IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, FLORIDA

CMI Inc of Kentucky,	:	
	:	
Appellant,	:	
	:	
Vs.	:	CASE NO.
	:	
JOHN C. FABIAN, ET. AL.,	:	2007 AP 010721 NC
CATHERINE MARSH,	:	2007 AP 10932 NC
MORLEY PARENT,	:	2007 AP 10934 NC
SARA PENNEY, and	:	2007 AP 10933 NC
KENNETH BAKER, ET. AL.	:	2007 AP 12538 NC
Appellees.	:	
________________________________	/	

NOTICE OF SUPPLEMENTAL AUTHORITY

COMES NOW, the above names Appellees, by and through their undersigned attorney, and files this Notice of Supplemental Authority of the following:

1. The Subpoena duces tecum, issued by the Office of Insurance Regulation and served upon Allstate Insurance Company is attached marked Exhibit "A".

2. The Objection filed by Allstate Insurance Company is attached marked Exhibit "B".

3. The Order imposing sanctions against Allstate Insurance Company is attached Marked Exhibit "C".

4. The Records of the Florida Secretary of State for Allstate Insurance

Company is attached marked exhibit "D".

5. These documents reveal that Allstate Insurance Company is a foreign corporation registered to transact business in the State of Florida (Exhibit "C", page 3, paragraph 8, Exhibit "D") and the subpoena duces tecum was served upon the Florida registered agent (Exhibit "A" and Exhibit "D").

6. Allstate Insurance Company's Motion for Emergency Relief and the Stay imposed by the First District Court of Appeal are being provided for completeness purposes (the grounds for seeking emergency relief was not based upon a claim that a subpoena duces tecum could not be served upon the Florida Resident Agent of a foreign corporation transacting business in Florida). These documents are attached marked Exhibit "E" and Exhibit "F".

Robert N. Harrison

Robert N. Harrison
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Venice, FL 34285
(941) 485-8551
(941) 488-8932 Facsimile
Florida Bar No. 0612545
Counsel for Appellees

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been furnished by regular U.S. mail to Cliff Ramey, State Attorney's Office, 4000 S. Tamiami Trail, Venice FL 34293 and Michael Taaffe, P.O. Box 49948, Sarasota, FL 34230 this 22nd day of January, 2008.

Robert N. Harrison

Robert N. Harrison

OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY
COMMISSIONER

SUBPOENA DUCES TECUM

To:

Allstate Insurance Company
℅ Chief Financial Officer
200 East Gaines Street
Tallahassee, Florida 32399-6502

At the instance of Kevin M. McCarty, Commissioner, Office of Insurance Regulation and pursuant to §§ 624.307, 624.321, and 624.324, Florida Statutes, the Office of Insurance Regulation ("Office") hereby issues this subpoena to Allstate Insurance Company ("Allstate"). Failure to comply with this subpoena may result in the initiation of enforcement proceedings pursuant to the Florida Insurance Code.

Accordingly, the Office commands the corporate representative(s) of Allstate ("you") to appear before the Office on January 15-16, 2008, at 9:30 a.m., at 401 Senate Office Building, The Capitol, Tallahassee, Florida 32399-1100, to testify and to have with you at that time and place the documents and records set forth in Attachment "A." Further, you should be prepared to testify as to the following areas: Allstate's Reinsurance Program, relationships to Risk Modeling Companies, Insurance Rating Organizations or Companies, and Insurance Trade Associations. Questions regarding compliance with this subpoena should be directed to Rhoda K. Johnson, Assistant General Counsel, at telephone number (850) 413-4252 or by e-mail at rhoda.johnson@fldfs.com.

YOU SHALL RESPOND to this subpoena as directed unless excused by the party who issued the subpoena or by Order of the Office of Insurance Regulation.

IN TESTIMONY WHEREOF, The Seal of the State of Florida is affixed hereto, and the undersigned, as designee pursuant to § 624.321, Florida Statutes, has hereunto set his hand at Tallahassee, Florida this 16th day of October 2007.

Steven H. Parton, General Counsel

I. GENERAL

A. DEFINITIONS

1. "Allstate" means Allstate Insurance Company, a foreign corporation.

2. "You," "Your," or "Your Company" shall mean Allstate Insurance Company.

3. "OIR" means the Florida Office of Insurance Regulation.

4. The terms "and" and "or" are terms of inclusion and not of exclusion and shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this subpoena any document or information that might otherwise be construed to be outside its scope.

5. The term "any" includes and encompasses "all" and vice versa.

6. "Relate" or "Relating to" means in whole or in part constituting, containing, concerning, discussing, commenting upon, describing, analyzing, identifying, stating, pertaining to, referring to, or forming the basis of.

