusetts, January 2006  
Massachusetts Property Ins. Underwriting Association Homeowners Insurance Rate Hearing

Tallahassee, Florida, October 2005  
NCCI Workers Compensation Insurance Rate Hearing

Raleigh, North Carolina, September 2005  
North Carolina Rate Bureau Automobile Insurance Rate Hearing

San Francisco, California, August 2005  
Safeco Insurance Company Earthquake Insurance Rate Hearing

Boston, Massachusetts, April 2005  
Massachusetts Workers Compensation Insurance Rate Hearing

Austin, Texas, July 2004  
Medical Protective Insurance Company Medical Malpractice Insurance Rate Hearing

Trenton, New Jersey, June 2004  
Medical Protective Insurance Company Medical Malpractice Insurance Rate Hearing

Austin, Texas, December 2003  
Industry Title Insurance Rate Hearing

Boston, Massachusetts, April 2003  
Massachusetts Workers Compensation Insurance Rate Hearing

Los Angeles, California, March 2003  
SCPIE Medical Malpractice Insurance Rate Hearing

Raleigh, North Carolina, July 2002  
North Carolina Rate Bureau Automobile Insurance Rate Hearing

Allan I. Schwartz - Expert Testimony – Insurance Rate Proceedings (Partial List)

Tallahassee, Florida, February 2002  
NCCI Workers Compensation Insurance Rate Hearing

Raleigh, North Carolina, September 2001  
North Carolina Rate Bureau Automobile Insurance Rate Hearing

Trenton, New Jersey, September 2001  
Liberty Mutual Fire Insurance Company Automobile Insurance Rate Hearing

Boston, Massachusetts, August 2001  
Massachusetts Automobile Insurance Bureau Rate Hearing

Trenton, New Jersey, July 2001  
State Farm Indemnity Automobile Insurance Rate Hearing

Austin, Texas, March 2001  
Industry Automobile Benchmark Rate Hearing

Trenton, New Jersey, January 2001  
Selective Insurance Company Automobile Insurance Rate Hearing

Tallahassee, Florida, October 2000  
NCCI Workers Compensation Insurance Rate Hearing

Boston, Massachusetts, August 2000  
Massachusetts Automobile Insurance Bureau Rate Hearing

Austin, Texas, December 1999  
Automobile Insurance Plan Association Rate Hearing

Raleigh, North Carolina, December 1999  
North Carolina Rate Bureau Automobile Insurance Rate Hearing

Austin, Texas, November 1999  
Industry Title Insurance Rate Hearing

Tallahassee, Florida, September 1999  
NCCI Workers Compensation Insurance Rate Hearing

Austin, Texas, September 1999  
Industry Texas Automobile Insurance Benchmark Rate Hearing

Boston, Massachusetts, August 1999  
Massachusetts Automobile Insurance Bureau Rate Hearing

Allan I. Schwartz - Expert Testimony – Insurance Rate Proceedings (Partial List)

Austin, Texas, June 1999  
Industry Property Insurance Benchmark Rate Hearing

Sample of Calculation Results by GIC Policy Number

<u>Policy Number</u>	<u>Damage Amount for Class</u>			<u>Cal. Civ. Code Sec 52 Amount Discrimination</u>	
	<u>Good Driver</u>	<u>Discrimination</u>		<u>Primary</u>	<u>Alternate</u>
		<u>Primary</u>	<u>Alternate</u>		
1708	\$ 122.91	\$ 122.91	\$ 93.16	\$ 4,000.00	\$ 4,000.00
3523	\$ 166.31	\$ 166.31	\$ 142.59	\$ 4,000.00	\$ 4,000.00
3564	\$ 898.91	\$ 898.91	\$ 656.00	\$ 4,000.00	\$ 4,000.00
101012	\$ 31.14	\$ -	\$ -	\$ -	\$ -
102398	\$ 2,039.89	\$ 2,039.89	\$ 1,244.26	\$ 6,119.67	\$ 4,000.00
102801	\$ 2,242.57	\$ 2,242.57	\$ 1,580.92	\$ 6,727.71	\$ 4,742.76
102959	\$ 2,196.60	\$ 2,196.60	\$ 1,196.18	\$ 6,589.80	\$ 4,000.00
103338	\$ 339.93	\$ 339.93	\$ 273.25	\$ 4,000.00	\$ 4,000.00
103931	\$ 892.79	\$ 892.79	\$ 676.18	\$ 4,000.00	\$ 4,000.00
104110	\$ 2,132.15	\$ 2,132.15	\$ 1,643.24	\$ 6,396.45	\$ 4,929.72
202384	\$ 1,041.08	\$ 1,041.08	\$ 638.32	\$ 4,000.00	\$ 4,000.00
202405	\$ 629.30	\$ 629.30	\$ 178.53	\$ 4,000.00	\$ 4,000.00
203757	\$ 2,537.81	\$ 2,537.81	\$ 1,609.51	\$ 7,613.43	\$ 4,828.53
204350	\$ 520.24	\$ 494.85	\$ 123.15	\$ 4,000.00	\$ 4,000.00
302805	\$ 2,397.04	\$ 2,397.04	\$ 1,191.72	\$ 7,191.12	\$ 4,000.00
302956	\$ 899.02	\$ 899.02	\$ 409.24	\$ 4,000.00	\$ 4,000.00
303043	\$ 593.42	\$ 593.42	\$ 264.20	\$ 4,000.00	\$ 4,000.00
303279	\$ 1,477.77	\$ 1,477.77	\$ 954.24	\$ 4,433.31	\$ 4,000.00
303422	\$ 1,441.99	\$ 1,441.99	\$ 947.39	\$ 4,325.97	\$ 4,000.00
303581	\$ 838.59	\$ 2,404.79	\$ 1,938.62	\$ 7,214.37	\$ 5,815.86
303728	\$ 486.18	\$ 486.18	\$ 326.48	\$ 4,000.00	\$ 4,000.00
403812	\$ 2,079.09	\$ 2,079.09	\$ 1,543.45	\$ 6,237.27	\$ 4,630.35
404296	\$ 1,127.62	\$ 1,127.62	\$ 623.70	\$ 4,000.00	\$ 4,000.00
404303	\$ 1,571.67	\$ 1,571.67	\$ 1,073.73	\$ 4,715.01	\$ 4,000.00
501544	\$ 1,016.88	\$ 1,016.88	\$ 651.04	\$ 4,000.00	\$ 4,000.00
501994	\$ 1,300.48	\$ 1,300.48	\$ 731.54	\$ 4,000.00	\$ 4,000.00
502851	\$ 1,977.68	\$ 1,977.68	\$ 453.91	\$ 5,933.04	\$ 4,000.00
503256	\$ 1,552.69	\$ 1,552.69	\$ 998.27	\$ 4,658.07	\$ 4,000.00
504087	\$ 738.50	\$ 940.55	\$ 642.85	\$ 4,000.00	\$ 4,000.00
601359	\$ 1,533.39	\$ 1,533.39	\$ 1,011.91	\$ 4,600.17	\$ 4,000.00
602507	\$ 1,149.74	\$ 1,149.74	\$ 794.87	\$ 4,000.00	\$ 4,000.00
602748	\$ 2,132.23	\$ 2,132.23	\$ 1,554.47	\$ 6,396.69	\$ 4,663.41
602997	\$ -	\$ 229.82	\$ 169.15	\$ 4,000.00	\$ 4,000.00
603538	\$ 1,582.51	\$ 2,163.11	\$ 1,272.29	\$ 6,489.33	\$ 4,000.00
603994	\$ 144.94	\$ 144.94	\$ 113.32	\$ 4,000.00	\$ 4,000.00

# EXHIBIT 4

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

EILEEN-GAYLE COLEMAN and  
ROBERT CASTRO, on behalf of  
themselves and all others similarly  
situated,

Case No. 21-CV-00217-RSH-KSC

Plaintiffs,

v.

UNITED SERVICES AUTOMOBILE  
ASSOCIATION and USAA GENERAL  
INDEMNITY COMPANY

Defendants.

**REBUTTAL REPORT OF ALLAN I. SCHWARTZ**

I, Allan I. Schwartz, hereby state as follows from my own personal knowledge:

**I – QUALIFICATIONS**

1. I previously submitted a report in this case dated October 17, 2022 and declarations dated April 7, 2022, June 24, 2022 and November 9, 2022. Those documents set forth my qualifications, which are still essentially the same.

2. I have been asked to respond to the report of Mr. Bruce A. Strombom and declaration of Ms. Nancy Watkins dated October 17, 2022 submitted by the Defendants.

3. In preparing this report I have considered my knowledge based upon my education and decades of experience in this field, as well as documents reviewed during the regular course of my work, such as Actuarial Standards of Practice.

4. The specific documents that I considered in preparing this report are identified throughout this report. I also took into account documents commonly used by actuaries (e.g., Actuarial Standards of Practice). The types of documents I relied upon, and the procedures I used, are commonly accepted within the actuarial profession.

## **II – SUMMARY OF RESULTS**

5. After reviewing the Strombom report and Watkins declaration, it is still my opinion that the merits calculations set forth in my report dated October 17, 2022 are reasonable, appropriate and actuarially sound<sup>1</sup> given the data and information produced by the Defendants.<sup>2</sup>

6. My review of the Strombom report and Watkins declaration found that the discussions contained therein are wrong and / or irrelevant to the issues involved in the calculation of damages.

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<sup>1</sup> By actuarially sound I mean consistent with the applicable Actuarial Standards of Practice.

<sup>2</sup> It is my understanding that additional data / information may be submitted by the Defendants. If that occurs, I will update my report to reflect that additional data / information.

### **III – RESPONSE TO REPORT OF BRUCE STROMBOM<sup>3</sup>**

7. Mr. Strombom has two sections in his report that are entitled:

“Mr. Griglack’s and Mr. Schwartz’s Proposed Methodologies Fail to Consider That Combining GIC Policyholders into a Single Risk Pool Would Cause But-for Premiums to Differ From the Premiums United Services Actually Charged”<sup>4</sup>

and

“The Proposed Griglack Methodology Is Not Capable of Calculating Either Actual or But-For Premiums”.

His opinions and conclusions in both those sections are simply wrong.

8. The fatal error with regard to the first item is Mr. Strombom’s unsupported and incorrect assumption that my Primary Damages Methodology should be based upon “Combining GIC Policyholders into a Single Risk Pool”. That assumption by Mr. Strombom is quite clearly incorrect.

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<sup>3</sup> All references to the Strombom report refers to his report dated October 17, 2022 unless otherwise indicated.

<sup>4</sup> Even though the title of the section refers to “Mr. Schwartz’s Proposed Methodologies” (plural) he later states “I have not been asked to evaluate Mr. Schwartz’s Alternative Damages Methodology.” (Strombom, page 7, footnote 25) Hence, all his comments deal only with my Primary Damages Methodology.



9. My Primary Damages Methodology is based upon the good driver statutory provision, CIC 1861.16(b). In implementing that statutory provision from an actuarial and regulatory perspective for the determination of damages, there is no requirement, or any reasonable basis for concluding, that the different companies be combined into a single risk pool.

10. Hence, Mr. Strombom's entire discussion on this issue, which is based on the false premise that the different companies have to be combined into a single risk pool for determining damages for violations of CIC 1861.16(b), is irrelevant and wrong since it is based on an incorrect assumption.

11. This issue is discussed in more detail in my declaration dated June 24, 2022 at ¶¶ 6 – 14<sup>5</sup> which stated in part:

“12. Since the requirement for offering a policy with the lowest rates applied to any Good Driver at any point during the Class Period, it applies to all Good Drivers during the entire class period.

13. My Primary Damages Methodology appropriately measures what a GIC policyholder would pay for personal automobile insurance but-for the alleged misconduct, which was the Defendants not following CIC 1861.16(b).”

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<sup>5</sup> See Exhibit A

That is, in performing an actuarial and / or regulatory implementation of CIC 1861.16(b) for the calculation of damages, the appropriate measure to use is the “lowest rates”, not some type of combined rate as Mr. Strombom incorrectly contends.

12. Mr. Strombom’s second issue does not deal with the relevant statistical measure for calculating damages. He discusses the possible impact of changes in a policyholder’s characteristics on the indicated GIC premium.

13. However, the GIC premium in isolation is not the relevant statistic for calculating damages. The relevant statistic is the difference between the GIC and USAA premium.

14. Because there is a very strong relationship between the GIC and USAA premium across policyholders, with a correlation coefficient in excess of 98%, any change in policyholder characteristics will tend to impact the indicated GIC and USAA premiums in a similar manner. Therefore, any variation in the difference between the GIC and USAA premiums will be much less than that of the GIC premium in isolation. Based on the very high correlation, the variation of the difference between the GIC and USAA premiums is about 78% lower than that of the GIC premium in isolation.

15. This issue is discussed in more detail in my declaration dated November 9, 2022 at ¶¶ 2 – 16<sup>6</sup>, which stated in part:

“14. The standard deviations of “A” and “B” are about 3% of the premium amount. Reducing that 3% standard deviation by 78% results in a standard deviation of the difference between the calculated GIC and USAA premiums of less than 1%.

15. A standard deviation of less than 1% is well within the range of modeled results that is considered to be actuarially reasonable.”

16. Since Mr. Strombom did not deal with the relevant statistical measure, which is the difference between the GIC and USAA premiums, and also did not consider the very high correlation between those premium amounts, his discussion of these items is incorrect and does not appropriately consider the calculation of damages.

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<sup>6</sup> See Exhibit B

As discussed therein, “A” represents the calculated GIC premium and “B” the calculated USAA premium for a policyholder. ¶ 12

The derivation of the 78% value is given in that declaration based upon the mathematical formulas and calculations contained therein.

#### **IV – RESPONSE TO DECLARATION OF NANCY WATKINS**<sup>7</sup>

##### *Overview of California PPA Ratemaking Process*

17. Ms. Watkins’ purported discussion of the issues in this case starts by giving an “Overview of California PPA Ratemaking Process” including “Setting the Overall PPA Premium” and “PPA Class Plan Factor Analysis”.<sup>8</sup> That “Overview” takes up the majority of her declaration, going on for more than seven pages. By contrast, her alleged “Actuarial Analysis of Plaintiffs’ Allegations” is not quite two pages.<sup>9</sup>

18. Ms. Watkins lists two items which “determine” actuarially sound premiums.<sup>10</sup> Ms. Watkins’ list did not include that actuarial analyses need to take into account the applicable law.<sup>11</sup>

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<sup>7</sup> All references to the Watkins declaration refers to her declaration dated October 17, 2022 unless otherwise indicated.

<sup>8</sup> Watkins Declaration, Pages 4 – 11

<sup>9</sup> Watkins Declaration, Pages 11 - 13

<sup>10</sup> Watkins declaration, page 4

<sup>11</sup> Ms. Watkins mentions that in passing later in her declaration (page 8), but does not discuss the importance of that requirement as related to the issues in this case.

19. Actuarial Standard of Practice No. 1, Introductory Actuarial Standard of Practice, states (Section 3.1.5):<sup>12</sup>

There are situations where applicable law (statutes, regulations, and other legally binding authority) may require the actuary to deviate from the guidance of an ASOP. Where requirements of law conflict with the guidance of an ASOP, the requirements of law shall govern.

20. This is of particular relevance for this proceeding, since the Court has already determined that, “Plaintiffs do not challenge the validity or reasonableness of Defendants’ rates, nor do they challenge the DOI’s rulemaking authority in approving those rates.”<sup>13</sup> Given that the Court has already determined that this proceeding does not involve ratemaking, Ms. Watkins’ discussion of ratemaking appears to be at best marginally, if at all, relevant to the actuarial and regulatory issues for this proceeding. Despite this lack of relevance, it is useful to point out statements by Ms. Watkins that are wrong or misleading.

