SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN THE COUNTY OF THURSTON

AMERICAN PROPERTY CASUALTY INSURANCE ASSOCIATION, PROFESSIONAL INSURANCE AGENTS OF WASHINGTON, and INDEPENDENT INSURANCE AGENTS AND BROKERS OF WASHINGTON, Petitioners, v. OFFICE OF THE INSURANCE COMMISSIONER OF THE STATE OF WASHINGTON and MIKE KREIDLER, in his official capacity as INSURANCE COMMISSIONER FOR THE STATE OF WASHINGTON, Respondents.	NO. 21-2-00542-34 AMENDED PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF

COMES NOW Petitioners and allege as follows for their Petition against Respondents.

I. STATEMENT OF THE CASE

1. The American Property Casualty Insurance Association ("APCIA"), the Professional Insurance Agents of Washington ("PIA"), and the Independent Insurance Agents and Brokers of Washington ("IIABW"), acting on behalf of their members, bring this petition to declare invalid a ban imposed by the Office of the Insurance Commissioner ("OIC") of the State of Washington and Insurance Commissioner Mike Kreidler (the "Commissioner") on the use of consumers' credit histories to determine rates, premiums, or eligibility for coverage (also called "credit scoring") for all private passenger automobile, renters, and homeowners

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insurance issued in the State of Washington (the "Emergency Rule" attached as Exhibit 1). The Commissioner adopted the Emergency Rule about one year after the federal and state measures which he asserts gave rise to the emergency necessitating the Rule but only two weeks after his effort to convince the Washington Legislature to ban the use of credit histories failed. The Commissioner has created an artificial emergency to do that which he failed to persuade the Legislature to do.

2. In so doing, the Commissioner acted unlawfully. The Commissioner lacked authority to adopt the Emergency Rule. Washington law permits the use of credit histories as a factor to determine rates, premiums and eligibility for coverage, and the Emergency Rule is invalid as a result. The Commissioner has no authority to repeal legislative enactments, as he has purported to do here. The Commissioner further lacks the requisite statutory good cause to adopt the Rule, as no actual emergency exists. In addition, the Emergency Rule effectively violates the statutory durational limit imposed on emergency agency action. And finally, the Emergency Rule is arbitrary and capricious, as it lacks any evidentiary basis.

3. The Commissioner has long opposed the use of credit histories in insurance and has attempted three times to convince the Legislature to ban it. Having failed to prevail through the democratic process, the Commissioner has sought to circumvent that process by self-declaring an illusory emergency as a pretext for banning use of credit histories by regulatory fiat.

II. JURISDICTION AND VENUE

4. The Court has jurisdiction to hear this petition because the Emergency Rule, and its threatened application, interfere with or impair, or immediately threaten to interfere with or impair, the legal rights or privileges of APCIA's, PIA's, and IIABW's members. *See* RCW 34.05.570(2). There is no requirement that APCIA, PIA, or IIABW exhaust any administrative remedies or take any other action prior to bringing this petition, and venue is proper in this Court. *Id.*

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5. APCIA, PIA, and IIABW have standing to bring this action on behalf of their members. APCIA's, PIA's, and IIABW's members have been and will continue to be harmed by the Emergency Rule. A judgment in favor of APCIA, PIA, and IIABW would substantially eliminate or redress the harm to its members that adoption of the Emergency Rule has caused.

6. APCIA's, PIA's, and IIABW's members would have standing to bring this action in their own right, and the interests APCIA, PIA, and IIABW seek to protect are germane to each organization's purpose as an insurer member organization. *See* Ex. 2.

7. This case is ripe for adjudication because it presents an actual, justiciable controversy between APCIA, PIA, and IIABW, on behalf of their members, on the one hand, and the OIC and the Commissioner on the other hand, that requires a declaration of rights by the Court as well as temporary and permanent injunctive relief prohibiting the OIC and the Commissioner from implementing and enforcing the invalid Emergency Rule.

III. PARTIES

8. APCIA is the primary national trade association for home, automobile, and business insurers. APCIA protects the viability of private competition for the benefit of consumers and insurers. APCIA's member insurers represent nearly 60% of the nation's property and casualty market share, protecting families, communities, and businesses across the nation, including in Washington.

9. PIA is a state-wide full-service professional membership trade association assisting property and casualty insurance agents in education, professional liability, government affairs, and for-profit services in Washington. PIA represents approximately 200 insurance agency members actively engaged in the sale and service of property and casualty insurance (home, auto, and commercial) to its customers.