7. "Person" includes any natural person, corporate entity, partnership, association, joint venture, government entity or trust, and any other business or legal entity.

8. "Communicate" or "Communication" means every manner or means of disclosure, transfer or exchange , and every disclosure, transfer or exchange of ideas or information, whether orally, by Document, or electronically, or whether face-to-face, by telephone, mail, personal delivery, electronic transmission or otherwise.

9. "Document" shall mean all written or graphic matter, however produced, or reproduced, of every kind and description in Your actual or constructive possession, custody, care or control, including without limitation, all writings, account letters, account

Attachment "A"

recommendations, books of accounts, CD-ROMs, charts, computer files, computer printouts, contracts, cost sheets, data compilation from which information can be obtained or can be translated through detection devices into reasonably usable form, diaries, drafts, drawings, e-mail, faxes, graphs, ledgers, magnetic discs, magnetic strips, magnetic tape, memoranda, microfiche, microfilm, minutes, notes, optical characters, papers, photographs, paper tapes, recognition characters, reports, sound tapes or recordings, statements, statistical records, stenographer notebooks, studies, telegraphs, video tapes or recordings, working papers, or any tangible thing.

10. "Reinsurer" means every Person engaged as indemnitor, surety, or contractor in the business of entering into agreements, contracts or treaties for reinsurance.

11. "Reinsurance Broker" shall mean brokers, intermediaries, and independent agents employed by Clients to advise them as to reinsurance products and coverage.

12. "Risk Modeling Company" includes any company offering technology, products, or services for the management of insurance catastrophe risks associated with man-made perils, weather, climate, and natural hazards such as earthquakes, hurricanes, and windstorms.

B. GENERAL INSTRUCTIONS

The response to this Demand shall be submitted in the following manner:

1. Documents provided shall be complete and un-redacted, submitted as found in the company's files (*e.g.,* documents that in their original condition were stapled, clipped or otherwise fastened together or maintained in separate file folders shall be produced in such form). You may submit photocopies (with color photocopies where

necessary to interpret the document), in lieu of original documents, provided that such copies are true, correct and complete copies of the original documents.

2. Number each box and mark each box with corporate identification and the name(s) of the person(s) whose files are contained in that box. Documents shall be submitted in sturdy cartons not larger than 1.5 cubic feet.

3. Documents submitted shall be produced in the order in which they appear in the company's files and shall not be shuffled or otherwise rearranged. Mark each page with corporate identification and consecutive document control numbers. For all documents not produced in electronic format, place all documents in file folders. Mark each file folder with corporate identification, the name of the person whose documents are in the folder and how the original file was labeled.

4. Documents produced electronically shall be non-encrypted and produced in TIF, Microsoft Word, Adobe Acrobat or ASCII text format. For documents produced electronically, You should include whenever possible a Document Image Information (DII) file.

5. Data maintained in a spreadsheet format shall be produced electronically in a spreadsheet file format compatible with Microsoft Excel Office 2000 version and the Microsoft Windows NT 4.0 (or 2000) operating system.

6. For any database(s) into which any information related to any Entity was added, amended or integrated, provide documents sufficient to name the database, describe the database and categorize and define the data. This request does not require that You produce the database itself. It includes, but is not limited to:

(a) The schema or record layouts of every file or database table as it is maintained;

(b) Any data dictionary or other document defining or describing the fields or other terms used in the schema or record layouts; and

(c) Any listing, description and exemplar of pre-defined or "canned" reports associated with the database(s) or database tables.

7. For purposes of this section the term "database" means a collection of information organized in such a way that a computer program can select desired pieces of data. The term includes, without limitation, collections of electronic data organized by fields, records and files.

8. Whenever available, electronic mail shall be produced in its native format such as a PST or NSF data file.

9. Each disk, DVD or CD shall include an index of the information contained on the disk, DVD or CD.

II. PRODUCTION OF DOCUMENTS

A. INSTRUCTIONS

1. This Demand for production of Documents calls for the production of all responsive Documents in Your possession, custody, or control without regard to the physical location of said Documents. This Demand for production of Documents is a continuing request.

2. The Documents produced shall be segregated according to, and enclosed in file folders or boxes marked so as to clearly identify, the particular paragraph (or subparagraph or category within a paragraph or subparagraph, if applicable) of this

Document request in response to which they are being produced. Within the response to a given paragraph, subparagraph, or category, Documents shall be organized and identified according to the files in which they were kept, identifying the Persons for whom the files were kept and the place where the files were kept.