21. Ms. Watkins claims, “an insurer’s eligibility and underwriting rules, rates and class factors are part of an integrated system, all subject to prior approval by CDI”.<sup>14</sup> That is simply not true. CDI does not approve underwriting rules.

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<sup>12</sup> <http://www.actuarialstandardsboard.org/asops/introductoryactuarialstandardpractice/>

<sup>13</sup> Order Granting In Part And Denying In Part Defendants’ Motion To Dismiss (dated June 22, 2021) 8:16-18

<sup>14</sup> Watkins declaration page 7

22. CDI's disposition of GIC's 2016 filing (implemented in 2017) stated "This approval does not constitute an approval of underwriting guidelines".<sup>15</sup>

23. The Court is well aware of this, as it stated, "These statements from the Commissioner directly refute Defendants' contention that the DOI 'specifically approved' the Placement Rules."<sup>16</sup>

24. Furthermore, the applicable Good Driver statute, CIC 1861.16(b), which states, "This requirement applies notwithstanding the underwriting guidelines of any of those insurers or the underwriting guidelines of the common ownership, management, or control group" supersedes any company underwriting rules. The Court also previously confirmed that, stating "Regardless of what Defendants' Placement Rules authorize or whether the Insurance Commissioner approved them, Defendants have not established that they are entitled to bypass the requirements of section 1861.16(b)."<sup>17</sup>

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<sup>15</sup> See Exhibit C

<sup>16</sup> Order Granting In Part And Denying In Part Defendants' Motion To Dismiss (dated June 22, 2021) 13:13-14

<sup>17</sup> Order Granting In Part And Denying In Part Defendants' Motion To Dismiss (dated June 22, 2021) 13:18-20

25. Ms. Watkins references “Other ‘optional’ factors that have been approved by the Commissioner” and lists several of those.<sup>18</sup> With regard to optional rating factors, the **only** optional rating factors that can be used are those that have been approved by the Commissioner.<sup>19</sup>

26. What Ms. Watkins does not mention is that the Defendants use of underwriting guidelines to segregate policyholders by military grade into different insurance companies with different base rates is actuarially equivalent to using an unapproved optional rating factor. The numerical value of the rate relativity between the two applicable classes / categories would be the ratio of the base premium in GIC compared to USAA.

27. That is, military grade effectively functions as an unapproved rating factor, the classes or categories within that unapproved rating factor are the military grade groupings used to segregate policyholders between insurance companies<sup>20</sup> and the rate

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<sup>18</sup> Watkins declaration, page 8

<sup>19</sup> CIC 1861.02(a)(4) and 10 CCR § 2632.1 et seq.

<sup>20</sup> The Placement Rules indicate the following:

For GIC “Enlisted and junior non-commissioned officers, defined as E-1 through E-6 in the U.S. Armed Forces”.

For USAA “Senior non-commissioned/petty officers, defined as E-7 or above in the U.S. Armed Forces”.

relativity between the two categories reflects the percent difference in the base rates. Numerical values of the relativity for this unapproved rating factor between GIC and USAA based on December 28, 2017 rates is set forth in the following table.<sup>21</sup>

Unapproved Military Grade Rating Factor Relativities

<u>Coverage</u>	<u>USAA</u>	<u>GIC</u>	<u>Relativity</u>
BI	336.89	434.28	1.289
PD	353.36	462.38	1.309
MP	28.22	42.17	1.494
UM/UIM BI	57.55	77.06	1.339
UM PD	39.77	51.45	1.294
CP	50.35	88.84	1.764
CL	365.99	603.63	1.649

Source: Schwartz Declaration April 7, 2022; Exhibit C, Sheet 2

28. Ms. Watkins discusses the rating factor weights and difference in relative weights for GIC and USAA.<sup>22</sup> It appears she is trying to leave the impression that the

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See “CALIFORNIA AUTO COMPANY OF PLACEMENT RULES”; Exhibit A to the PLAINTIFFS’ NOTICE OF MOTION AND MOTION FOR CLASS CERTIFICATION dated April 8, 2022

<sup>21</sup> The table shows values for the seven major coverages. The minor coverages (e.g., RR, T&L, WOCD, EB) show a similar pattern.

<sup>22</sup> Watkins declaration, pages 9 – 10



rating plans differ dramatically between GIC and USAA.<sup>23</sup> However, she does not actually provide any analysis of how those differing relative weights impact the relative premiums between GIC and USAA.

29. The reality is that the GIC and USAA premiums tend to move in a similar manner, with a higher (or lower) GIC premium calculated for a given policyholder being associated with a higher (or lower) USAA premium calculated for that same policyholder. There is a very high correlation between the GIC and USAA premiums, with a value in excess of 98%.

30. As a result of this very high correlation, the GIC and USAA premiums tend to vary in a similar manner for changes in the rating characteristics.

31. As previously mentioned, this issue is discussed in more detail in my declaration dated June 24, 2022 at ¶¶ 6 – 14.<sup>24</sup>

32. In summary, despite what Ms. Watkins may have been trying to imply about the relative weight of the GIC and USAA rating factors, the calculated premiums for GIC

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<sup>23</sup> For instance she states, “For example, the Marital Status discount has a relativity of .288 for United Services versus .447 for GIC, indicating that the relative weights of Marital Status, and corresponding impacts on the base rates for Collision coverage, are very different between the two companies.” Watkins declaration, page 10

<sup>24</sup> See Exhibit B

and USAA by policyholder are: (i) highly correlated, (ii) explanatory of each other and (iii) related to a very high statistical degree.

33. Ms. Watkins also states that, “These differences in rating factors means [sic] that that [sic] it not [sic] a foregone conclusion that a GIC policyholder will always pay more in premiums compared to the hypothetical scenario where that same policyholder was insured by United Services.”<sup>25</sup> While Ms. Watkins’ statement is technically correct, that not every single policyholder would pay more under the GIC rating system than under the USAA rating system, it is deceptive and incomplete.

34. Someone might read Ms. Watkins statement as implying that it is essentially a coin flip whether a policyholder would pay more in GIC than USAA. However, the reality is much different than that. The truth is that the vast majority, more than 90%, of policyholders would pay more under the GIC rating system than under the USAA rating system.

35. Also, the policyholders that would pay more in USAA than in GIC are not members of the proposed class. Hence, the premiums those policyholders would pay in either GIC or USAA are not actuarially relevant to the determination of damages in this proceeding.

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<sup>25</sup> Watkins declaration, page 10

*Fair vs. Unfair Discrimination*

36. Ms. Watkins discusses various actuarial standards and cites to some statutes and regulations. However, she does not appear to relate any of her discussion to any of the issues relevant to this proceeding.

37. As briefly referenced previously by Ms. Watkins, although not actually discussed, ASOP No. 1 requires that actuarial work needs to be performed consistent with the applicable legal standards.<sup>26</sup> The Plaintiffs in this case allege that the Defendants violated certain statutes dealing with Good Drivers and discrimination. Nothing in Ms. Watkins' declaration actually addresses those issues and the damages arising from those alleged violations. Furthermore, Ms. Watkins' citation to actuarial standards does not override the applicable legal requirements.

38. Ms. Watkins references "CCR 2632.5" and "CIC 11732.5", but again does not relate those to anything in this case.<sup>27</sup> In the context of this case, an issue is that the Defendants are using, from an actuarial perspective, an unapproved rating factor by the use of military grade.

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<sup>26</sup> Watkins declaration, pages 8 and 9

<sup>27</sup> Watkins declaration, page 10

39. Military grade as used by the Defendants to determine the premium to charge policyholders is not one of the optional rating factors set forth in 10 CCR § 2632.5. Furthermore, from an actuarial and regulatory perspective, CIC 11732.5 does not authorize the use of optional rating factors not set forth in 10 CCR § 2632.5. The applicable statutory provision regarding optional rating factors is CIC 1861.02(a) which states:

Rates and premiums for an automobile insurance policy, as described in subdivision (a) of Section 660, shall be determined by application of the following factors in decreasing order of importance:

- (1) The insured's driving safety record.
- (2) The number of miles he or she drives annually.
- (3) The number of years of driving experience the insured has had.
- (4) Those other factors that the commissioner may adopt by regulation and that have a substantial relationship to the risk of loss. The regulations shall set forth the respective weight to be given each factor in determining automobile rates and premiums. Notwithstanding any other provision of law, the use of any criterion without approval shall constitute unfair discrimination.

40. There is no dispute that the Insurance Commissioner has not adopted military grade as an optional rating factor. Given that the statute states that using a non-adopted rating factor constitutes unfair discrimination and that actuarial work needs to comply with the applicable law, it would appear that the Defendants' use of military grade effectively as a rating factor is unfair discrimination from an actuarial and regulatory perspective, irrespective of what Ms. Watkins may claim.

Actuarial Analysis of Plaintiffs' Allegations

41. Ms. Watkins' declaration finally arrives at a short section that purports to deal with an "actuarial analysis of plaintiffs' allegations". However, even a cursory reading of that section shows that it does no such thing.

42. Ms. Watkins states, "If either were found to be the case, then USAA would need to seek approval from the CDI to change its future approach to company placement and ratemaking to achieve what the CDI would be willing to accept as actuarially fair and adequate rates."<sup>28</sup> Then Ms. Watkins gives a discussion of what she thinks USAA could do in the future.

43. That is, Ms. Watkins' section which purports to deal with Plaintiff's allegations regarding the alleged illegal *past* actions of the Defendants, instead deals with *future* actions that the Defendants may undertake.

44. Ms. Watkins does not discuss in any manner how to evaluate the damages to Plaintiffs from the alleged illegal *past* actions of the Defendants. Hence, Ms. Watkins' discussion is from an actuarial and regulatory perspective completely irrelevant to the analysis and evaluation of damages.

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<sup>28</sup> Watkins declaration, page 11 of 15. Emphasis supplied

## V – CONCLUSION

45. In summary, nothing in the report by Mr. Strombom or declaration by Ms. Watkins changes my opinion that the calculations set forth in my prior report dated October 17, 2022 are actuarially sound, reasonable and appropriate. In that report, based upon the data / information provided by the Defendants, I calculated the damages for the: (i) Good Driver Class based on the primary damage formula, (ii) Discrimination Class based on the modified primary damage formula and (iii) Discrimination Class based on the alternate damage formula. For the Discrimination Class I also calculated monetary amounts reflecting both damage formulas based upon my understanding of Cal. Civ. Code sec. 52.<sup>29</sup>

46. Those calculations were consistent with accepted actuarial procedures and Actuarial Standards of Practice.

47. The conclusions and opinions set forth in this declaration are based upon the documents and information I have reviewed, which have been referenced in this and my prior report. These are subject to possible revision in the future.

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<sup>29</sup> As previously discussed, in performing these calculations we relied on the calculated premium values supplied by SGRisk.

48. Portions of the work for this report may have been performed under my direction by other employees of AIS. In such situations I have reviewed that work. I take full responsibility for the content of this Report.

49. AIS Risk Consultants' rates for purposes of its work to date in this action range from \$340 to \$870. AIS's compensation is not contingent upon the opinions I render or the outcome of this litigation.

I declare under penalty of perjury under the laws of the State of California and State of New Jersey that the foregoing is true and correct.

Executed December 2, 2022 at Freehold, New Jersey.



Allan I. Schwartz



# EXHIBIT 5

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

EILEEN-GAYLE COLEMAN and  
ROBERT CASTRO, on behalf of  
themselves and all others similarly  
situated,

Case No. 3:21-cv-217-RSH-KSC

Plaintiffs,

v.

UNITED SERVICES AUTOMOBILE  
ASSOCIATION and USAA GENERAL  
INDEMNITY COMPANY

Defendants.

**DECLARATION OF NANCY WATKINS**

## Qualifications

My name is Nancy Watkins, and my business address is 650 California Street, San Francisco, California. I am a Principal and Consulting Actuary with Milliman, Inc. (“Milliman”). I am a Fellow of the Casualty Actuarial Society (“CAS”) and a Member of the American Academy of Actuaries (“AAA”). Milliman is among the world’s largest providers of actuarial, risk management, and related technology and data solutions. I joined Milliman in 1997 as a Consulting Actuary and was made a Principal in 1999; currently I co-manage a practice of 38 actuaries and professionals in San Francisco. I have presented on technical ratemaking and other actuarial topics at many industry and regulatory conferences and have submitted and/or worked on hundreds of rate filings in the past 25 years, mostly for residential property and personal automobile insurance.

A complete statement of my education, employment, and academic credentials is included in the curriculum vitae filed as Attachment A with this testimony.

I meet the Qualification Standards of the American Academy of Actuaries to render the opinions contained herein.

My 2022 billable rate is \$825 per hour payable to Milliman, Inc. for my actuarial consulting services, including this expert witness support. My payment is not dependent on the outcome of this matter.

## Background and Scope of Work

I<sup>1</sup> have been asked by counsel for United Services Automobile Association (“USAA” or “United Services”) and USAA General Indemnity Company (“GIC”) to provide an expert report in the matter of Eileen-Gayle Coleman, and Robert Castro, on behalf of themselves and all others similarly situated (“Plaintiffs”) v. USAA and GIC (collectively, “Defendants”), Case No. 3:21-cv-00217-RSH-KSC, pending in the United States District Court for the Southern District of California.

United Services and GIC write Private Passenger Auto (“PPA”) policies in California. Each of the companies insures a different segment of the military, as detailed in Defendants’ California Auto Company Placement Rules (“Placement Rules”) filed with the California Department of Insurance (“CDI”).<sup>2</sup> Generally speaking, United Services insures higher-paygrade officers and enlisted personnel (E-7 and above), and GIC insures lower-paygrade officers and enlisted personnel (E-1 through E-6). United Services’ and GIC’s current and historical rates have both been reviewed and approved by the CDI.

Plaintiffs allege that USAA’s practice of segmenting policyholders according to the Placement Rules -- and then charging higher base rates for GIC compared with United Services -- violates section 1861.16(b) of the California Insurance Code, which requires auto insurers to offer a statutory “good driver” a policy from the insurer with the lowest rates within a commonly controlled group of companies. Plaintiffs further allege that segmenting policyholders according to the Placement Rules -- and then charging higher base rates for GIC compared with United Services -- discriminates against enlisted personnel based on their military status in violation of California’s anti-discrimination laws.

I have been asked to provide background information and commentary from an actuarial perspective on PPA ratemaking in California, actuarial standards and principles, and publicly available data relevant to certain allegations by Plaintiffs.

## Basis of Testimony

My testimony was based on a review of the following data and information:

- Plaintiffs’ Amended Complaint
- Plaintiffs’ Notice of Motion and Motion for Class Certification
- Plaintiffs’ Reply in Support of Motion for Class Certification dated 6/24/2022
- Plaintiffs’ Motion to Amend Proposed Class Definitions dated 10/12/22
- Publicly available California rate filings:
  - GIC SERFF filing #USAA-126501745, effective 8/1/2010
  - GIC SERFF filing #USAA-127200120, effective 2/13/2012

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<sup>1</sup> Throughout this report, references to “I” or “my” are intended to include Milliman employees working under my direction to assist in this assignment, including internal peer reviewers. The opinions stated in this report are my opinions.

<sup>2</sup> For example, company placement rules were submitted as part of the rate filings USAA-130660589 and USAA-130660642 for United Services and GIC, respectively.