10. The Independent Insurance Agents and Brokers of Washington (IIABW) was founded in 1910 as a non-profit trade association organized for the benefit of independent insurance agents and brokers. IIABW's mission is to position its members for success and foster

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a favorable business environment and a healthy insurance industry to better serve individuals and their communities. IIABW represent hundreds of independent insurance agents and brokers who serve the residents of Washington.

11. The OIC is an agency of the state of Washington. Subject to specific statutory authority, the OIC oversees and regulates the insurance industry in the state. The mailing address for the OIC is Post Office Box 40255, Olympia, WA 98505-0252.

12. Mike Kreidler is the Insurance Commissioner for the state of Washington. He is named a respondent in that capacity.

IV. BACKGROUND FACTS

13. Insurers that choose to use credit history as a factor to determine insurance rates, premiums and eligibility for coverage do so because credit history correlates strongly with actual claims made by insureds and is predictive of future claims. Credit histories are not used to ascertain a consumer's race or ethnicity as a basis for determining premium rates or eligibility for coverage. In fact, insurers do not collect information about consumers' race or ethnicity. Use of credit history as a factor in determining premiums and eligibility for coverage is actuarially sound precisely because credit history strongly correlates with actual claims and is predictive of future claims.

A. The Legislature Authorized Credit Scoring for Insurance Underwriting and Rating Purposes in 2002.

14. The Commissioner has sought to ban the use of credit history since shortly after he came into office in 2001. In January 2002, he supported a bill (House Bill 2544) that would have totally banned credit scoring as a basis to deny, cancel or refuse to renew a policy for personal insurance such as auto and homeowners. The Legislature rejected that bill and instead passed Engrossed Substitute House Bill 2544, which enacted RCW 48.18.545 and 48.19.035—statutes that authorize credit scoring in underwriting and setting rates, subject to certain requirements and restrictions.

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15. Both statutes created by ESHB 2544 provide that the Commissioner "may adopt rules to *implement*" this section. And the Commissioner has in fact done so. *See* WAC 284-24A-001, *et seq*. Among his adopted rules are 284-24A-010 and 284-24A-011 (specifying what an insurer must tell a consumer about significant factors that adversely affect the consumer's credit history as well as significant factors that led to a decision to charge a higher premium or to reject coverage); and 284-24A-045, 284-24A-050 and 284-24A-055 (detailing how an insurer using credit history as a factor to determine insurance rates can show that its rating plan results in premium rates that are not excessive, inadequate, or unfairly discriminatory).

B. The Commissioner Attempted Twice More to Convince the Legislature to Ban the Use of Credit Histories.

16. In 2010, the Commissioner supported Senate Bill 6252, which would have totally banned the use of credit history for any purposes, including underwriting or rating. The bill failed, never making it out of committee hearings.

17. On January 11, 2021, at the behest of the Commissioner and the Governor, two senators introduced Senate Bill 5010 which, if passed, would have prohibited insurers that issue personal lines insurance policies (*e.g.*, private passenger automobile, renters and homeowners insurance), from refusing to issue or renew a private insurance policy based upon an individual's credit history or credit information. Senate Bill 5010 also would have prohibited insurers from filing rates with the OIC for personal lines that incorporated credit information.

18. Section 1 of Senate Bill 5010 contained a sort of preamble asserting that "[t]he use of credit scoring to calculate rates for personal lines of insurance is unfair and has a disproportionate economic impact on the poor and communities of color in our state." This theme of claimed disproportionate economic impact was recited repeatedly in support of the bill.

19. On January 14, 2021, a public hearing was held on Senate Bill 5010 before the Senate Committee on Business, Financial Services & Trade. Two representatives of the

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Commissioner spoke at the hearing, John Noski, the legislative liaison for the OIC and Eric Slavich, the OIC's lead actuary for property and casualty insurance. Mr. Slavich testified that he understood why insurers use credit history and aptly described the choice confronting the Washington Legislature:

> As an actuary, I understand why insurers use credit to help set their premium rates. Actuarially, there is a correlation between credit scores and insurance claims. But as legislators, you must decide if the rating factor is justified. Does the correlation matter more than its impact on society?

As Mr. Slavich recognized, this is an archetypal example of the kind of policy judgments that are the province of elected legislatures. Ultimately, the Legislature rejected the policy rationale that the Commissioner urged, and the Commissioner's bill failed to pass.