3. If You possess no Documents responsive to a paragraph of these Document requests, state this fact, specifying the paragraph concerned, in Your response. In the event that You should withhold any Document under claim of any constitutional or other legal right or privilege, please state the following as to each such Document:

(a) The name of each author, writer, sender, or initiator of such Document or thing, if any;

(b) The name of each recipient, addressee, or party for whom such Document was intended, if any;

(c) The date of such Document, if any, or an estimate thereof and so indicated as an estimate if no date appears on said Document;

(d) The general subject matter of the Document;

(e) The claimed constitutional or other legal right or privilege You contend applies with respect to the Document (e.g., "work product").

B. DOCUMENT REQUESTS

1. Produce a list of all Florida policyholders who were sent non-renewal or cancellation letters on or after October 1, 2005, pursuant to Your decision to reduce Allstate's hurricane exposure in Florida. Indicate the policyholder's name, policy number, and the date the notification of non-renewal or cancellation was issued.

2. Produce any and all Documents and Communications created by You that explain, describe, or refer to Your decision to non-renew or cancel the policies identified in response to paragraph II. B. 1.; above.

3. Produce any and all Documents and Communications that evaluate, discuss, analyze, or otherwise refer or relate in any way to Your non-renewal or cancellation of the policies identified in response to paragraph II. B.1., above.

4. For the time period 2002 to the present, produce any and all Documents and Communications that explain, describe, or refer to the risk criteria used by You to determine the eligibility of insureds for Homeowner's Multi-peril Coverage in the state of Florida.

5. For the time period 2002 to the present, produce any and all Documents and Communications that explain, describe, or refer to the factors used in Your underwriting guidelines to determine the eligibility of insureds for Homeowner's Multi-peril Coverage in the state of Florida .

6. For the time period 2002 to the present, produce any and all Documents and Communications that explain, describe, or refer to the risk criteria used by You to determine the eligibility of insureds for Commercial Property Non-residential Coverage in the state of Florida.

7. For the time period 2002 to the present, produce any and all Documents and Communications that explain, describe, or refer to the factors used in Your underwriting guidelines to determine the eligibility of insureds for Commercial Property Non-residential Coverage in the state of Florida.

8. For the time period 2002 to the present, produce any and all instructions, guidelines (official or unofficial), and training materials relating to Your underwriting practices in the state of Florida.

9. For the time period 2002 to the present, produce any and all internal and external Documents and Communications that evaluate, discuss, analyze, or otherwise refer or relate in any way to Your non-renewal or cancellation of homeowner's insurance policies in the state of Florida.

10. For the time period 2002 to the present, produce any and all Documents and Communications between You and OIR that relate in any way to Your non-renewal or cancellation of homeowner's insurance policies in the state of Florida.

11. For the time period 2002 to the present, produce any and all Documents and Communications that evaluate, discuss, analyze, or explain Your decision to non-renew or cancel homeowner's insurance policies in the state of Florida.

12. For the time period 2002 to the present, produce any and all Documents and Communications between You and Your agents that relate to the non-renewal or cancellation of homeowner's insurance policies in the state of Florida.

13. For the time period 2002 to the present, produce any and all Documents and Communications from You to Your agents that evaluate, discuss, analyze, or otherwise refer or relate in any way to the non-renewal or cancellation of homeowner's insurance policies in the state of Florida.

14. For the time period 2002 to the present, produce any and all internal and external Documents or Communications that advise, recommend, evaluate, discuss,

analyze, or otherwise refer or relate in any way to Your non-renewal or cancellation of policies in the state of Florida.

15. For the time period 2002 to the present, produce any and all Documents and Communications between You and Your affiliates or subsidiaries that evaluate, discuss, analyze, or otherwise refer or relate in any way to Your decision to renew Florida policyholders with more than one line of service.

16. For the time period 2002 to the present, produce any and all Documents and Communications between You and Your affiliates or subsidiaries that evaluate, discuss, analyze, or explain discounts offered or provided to Florida policyholders with more than one line of service.

17. For the time period 2002 to the present, produce any and all Documents and Communications between You and Your affiliates or subsidiaries that evaluate, discuss, analyze, or otherwise refer or relate to the eligibility for discounts for Your Florida policyholders with more than one line of service.

18. For the time period 2002 to the present, produce any and all Documents and Communications between You and Your affiliates or subsidiaries that evaluate, discuss, analyze, or otherwise refer or relate in any way to the marketing, advertising, or distribution plan for discounts to Your Florida policyholders with more than one line of service.

19. For the time period 2002 to the present, produce any and all Documents and Communications between You and the agents for Your affiliates or subsidiaries that advise, recommend, evaluate, discuss, analyze, or otherwise refer or relate in any way to

the marketing, advertising, or distribution of discounts to Your Florida policyholders with more than one line of service.