- GIC SERFF filing # USAA-130660642, effective 12/28/2017
- GIC SERFF filing # USAA-132398570, withdrawn 4/21/2022
- United Services SERFF filing # USAA-125258826, effective 3/4/2009
- United Services SERFF filing # USAA-130660589, effective 12/28/2017
- United Services SERFF filing # USAA-131769162, effective 8/1/2019
- United Services SERFF filing # USAA-132398216, withdrawn 4/21/2022
- Publicly available California class plan filings:
  - GIC SERFF filing # USAA-130660523, effective 12/28/2017
  - United Services SERFF filing #USAA-130660487, effective date 12/28/2017
- Statutory Annual Statements for United Services Automobile Association and USAA General Indemnity Company, downloaded from SNL.com
- California Code of Regulations (“CCR”)
- California Insurance Code (“CIC”)
- General Counsel Letter of Opinion, “Confidentiality of Underwriting Rules Filed with Rate Applications Pursuant to California Insurance Code section 1861.05(b)”, dated August 10, 2018: <http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/GCLetterOpinionUWGuidelines.pdf>
- California Department of Insurance Bulletin 2022-5, “Allegations of Racial Bias and Unfair Discrimination in Marketing, Rating, Underwriting, and Claims Practices by the Insurance Industry”, dated June 30, 2022: <https://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/BULLETIN-2022-5-Allegations-of-Racial-Bias-and-Unfair-Discrimination-in-Marketing-Rating-Underwriting-and-Claims-Practices-by-the-Insurance-Industry.pdf>
- California Department of Insurance “Prior Approval Rate Filing Instructions” accessed 4/19/2022: [http://www.insurance.ca.gov/0250-insurers/0800-rate-filings/0200-prior-approval-factors/upload/PriorAppRateFilingInstr\\_Ed\\_01-19-2022.pdf](http://www.insurance.ca.gov/0250-insurers/0800-rate-filings/0200-prior-approval-factors/upload/PriorAppRateFilingInstr_Ed_01-19-2022.pdf)
- California Department of Insurance “Information Sheet: Proposition 103 Intervenor Process”, accessed August 22, 2022: <http://www.insurance.ca.gov/01-consumers/150-other-prog/01-intervenor/info.cfm>
- California Department of Insurance Press Release, “Commissioner issues regulations prohibiting gender discrimination in automobile insurance rates”, dated January 3, 2019: <http://www.insurance.ca.gov/0400-news/0100-press-releases/2019/release003-19.cfm>
- CAS Statement of Principles Regarding Property and Casualty Insurance Ratemaking (“CAS SOPs”): <https://www.casact.org/sites/default/files/2021-05/Statement-Of-Principles-Ratemaking.pdf>
- Actuarial Standards of Practice (“ASOPs”): <http://www.actuarialstandardsboard.org/standards-of-practice/>
  - ASOP 1: *Introductory Actuarial Standard of Practice*
  - ASOP 12: *Risk Classification (for All Practice Areas)*
  - ASOP 23: *Data Quality*
  - ASOP 25: *Credibility Procedures*

- ASOP 53: *Estimating Future Costs for Prospective Property/Casualty Risk Transfer and Risk Retention*

## Overview of California PPA Ratemaking Process

The process of setting insurance prices is referred to as “ratemaking” in the P&C insurance industry. The price the insurance consumer pays is referred to as “premium.” Insurance premiums can vary significantly for groups of insureds with different risk characteristics.

Ratemaking is composed of two separate types of analysis – an overall rate level analysis to determine the total premium for the insurer to collect from all policyholders in the aggregate within a given program or state during a prospective period, and a risk classification plan analysis to consider differences in expected risk between individual segments of policyholders, for purposes of calculating their individual premiums. Actuarially sound premiums are determined by (1) an overall amount of premium reasonable to charge for all business within a given program or state, and then (2) a class plan, comprising a rate calculation formula, base rates, and rating factors, that distributes the overall premium across all policyholders based on relative risk.

Proposition 103, passed by California voters in November 1988, requires the “prior approval” of the CDI before insurance companies can implement property and casualty insurance rates (or any changes to existing rates or class plans) for all P&C lines of business except life, ocean marine, health, disability, and mortgage insurance. For the non-exempted lines including PPA, insurers prepare rate applications, also known as “filings”, which are sent to the CDI via System for Electronic Rates & Forms Filing (“SERFF”). The CDI’s Rate Regulation Branch reviews these filings and ensures the proposed rates are not excessive, inadequate, or unfairly discriminatory. For PPA, the CDI requires a separate filing for each type of analysis, as follows:

- A “rate filing” contains support for proposed changes in the overall total premium. An insurer may also vary the rates by “group”, as described in CIC 1861.12.<sup>3</sup> Typically, a separate rate level filing is submitted for each group.
- A “class plan” filing contains support for the rating factors used to vary premiums for policyholders with differences in expected risk.

Insurers have the burden of proving the requested rates are justified. If a CDI reviewer requires additional information and/or amendments regarding the proposed rates, they can send an “Objection Letter” to the insurer. The insurer then sends a “Response Letter” with the additional information and/or amendments. For example, the CDI issued numerous objections in the course of its review and approval of recent United Services and GIC filings, as follows:

- United Services rate filing # USAA-131769162: 3 objection letters
- United Services rate filing # USAA-130660589: 7 objection letters
- GIC rate filing # USAA-130660642: 7 objection letters

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<sup>3</sup> According to CIC 1861.12, “Any insurer may issue any insurance coverage on a group plan, without restriction as to the purpose of the group, occupation, or type of group. Group insurance rates shall not be considered to be unfairly discriminatory, if they are averaged broadly among persons insured under the group plan.”

- GIC class plan filing # USAA-130660523: 7 objection letters

Based on their review, the CDI may approve the rates or issue a notice of rate hearing. In practice, most issues are resolved by the described iterative process without a rate hearing.

Beyond the review of filings, the CDI has additional powers of enforcement and oversight to ensure that companies are complying with California regulations. For example, the Commissioner may also require an insurer to refile rates for auto lines every three years “as a means to determine whether a rate previously approved remains in compliance” (CCR 2644.50). Additionally, the CDI Field Rating and Underwriting Bureau also conducts periodic exams to determine whether companies are properly and consistently applying their approved rates, rating plans, and underwriting rules at the individual policy level.

Consumers who have objections to an insurer’s rates and/or underwriting rules also have options under California regulations. Any person can request a rate hearing based on the allegation that a rate is in effect which is excessive, inadequate, unfairly discriminatory (CCR 2646.4), and Proposition 103 authorized consumer “intervenor” to recover advocacy and witness fees and expenses under certain circumstances<sup>4</sup>. Consumers and consumer representatives have 45 days after the public notice of the rate change application to request a rate hearing (CIC 1861.05(c)). In addition, any person “aggrieved by any rate charged, rating plan, rating system, or underwriting rule” may file a written complaint with the CDI requesting that a review of the application of the rate, plan, system, or rule with respect to the insurance afforded to that person (CIC 1858). If the CDI has good cause to believe that the insurer is not in compliance with applicable requirements and standards, the Commissioner shall give notice to the insurer in writing and specifying a reasonable time in which the noncompliance may be corrected and the amount of any penalty that may be due. The insurer may either establish that the noncompliance does not exist, request a public hearing, or enter into an informal conciliation with the commissioner and complainant to resolve the matter (CIC 1858.1).

### Setting the Overall PPA Premium

Title 10, Chapter 5, Subchapter 4.8, Article 4 of the California Code of Regulations is titled “Determination of Reasonable Rates.” It describes the process and parameters used to calculate the reasonable range of overall premium for a pool of insureds, as follows:

- Projected losses are calculated by adjusting the insurer’s historic losses for catastrophes, loss development, and trend (CCR 2644.4)<sup>5</sup>
- Support for loss development factors must be presented in the filing with the insurer’s historical experience shown in a proscribed fashion (CCR 2644.6)<sup>6</sup>

<sup>4</sup> <http://www.insurance.ca.gov/01-consumers/150-other-prog/01-intervenor/info.cfm>

<sup>5</sup> Per CCR 2644.4(a), “Projected losses” means the insurer’s historic losses per exposure, adjusted by catastrophe adjustment, as prescribed in section 2644.5, by loss development, as prescribed in section 2644.6, and by loss trend, as prescribed in section 2644.7.

<sup>6</sup> Per CCR 2644.6, loss development shall be presented as a loss-development triangle, based on the dollar-weighted average of the ratios of losses for the three most recent accident-years, policy-years, or report-years available for a reporting interval. Filings shall contain both paid losses and case-specific reserves, stated separately. Loss development shall employ either paid losses or the sum of paid losses and case-specific reserves. The insurer shall submit both the factors and ultimate losses or claims for the paid and incurred loss and the reported and the paid



- Support for loss and premium trends must be presented in the filing with the insurer's historical experience shown in a proscribed fashion (CCR 2644.7)<sup>7</sup>
- Support for the credibility assigned to the insurer's historical trend must be presented in the filing with the insurer's historical experience shown in a proscribed fashion (CCR 2644.7)<sup>8</sup>
- Maximum allowable expenses and the minimum and maximum profit provisions are determined by parameters established by the Commissioner (CCR 2644.12, CCR 2644.16)
- The maximum overall premium is the company's projected losses and loss adjustment expenses, adjusted for estimated investment income on reserves and ancillary income, plus provisions for allowable expenses and maximum allowable profit (CCR 2644.2). The minimum permitted premium is calculated similarly (CCR 2644.3).
- According to CCR 2644.1 - Excessive or Inadequate Rates, "No rate shall be approved or remain in effect that is above the maximum permitted earned premium, as defined in section 2644.2, or is below the minimum permitted earned premium, as defined in section 2644.3. Where the Commissioner finds that a rate or proposed rate is excessive or inadequate, the rate or proposed rate shall not be used nor remain in effect."

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claims development calculations and shall demonstrate that its selection is the most actuarially sound. Loss development data shall exclude catastrophes. Where the loss development factors within a given line significantly vary by subline, by size of loss, or by coverage, separate loss development factors shall be calculated in accordance with that evidence.

<sup>7</sup> Per CCR 2644.7 (b), trend factors shall be based on the exponential curve of best fit. Companies shall file the most recent 8, 12, 16, 20, and 24 quarters of rolling calendar year data excluding catastrophes. The premium and loss trend factors shall be developed using the insurer's most actuarially sound company-specific rolling calendar year data excluding catastrophes, for the most recent 8, 12, 16, 20, or 24 quarters. The insurer shall file its rate change application using the single data period that it determines to be the most actuarially sound. The Commissioner may require the use of an alternative data period if the Commissioner determines that use of the alternative is the most actuarially sound. Frequency trend shall be calculated as reported or closed claims divided by exposures. Severity trend shall be calculated on paid losses divided by closed claims or total paid losses, including partial payments in previous calendar years, on closed claims divided by closed claims. The insurer shall submit the frequency and severity calculations on all bases and shall demonstrate that its selection is the most actuarially sound. Premium trend factors shall be developed using company-specific premium per exposure data.

<sup>8</sup> Per CCR 2644.7 (d), for homeowners, multiple peril, and private passenger automobile liability and physical damage, the standard for full credibility for loss trend shall be 6000 total claims over the same number of quarters as used in subsection (b) for each form for homeowners and for each coverage for private passenger automobile. Partial credibility shall be the square root of the ratio of the actual number of claims divided by the full credibility standard. For private passenger automobile other than motorcycle, the complement of credibility for loss trend shall be calculated using the latest available California Fast Track paid loss, closed claim count and earned exposure data, the complement shall be based on the exponential curve of best fit to the most recent rolling calendar year data for the same number of quarters as used in subsection (b). For uninsured and underinsured motorist bodily injury and medical payments coverages, the complement shall use the California Fast Track bodily injury data. For uninsured and underinsured motorist property damage coverages, the complement shall use the California Fast Track property damage data. The Commissioner may modify the result of the calculation from California Fast Track data to take into account factors not reflected in the historical data, pursuant to section 2646.3.

The CDI Prior Approval Rate Filing Instructions<sup>9</sup> require insurers to provide full rate support for any changes that affect the rate or cost of coverage to any insured. According to the CDI instructions, for all filings requesting changes in rates, rules, or underwriting guidelines that have a rate impact, the following items must accompany the rate application:

- A clean copy of the current manual rate, rule and/or guideline pages.
- A marked-up copy of the current manual rate, rule and/or guideline pages. In the revised pages, underline any additions to, and use brackets ([ ]) to identify any deletions from, the current pages.
- A clean copy of the complete proposed manual.

Therefore, an insurer's eligibility guidelines and underwriting rules, rates and class factors are part of an integrated system, all subject to prior approval by the CDI, that combine to result in actuarially sound premiums to eligible policyholders. If any one element were to materially change, an adjustment to the other elements of the system may be required to maintain actuarial soundness.

Further, as noted in the General Counsel Letter of Opinion, the filings containing these elements are subject to a 45-day statutorily-guaranteed public notice period so that consumers and consumer intervenors may analyze a company's rate application and determine whether to request a rate hearing.

In support of the premiums charged to policyholders, the inputs to the overall PPA rate calculations (such as written premium and loss trend) are derived from United Services' and GIC's relevant historical data, as well as parameters provided by the CDI. The overall premiums must be within the permissible range of reasonable rates as defined by the CCR.

Exhibit 1 is an illustrative example using Collision coverage. This example is from United Services' 2017 filing that was approved by the CDI. Exhibit 1 lists all the critical inputs that go into an overall PPA rate calculation, as well as the resulting outputs, and compares the United Services amounts to the GIC amounts. Both companies in this example are using the same historical time period for loss and exposure data. During this historical period, there are material differences in loss per exposure as well as both historical and prospective trends. These differences result in distinctly different ranges for minimum and maximum indicated premium. The minimum and maximum Collision premiums calculated based on the GIC policyholder pool are approximately 55% higher than those calculated based on the United Services policyholder pool. That is a reflection of the data showing that losses per exposure in GIC have been (and were projected to be, for the prospective policy period) higher compared to United Services. In fact, the *lowest* allowable premium for GIC (\$435.39) is almost 30% more than the *highest* allowable premium for United Services (\$336.37). This gap indicates that based on the data and parameters in these filings, there is *no overlap* in the range of base premiums between the two companies that would be considered approvable under California regulation.<sup>10</sup>

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<sup>9</sup> [http://www.insurance.ca.gov/0250-insurers/0800-rate-filings/0200-prior-approval-factors/upload/PriorAppRateFilingInstr\\_Ed\\_01-19-2022.pdf](http://www.insurance.ca.gov/0250-insurers/0800-rate-filings/0200-prior-approval-factors/upload/PriorAppRateFilingInstr_Ed_01-19-2022.pdf)

<sup>10</sup> The class plan analysis combines data from United Services, GIC, and the other two USAA companies, and the same indicated relativities before credibility weighting are used for each company. The current relativities, which are used as a complement of credibility, vary by company for selected factors resulting in differences in the



In addition to the regulatory requirements, actuaries setting rates must also adhere to the Actuarial Standards of Practice (“ASOPs”) promulgated by the Actuarial Standards Board and Statements of Principles promulgated by the Casualty Actuarial Society. Some actuarial standards and principles relevant to rate setting include:

- ASOP 1: Where the requirements of law conflict with the guidance of an ASOP, the requirements of law shall govern.
- ASOP 53: The actuary should consider which historical data are available and appropriate for estimating future costs.
- ASOP 23: The actuary should consider whether the data is suitable for the intended purpose of an analysis and relevant to the system or process being analyzed.
- ASOP 25: The actuary should apply credibility procedures that appropriately consider the characteristics of both the subject experience and the relevant experience, and relevant experience should have characteristics similar to the subject experience.
- CAS SOPs: A rate is reasonable and not excessive, inadequate, or unfairly discriminatory if it is an actuarially sound estimate of the expected value of all future costs associated with an individual risk transfer.

## PPA Class Plan Factor Analysis

California has specific requirements for PPA Class Plans, as follows:

- First, there are three “mandatory” rating factors: driving safety record, annual miles, and years driving experience (CIC 1861.02).
- Other “optional” factors that have been approved by the Commissioner include the type of vehicle and vehicle characteristics, vehicle use (pleasure, commute, etc.), multi-vehicle policy, academic standing, driver training courses, marital status of driver, persistency, multiple policies, and ZIP code bands (CCR 2632.5).
- The relativities associated with each rating factor are established by performing a rigorously specified sequential analysis, which analyzes each factor, one at a time, in a prescribed order (CCR 2632.7).<sup>11</sup>

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credibility-weighted indicated relativities. The factor weights are calculated using company-specific data, and some selected factors vary by company.