C. Without Warning, the Commissioner Adopted the Emergency Rule.

20. With no prior notice, and less than two weeks after expiration of the March 9 deadline for the Senate to pass Senate Bill 5010, on March 22, 2021, the Commissioner adopted the Emergency Rule.

21. Unusually for an emergency action, the Rule creates two new provisions—WAC 284-24A-088 and 284-24A-089. The first provision contains the Commissioner's "Findings" in support of the Emergency Rule. In it, the Commissioner notes that insurers that use credit-based insurance scores claim that credit scoring is a predictive tool to identify risk of loss from a specific consumer (*see* 284-24A-088(2)), a proposition that neither the Commissioner nor his lead actuary in testimony regarding Senate Bill 5010 disputes. The Emergency Rule (without citation to actuarial studies or other evidence) states, however, that pandemic-related emergency measures first promulgated in February, March and April *2020* by the President, Congress and the Governor (in particular the federal CARES Act) limiting or suspending the occurrence and/or reporting of certain negative credit events, have caused the credit histories that credit bureaus are collecting and reporting to be "objectively inaccurate" for some consumers. According to the Commissioner, this results in unreliable credit scores being

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assigned to those consumers. As a result, says the Commissioner, the predictive value of a consumer's credit-based insurance score is no longer trustworthy, and currently-filed, credit-based insurance scoring models are therefore unfairly discriminatory under RCW 48.19.020 (providing that premium rates for insurance shall not be excessive, inadequate, or unfairly discriminatory). WAC 284-24A-088(3)-(7). The Insurance Code prohibits unfair discrimination "*between insureds or subjects of insurance having substantially like insuring, risk, and exposure factors, and expense elements, in the terms or conditions of any insurance contract, or in the rate or amount of premium charged therefor . . . .*" RCW 48.18.480 (emphasis added).

22. The first provision of the Emergency Rule also asserts that once the year-old CARES Act consumer protections expire, a "flood" of negative credit history will be reported that has not been accounted for in current credit-based scoring models. The Emergency Rule states that the negative economic impact of the pandemic has disproportionately fallen on people of color, and therefore, when the limitations are lifted, the credit histories for people of color will have been disproportionately eroded by the pandemic. WAC 284-24A-088(8)-(9).

23. The first provision of the Emergency Rule also asserts that, without data to demonstrate that the predictive ability of scoring models based on pre-pandemic credit and claim histories is unchanged, the continued predictive ability of those models cannot be assumed. The Commissioner says that this means that use of currently-filed, credit-based insurance scoring models is unfairly discriminatory under RCW 48.19.020. The Commissioner further says that because it is impossible to know precisely when the year-old, pandemic-caused state and federal states of emergency will end, insurance companies must now develop an alternative to the currently unreliable credit-based scoring models before the protections of the CARES Act expire. Therefore, says the Commissioner, with no suggestion that an end to the year-long states of emergency is imminent, it nevertheless is now necessary to *immediately* implement changes to the use of credit scoring. WAC 284-24A-088(9)-(10).

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24. In the second provision of the Emergency Rule, the Commissioner "finds" that as a result of the broad negative economic impact of the pandemic, the disproportionate negative economic impact of the pandemic on communities of color, and the purported disruption to credit reporting resulting from the federal and state consumer protection measures, use of credit-based insurance scores for private passenger automobile coverage, renters coverage and homeowners coverage results in premiums that are excessive, inadequate, or unfairly discriminatory under RCW 48.19.020 and 48.18.480 (broadly prohibiting unfair discrimination in the business of insurance). WAC 284-24A-089(2). On these grounds, for all policies effective or processed for renewal on or after June 20, 2021, the Emergency Rule prohibits the use of credit history as a factor to determine personal insurance rates or eligibility for coverage for private passenger automobile coverage, renters coverage, and homeowners coverage. The Emergency Rule further requires that, by May 6, 2021, each insurer must file amendments to their current rate plans for all insurance policies covered by the Rule to comply with the Rule's prohibition. WAC 284-24A-089(3), (7). The Emergency Rule took effect immediately and provides that, to the extent it is adopted as a permanent rule, it shall remain in effect for three years following the day the National Emergency declared by the President on March 13, 2020 or the State Emergency declared by the Governor on February 29, 2020 ends, whichever is later. WAC 284-24A-089(8).