20. Produce sample copies of each template used for any and all letters issued by You to Florida consumers regarding discounts for policyholders with more than one line of service.

21. Produce a list of Florida consumers, including their names and addresses, who were sent the letters referred to in paragraph II. B. 20.

22. Produce a list of Florida consumers, including their names and addresses, who responded to the letters referred to in II. B. 21.

23. For the time period 2004 to the present, identify each Person with whom You entered into a Reinsurance agreement, contract, treaty, or similar agreement for Reinsurance coverage of personal lines in the state of Florida.

24. For each Person identified in paragraph II. B. 23., produce any and all agreements, contracts, treaties, or other similar agreements for Reinsurance coverage of personal lines.

25. For each Person identified in paragraph II. B. 23., produce any and all Documents and Communications relating to the agreements, contracts, treaties, or other similar agreements for Reinsurance coverage of personal lines.

26. For the time period 2004 to the present, produce a list of the names, titles, and addresses of Your employees who are primarily responsible for the negotiation, analysis, and management of the Reinsurance agreements, contracts, treaties, or other similar Documents identified in response to paragraph II. B. 23.

27. For the time period 2004 to the present, produce any and all Documents and Communications related to Your Reinsurance program for personal lines, including, but not limited to, the following:

a. Any and all Documents and Communications related to the criteria used by You to select Reinsurance coverage.

b. Any and all Documents and Communications related to Your Reinsurance acquisition costs.

c. Any and all Documents and Communications related to the negotiation of the amount of Your Reinsurance premiums.

d. Any and all Documents and Communications related to negotiating and setting Your retention amount(s).

e. Any and all Documents and Communications related to the profitability of Your Florida business.

f. Any and all Documents and Communications related to the monitoring of Your catastrophic loss exposure by geographical zone.

28. For the time period 2004 to the present, produce any and all Documents and Communications either from or to Insurance Trade Associations including, but not limited to, The Florida Insurance Council, Inc., The American Insurance Association, Property Casualty Insurers Association of America, National Association of Mutual Insurance Companies, and the Insurance Information Institute.

29. For the time period 2004 to the present, produce any and all internal Documents and Communications relating to Insurance Trade Associations including, but not limited to, The Florida Insurance Council, Inc., The American Insurance Association,

Property Casualty Insurers Association of America, National Association of Mutual Insurance Companies, and the Insurance Information Institute.

30. For the time period 2004 to the present, produce any and all Documents and Communications either from or to Insurance Rating Organizations or Companies including, but not limited to, A. M. Best Company, Inc., Fitch Credit Rating Company, Moody's Investors Service and Standard and Poor's Rating Group.

31. For the time period 2004 to the present, produce any and all internal Documents and Communications relating to Insurance Rating Organizations or Companies including, but not limited to, A. M. Best Company, Inc., Fitch Credit Rating Company, Moody's Investors Service and Standard and Poor's Rating Group.

32. For the time period 2004 to the present, produce a list of the names and addresses of all Reinsurers and Reinsurance Brokers that You communicated with regarding Reinsurance coverage for your Florida business.

33. For the time period 2004 to the present, produce any and all Documents and Communications either from or to the Reinsurers and Reinsurance Brokers identified in II. B. 32.

34. For the time period 2004 to the present, produce any and all internal Documents and Communications relating to Reinsurers and Reinsurance Brokers.

35. For the time period 2004 to the present, produce any and all Documents and Communications either from or to Risk Modeling Companies including, but not limited to, AIR Worldwide Corporation, Applied Research Associates, Inc., and Risk Management Solutions, Inc.

36. For the time period 2004 to the present, produce any and all internal Documents and Communications relating to Risk Modeling Companies including, but not limited to, AIR Worldwide Corporation, Applied Research Associates, Inc., and Risk Management Solutions, Inc.

37. For the time period 2006 to the present, produce any and all internal and external Documents and Communications relating to special sessions of the Florida Legislature that were called to address the Florida Property Market, including Session 2007A.

38. For the time period 2006 to the present, produce any and all internal and external Documents and Communications relating to Florida House Bill 1-A.

39. For the time period 1995 to the present, produce any and all internal and external Documents and Communications that describe, explain, or relate to Your claims valuation procedures and formulas utilized in assessing and adjusting commercial, personal property and automobile insurance claims.

40. For the time period 1995 to the present, produce any and all Documents and Communications to or from consulting or outside firms that have advised or are currently advising Allstate on property claims handling valuation procedures or programs.

41. For the time period 1995 to the present, produce a list by name, address and dates of engagement of each person or entity that has advised or is currently advising Allstate on insurance claims handling valuation procedures or programs.