<sup>11</sup> Under CCR 2632.7:

(a) The determination of the initial relativities to associate with a rating factor shall be established by performing a sequential analysis. The sequential analysis shall remove the variation in loss costs already explained by prior factors.

(b) The sequential analysis shall analyze the rating factors one at a time, in the following order:

1. The first mandatory factor;
2. The second mandatory factor;
3. The third mandatory factor;
4. Any and all optional factors used by the insurer in accordance with subsection 2632.5(d). The order of analysis of the optional factors shall be determined by the insurer, with the exception that frequency band and severity band shall be analyzed last.

- The “weights” of the rating factors must align in decreasing order of importance (CCR 2632.8), also known as “auto rating factor” compliance.
- To calculate the weights, companies can use their currently insured vehicles only or the same data used in the sequential analysis.<sup>12</sup>
- Factor weights for “optional” rating factors must be less than the third mandatory factor; if needed, relativities may be “pumped” or “tempered” to achieve factor weight compliance (CCR 2632.8).
- Insurers may not use a class plan, or charge or collect a premium which does not comply with the requirements of CCR 2632.

Even when changes in Class Plans are required by regulation or law, the new Class Plan must comply with these regulations. For example, when the Commissioner updated regulations to prohibit the use of gender in PPA insurance rating in 2019, companies were required to file revised Class Plans removing gender which maintained factor weight compliance and were “revenue neutral”, i.e., the filed changes did not change the overall amount of premium charged (CCR 2632.11)<sup>13</sup>. The CDI was required to review the new class plan filings, and the revised rating factors and base rates went into effect only after the CDI ensured the new rates were in compliance with the new regulations.

In addition to the regulatory requirements, relevant actuarial standards and principles include:

- ASOP 1: Where the requirements of law conflict with the guidance of an ASOP, the requirements of law shall govern.
- ASOP 12: Rates are considered equitable if differences in rates reflect material differences in expected cost. If business practices change, the actuary should consider testing the effects of such changes.
- CAS SOPs: Ratemaking should provide for the costs of an individual risk transfer so that equity among insureds is maintained.

Exhibit 2 compares the Collision factor weights from two GIC and United Services Class Plan filings, both submitted in 2016. The overall magnitude of the weights varies between the companies because the base rate is part of the calculation, and the base rates vary by company. To put the weights on a comparable basis, I also show the factor weights relative to the weight for Driving Record. This comparison shows how the relative importance of the rating variables differs between the two companies for several variables including Annual Mileage, Years Driving Experience, Marital Status, Good Student Discount, and Persistency. As described above, determining that a PPA class plan complies with California regulation depends heavily on the relative weight of rating variables for the individual insurer. As shown in Exhibit 2, many of

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(c) The initial relativities, as developed, shall be balanced to a weighted average of 1.0 for multiplicative factors or balanced to a weighted average of 0.0 for additive factors. The weighting factor for the weighted average shall be the number of exposures from the data chosen for use in section 2632.8(b).

(d) The results of the sequential analysis shall be submitted to the Department in a computer file in a format specified by the Commissioner.

<sup>12</sup> Under CCR 2632.8(b) (b) The data used to compute the weight shall be based on one of the following:

- (1) all of the subject company's currently insured vehicles;
- (2) the same data set used to perform the sequential analysis in Section 2632.7; or
- (3) the set of insured vehicles that may be published by the Department of Insurance.

<sup>13</sup> <http://www.insurance.ca.gov/0400-news/0100-press-releases/2019/release003-19.cfm>

the factor weights and relativities to Driving Record are materially different between United Services and GIC. For example, the Marital Status discount has a relativity of .288 for United Services versus .447 for GIC, indicating that the relative weights of Marital Status, and corresponding impacts on the base rates for Collision coverage, are very different between the two companies. These differences arise due to the different experience of the pool of policies insured by United Services vs. the pool of policies insured by GIC. Also, in some cases the differences in factor weight relativities result from differences in the rating relativities between GIC and United Services. These differences in rating factors means that that it not a foregone conclusion that a GIC policyholder will always pay more in premiums compared to the hypothetical scenario where that same policyholder was insured by United Services.

#### Fair vs. Unfair Discrimination

As previously described, ratemaking is a two-step process consisting of an overall rate level analysis to determine the total premium for the insurer to charge during a prospective period, and a risk classification plan analysis to determine how much to charge individual segments of policyholders, considering their differences in expected risk. A risk classification plan consists of a rating algorithm and rating factors that distribute the overall premium across all policyholders based on relative risk. Each policyholder is charged an actuarially fair rate relative to the risk of loss.

If risk classification were not used—that is, if there were no discrimination among policyholders—the options for setting rates would fall into two extremes. On one end, every policyholder would pay exactly the same premium for the same coverage, meaning that lower-risk segments of policies would subsidize higher-risk segments. On the other extreme end, every policyholder would essentially just pay their own claims, so that risks are not pooled and the coverage provided is not really insurance.

Principle 4 of the CAS SOP establishes that rates must not be excessive, inadequate, or unfairly discriminatory. This is the typical standard employed across the U.S. for purposes of insurance rate regulation, including California (CIC 1861.05). Under Principle 4, “A rate is reasonable and not excessive, inadequate, or unfairly discriminatory if it is an actuarially sound estimate of the expected value of all future costs associated with an individual risk transfer.” Under Principle 2, “Ratemaking should provide for the costs of an individual risk transfer so that equity among insureds is maintained.” In general, actuaries attempt to fulfill Principle 2 through risk classification, that is, establishing risk classes that assign risks to groups that are homogeneous with respect to the expected costs of risks within each group. ASOP 12 states “Rates within a risk classification system would be considered equitable if differences in rates reflect material differences in expected cost for risk characteristics. In the context of rates, the word *fair* is often used in place of the word *equitable*.”

According to CCR 2632.5, every auto insurer must establish a class plan for the calculation of rates that specifies rating factors which comply with the Good Driver discount requirements of CIC 1861.02 and other statutes and regulations. California has a rate standard (CIC 11732.5) that defines rates as unfairly discriminatory if, after allowing for practical limitations, price differentials fail to reflect equitably the difference in expected losses and expenses. The “unfairly discriminatory” standard is directed to an assessment of how an insurer’s total premium is distributed across policyholders. That distribution should occur such that higher risk groups of insureds pay more, and lower risk groups of insureds pay less.

Within this ratemaking context, the word *discrimination* on its own is synonymous with the word *differentiation* and does not necessarily represent a harmful or illegal practice. The distinction to be made is between fair discrimination, which is the goal of a well-designed risk classification system, and unfair discrimination, which does not result in actuarially sound classification factors, with persons of substantially the same risk and expense charged similar premiums.

Sometimes a characteristic that has in the past been considered usual, customary, and actuarially fair for risk classification purposes can be prohibited for such use in the future by law or regulation. For example, historically California regulations allowed insurers to recognize differences in expected losses by gender in their class plans. However, as previously mentioned the Commissioner issued new regulations effective in 2019 to prohibit “gender-based discrimination”, or the use of gender in PPA insurance rating. Insurers were required to file revised class plans no later than July 1, 2019 that eliminated all effects of gender as a rating factor, demonstrated compliance with factor weight ordering requirements, and demonstrated the revised class plan was revenue neutral, i.e. no projected change in the overall premium (CCR 2632.11(c)). In this and similar instances, the actuarially sound method of compliance for an insurance company is to re-analyze its historical data aggregated without such rating variables considered and file new rates and rating plans. In general, these filings would contain sufficient actuarial support to demonstrate that they comply with legal and actuarial standards, and, upon approval, would apply prospectively to future policies written or renewed after the filing effective date.

### Actuarial Analysis of Plaintiffs’ Allegations

USAA’s placement rules decide which company a policyholder is grouped into. Rates within each company are determined based on historical experience of all policyholders within that company. Plaintiffs essentially object to the use of military paygrades in this fashion and allege that this constitutes unfair discrimination against personnel in lower paygrades, because the base rates for GIC are higher.<sup>14</sup> Plaintiffs also claim that CIC 1861.16(b) requires USAA to offer the lowest rates to all Good Drivers, regardless of the Placement Rules. If either were found to be the case, then USAA would need to seek approval from the CDI to change its future approach to company placement and ratemaking to achieve what the CDI would be willing to accept as actuarially fair and adequate rates.

A straightforward but overly simplified solution would be to simply charge the GIC policyholders (or subset of GIC “Good Drivers”) premiums based on the current approved United Services rates. But the approved United Services rates and factors were based on data from only United Services’ policyholders; they do not reflect the combined experience of a risk pool comprising any GIC policyholders (including statutory “Good Drivers”). It is not actuarially sound, permissible under regulation, or legally allowed to charge rates to a fully credible risk portfolio that are calculated based on another company’s risk pool without performing the requisite analysis on whether those rates are appropriate. Rates are analyzed by the CDI in connection with the specific risks they are to be applied to, as defined by the underwriting rules and eligibility guidelines (General Counsel Letter of Opinion). The approach of charging GIC policyholders United Services rates is analogous to “preventing gender-based

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<sup>14</sup> It should be noted that differences in rating factors between the two companies can result in situations where the same risk has a higher final premium in USAA than GIC, even when base rates are higher in GIC.

discrimination” by saying that all males should be charged the rates based solely on historical experience for females, or vice versa. This approach would not reflect the overall combined risk of males and females, and it would not comply with actuarial standards of practice, the CAS SOPs, or California PPA regulation.

To create rates and premiums that are consistent with actuarial standards and regulatory requirements, and that address Plaintiffs’ allegations and claims, USAA likely would have three options: (1) move all GIC policyholders (or just the statutory “good drivers”) into United Services; (2) move all United Services policyholders into GIC; or (3) fully combine GIC and United Services into one company. All three options would result in different rates and relativities from what United Services is using now.

If GIC policyholders (or just a subset of statutory “good drivers”) were placed into United Services, USAA would have to follow the process outlined below:

- Revise United Services’ Placement Rules to make GIC policyholders (or just a subset of statutory “good drivers”) eligible for United Services.
- Due to the change in Placement Rules, file revised **overall rate level indications** for United Services, which now would include GIC policyholders (or just a subset of GIC policyholders who qualify as statutory “good drivers”). Rates must be set consistently with applicable actuarial standards and California ratemaking regulations. To meet this standard, United Services (and GIC, to the extent there are any remaining policyholders) would be required to use historical loss and exposure data representative of each newly created risk pool. This restated historical data would inform the selection of new trend and loss development factors for each company, which may be different than the historical trend and loss development factors underlying the prior approved rates for United Services and GIC.
- Due to the change in Placement Rules, file revised **class plan analyses** using the historical loss and exposure experience restated to reflect the two new companies’ risk pools and remain consistent with actuarial standards and California ratemaking regulations. Given the illustration in Exhibit 2, this would almost certainly result in different factor selections than current United Services factors to achieve auto rating factor weight compliance on a combined basis.
- Obtain regulatory approval, which, as previously stated, often requires multiple rounds of back-and-forth with the CDI because the CDI often requires revisions to proposed rates and class plan relativities.

In short, if USAA were to move GIC policyholders (or just a subset of statutory “good drivers”) into United Services, the resulting risk portfolio would necessitate a different set of rates and relativities from what United Services is currently using or has used in the past. I have not analyzed what those new rates and relativities would be; nor have I analyzed whether the resulting premiums for any particular GIC policyholder would be higher or lower than what they pay currently or paid in the past. But, given the complexity of the thousands of calculations and assumptions necessary to support those premiums, differences between current United Services



and GIC rates, relativities, loss development factors and trends, and the effect of CDI involvement in the approval process, I am certain they would be different.

The same holds true in reverse if USAA were to move all United Services policyholders into GIC.

Alternatively, if GIC and United Services became one company, USAA would have to follow a very similar process. The only difference is the result would be one new combined company comprising United Services policyholders and all GIC policyholders, and this new company would have to go through a new ratemaking process. For the same reasons stated in the prior paragraph, I am certain that this would result in different rates and relativities from what either United Services or GIC have today.

### Comparison of USAA and GIC Profits

In the Plaintiffs' Reply in Support of Motion for Class Certification, the Plaintiffs included Exhibit D, which appears to be an excerpt from an internal USAA presentation dated September 15, 2017 and contains a table showing California "Current UW Profit", "Projected UW Profit", and "Annualized Net Trend" by company, as well as indicated rate level by coverage using data through March 31, 2016. The Plaintiffs state that "Defendants charge GIC insureds more than identically situated USAA insureds largely because they make greater profits off the GIC insureds. See, e.g., Ex. D (projecting 9.3% underwriting profit margin from GIC compared to 1.6% profit margin from USAA)" (Page 4, Footnote 2). This statement is misleading and refuted by publicly available data in several respects, demonstrating that both targeted and actual profits have historically tended to be lower for GIC than for United Services.

### Actual Profits versus Target Profits

First, while Plaintiffs' Exhibit D does not provide any details on how the "Projected UW Profit" is calculated, or what assumptions are made, in general actual and projected underwriting profits are not the same as target underwriting profit provisions that are built into the rates. The CAS Ratemaking SOP identifies and describes principles which apply to the determination and CDI-approved review of P&C insurance rates. Principle 1 states that "Ratemaking is prospective because the property and casualty insurance rate must be developed prior to the transfer of risk." Actual experience will not conform exactly to the assumptions used in ratemaking analyses, and thus actual amounts will differ from projected amounts to the extent that actual experience is better or worse than expected. Such variation is inherent in any set of actuarial projections, and actual experience which is better than expected does not necessarily constitute unfairness, especially when considered over a brief period of time. Further, ASOP 30 notes that "While the estimated costs are intended to equal the average actual costs over time, differences between the estimate and actual costs of the risk transfer are to be expected in any given year." In summary, differences in actual and/or projected underwriting profits for United Services and GIC could

happen, and in fact are likely to happen, even if USAA is targeting similar underwriting profits in the rates for both companies.

#### Target Profits Not Higher for GIC

The suggestion that USAA has targeted higher profits from GIC policyholders vs. United Services policyholders is contradicted by publicly available data. Exhibit 3 summarizes ratemaking data, assumptions, indications, and proposed rate changes from USAA and GIC rate filings from 2017 (USAA-130660642 and USAA-130660589). The figures shown are taken from the CDI rate indication template, which produces a “minimum” and “maximum” allowed rate change; USAA selected the “proposed” rate changes within the allowable ranges.

For both United Services and GIC, the Implied Permissible Loss Ratio (Row 12) is shown for each coverage. A “loss ratio” is the ratio of losses to premiums. A higher loss ratio means that a greater share of the premium goes to pay claims, and a lower share of the premium goes to pay company expenses and profit. Within a rate indication analysis, a Permissible Loss Ratio is a target loss ratio used to estimate what prospective rates need to be to cover expected losses, expenses, and target profit. Assuming similar levels of expenses, a higher Permissible Loss Ratio corresponds to a lower target underwriting profit.

For every coverage except Collision and Miscellaneous Physical Damage, the permissible loss ratios were higher for GIC. The United Services permissible loss ratios were slightly higher than GIC for Collision (73.2% versus 72.8%). The difference was greater for Miscellaneous Physical Damage (79.5% versus 72.9%) but it is important to note that these coverages have relatively low premiums<sup>15</sup>. All coverages combined, the Permissible Loss Ratio for GIC was 4.7 percentage points higher than United Services (76.9% versus 72.2%), corresponding to a target profit provision 4.7 percentage points lower than United Services (5.4% versus 10.1%).

Therefore, the target profit provisions implied by USAA’s selected rates for both companies indicate that USAA was targeting lower profits, not higher profits, for GIC.

#### Actual Profits Not Higher for GIC

Assuming similar expenses, if United Services and GIC have similar actual loss ratios, this implies that the two companies had similar actual percentage profits. A lower loss ratio suggests higher profits, while a higher loss ratio implies lower profits.