25. By the Emergency Rule, the Commissioner has initiated what he hopes will be an indefinite, three-plus year repeal of RCW 48.19.035. Acting under the guise of a claimed emergency, he has taken this dramatic action (which is beyond the scope of his authority), in the face of the Legislature's rejection, based upon unsupported conjecture about the impact of federal and state consumer protection measures (in particular, the CARES Act) on the reliability of credit histories as a factor to determine insurance rates, premiums, and eligibility for coverage. In sum, the Emergency Rule flouts the will of the Legislature, greatly exceeds the Commissioner's statutory authority, and lacks an evidentiary basis.

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V. BASIS FOR THE EMERGENCY RULE'S INVALIDITY

26. Washington courts have the inherent and statutory authority to declare the Emergency Rule invalid if it is determined that the Rule is unconstitutional, contrary to law, exceeds the Commissioner's statutory authority, is arbitrary and capricious, or was adopted without compliance with applicable rule-making procedures.

27. An administrative action is contrary to law when it violates an agency's authority or violates rules governing the agency's exercise of discretion. An administrative rule cannot amend or change statutory requirements. Any such rule should be invalidated. Moreover, any regulation that is inconsistent with the statute under which it is promulgated also is invalid.

28. Agency action is arbitrary and capricious when the evidence on which the agency based its decision leaves room for two opinions, even though the court may believe that the agency reached an erroneous conclusion.

29. The Court should invalidate the Emergency Rule for the following reasons:

COUNT I
(The Emergency Rule Violates RCW 48.19.035)

30. APCIA, PIA, and IIABW restate and reallege the allegations in paragraphs 1-29.

31. Among the provisions the Commissioner cites as statutory authority for adopting the Emergency Rule is RCW 48.19.035, which *authorizes* the use of credit histories in determining personal insurance rates, premiums and eligibility for coverage. It also authorizes the Commissioner to "adopt rules to *implement* this section." RCW 48.19.035(5) (emphasis added). The Emergency Rule does not implement this section. Rather, it operates as a *repeal* of the statute. Not only does RCW 48.19.035(5) not authorize the Emergency Rule, the Rule is inconsistent with, indeed contrary to, the statute. The Rule is, therefore, invalid.

32. The Commissioner's enduring goal has been to eliminate use of credit histories in insurance despite longstanding legislative support for use of this reliable, predictive tool, which helps to ensure accuracy in pricing. While it was entirely proper for the Commissioner

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to try to persuade the Legislature to change course, he failed. He has now embarked on a new path, attempting to accomplish by regulatory fiat, that which the Legislature refused to do. The law simply does not permit this usurpation of legislative authority, and the Emergency Rule is invalid.

33. APCIA, PIA, IIABW, and their members have no adequate remedy at law, and a balancing of the parties' interests and consideration of the public interest favor injunctive relief.

34. The conduct of the OIC and the Commissioner has caused and will cause substantial harm to APCIA's, PIA's, and IIABW's members unless the Emergency Rule is restrained and enjoined.

COUNT II
(The Emergency Rule Is Not Authorized by RCW 48.02.060, RCW 48.19.020, RCW 48.18.480 or RCW 48.19.080)

35. APCIA, PIA, and IIABW restate and reallege the allegations in paragraphs 1-34.

36. The Commissioner cites RCW 48.02.060 as statutory authority for adopting the Emergency Rule. Nowhere, however, does this provision authorize the Commissioner to repeal laws duly enacted by the Legislature. Moreover, this statute limits the Commissioner's emergency authority to four discrete topics: 1) reporting requirements for claims; 2) grace periods for payment of insurance premiums and performance of other duties by insureds; 3) temporary postponement of cancellations and nonrenewals; and 4) medical coverage to ensure access to care. The Emergency Rule does not pertain to any of these topics, and RCW 48.02.060 does not authorize the Rule.

37. The Commissioner also cites to RCW 48.19.020 as statutory authority for the Emergency Rule. This provision merely recites the universal standard that insurance premium rates shall not be excessive, inadequate, or unfairly discriminatory. This general, well-established standard cannot reasonably be interpreted as authorizing the Commissioner to

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wholly nullify by emergency edict statutes (RCW 48.18.545 and RCW 48.19.035) that *expressly authorize* the use of credit histories in determining rates, premiums and eligibility for coverage for personal lines of insurance—statutes that the Legislature refused to repeal just two weeks before the Commissioner announced the Emergency Rule.