42. Produce any and all contracts or agreements with the individuals and entities identified in paragraph II. B. 39., above.

43. For the time period 1995 to the present, produce any and all internal and external Documents and Communications that describe, explain, or relate to computer programs or systems that are or were used by Allstate in the claims valuation process.

44. Produce any and all Documents and Communications created by You describe, explain, or relate to the services provided to Allstate by McKinsey and Co., a New York based consulting firm.

45. For the time period 1995 to the present, produce any and all Documents and Communications submitted to You by McKinsey and Co.

46. For the time period 1995 to the present, produce any and all Documents and Communications between You and the agents and adjusters for Allstate relating to the claims valuation advice Allstate received from McKinsey and Co.

47. Produce any and all Documents and Communications from Allstate to the agents and adjusters for Allstate or its affiliates that evaluate, discuss, analyze, or otherwise refer or relate in any way to the fairness, accuracy and validity of Allstate's insurance claims valuation processes.

48. Produce any and all internal and external Documents and Communications created by You that describe, explain, or relate to the Xactimate and Colossus software claims programs or any successors or revised editions of those programs utilized by Allstate.

49. Produce any and all Documents and Communications between Allstate and its affiliates that evaluate, discuss, analyze, or otherwise refer or relate in any way to the decision to implement the programs processes and procedures developed by McKinsey and Co.

50. Produce any and all internal and external Documents and Communications that criticize or question the validity or fairness of the claims valuation process or programs used by Allstate.

51. For the time period 2004 to the present, produce copies of any judgments, whether or not they were later vacated, where it was found that Allstate had engaged in the bad faith settlement of an insurance claim(s).

52. Produce any and all internal and external Documents and Communications related to a lawsuit filed in Kentucky by attorney Dale Golden alleging bad faith in the handling of a 1997 auto accident on behalf of a Richmond, Kentucky woman.

53. Produce any and all internal and external Documents and Communications related to the Advanced Claims Excellence program.

54. Produce any and all internal and external Documents and Communications related to the Claim Core Process Redesign program.

55. Produce any and all internal and external Documents and Communications associated with the accusations by JoAnn Katzman, a former claims adjuster for Allstate in 2002 and 2003 as to Allstate's claims handling processes.

56. Produce any and all internal and external Documents and Communications related to the accusations made by Shannon Kmatz, a former Allstate claims adjuster concerning the claims adjustment practices of Allstate.

57. Produce any and all Power Point presentations prepared by McKinsey & Co.

58. Produce any and all internal and external Documents and Communications related to the "Zero-Sum Economic Game" program.

59. Produce a copy of any lawsuit(s) filed in any state or federal court in Florida that alleged Allstate engaged in bad faith claims settlement practices.

STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
OFFICE OF INSURANCE REGULATION

In Re: Allstate Insurance Company Case No. 91778-07

Allstate Insurance Company's Objections to Document Requests Set Forth in Exhibit A to October 16, 2007 Subpoena Duces Tecum Issued by the Florida Office of Insurance Regulation

GENERAL OBJECTIONS

The following objections apply to all or most of the subpoena requests and are therefore incorporated by reference to Allstate's specific responses to those requests.

1. Allstate objects to each request to the extent it seeks information protected by the attorney client, work product, self-critical analysis and/or evaluation privileges, the accountant-client privilege, any statutory or constitutional right of privacy and/or any other applicable privilege, rule of confidentiality, protection, or restriction recognized by Florida law that makes such information otherwise undiscoverable. *See, e.g., Power Plant Entertainment, LLC v. Trump Hotels & Casino Resorts,* 958 So. 2d 565 (Fla. 4th DCA 2007) (declining to review trial court order upholding exercise of attorney client privilege in discovery proceeding).

2. Allstate objects to each request to the extent it seeks information or documents which are confidential and proprietary to Allstate and/or outside third-party vendors. *See, e.g., General Caulking Coating Co., Inc. v. J.D. Waterproofing, Inc.*, 958 So. 2d 507 (Fla. 3d DCA 2007) (trial court erred in ordering production of information subcontractor claimed was confidential business and trade secret information without determining whether need for the documents outweighed the interest in maintaining their confidentiality); *Docutek Imaging Solutions, Inc. v. Copyco, Inc.*, 869 So. 2d 1291 (Fla. 4th DCA 2004) (same).

3. Allstate objects to each request on the ground that the return date the OIR has specified for responding to the requests does not allow sufficient time to search for responsive documents, screen them for privilege and prepare them for production. *See, e.g., Commitment of Smith v. State,* 827 So. 2d 1026, 1031 (Fla. 2d DCA 2002) ("trial court must determine the relevance of the information sought, and it must limit or prohibit discovery when necessary to prevent annoyance, embarrassment, oppression, undue burden or undue expense").