A comparison of actual historical loss ratios for United Services and GIC shows that typically GIC has had higher loss ratios (and thus lower profits) than United Services. Exhibit 4 shows the historical loss ratios both countrywide (Page 1) and California only (Page 2). While there has been variation in the differential from year to year, on a countrywide basis, the GIC loss ratios

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<sup>15</sup> Miscellaneous Physical Damage includes Towing and Labor, Rental Reimbursement, and Waiver of Collision Deductible.

have been higher than the United Services loss ratios every year for the past ten years (2012-2021).

In California, the GIC loss ratio was higher than United Services for 2013 through 2017 (Exhibit 4, Page 2). Projecting from the loss experience as of March 31, 2016, USAA implemented a 1.5% rate increase for United Services and a 6.9% increase for GIC at the end of 2017. As discussed above, the target profit provisions in these 2017 rate filings were significantly higher for United Services compared to GIC. However, in 2018 and 2019, the actual United Services loss ratio was greater than the GIC loss ratio, not because the target profits were different but because the actual experience varied from the projected experience. Based on data through September 30, 2018, USAA prospectively increased the rates for United Services by 1.5% overall (Exhibit 4, Page 3). After this adjustment, the GIC loss ratios were once again higher than United Services loss ratios in 2020 and 2021 (Exhibit 4, Page 2).

To summarize, the actual GIC loss ratios in California have been higher than those of United Services in 7 out of the past 10 years – despite the relatively higher base rates charged to GIC policyholders. On a countrywide basis the GIC loss ratios have been higher than those of United Services in all 10 out of the past 10 years. Although there may be differences in expense as well that are not reflected in this data, the loss ratio results indicate consistently lower actual percentage profits for GIC compared with United Services, all else equal.

## Conclusion

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on October 17, 2022, at Orinda, California.

By:



Nancy Watkins



Attachment A

**NANCY P. WATKINS**

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**PROFESSIONAL EXPERIENCE**

- 1997 to present     MILLIMAN, INC.: Atlanta, GA and San Francisco, CA  
Principal and Consulting Actuary — Manages San Francisco property & casualty consulting practice.
- 1991 to 1997        WATKINS CONSULTING CO.: Atlanta, GA  
President — Owned and managed independent actuarial consulting firm.
- 1989 to 1991        PRICE WATERHOUSE, LLP: Atlanta, GA  
Senior Manager and Consulting Actuary
- 1986 to 1989        JOHN HANCOCK REINSURANCE: Boston, MA  
Actuarial Analyst
- 1983 to 1986        AETNA LIFE & CASUALTY: Hartford, CT  
Actuarial Student

**EDUCATION AND CREDENTIALS**

B.S. in Mathematical Sciences, University of North Carolina at Chapel Hill  
Fellow, Casualty Actuarial Society  
Member, American Academy of Actuaries

**AWARDS**

American Academy of Actuaries Outstanding Volunteerism Award, November 2018  
Casualty Actuarial Society Above and Beyond Achievement Award, October 2006

**PROFESSIONAL SERVICE**

Leader, Milliman Climate Resilience Initiative  
Member, California Office of the State Fire Marshal Risk Modeling Advisory Workgroup and Wildfire Mitigation Advisory Committee  
Co-Leader, Wildfire Knowledge Alignment Expert Working Group  
Member, Climate Insurance Linked Resilient Infrastructure Finance Working Group of United Nations Capital Development Fund  
Advisory Board Member, The Wharton Risk Center Policy Incubator initiative “Improving the financial recovery from coastal disasters: innovative risk transfer instruments”  
Chair, American Academy of Actuaries Committee on Property and Liability Financial Reporting  
Member, American Academy of Actuaries Casualty Practice Council  
Member, American Academy of Actuaries Financial Reporting Council  
Co-Chair, American Academy of Actuaries Best Estimates Working Group  
Member, Casualty Actuarial Society Committee on Special Interest Seminars  
Member, Casualty Actuarial Society Committee on Reinsurance Research

## INVITED PRESENTATIONS

“Milliman Bungalow: Development of Proprietary Flood Program”  
Casualty Actuaries in Reinsurance, August 2022

“Diversity and Inclusion in Practice”  
CAS Seminar on Reinsurance, June 2022

“State of the Private Flood Market - Industry Perspective”  
National Flood Conference, June 2022

” Understanding California Sea Level Rise Studies and Guidance”  
Smart Coast California, May 2022

“Economic Consequences of Sea Level Rise”  
Smart Coast California, May 2022

“Intersecting Issues of Climate Change, Insurance, Modeling and Risk Measurement”  
Sandia BASES, April 2022

“U.S. Private Flood Market”  
NAIC Catastrophe Risk (E) Subgroup, February 2022

“State of the Homeowners Fire and Flood Insurance Market”  
California Association of REALTORS Public Policy Forum, January 2022

“Calling all actuaries: The Need for Risk Experts to Shape Climate Action”  
CAS Annual Meeting, November 2021

“Dialogue with Spencer Glendon on Our Climate Future”  
Milliman Climate Resilience Forum, September 2021

“Private Flood Market Development”  
NAIC Insurance Summit, September 2021

“A Climate Crisis in Insurance Markets?”  
Wharton Risk Center, August 2021

“Current State of the U.S. Private Flood Market”  
National Flood Conference, June 2021

“Role of RR 2.0 in Future Loss Reduction”  
National Flood Conference, June 2021

“Insurance Implications of Climate Change”  
CREFC Sustainability Initiative, June 2021

“The Risk of Rapid Sea-Level Rise and the Financial Risks to U.S. Coastal Communities”  
The House Select Committee on the Climate Crisis, May 2021

“A New Strategy for Addressing the Wildfire Epidemic in California”  
Stanford Woods Institute for the Environment Webinar, April 2021

“Climate Risk and Market Value: Data Innovations for Real Estate”  
ULI Climate Data Webinar, March 2021

“Climate Change: From Emerging Risk to Real Life Danger”  
Milliman Climate Resilience Forum, March 2021

“U.S. Insurance Regulatory Climate Leadership”  
Milliman Climate Resilience Forum, March 2021

“Unprecedented, Predictable, and Uninsurable: The Risks Posed by Climate Change”  
Milliman Climate Resilience Forum, March 2021

“The Case for Change: Regulatory Approval of Catastrophe Models”  
California Department of Insurance Virtual Meeting, December 2020

“Climate Data, Disclosure, and Industry Impacts”  
ULI Resilience Summit, December 2020

“Private Flood Insurance: Then, Now, What's to Come?”  
FAIR Conference, October 2020

“Regulatory Workshop on Private Flood Insurance”  
Southeastern Zone Regulators Association, September 2020

“B2C Insurtech Strategy”  
NYCA Insurance Symposium, September 2020

“Insurance Innovations: It's Not Your Grandmother's Flood Insurance”  
Floodplain Management Association Annual Meeting, September 2020

“Clearing the Way for Regulatory Approval of Catastrophe Models”  
NAIC Catastrophe Insurance Working Group Meeting, July 2020

“The Climate-Savvy Investor: Assessing Resilience in U.S. Markets”  
ULI Spring Meeting, June 2020

“The State of the Private Flood Market”  
National Flood Conference, June 2020

“The Role of Insurance in Climate Resilience”  
Council on Foreign Relations, May 2020

“Regulatory Risk: Finding Safe Passage Through Flood's Choppy Waters”  
RMS Exceedance, May 2020

“Making Communities Flood Resilient”  
UNC Clean Tech Summit, February 2020

“The Economic and National Security Dimensions of Climate Change”  
UNC Clean Tech Summit, February 2020

Climate Change and Real Estate Panel  
ULI SF Climate Change in Real Estate, February 2020

“National Flood Insurance Program – The Need for Change”  
NAIC Winter National Meeting, December 2019

“Clearing the Way for Regulatory Approval of Catastrophe Models”  
Property Insurance Report National Conference, November 2019

“Staging Your State for Private Flood”  
NAIC SE Regional Insurance Commissioners Meeting, October 2019

“Staging Your State for Private Flood”  
NAIC Summer National Meeting, August 2019

“Is California Catastrophe Regulation Leading to a Homeowners Rate Crisis?”

APCIA Western Region General Counsel Conference, July 2019

“NFIP Reauthorization - How to Bridge the Flood Insurance Gap”

PCI National Flood Conference, June 2019

“Underwriting Private Flood Insurance”

RAA Board Meeting, April 2019

“Insurance: Transferring and Assessing Risk”

Hinshaw Sea Level Rise/Climate Change, April 2019

“Global Corporate Responsibility”

Climate Resilience Summit, November 2018

“The Future of Flood Insurance”

Risk Mitigation Leadership Forum, October 2018

“The Rising Private Flood Insurance Market”

Torrent Flood Seminar, July 2018

“Overview of the Private Flood Market”

CAS Underwriting Collaboration Seminar, June 2018

“NFIP Risk Rating and Policy Forms Redesign”

PCI National Flood Conference, June 2018

“What Federal Flood Insurance Reform Means to You”

RMS Exceedance, May 2018

“The Rising Flood Insurance Market”

Florida Insurance Market Summit, March 2018

“Competitive Analysis: Know the Data, Know the Market”

CAS Ratemaking, Product and Modeling Seminar, March 2017

“Private Flood Insurance”

CAS Severe Weather Workshop, March 2017

“Insuring Flood in the United States”

RAA Cat Risk Management Conference, February 2017

“Flood Insurance Pricing”

CAS Severe Weather Workshop, March 2016

“Flood Insurance - Private Market Alternatives”

Florida Insurance Market Summit, March 2016

“Strategies for Homeowners Profitability and Growth”

Casualty Actuaries of the Northwest, September 2015

“Assessing and Integrating Risk into Actuarial Practices”

California Insurance Commissioner / Risky Business / Stanford University Steyer-Taylor Center for Energy Policy and Finance / Sandia National Laboratories / American Academy of Actuaries Climate Risk Forum: Bridging Climate Science and Actuarial Practice, September 2014

“Property Analytics Using Third Party Data”

Guy Carpenter ERM and Capital Modeling Conference, September 2014

“Homeowners Profitability and Growth”

CSC Executive Innovation Series for Florida Residential Property, April 2014

“Best Practices Rating Model”

Property Casualty Insurers Association of America “Caught in the Middle” Roundtable, November 2013

“Caught in the Middle Panel”

Property Casualty Insurers Association of America Annual Meeting, October 2013

“Best Practices in Catastrophe Ratemaking”

Wharton Risk Management and Decision Processes Center National Cat Solutions Meeting, June 2013

“Homeowners Profitability”

CAS Spring Meeting, May 2013

“Beach Plan Deficit: Cost to N. C. Policyholders and Taxpayers”

North Carolina Legislative Research Subcommittee on Property Insurance Ratemaking, March 2012

“Using Predictive Analytics to Profitably Grow your Business”

Duck Creek Insurance Forum, May 2010

“Practical Applications of Predictive Modeling in Homeowners Insurance”

Casualty Actuarial Society Ratemaking and Product Management Seminar, March 2010

“California Private Passenger Auto Ratemaking — A Case Study”

Casualty Actuarial Society Ratemaking and Product Management Seminar, March 2009

North Carolina General Assembly Joint Select Study Committee on the Potential Impact of Major Hurricanes on the North Carolina Insurance Industry, October 2008

“Issues and Opportunities”

Fiserv Insurance Executive Summit, September 2008

“Auto Class Plan Filings”

Association of California Insurance Companies General Counsel Seminar, July 2008

“Reinsurance — Risk Transfer Overview”

Crittenden Medical Insurance Conference, April 2008

“Reinsurance: Accounting, Actuarial and Real World Perspectives”

International Association of Insurance Receivers Insolvency Workshop, January 2008

“Hot Topics in P&C Accounting and Reinsurance”

Fiserv Client Conference, September 2007

“Impact of Auto Rating Factor Regulations”

Association of California Insurance Companies General Counsel Seminar, August 2007

“Reinsurance Risk Transfer Practices”

Crittenden Reinsurance Conference, August 2007

“Finite Risk”

Casualty Actuarial Society Risk Transfer Limited Attendance Seminar, November 2006

“Hot Topics in P&C Accounting, Reporting and Reinsurance”

Fiserv Client Conference, September 2006

“Reinsurance Client Panel: Finite Reinsurance”

Fiserv Client Conference, September 2006

“Finite Reinsurance and Risk Transfer: Activities of the American Academy of Actuaries”

Reinsurance Association of American Current Issues Forum, May 2006

“Accounting Issues Update: Reinsurance Risk Transfer”

National Risk Retention Association Annual Conference, October 2005

“Insurance Risk Transfer — An Issues Update”

Casualty Loss Reserve Seminar, September 2005

“Issues Regarding Statutory Statements of Actuarial Opinion”

Southern California Casualty Actuarial Club Fall Meeting, September 2004

“NAIC/AAA Loss Reserve Symposium for Readers and Writers of Loss Reserve Opinions”,

Casualty Loss Reserve Seminar, September 2003

“Why Establish a Virtual Company?”

Virtual Insurance Operations Conference, June 2001

“Actuaries and the Internet”

Casualty Actuarial Society Annual Meeting, November 2000

“Virtual Insurance Companies”

Virtual Insurance Operations Forum, November 2000

## **PUBLICATIONS**

“Conversations about Risk Rating 2.0.”

Wharton Risk Center, May 2022

“Climate risk and real estate: Emerging practices for market assessment.”

ULI Knowledge Finder, October 2020

“At a crossroads.”

Milliman Insight, September 16, 2020

“Trial by Wildfire: Will Efforts to Fix Home Insurance in California Stand the Test of Time?” -

Milliman Insight, September 2020

“U.S. Private Flood Insurance: The Journey to Build a New Market.”

Carrier Management, Insurance Journal, September 2019

“Climate change is making Americans anxious. Insurers can help.”

Milliman Insight, April 2019

“Four Ways Hurricane Florence Could Ricochet Across the Insurance Industry”

Milliman Insight, September 14, 2018

“What Could Private Flood Insurance Look Like in New Jersey and New York?”

Milliman Insight, July 24, 2018

“Could Private Flood Insurance be Cheaper than the NFIP?”

Milliman Insight, July 10, 2017

“Why Big Data is a Big Deal” - Insurance ERM, July 13, 2013

“Being Virtual Has Its Virtues” - National Underwriter, September 4, 2000

## **EXPERT WITNESS ASSIGNMENTS**

Howard Mills, Superintendent of Insurance of State of New York vs. Everest Reinsurance Company, expert on behalf of defendant, October 2006.

Mercury Casualty Company, expert in support of rate filing #13-716 being considered by the California Department of Insurance for Mercury’s California Homeowners business, June 2013.

Monterey Bay Military Housing, LLC, et al. v. Pinnacle Monterey LLC, et al., expert in support of plaintiffs Monterey Bay Military Housing, LLC, et al., June 2014.

State Farm Fire & Casualty Company, et al. v. Bruce L. Brown, et al., expert in support of defendants State Farm Fire & Casualty Company, et al. February 2017.

Farmers Insurance Exchange & Mid Century Insurance Company v. Roger Harris, Duane Brown, & Brian Lindsey, expert in support of defendants Farmers Insurance Exchange & Mid Century Insurance Company, November 2018.

American Property Casualty Insurance Association, et al., and Petitioner Intervenor National Association of Mutual Insurance Companies, v. Office of the Insurance Commissioner of the State of Washington and Insurance Commissioner Mike Kreidler, expert in support of petitioner intervenor NAMIC, June 2021.

Taqueria El Primo LLC, et al. v. Farmers Group, Inc., et al., expert in support of defendants Farmers Group, Inc., et al., August 2021.

Farmers Insurance Exchange v. Daniel De Sloover, expert in support of plaintiff & cross-defendant Farmers Insurance Exchange, March 2022.