38. The Commissioner also cites, as statutory authority to adopt the Emergency Rule, RCW 48.18.480, which again prohibits unfair discrimination "between insureds or subjects of insurance having substantially like insuring, risk, and exposure factors, and expense elements, in the terms or conditions of any insurance contract, or in the rate or amount of premium charged therefor . . . ." This statutory description of unfair discrimination is consistent with the long-standing understanding of the concept in the context of insurance. The Commissioner himself has implicitly recognized, in the particular context of evaluating credit-based insurance scoring models, the correct meaning of unfair discrimination, through his adoption of WAC 284-24A-035. That provision provides that "*actuarial analysts*" of the OIC will review insurers' credit-based insurance scoring models for "[a]ttributes that may result in unfair discrimination." But the Commissioner nowhere refers to this provision in the Emergency Rule.

39. Indeed, in attempting to justify the Emergency Rule and its total ban on the use of credit histories, the Commissioner fails to demonstrate that all use of credit histories to determine rates, premiums, or eligibility for coverage is unfairly discriminatory within the proper meaning of that term in the context of property and casualty insurance. Instead, the Commissioner seeks to unilaterally redefine unfair discrimination, contrary to the unambiguous statutory definition set forth in RCW 48.18.480. There is no statutory basis for such a dramatic expansion of the concept of unfair discrimination, so fundamental to insurance and its risk-based pricing foundation, by the Commissioner. The Legislature rejected such an expansion when declining to enact Senate Bill 5010.

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40. Finally, the Commissioner cites RCW 48.19.080. This procedural provision merely permits the Commissioner to suspend or modify filing requirements, but authorizes no substantive action by the Commissioner and certainly none beyond whatever such action, if any, is authorized by RCW 48.19.020.

41. None of the statutes that the Commissioner cites as authorizing the adoption of the Emergency Rule remotely does so. The Emergency Rule is invalid because it lacks statutory authority.

42. APCIA, PIA, IIABW, and their members have no adequate remedy at law, and a balancing of the parties' interests and consideration of the public interest favor injunctive relief.

43. The conduct of the OIC and the Commissioner has caused and will cause substantial harm to APCIA's, PIA's, and IIABW's members unless the Emergency Rule is restrained and enjoined.

COUNT III
(The Emergency Rule Fails to Comply with RCW 34.05.030(1))

44. APCIA, PIA, and IIABW restate and reallege the allegations in paragraphs 1-43.

45. RCW 34.05.350(1)(a) of Washington's Administrative Procedure Act (the "APA") permits an agency to adopt an emergency rule only if the agency for "good cause" finds "[t]hat immediate adoption . . . of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest." The Commissioner cites to this provision to justify his declaration of good cause. But that declaration is unfounded, and no good cause exists.

46. The Commissioner has not demonstrated that an emergency of any kind exists, much less one justifying invocation of RCW 34.05.350. The Commissioner cites to certain

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actions taken by the President, Congress, and the Governor that he asserts have disrupted credit reporting and thereby made credit-based insurance scoring unreliable. These are the Governor's Proclamations 20-05 (declaring a state of emergency in Washington); 20-19 (placing a moratorium on evictions); 20-49 (placing a moratorium on garnishments); the President's declaration of a National Emergency; and the federal CARES Act. The original dates of enactment of these measures were February 29, 2020, March 18, 2020, April 14, 2020, March 13, 2020, and March 27, 2020, respectively. Of these, by far the most important to the Commissioner's rationale for declaring an emergency is the CARES Act's moratorium on credit reporting.

47. The Commissioner has offered no reasonable explanation why these measures, most over one year old, have abruptly caused an emergency justifying immediate adoption of the enormously impactful Emergency Rule.

48. The Commissioner has failed to demonstrate that expiration of any of these measures (none of which has a specified expiration date) is imminent. To the contrary, the credit reporting moratorium in the CARES Act will not expire until 120 days after the President's March 13, 2020 declaration of a National Emergency expires. There simply is no emergency.

49. APCIA, PIA, IIABW, and their members have no adequate remedy at law, and a balancing of the parties' interests and consideration of the public interest favor injunctive relief.

50. The conduct of the OIC and the Commissioner has caused and will cause substantial injury to APCIA's, PIA's, and IIABW's members unless the Emergency Rule is restrained and enjoined.