4. Allstate objects to each request to the extent it imposes obligations beyond those imposed by the Florida Rules of Civil Procedure generally and with respect to documents/information not within Allstate's possession, custody or control. *See, e.g., State Farm Mut. Auto. Ins. Co. v. Parrish*, 800 So. 2d 706, 707 (Fla. 5th DCA 2001) ("it is an error of law by which the judge himself has expanded the parameters of [the] Florida Rules of Civil Procedure, from permitting discovery of matters 'relevant to the subject matter of the pending action' to authorizing a fishing expedition").

5. Allstate objects to each request to the extent it is not properly limited in scope (including geographical and temporal scope) or relevant in purpose (*i.e.*, the OIR's investigation of Allstate's 2007 homeowners insurance rates as they pertain to House Bill 1A ("HB1A")), and amounts to the type of "fishing expedition" prohibited by Florida courts. *See, e.g., Check 'N Go of Florida, Inc. v. State,* 790 So. 2d 454, 459 (Fla. 5th DCA 2001) (subpoena must be "properly limited in scope, relevant in purpose and specific in directive"); *Parrish, supra.*

6. Allstate objects to each request to the extent it seeks information or documents related to any line of insurance other than the residential property and casualty insurance which is the subject of HB1A and the reinsurance program created thereunder.

7. Allstate objects to each request to the extent it seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A.

8. Allstate objects to each request to the extent it seeks information or documents related to lines of business which Allstate does not write in Florida. *See, e.g., Coastal Physician Services of Broward County, Inc. v. Ortiz,* 764 So. 2d 7 (Fla. 4th DCA 1999) (holding discovery related to out-of-state billings was not allowed and limiting discovery to Florida residents) (*cited in Hutson v. Rexall Sundown, Inc.*, 837 So. 2d 1090, 1094 (Fla. 4th DCA 2003)).

9. Allstate objects to each request to the extent it seeks information or documents related to Allstate's insurance business, practices, policies and programs in states other than Florida. *See, e.g., Coastal, supra.*

10. Allstate objects to each request to the extent it seeks information or documents that would violate the privacy rights of Allstate's policyholders and insureds. *See, e.g., National Sec. Fire & Cas. Co. v. Dunn,* 705 So. 2d 606, 608 (Fla. 5th DCA 1997) ("the trial court failed to make any provision to exclude material protected by the attorney-client privilege or to consider the privacy rights of the other thirty-eight [insureds]").

11. Allstate objects to each request to the extent it imposes an undue burden on Allstate, including the time and expense of responding to the requests and resulting costs related to lost productivity and disruption to Allstate's regular business. *See, e.g., Royal Caribbean Cruises, Ltd. v. Doe,* 964 So. 2d 713 (Fla. 3d DCA May 23, 2007), *reh'g and reh'g en banc denied,* (Oct. 11. 2007) (finding discovery order requiring disclosure of information regarding reports of all assaults and/or batteries by all crewmembers on nineteen of defendant's vessels for three-year

period, even though allegations focused on particular crewmember involved in alleged incident, overbroad and unduly burdensome).

SPECIFIC OBJECTIONS

1. Produce a list of all Florida policyholders who were sent non-renewal or cancellation letters on or after October 1, 2005, pursuant to Your decision to reduce Allstate's hurricane exposure in Florida. Indicate the policyholder's name, policy number, and the date the notification of non-renewal or cancellation was issued.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, and seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. This request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. Information regarding policyholders who were sent non-renewal or cancellation letters on or after October 1, 2005 pursuant to Allstate's decision to reduce its hurricane exposure in Florida has nothing to with the OIR's investigation as to why Allstate's 2007 homeowners insurance rates did not decrease as a result of HB1A. Allstate further objects to this request on the ground that it seeks disclosure of information that would violate the privacy rights of Allstate's policyholders.

Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

2. Produce any and all Documents and Communications created by You that explain, describe, or refer to Your decision to non-renew or cancel the policies identified in response to paragraph II.B.1., above.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, unduly burdensome, and seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. This request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. Documents and information related to Allstate's decision to non-renew or cancel the above-referenced policies have nothing to with the OIR's investigation as to why Allstate's 2007 homeowners insurance rates did not decrease as a result of HB1A. Allstate further objects to this request on the ground that it seeks disclosure of information that would violate the privacy rights of Allstate's policyholders. In addition, Allstate objects to the request to the extent it seeks confidential, copyrighted, private, trade secret, and/or proprietary documents.

Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

3. Produce any and all Documents and Communications that evaluate, discuss, analyze, or otherwise refer to or relate in any way to Your non-renewal or cancellation of the policies identified in response to paragraph II.B.1, above.

RESPONSE: *See* Response to Request Nos. 1 and 2.

4. For the time period 2002 to the present, produce any and all Documents and Communications that explain, describe, or refer to the risk criteria used by You to determine the eligibility of insureds for Homeowner's Multi-peril Coverage in the state of Florida.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, unduly burdensome, and seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. Documents and information related to the risk criteria used by Allstate to determine the eligibility of insureds for Homeowner's Multi-peril Coverage in the state of Florida have nothing to with the OIR's investigation as to why Allstate's 2007 homeowners insurance rates did not decrease as a result of HB1A. Allstate further objects to this request on the ground that it seeks disclosure of information that would violate the privacy rights of Allstate's policyholders. In addition, Allstate objects to the request to the extent it seeks confidential, copyrighted, private, trade secret, and/or proprietary documents.

Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

5. For the time period 2002 to the present, produce any and all Documents and Communications that explain, describe, or refer to the factors used in Your underwriting guidelines to determine the eligibility of insureds for Homeowner's Multi-peril Coverage in the state of Florida.

RESPONSE: *See* Response to Request No. 4.

6. For the time period 2002 to the present, produce any and all Documents and Communications that explain, describe, or refer to the risk criteria used by You to determine the eligibility of insureds for Commercial Property Non-residential Coverage in the state of Florida.

RESPONSE: *See* Response to Request No. 4.

7. For the time period 2002 to the present, produce any and all Documents and Communications that explain, describe, or refer to the factors used in Your underwriting guidelines to determine the eligibility of insureds for Commercial Property Non-residential Coverage in the state of Florida.

RESPONSE: *See* Response to Request No. 4.

8. For the time period 2002 to the present, produce any and all instructions, guidelines (official or unofficial), and training materials relating to Your underwriting practices in the state of Florida.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, unduly burdensome, and seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. This request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. In addition, Allstate objects to the request to the extent it seeks confidential, copyrighted, private, trade secret, and/or proprietary documents.

Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

9. For the time period 2002 to the present, produce any and all internal and external Documents and Communications that evaluate, discuss, analyze, or otherwise refer or relate in any way to Your non-renewal or cancellation of homeowner's insurance policies in the state of Florida.

RESPONSE: *See* Response to Request Nos. 1 and 2.

10. For the time period 2002 to the present, produce any and all Documents or Communications between You and OIR that relate in any way to Your non-renewal or cancellation of homeowner's insurance policies in the state of Florida.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, unduly burdensome, and seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. Documents and information related to Allstate's non-renewal or cancellation of homeowner's insurance policies in the state of Florida have nothing to with the OIR's investigation as to why Allstate's 2007 homeowners insurance rates did not decrease as a result of HB1A.

Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

11. For the time period 2002 to the present, produce any and all Documents and Communications that evaluate, discuss, analyze, or explain Your decision to non-renew or cancel homeowner's policies in the state of Florida.

RESPONSE: *See* Response to Request Nos. 1 and 2.

12. For the time period 2002 to the present, produce any and all Documents and Communications between You and Your agents that relate to the non-renewal or cancellation of homeowner's insurance policies in the state of Florida.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, unduly burdensome, and seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. Documents and information related to Allstate's non-renewal or cancellation of homeowner's insurance policies in the state of Florida have nothing to with the OIR's investigation as to why Allstate's 2007 homeowners insurance rates did not decrease as a result of HB1A. Allstate further objects to this request on the ground that it seeks disclosure of information that would violate the privacy rights of Allstate's policyholders. In addition, Allstate objects to the request to the extent it seeks confidential, copyrighted, private, trade secret, and/or proprietary documents.

Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

13. For the time period 2002 to the present, produce any and all Documents and Communications from You to Your agents that evaluate, discuss, analyze, or otherwise refer or

relate in any way to the non-renewal or cancellation of homeowner's insurance policies in the state of Florida.

RESPONSE: *See* Response to Request Nos. 1 and 2.

14. For the time period 2002 to the present, produce any and all internal or external Documents or Communications that advise, recommend, evaluate, discuss, analyze, or otherwise refer or relate in any way to Your non-renewal or cancellation of policies in the state of Florida.

RESPONSE: *See* Response to Request Nos. 1 and 2.