Eileen-Gayle Coleman and Robert Castro, on behalf of themselves and all others similarly situated v. United Services Automobile Association and USAA General Indemnity Company, expert in support of defendants United Services Automobile Association and USAA General Indemnity Company, May 2022.

Jessica Day, individually and on behalf of all others similarly situated v. GEICO Casualty Company, GEICO Indemnity Company, and GEICO General Insurance Company (“GEICO”), expert in support of defendants GEICO, August 2022.



**EXPERT TESTIMONY AT RATE HEARINGS**

Table 1 Expert Testimony at Rate Hearings by Nancy Watkins				
Hearing Date	Company	Filing #	Line of Business	State
11/9/2006	St. Johns	FCP 06-11223	HO	Florida
11/16/2006	United P&C	FCP 06-13037	HO	Florida
10/29/2009	Olympus Ins Co	FCP 09-17588	HO	Florida
2/10/2010	First Home	FCP 09-23287	HO	Florida
3/2/2010	ACA Home	FCP 10-00311	HO	Florida
10/21/2010	First Community	FCP 10-14149	DF	Florida
12/7/2010	First Home	FCP 10-17219	HO	Florida
3/10/2011	Olympus	FCP 11-00692	HO	Florida
3/22/2011	First Community	FCP 11-00972	HO	Florida
5/12/2011	Fidelity National	FCP 11-04301	HO	Florida
9/8/2011	Fidelity Fire & Casualty/First Protective	FCP 11-11215	DF	Florida
5/17/2012	Sunshine State	FCP 12-0376 FCP 12-04939	HO DF	Florida
9/20/2012	Citizens Property Insurance Corporation	FCP 12-13991 FCP 12-13992	HO (Coastal) HO	Florida
5/30/2013	Fidelity National	FCP-13-07023	HO	Florida
1/7/2016	State Farm General	CDI 14-8381	HO	California

**ARBITRATIONS**

Sunshine State Insurance Company (SSIC) and Florida State Board of Administration (SBA), served on an arbitration panel of three actuaries appointed to conduct the resolution of a dispute between the Florida Hurricane Catastrophe Fund and SSIC, November 2010.

Kramer-Wilson Company, Inc. and National General Holding Corp. arbitration. Party arbitrator for Kramer-Wilson Company, Inc., May 2019

Exhibits

Exhibit 1

United Services Automobile Association  
 USAA General Indemnity Company  
 Comparison of GIC and United Services Overall Rate Level Calculation

Collision

Line Description	(1) GIC (Note 1)	(2) United Services (Note 1)	(3) Difference (United Services vs GIC)	(4) Calculation
(1) California Direct Written Premium	63,375,311	134,354,581	112.0%	(2)/(1) - 1
(2) California Direct Earned Premium	60,633,004	132,770,993	119.0%	(2)/(1) - 1
(3) Miscellaneous Fees and Flat Charges not included in Line (2)	0	0	0	(2) - (1)
(4) Historic Losses (Note 2)	48,835,483	84,973,477	74.0%	(2)/(1) - 1
(5) Historic Defense and Cost Containment Expense (DCCE)	0	0	0	(2) - (1)
(6) Earned Exposure Units	134,508	383,386	185.0%	(2)/(1) - 1
(7) Loss Development Factor	0.960	0.936	-2.5%	(2)/(1) - 1
(8) DCCE Development Factor	0.960	0.936	-2.5%	(2)/(1) - 1
(9) Historical Loss Trend Factor	1.094	1.180	7.9%	(2)/(1) - 1
(10) Historical DCCE Trend Factor	1.094	1.180	7.9%	(2)/(1) - 1
(11) Historical Premium Trend Factor	1.044	1.112	6.5%	(2)/(1) - 1
(12) Premium Adjustment Factor	1.000	1.000	0.0%	(2)/(1) - 1
(13) Catastrophe Adjustment Factor	1.000	1.000	0.0%	(2)/(1) - 1
(14) Loss & DCC per Exposure	381.35	244.85	-35.8%	(2)/(1) - 1
(15) Ancillary Income per Exposure	1.94	0.44	-77.3%	(2)/(1) - 1
(16) Prospective Loss Trend	4.9%	9.2%	4.3%	(2) - (1)
(17) Prospective Premium Trend	2.3%	5.8%	3.5%	(2) - (1)
(18) Prospective Net Annual Trend = $[1+(16)]/[1+(17)] - 1$	2.5%	3.2%	0.7%	(2) - (1)
(19) Projected Ult Loss & DCC Ratio	81.0%	63.6%	-17.4%	(2) - (1)
(20) Peril % of Overall Adjusted Earned Premium	36.6%	38.8%	2.2%	(2) - (1)
(21) Peril % of Overall Ultimate Loss & DCC	36.3%	32.5%	-3.8%	(2) - (1)
(22) Min CDI Allowed Profit	-6.6%	-6.6%	0.0%	(2) - (1)
(23) Max CDI Allowed Profit	7.9%	7.9%	0.0%	(2) - (1)
(24) Investment Income Fixed	0.3%	0.3%	0.0%	(2) - (1)
(25) Investment Income Variable	5.2%	5.2%	0.0%	(2) - (1)
(26) Efficiency Standard	24.9%	24.9%	0.0%	(2) - (1)
(27) Min CDI Allowed Indicated Change	-7.5%	-27.2%	-19.7%	(2) - (1)
(28) Max CDI Allowed Indicated Change	11.0%	-12.6%	-23.6%	(2) - (1)
(29) Min CDI Allowed Indicated Premium	435.39	280.47	-35.6%	(2)/(1) - 1
(30) Max CDI Allowed Indicated Premium	522.64	336.67	-35.6%	(2)/(1) - 1

**Notes:**

1. Values from GIC SERFF filing # USAA-130660642 and USAA SERFF filing # USAA-130660568, effective dates 12/28/2017.
2. Losses from year ending Q2 2016.

Exhibit 2

**United Services Automobile Association  
USAA General Indemnity Company  
Comparison of GIC and United Services Factor Weights**

**Collision**

	(1)	(2)	(3)	(4)	(5)
	GIC (Note 1)	Factor Weight United Services (Note 2)	Relative to Driving Record GIC (Note 3)	Relative to Driving Record United Services (Note 3)	Difference (Note 4)
<b>Mandatory Rating Variables</b>					
Driving Record	113.928	48.477	1.000	1.000	0.000
Annual Mileage	88.054	41.682	0.773	0.860	0.087
Years Driving Experience (YDE)	87.502	41.111	0.768	0.848	0.080
<b>Optional Rating Variables</b>					
Gender	6.757	3.507	0.059	0.072	0.013
Marital Status	50.956	13.967	0.447	0.288	-0.159
Operator Relationship	3.909	2.707	0.034	0.056	0.022
Driver Training Discount	6.322	1.563	0.055	0.032	-0.023
Good Student Discount	21.772	1.986	0.191	0.041	-0.150
Vehicle Usage	0.547	1.120	0.005	0.023	0.018
Multi-Car Discount	37.246	18.555	0.327	0.383	0.056
Combined Vehicle Characteristics	15.713	7.964	0.138	0.164	0.026
Multi-Policy Discount	24.104	14.183	0.212	0.293	0.081
Mature Driver Improvement Course	0.000	0.000	0.000	0.000	0.000
Persistence Discount	10.666	9.892	0.094	0.204	0.110
Frequency Bands	53.744	22.056	0.472	0.455	-0.017
Severity Bands	26.042	17.089	0.229	0.353	0.124

**Notes:**

1. GIC Collision factor weights are from SERFF filing # USAA-130660523, effective 12/28/2017.
2. United Services Collision factor weights are from SERFF filing # USAA-130660487, effective 12/28/2017.
3. (3) = (1) / (1) Driving Record. Column (4) calculated similarly.
4. (5) = (4) - (3).

**United Services Automobile Association  
USAA General Indemnity Company  
Profit Provision Comparison**

Overview

Coverage	(1)		(2)		(3)		(4)		(5)		(6)	
	United Services	GIC	United Services	GIC	United Services	GIC	United Services	GIC	United Services	GIC	United Services	GIC
BI	\$108,290,696	\$77,146,592	72.1%	76.4%	72.1%	76.4%	11.4%	7.1%	11.4%	7.1%	11.4%	7.1%
PD	\$77,969,303	\$38,346,023	71.2%	73.5%	71.2%	73.5%	12.2%	9.9%	12.2%	9.9%	12.2%	9.9%
MedPay	\$16,686,552	\$7,589,687	71.8%	75.1%	71.8%	75.1%	11.7%	8.4%	11.7%	8.4%	11.7%	8.4%
UM	\$86,904,781	\$31,518,026	70.9%	93.2%	70.9%	93.2%	12.6%	-9.7%	12.6%	-9.7%	12.6%	-9.7%
Liab	\$3,858,347	\$1,271,459	75.7%	94.2%	75.7%	94.2%	7.8%	-10.7%	7.8%	-10.7%	7.8%	-10.7%
Coll	\$127,565,626	\$69,840,852	73.2%	72.8%	73.2%	72.8%	7.1%	7.4%	7.1%	7.4%	7.1%	7.4%
Comp	\$25,784,943	\$13,014,208	72.3%	72.8%	72.3%	72.8%	7.9%	7.5%	7.9%	7.5%	7.9%	7.5%
Misc PD	\$8,898,907	\$5,222,053	79.5%	72.9%	79.5%	72.9%	0.7%	7.4%	0.7%	7.4%	0.7%	7.4%
Total (Note 4)	\$455,959,155	\$243,948,900	72.2%	76.9%	72.2%	76.9%	10.1%	5.4%	10.1%	5.4%	10.1%	5.4%

**Notes:**

- Columns (1) and (2) are calculated from each coverage specific page as follows: Row (4) x Row (5) x [ 1 + Row (1) ]
- Columns (3) and (4) are from Row (13) of each coverage specific page.
- Columns (5) and (6) are from Row (16) of each coverage specific page.
- Columns (1) and (2) are the sum totals. Columns (3) through (6) are the total proposed premium weighted averages.
- Underlying data from GIC SERFF filing # USAA-130660642 and USAA SERFF filing # USAA-130660589, effective dates 12/28/2017.

**United Services Automobile Association  
USAA General Indemnity Company  
Profit Provision Comparison**

**Bodily Injury**

Line Description	Source (Note 2)	CDI Template Name	United Services	GIC
(1) Proposed Rate Change	CDI Prior Approval Rate Template	Proposed Rate Change	26.8%	29.5%
(2) Minimum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MIN	-2.9%	5.5%
(3) Maximum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MAX	29.1%	40.4%
(4) Earned Exposures	CDI Prior Approval Rate Template	Exposures_Earned	425,709	304,835
(5) Total Current Rate Level Premium	CDI Prior Approval Rate Template	TCRLP_perExp	\$200.61	\$195.43
(6) Min CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Min Premium	\$194.75	\$205.47
(7) Max CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Max Premium	\$259.09	\$273.35
(8) Selected Proposed Premium	= (5) x [1+(1)]		\$254.38	\$253.08
(9) Loss & DCC per Exposure	CDI Prior Approval Rate Template	CredLoss_perExp	\$194.14	\$205.59
(10) Investment Income Fixed	CDI Prior Approval Rate Template	InvInc_fixed	5.5%	5.5%
(11) Ancillary Income per Exposure	CDI Prior Approval Rate Template	Anc_Inc_perExp	\$0.27	\$1.01
(12) Loss and Fixed Expenses	= (9) x [1-(10)] - (11)		\$183.28	\$193.37
(13) Implied Permissible Loss Ratio	= (12) / (8)		72.1%	76.4%
(14) Efficiency Standard	CDI Prior Approval Rate Template	EffStd_final01	23.8%	23.8%
(15) Investment Income Variable	CDI Prior Approval Rate Template	InvInc_Variable	7.3%	7.3%
(16) Implied Profit Provision Selected	= 1 - (13) - (14) + (15)		11.4%	7.1%
(17) Min CDI Allowed Profit	CDI Prior Approval Rate Template	Min_Profit	-10.6%	-10.6%
(18) Max CDI Allowed Profit	CDI Prior Approval Rate Template	Max_Profit	12.8%	12.8%

**Notes:**

- Values from GIC SERFF filing # USAA-130660642 and USAA SERFF filing # USAA-130660589, effective dates 12/28/2017.
- Row (1) is from CDI Prior Approval Rate Template, tab 2, Summary.  
Row (5) is from CDI Prior Approval Rate Template, tab 7.2 Rate Change Calculation, latest year ending 2016 Q2.  
Rows (4), (6), (7), (9) through (11), (14), (15), (17) and (18) are from CDI Prior Approval Rate Template, tab 7.1 Rate Change Calculation, Projected.

**United Services Automobile Association  
USAA General Indemnity Company  
Profit Provision Comparison**

**Property Damage**

Line Description	Source (Note 2)	CDI Template Name	United Services	GIC
(1) Proposed Rate Change	CDI Prior Approval Rate Template	Proposed Rate Change	26.5%	20.0%
(2) Minimum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MIN	-4.2%	-6.2%
(3) Maximum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MAX	27.4%	24.8%
(4) Earned Exposures	CDI Prior Approval Rate Template	Exposures_Earned	425,709	166,750
(5) Total Current Rate Level Premium	CDI Prior Approval Rate Template	TCRLP_perExp	\$144.78	\$191.63
(6) Min CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Min Premium	\$138.64	\$179.70
(7) Max CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Max Premium	\$184.45	\$239.08
(8) Selected Proposed Premium	= (5) x [1+(1)]		\$183.15	\$229.96
(9) Loss & DCC per Exposure	CDI Prior Approval Rate Template	CredLoss_perExp	\$138.21	\$179.96
(10) Investment Income Fixed	CDI Prior Approval Rate Template	InvInc_fixed	5.5%	5.5%
(11) Ancillary Income per Exposure	CDI Prior Approval Rate Template	Anc_Inc_perExp	\$0.19	\$1.02
(12) Loss and Fixed Expenses	= (9) x [1-(10)] - (11)		\$130.48	\$169.12
(13) Implied Permissible Loss Ratio	= (12) / (8)		71.2%	73.5%
(14) Efficiency Standard	CDI Prior Approval Rate Template	EffStd_final01	23.8%	23.8%
(15) Investment Income Variable	CDI Prior Approval Rate Template	InvInc_Variable	7.3%	7.3%
(16) Implied Profit Provision Selected	= 1 - (13) - (14) + (15)		12.2%	9.9%
(17) Min CDI Allowed Profit	CDI Prior Approval Rate Template	Min_Profit	-10.6%	-10.6%
(18) Max CDI Allowed Profit	CDI Prior Approval Rate Template	Max_Profit	12.8%	12.8%

**Notes:**

- Values from GIC SERFF filing # USAA-130660642 and USAA SERFF filing # USAA-130660589, effective dates 12/28/2017.
- Row (1) is from CDI Prior Approval Rate Template, tab 2, Summary.  
Row (5) is from CDI Prior Approval Rate Template, tab 7.3 Rate Change Calculation, latest year ending 2016 Q2.  
Rows (4), (6), (7), (9) through (11), (14), (15), (17) and (18) are from CDI Prior Approval Rate Template, tab 7.2 Rate Change Calculation, Projected.