COUNT IV
(The Emergency Rule Violates RCW 34.05.350(2))

51. APCIA, PIA, and IIABW restate and reallege the allegations in paragraphs 1-50.

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52. RCW 34.05.350(2) provides that an emergency rule may remain in effect for no longer than 120 days after the date of filing (here, March 22, 2021). Under the law, then, the Emergency Rule nominally will expire on July 20, 2021. But its requirements ensure that its effects will last well past that date, even if an identical or substantially similar new emergency rule is not adopted in sequence.

53. Specifically, the May 6 deadline for insurers to file amendments to their rating plans to comply with the Emergency Rule's prohibition on use of credit histories means that, for every line of insurance affected, new rating models must be developed and implemented by that date. It will require considerable time, effort, and expense to make the required changes and considerable time, effort, and expense after July 20, 2021 to unwind those changes. During the unwinding process, insurers will either have to suspend issuing and renewing insurance pending completion of the process or issue and renew policies using the less actuarially sound methods developed to comply with the Emergency Rule. In this important way, then, the Emergency Rule effectively will last well beyond the nominal July 20 expiration date.

54. Similarly, the Emergency Rule requires that insurers begin to employ non-credit-based rating models for all policies new and renewing on and after June 20, 2021. This means that, for approximately thirty days, insurers will be required to issue and renew policies using these less sound models with terms lasting well beyond the July 20, 2021 nominal deadline. This effect, too, then, will endure well past that deadline. Accordingly, the Emergency Rule effectively violates the 120-day deadline specified in RCW 34.05.350.

55. APCIA, PIA, IIABW, and their members have no adequate remedy at law, and a balancing of the parties' interests and consideration of the public interest favor injunctive relief.

56. The conduct of the OIC and the Commissioner has caused and will cause substantial harm to APCIA's, PIA's, and IIABW's members unless the Emergency Rule is restrained and enjoined.

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COUNT V
(The Emergency Rule Is Arbitrary and Capricious)

57. APCIA, PIA, and IIABW restate and reallege the allegations in paragraphs 1-56.

58. The Emergency Rule is arbitrary and capricious because the Commissioner fails to proffer any evidence to support the Rule. All the Commissioner offers is unsupported conjecture that the federal and state consumer protection measures he cites have so disrupted credit reporting that credit-based insurance scoring is no longer reliable and results in premium rates that currently are excessive, inadequate, and unfairly discriminatory and will continue to be so after the protection measures are lifted. Additionally, the Commissioner has offered no evidence to support his assertion that when the measures are lifted, the negative economic impact will be felt disproportionately by people of color. In the absence of any evidence to support these bare assertions, the Emergency Rule is arbitrary and capricious.

59. The Commissioner's good cause determination under RCW 34.05.350(1)(a) that an emergency existed is arbitrary and capricious. The Commissioner's claimed emergency was artificial, his good cause determination was therefore arbitrary and capricious, and the Emergency Rule is, therefore, invalid.

60. APCIA, PIA, IIABW, and their members have no adequate remedy at law, and a balancing of the parties' interests and consideration of the public interest favor injunctive relief.

61. The conduct of the OIC and the Commissioner has caused and will cause substantial harm to APCIA's, PIA's, and IIABW's members unless the Emergency Rule is restrained and enjoined.

REQUEST FOR RELIEF

WHEREFORE, APCIA prays for relief as follows:

(a) The Emergency Rule should be declared invalid and its implementation and enforcement preliminarily and permanently enjoined on the following grounds: (1) the Rule

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violates RCW 48.18.545 and RCW 48.19.035; (2) the Rule exceeds the statutory authority of the OIC and the Commissioner; (3) the Rule does not comply with the good cause requirement of RCW 34.05.030(1); (4) the Rule does not comply with the time limitation imposed by RCW 34.050.350(2); and (5) the Rule is arbitrary and capricious;

(b) The Court should award APCIA, PIA, and IIABW their costs and expenses, including attorneys' fees and experts' fees, incurred in this action;

(c) This Court should grant such other and further relief as the Court deems just and proper.

DATED this 8th day of April, 2021.

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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, not a party to nor interested in the above-entitled action, and competent to be a witness herein. On the date stated below, I caused to be served a true and correct copy of the foregoing document on the below-listed attorney(s) of record by the method(s) noted:

☒ Via electronic service to the following:

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DATED this 8th day of April, 2021.

S:/ Patti Saiden _____
Patti Saiden, Legal Assistant

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