**United Services Automobile Association  
USAA General Indemnity Company  
Profit Provision Comparison**

**Medical Payments**

Line Description	Source (Note 2)	CDI Template Name	United Services	GIC
(1) Proposed Rate Change	CDI Prior Approval Rate Template	Proposed Rate Change	39.0%	-2.5%
(2) Minimum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MIN	6.1%	-22.1%
(3) Maximum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MAX	41.1%	3.7%
(4) Earned Exposures	CDI Prior Approval Rate Template	Exposures_Earned	614,699	185,194
(5) Total Current Rate Level Premium	CDI Prior Approval Rate Template	TCRLP_perExp	\$19.53	\$42.03
(6) Min CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Min Premium	\$20.70	\$32.68
(7) Max CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Max Premium	\$27.55	\$43.48
(8) Selected Proposed Premium	= (5) x [1+(1)]		\$27.15	\$40.98
(9) Loss & DCC per Exposure	CDI Prior Approval Rate Template	CredLoss_perExp	\$20.64	\$32.76
(10) Investment Income Fixed	CDI Prior Approval Rate Template	InvInc_fixed	5.5%	5.5%
(11) Ancillary Income per Exposure	CDI Prior Approval Rate Template	Anc_Inc_perExp	\$0.03	\$0.21
(12) Loss and Fixed Expenses	= (9) x [1-(10)] - (11)		\$19.49	\$30.76
(13) Implied Permissible Loss Ratio	= (12) / (8)		71.8%	75.1%
(14) Efficiency Standard	CDI Prior Approval Rate Template	EffStd_final01	23.8%	23.8%
(15) Investment Income Variable	CDI Prior Approval Rate Template	InvInc_Variable	7.3%	7.3%
(16) Implied Profit Provision Selected	= 1 - (13) - (14) + (15)		11.7%	8.4%
(17) Min CDI Allowed Profit	CDI Prior Approval Rate Template	Min_Profit	-10.6%	-10.6%
(18) Max CDI Allowed Profit	CDI Prior Approval Rate Template	Max_Profit	12.8%	12.8%

**Notes:**

- Values from GIC SERFF filing # USAA-130660642 and USAA SERFF filing # USAA-130660589, effective dates 12/28/2017.
- Row (1) is from CDI Prior Approval Rate Template, tab 2, Summary.  
Row (5) is from CDI Prior Approval Rate Template, tab 7.4 Rate Change Calculation, latest year ending 2016 Q2.  
Rows (4), (6), (7), (9) through (11), (14), (15), (17) and (18) are from CDI Prior Approval Rate Template, tab 7.3 Rate Change Calculation, Projected.



**United Services Automobile Association  
USAA General Indemnity Company  
Profit Provision Comparison**

**Uninsured Motorists**

Line Description	Source (Note 2)	CDI Template Name	United Services	GIC
(1) Proposed Rate Change	CDI Prior Approval Rate Template	Proposed Rate Change	-11.3%	33.0%
(2) Minimum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MIN	-33.3%	31.3%
(3) Maximum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MAX	-11.2%	74.7%
(4) Earned Exposures	CDI Prior Approval Rate Template	Exposures_Earned	1,372,572	425,010
(5) Total Current Rate Level Premium	CDI Prior Approval Rate Template	TCRLP_perExp	\$71.38	\$55.76
(6) Min CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Min Premium	\$47.70	\$73.43
(7) Max CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Max Premium	\$63.45	\$97.69
(8) Selected Proposed Premium	= (5) x [1+(1)]		\$63.32	\$74.16
(9) Loss & DCC per Exposure	CDI Prior Approval Rate Template	CredLoss_perExp	\$47.59	\$73.38
(10) Investment Income Fixed	CDI Prior Approval Rate Template	InvInc_fixed	5.5%	5.5%
(11) Ancillary Income per Exposure	CDI Prior Approval Rate Template	Anc_Inc_perExp	\$0.10	\$0.27
(12) Loss and Fixed Expenses	= (9) x [1-(10)] - (11)		\$44.89	\$69.11
(13) Implied Permissible Loss Ratio	= (12) / (8)		70.9%	93.2%
(14) Efficiency Standard	CDI Prior Approval Rate Template	EffStd_final01	23.8%	23.8%
(15) Investment Income Variable	CDI Prior Approval Rate Template	InvInc_Variable	7.3%	7.3%
(16) Implied Profit Provision Selected	= 1 - (13) - (14) + (15)		12.6%	-9.7%
(17) Min CDI Allowed Profit	CDI Prior Approval Rate Template	Min_Profit	-10.6%	-10.6%
(18) Max CDI Allowed Profit	CDI Prior Approval Rate Template	Max_Profit	12.8%	12.8%

**Notes:**

- Values from GIC SERFF filing # USAA-130660642 and USAA SERFF filing # USAA-130660589, effective dates 12/28/2017.
- Row (1) is from CDI Prior Approval Rate Template, tab 2, Summary.  
Row (5) is from CDI Prior Approval Rate Template, tab 7.5 Rate Change Calculation, latest year ending 2016 Q2.  
Rows (4), (6), (7), (9) through (11), (14), (15), (17) and (18) are from CDI Prior Approval Rate Template, tab 7.4 Rate Change Calculation, Projected.

**United Services Automobile Association  
USAA General Indemnity Company  
Profit Provision Comparison**

Liability

Line Description	Source (Note 2)	CDI Template Name	United Services	GIC
(1) Proposed Rate Change	CDI Prior Approval Rate Template	Proposed Rate Change	-15.0%	-26.0%
(2) Minimum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MIN	-31.6%	-26.0%
(3) Maximum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MAX	-9.0%	-1.6%
(4) Earned Exposures	CDI Prior Approval Rate Template	Exposures_Earned	740,833	127,064
(5) Total Current Rate Level Premium	CDI Prior Approval Rate Template	TCRLP_perExp	\$6.13	\$13.52
(6) Min CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Min Premium	\$4.19	\$10.01
(7) Max CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Max Premium	\$5.57	\$13.32
(8) Selected Proposed Premium	= (5) x [1+(1)]		\$5.21	\$10.01
(9) Loss & DCC per Exposure	CDI Prior Approval Rate Template	CredLoss_perExp	\$4.17	\$9.96
(10) Investment Income Fixed	CDI Prior Approval Rate Template	InvInc_fixed	5.5%	5.5%
(11) Ancillary Income per Exposure	CDI Prior Approval Rate Template	Anc_Inc_perExp	\$0.00	\$0.00
(12) Loss and Fixed Expenses	= (9) x [1-(10)] - (11)		\$3.94	\$9.42
(13) Implied Permissible Loss Ratio	= (12) / (8)		75.7%	94.2%
(14) Efficiency Standard	CDI Prior Approval Rate Template	EffStd_final01	23.8%	23.8%
(15) Investment Income Variable	CDI Prior Approval Rate Template	InvInc_Variable	7.3%	7.3%
(16) Implied Profit Provision Selected	= 1 - (13) - (14) + (15)		7.8%	-10.7%
(17) Min CDI Allowed Profit	CDI Prior Approval Rate Template	Min_Profit	-10.6%	-10.6%
(18) Max CDI Allowed Profit	CDI Prior Approval Rate Template	Max_Profit	12.8%	12.8%

**Notes:**

- Values from GIC SERFF filing # USAA-130660642 and USAA SERFF filing # USAA-130660589, effective dates 12/28/2017.
- Row (1) is from CDI Prior Approval Rate Template, tab 2, Summary.  
Row (5) is from CDI Prior Approval Rate Template, tab 7.6 Rate Change Calculation, latest year ending 2016 Q2.  
Rows (4), (6), (7), (9) through (11), (14), (15), (17) and (18) are from CDI Prior Approval Rate Template, tab 7.5 Rate Change Calculation, Projected.

**United Services Automobile Association  
USAA General Indemnity Company  
Profit Provision Comparison**

**Collision**

Line Description	Source (Note 2)	CDI Template Name	United Services	GIC
(1) Proposed Rate Change	CDI Prior Approval Rate Template	Proposed Rate Change	-13.6%	10.3%
(2) Minimum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MIN	-27.2%	-7.5%
(3) Maximum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MAX	-12.6%	11.0%
(4) Earned Exposures	CDI Prior Approval Rate Template	Exposures_Earned	383,386	134,508
(5) Total Current Rate Level Premium	CDI Prior Approval Rate Template	TCRLP_perExp	\$385.11	\$470.75
(6) Min CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Min Premium	\$280.47	\$435.39
(7) Max CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Max Premium	\$336.67	\$522.64
(8) Selected Proposed Premium	= (5) x [1+(1)]		\$332.73	\$519.23
(9) Loss & DCC per Exposure	CDI Prior Approval Rate Template	CredLoss_perExp	\$244.85	\$381.35
(10) Investment Income Fixed	CDI Prior Approval Rate Template	InvInc_fixed	0.3%	0.3%
(11) Ancillary Income per Exposure	CDI Prior Approval Rate Template	Anc_Inc_perExp	\$0.44	\$1.94
(12) Loss and Fixed Expenses	= (9) x [1-(10)] - (11)		\$243.56	\$378.09
(13) Implied Permissible Loss Ratio	= (12) / (8)		73.2%	72.8%
(14) Efficiency Standard	CDI Prior Approval Rate Template	EffStd_final01	24.9%	24.9%
(15) Investment Income Variable	CDI Prior Approval Rate Template	InvInc_Variable	5.2%	5.2%
(16) Implied Profit Provision Selected	= 1 - (13) - (14) + (15)		7.1%	7.4%
(17) Min CDI Allowed Profit	CDI Prior Approval Rate Template	Min_Profit	-6.6%	-6.6%
(18) Max CDI Allowed Profit	CDI Prior Approval Rate Template	Max_Profit	7.9%	7.9%

**Notes:**

- Values from GIC SERFF filing # USAA-130660642 and USAA SERFF filing # USAA-130660589, effective dates 12/28/2017.
- Row (1) is from CDI Prior Approval Rate Template, tab 2, Summary.  
Row (5) is from CDI Prior Approval Rate Template, tab 7.7 Rate Change Calculation, latest year ending 2016 Q2.  
Rows (4), (6), (7), (9) through (11), (14), (15), (17) and (18) are from CDI Prior Approval Rate Template, tab 7.6 Rate Change Calculation, Projected.

**United Services Automobile Association  
USAA General Indemnity Company  
Profit Provision Comparison**

**Comprehensive**

Line Description	Source (Note 2)	CDI Template Name	United Services	GIC
(1) Proposed Rate Change	CDI Prior Approval Rate Template	Proposed Rate Change	-25.2%	-45.0%
(2) Minimum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MIN	-37.7%	-53.9%
(3) Maximum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MAX	-25.2%	-44.7%
(4) Earned Exposures	CDI Prior Approval Rate Template	Exposures_Earned	400,025	140,128
(5) Total Current Rate Level Premium	CDI Prior Approval Rate Template	TCRLP_perExp	\$86.14	\$168.86
(6) Min CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Min Premium	\$53.70	\$77.85
(7) Max CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Max Premium	\$64.46	\$93.45
(8) Selected Proposed Premium	= (5) x [1+(1)]		\$64.46	\$92.87
(9) Loss & DCC per Exposure	CDI Prior Approval Rate Template	CredLoss_perExp	\$46.90	\$68.55
(10) Investment Income Fixed	CDI Prior Approval Rate Template	InvInc_fixed	0.3%	0.3%
(11) Ancillary Income per Exposure	CDI Prior Approval Rate Template	Anc_Inc_perExp	\$0.10	\$0.71
(12) Loss and Fixed Expenses	= (9) x [1-(10)] - (11)		\$46.63	\$67.60
(13) Implied Permissible Loss Ratio	= (12) / (8)		72.3%	72.8%
(14) Efficiency Standard	CDI Prior Approval Rate Template	EffStd_final01	24.9%	24.9%
(15) Investment Income Variable	CDI Prior Approval Rate Template	InvInc_Variable	5.2%	5.2%
(16) Implied Profit Provision Selected	= 1 - (13) - (14) + (15)		7.9%	7.5%
(17) Min CDI Allowed Profit	CDI Prior Approval Rate Template	Min_Profit	-6.6%	-6.6%
(18) Max CDI Allowed Profit	CDI Prior Approval Rate Template	Max_Profit	7.9%	7.9%

**Notes:**

- Values from GIC SERFF filing # USAA-130660642 and USAA SERFF filing # USAA-130660589, effective dates 12/28/2017.
- Row (1) is from CDI Prior Approval Rate Template, tab 2, Summary.  
Row (5) is from CDI Prior Approval Rate Template, tab 7.8 Rate Change Calculation, latest year ending 2016 Q2.  
Rows (4), (6), (7), (9) through (11), (14), (15), (17) and (18) are from CDI Prior Approval Rate Template, tab 7.7 Rate Change Calculation, Projected.

**United Services Automobile Association  
USAA General Indemnity Company  
Profit Provision Comparison**

**Miscellaneous Physical Damage (TL, WoCD, RR)**

Line Description	Source (Note 2)	CDI Template Name	United Services	GIC
(1) Proposed Rate Change	CDI Prior Approval Rate Template	Proposed Rate Change	-27.3%	-34.7%
(2) Minimum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MIN	-33.4%	-45.2%
(3) Maximum Allowed Rate Change	CDI Prior Approval Rate Template	CHANGE_AT_MAX	-20.1%	-34.2%
(4) Earned Exposures	CDI Prior Approval Rate Template	Exposures_Earned	721,025	249,503
(5) Total Current Rate Level Premium	CDI Prior Approval Rate Template	TCRLP_perExp	\$16.98	\$32.05
(6) Min CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Min Premium	\$11.31	\$17.57
(7) Max CDI Allowed Indicated Premium	CDI Prior Approval Rate Template	Max Premium	\$13.57	\$21.09
(8) Selected Proposed Premium	= (5) x [1+(1)]		\$12.34	\$20.93
(9) Loss & DCC per Exposure	CDI Prior Approval Rate Template	CredLoss_perExp	\$9.85	\$15.31
(10) Investment Income Fixed	CDI Prior Approval Rate Template	InvInc_fixed	0.3%	0.3%
(11) Ancillary Income per Exposure	CDI Prior Approval Rate Template	Anc_Inc_perExp	\$0.00	\$0.00
(12) Loss and Fixed Expenses	= (9) x [1-(10)] - (11)		\$9.82	\$15.26
(13) Implied Permissible Loss Ratio	= (12) / (8)		79.5%	72.9%
(14) Efficiency Standard	CDI Prior Approval Rate Template	EffStd_final01	24.9%	24.9%
(15) Investment Income Variable	CDI Prior Approval Rate Template	InvInc_Variable	5.2%	5.2%
(16) Implied Profit Provision Selected	= 1 - (13) - (14) + (15)		0.7%	7.4%
(17) Min CDI Allowed Profit	CDI Prior Approval Rate Template	Min_Profit	-6.6%	-6.6%
(18) Max CDI Allowed Profit	CDI Prior Approval Rate Template	Max_Profit	7.9%	7.9%

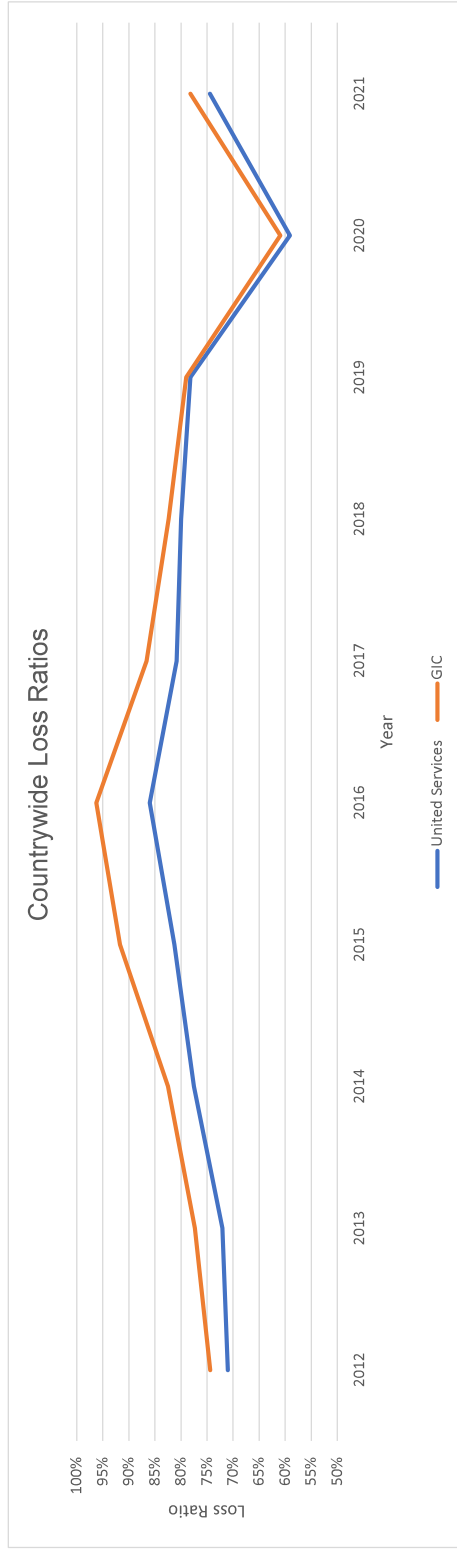
**Notes:**

- Values from GIC SERFF filing # USAA-130660642 and USAA SERFF filing # USAA-130660589, effective dates 12/28/2017.
- Row (1) is from CDI Prior Approval Rate Template, tab 2, Summary.  
Row (5) is from CDI Prior Approval Rate Template, tab 7.9 Rate Change Calculation, latest year ending 2016 Q2.  
Rows (4), (6), (7), (9) through (11), (14), (15), (17) and (18) are from CDI Prior Approval Rate Template, tab 7.8 Rate Change Calculation, Projected.

United Services Automobile Association  
USAA General Indemnity Company  
Loss Ratio Comparison

Countrywide

Year	United Services			GIC			Loss Ratio Difference = (8) - (4)		
	(1) Written Premium	(2) Earned Premium	(3) Incurred Loss & DCC	(4) Loss Ratio = (3) / (2)	(5) Written Premium	(6) Earned Premium		(7) Incurred Loss & DCC	
2012	\$3,732,106,277	\$3,704,265,397	\$2,630,604,689	71.0%	\$983,730,823	\$920,748,750	\$684,722,077	74.4%	3.4%
2013	3,849,691,683	3,821,886,035	2,754,679,544	72.1%	1,339,974,115	1,241,812,051	960,534,664	77.3%	5.3%
2014	3,908,139,883	3,906,877,372	3,028,485,068	77.5%	1,697,455,690	1,612,426,835	1,330,196,250	82.5%	5.0%
2015	3,988,304,932	3,961,191,958	3,219,956,755	81.3%	2,041,578,697	1,943,683,207	1,783,274,850	91.7%	10.5%
2016	4,213,412,428	4,148,191,466	3,567,990,192	86.0%	2,430,402,637	2,327,180,133	2,239,739,734	96.2%	10.2%
2017	4,564,384,767	4,465,156,940	3,608,393,507	80.8%	2,856,322,649	2,744,099,251	2,376,489,937	86.6%	5.8%
2018	4,887,067,825	4,824,727,642	3,859,201,531	80.0%	3,207,708,089	3,134,090,437	2,581,475,503	82.4%	2.4%
2019	5,072,429,264	5,027,948,458	3,930,981,829	78.2%	3,359,655,499	3,326,962,188	2,628,093,250	79.0%	0.8%
2020	5,184,853,285	5,170,383,055	3,056,690,796	59.1%	3,447,864,962	3,439,153,830	2,096,762,139	61.0%	1.8%
2021	5,137,414,305	5,152,367,332	3,834,663,021	74.4%	3,379,725,057	3,399,857,446	2,659,841,127	78.2%	3.8%
				<b>4-Year Wtd Average: 10-Year Wtd Average:</b>				<b>4-Year Wtd Average: 10-Year Wtd Average:</b>	
				<b>72.8% 75.8%</b>				<b>74.9% 80.3%</b>	<b>2.2% 4.5%</b>

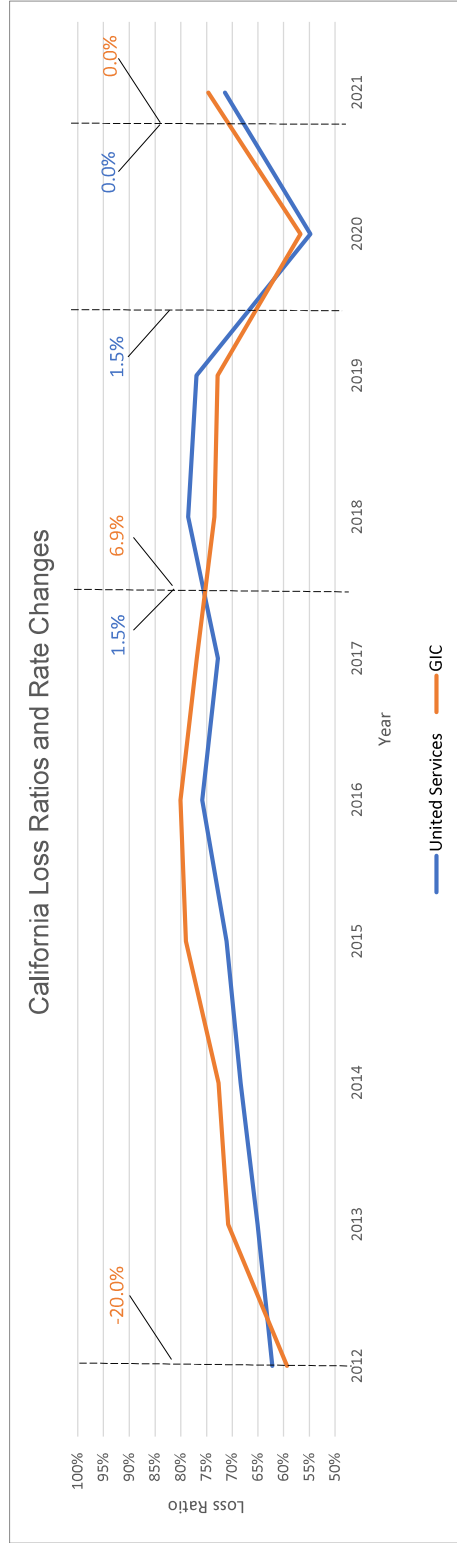


Notes:  
1. Data from Exhibit of Premium and Losses (Statutory Page 14) - Grand Total for United Services Automobile Association (NAIC #25941) and USAA General Indemnity Co. (NAIC #18600).  
2. Losses evaluated as of 12/31 for each year.

United Services Automobile Association  
USAA General Indemnity Company  
Loss Ratio Comparison

California

Year	United Services			GIC			Loss Ratio Difference = (8) - (4)	
	(1) Written Premium	(2) Earned Premium	(3) Incurred Loss & DCC	(4) Loss Ratio = (3) / (2)	(5) Written Premium	(6) Earned Premium		(7) Incurred Loss & DCC
2012	\$336,508,204	\$334,199,330	\$207,868,793	62.2%	\$72,526,114	\$69,200,672	\$41,081,200	-2.8%
2013	342,533,226	341,122,109	222,103,757	65.1%	102,194,464	93,886,330	66,474,370	5.7%
2014	349,381,237	347,607,217	237,611,821	68.4%	134,139,770	126,293,357	91,737,630	4.3%
2015	358,929,050	356,763,896	253,680,406	71.1%	164,747,108	156,979,433	124,015,570	7.9%
2016	368,077,428	365,720,764	277,218,665	75.8%	195,160,727	187,825,418	150,366,379	4.3%
2017	379,326,585	376,347,434	274,039,503	72.8%	227,585,123	218,541,878	168,035,409	4.1%
2018	392,795,416	389,553,078	305,948,362	78.5%	272,357,013	262,990,832	193,191,533	-5.1%
2019	406,429,074	402,095,808	309,437,446	77.0%	295,224,279	288,483,289	210,223,870	-4.1%
2020	410,717,845	411,280,193	225,411,136	54.8%	313,175,699	310,591,293	176,185,716	1.9%
2021	399,800,498	400,547,028	285,967,316	71.4%	313,403,228	312,683,356	233,442,588	3.3%
				<b>4-Year Wtd Average: 10-Year Wtd Average:</b>				<b>69.2% 71.8%</b>



Notes:  
1. Data from company's Exhibit of Premium and Losses (Statutory Page 14) - California for United Services Automobile Association (NAIC #25941) and USAA General Indemnity Co. (NAIC #18600).  
2. Losses evaluated as of 12/31 for each year.

United Services Automobile Association  
USAA General Indemnity Company  
Loss Ratio Comparison

California 15-Year Filing Timeline

(1)	United Services				(3)	(4)	(5)	GIC			(7)	(8)
	Filing Number (Note 1)	Filing Status	Latest Experience Period (Note 2)	Effective Date (Note 3)				Rate Change (Note 3)	Filing Number (Note 1)	Filing Status		
USAA-125258826	Approved	12/31/2006	3/4/2009	-6.7%	USAA-126501745	Approved	6/30/2009	8/1/2010	-12.2%			
USAA-130660589	Approved	6/30/2016	12/28/2017	1.5%	USAA-127200120	Approved	12/31/2010	2/13/2012	-20.0%			
USAA-131769162	Approved	9/30/2018	10/1/2019	1.5%	USAA-130660642	Approved	6/30/2016	12/28/2017	6.9%			
USAA-132398216	Withdrawn	9/30/2019	3/4/2021	0.0%	USAA-132398570	Withdrawn	9/30/2019	3/4/2021	0.0%			

Notes:

1. Filings submitted to the CA Department of Insurance.
2. Data from Prior Approval Template for each filing.
3. Data from SERFF



# EXHIBIT 6

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Case No. 3:21-cv-00217-CAB-LL

EILEEN-GAYLE COLEMAN and ROBERT  
CASTRO, on behalf of themselves  
and all others similarly  
situated,

Plaintiffs,

vs.

UNITED SERVICES AUTOMOBILE  
ASSOCIATION and USAA GENERAL  
INDEMNITY COMPANY,  
Defendants.

-----/

REMOTE DEPOSITION OF  
BRUCE A. STROMBOM, Ph.D  
Tuesday, January 17, 2023  
9:00 a.m. - 5:56 p.m. (PST)

Stenographically Reported By:  
Kimberly Fontalvo, RPR, CLR  
Realtime Systems Administrator

1 Do you see that?

2 A. You are talking about, sorry, footnote 27?

3 Q. Yes.

4 A. Okay. I see footnote 27.

5 Q. And do you see that you say, "It's  
6 unknown" -- at the end of it -- "It's unknown how  
7 the specific rates and relativities for that pool  
8 would differ from United Services' actual rates and  
9 relativities"?

10 A. I don't see that in footnote 27.  
11 Footnote 27 begins "While this error will overstate  
12 the number of injured policyholders."

13 Am I looking at the right footnote?

14 Q. You know, I accidentally deleted -- let me  
15 call up my copy. I was working off my notes there.  
16 Wait a second. The problem with trying to do this  
17 with electronic copies. I'm not going to do this  
18 again.

19 Yeah, if you go to footnote 7 -- 27,  
20 sorry -- at the bottom of Page 8.

21 A. Yes.

22 Q. And you will see that you say, "While this  
23 error will overstate the number of injured  
24 policyholders, I am unable to determine which  
25 particular policyholders are incorrectly identified

1 by plaintiffs as injured because that will depend on  
2 how the relative structure of but-for premiums  
3 (i.e., specific base rates and relativities) would  
4 differ from United Services' actual premium, and  
5 that is unknown."

6 Do you see that reference to unknown?

7 A. Yes.

8 Q. Is it unknown because you didn't attempt  
9 to determine what rates and relativities would apply  
10 in this common pool, or do you believe that it is  
11 unknowable?

12 A. Well, to my knowledge, no one in this case  
13 has attempted to make that determination.

14 Mr. Schwartz applies a factor, but he  
15 doesn't identify specific rates or relativities for  
16 the but-for world.

17 That's nothing that I've attempted to do.  
18 I'm not opining that it's impossible to do. It's  
19 nothing that I have investigated. I just know that  
20 the plaintiffs have not done that.

21 Q. To do that, one would have to perform a  
22 lot of counter-factual calculations and make a lot  
23 of assumptions, including about what the CDI would  
24 approve or not approve?

25 MR. SCOLNICK: Object to the form.

# EXHIBIT 7

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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

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EILEEN-GAYLE COLEMAN  
and ROBERT CASTRO, on behalf  
of themselves and all others  
similarly situated,

Plaintiffs,

vs.

Case No. :  
3:21-CV-00217-RSH-KSC

UNITED SERVICES AUTOMOBILE  
ASSOCIATION and USAA GENERAL  
INDEMNITY COMPANY,  
Defendants.

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VIDEO-RECORDED REMOTE VIDEOCONFERENCE DEPOSITION OF  
EXPERT ALLAN I. SCHWARTZ  
Thursday, February 23, 2023

Reported by: Michelle Bulkley, CSR #13658  
Job #5771909; Pages 1 - 210

1 the good driver class? 03:45

2 A Because my understanding is that the  
3 statute requires you to be -- or to offer from the  
4 company with the lower rate. So in circumstances  
5 GIC had a lower rate than USAA, someone would get 03:45  
6 the GIC rate. There wouldn't be an offset because  
7 you'd always have the ability to be in the lower  
8 rated company.

9 Q Okay. Then let's switch now to your  
10 alternate damages methodology. That is generally 03:46  
11 what you described in your prior declaration at the  
12 class certification stage; correct?

13 A Yes.

14 Q And what that one -- what the alternate  
15 methodology does is you take the primary 03:46  
16 methodology -- and we talked about this already --  
17 and you increase the indicated United Services  
18 premium by a factor that you call A; correct?

19 A Right.

20 Q And the factor A, is that meant to 03:46  
21 balance -- is that your term? -- balance the damages  
22 for GIC policyholders against the theoretical  
23 increase in the premium for United Services?

24 A Yes.

25 Q Can you explain what that means? 03:46

1           A    Well, it's saying that you calculate --           03:47  
2           you have to -- you come up with a factor A such that  
3           when you multiply A by the indicated USAA premium  
4           and you compare that to the GIC premium, you get a  
5           damage number.   03:47

6                    And when you multiply A by the USAA  
7           premium, you get a modified premium, which is higher  
8           than the USAA premium by a certain amount.  And what  
9           you -- what you do is you equalize the values -- or  
10          you figure out the value for A such that the           03:47  
11          increase in the premium for USAA is equal to the  
12          calculated damage to GIC policyholders.

13           Q    Is what you're trying to achieve, in terms  
14          of balance, ensuring that whatever loss in premium  
15          GIC might experience, there would be a corresponding       03:48  
16          increase in premium in United Services?

17           A    It's balancing those two together, yes.

18           Q    And I know you said earlier that this is  
19          meant to account for one possible legal  
20          interpretation the Court might take, but I'm just --       03:48  
21          what is the purpose of balancing those two?

22           A    It's a way of saying that if USAA had  
23          charged -- had charged those modified premiums, it  
24          would have collected more premium, and USAA would  
25          have collected less premium from the GIC                   03:49



1 policyholders but that, in total, the more premium 03:49  
2 they collected from one group is equal to the less  
3 premium from another group.

4 Q And of course, USAA wouldn't be actually  
5 collecting additional premium from the US -- the 03:49  
6 United Services policyholders in this scenario;  
7 right?

8 A That's correct.

9 Q Okay. Like through a surcharge, that  
10 wouldn't -- that's not what you're suggesting? 03:49

11 A I don't know of a mechanism for United  
12 Services to go back and surcharge prior  
13 policyholders.

14 Q If you -- if you don't make this  
15 modification to the United Services premium to 03:50  
16 increase it to offset the lower GIC premium, if you  
17 don't make that adjustment, does that mean that the  
18 GIC premium is inadequate?

19 MR. LIEDER: Objection.

20 THE WITNESS: I'm not sure I understand 03:50  
21 the question. In fact, I'm sure I don't understand  
22 the question.

23 BY MR. SCOLNICK:

24 Q Are you familiar with the term  
25 "inadequate" as it's used to describe premiums? 03:50