15. For the time period 2002 to the present, produce any and all Documents and Communications between You and Your affiliates or subsidiaries that evaluate, discuss, analyze, or otherwise refer or relate in any way to Your decision to renew Florida policyholders with more than one line of service.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, unduly burdensome, and seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. This request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. Documents and information related to Allstate's decision to renew Florida policyholders with more than one line of service have nothing to with the OIR's investigation as to why Allstate's 2007 homeowners insurance rates did not decrease as a result of HB1A. Allstate further objects to this request on the ground that it seeks disclosure of information that would violate the privacy rights of Allstate's policyholders. In addition, Allstate objects to the request to the extent it seeks confidential, copyrighted, private, trade secret, and/or proprietary documents.

Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

16. For the time period 2002 to the present, produce any and all Documents and Communications between You and Your affiliates or subsidiaries that evaluate, discuss, analyze, or explain discounts offered or provided to Florida policyholders with more than one line of service.

RESPONSE: *See* Response to Request No. 15.

17. For the time period 2002 to the present, produce any and all Documents and Communications between You and Your affiliates or subsidiaries that evaluate, discuss, analyze, or otherwise refer or relate to the eligibility for discounts for Your Florida policyholders with more than one line of service.

RESPONSE: *See* Response to Request No. 15.

18. For the time period 2002 to the present, produce any and all Documents and Communications between You and Your affiliates or subsidiaries that evaluate, discuss, analyze, or otherwise refer or relate in any way to the marketing, advertising, or distribution plan for discounts to Your Florida policyholders with more than one line of service.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, unduly burdensome, and seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. This request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. Documents and information related to marketing, advertising, or distribution plan for discounts to Florida policyholders with more than one line of service have nothing to with the OIR's investigation as to why Allstate's 2007 homeowners insurance rates did not decrease as a result of HB1A. In addition, Allstate objects to the request to the extent it seeks confidential, copyrighted, private, trade secret, and/or proprietary documents.

Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

19. For the time period 2002 to the present, produce any and all Documents and Communications between You and the agents for Your affiliates or subsidiaries that advise, recommend, evaluate, discuss, analyze, or otherwise refer or relate in any way to the marketing, advertising, or distribution of discounts to Your Florida policyholders with more than one line of service.

RESPONSE: *See* Response to Request No. 18.

20. Produce sample copies of each template used for any and all letters issued by You to Florida consumers regarding discounts for policyholders with more than one line of service.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, and seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. This request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. Copies of templates for letters to Florida consumers discounts for policyholders with more than one line of service have nothing to with the OIR's investigation as to why Allstate's 2007 homeowners insurance rates did not decrease as a result of HB1A.

Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

21. Produce a list of Florida consumers, including their names and addresses, who were sent the letters referred to in paragraph II.B.20.

RESPONSE: *See* Response to Request No. 20. Further answering, this request seeks information which strays even further from the subject of the OIR's investigation. Since the letters themselves are irrelevant, the names and addresses of the recipients of such letters are certainly irrelevant. Allstate further objects to this request on the ground that it seeks disclosure of information that would violate the privacy rights of Allstate's policyholders. Allstate further objects to the request to the extent it seeks confidential, copyrighted, private, trade secret, and/or proprietary documents.

Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

22. Produce a list of Florida consumers, including their names and addresses, who responded to the letters referred to in II.B.21.

RESPONSE: *See* Response to Request No. 21

23. For the time period 2004 to present, identify each Person with whom You entered into a Reinsurance agreement, contract, treaty or similar agreement for Reinsurance Coverage of personal lines in the state of Florida.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, vague, unduly burdensome, and seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. In addition, this request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Reinsurance agreements related to other lines of insurance and other risks have nothing to do with the investigation of Allstate's insurance rates vis-a-vis HB1A and are therefore irrelevant. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida it is irrelevant.

Notwithstanding these objections, and without waiver thereof, there are no such documents, with the caveats set forth above.

24. For each person identified in paragraph II. B. 23., produce any and all agreements, contracts, treaties, or other similar agreements for Reinsurance coverage of personal lines.

RESPONSE: *See* Response to Request No. 23. Allstate further objects to this request to the extent the reinsurance agreements contain information about policyholders and insureds, since production of such information would violate the privacy rights of these individuals. In addition, Allstate objects to this request to the extent the reinsurance agreements contain confidential and/or trade secret information, both as to Allstate and third parties. In addition, this request is overbroad, unduly burdensome, and irrelevant to the extent it seeks information regarding reinsurance agreements for Reinsurance coverages not applicable to insurance risks located in Florida. Allstate's personal lines catastrophe reinsurance program for Florida is designed separately and apart from its other catastrophe reinsurance programs; the reinsurance agreements comprising Allstate's Florida personal lines catastrophe reinsurance program do not coordinate with coverages provided by reinsurance agreements applicable to risks outside of Florida. Further, Florida personal lines residential risks are either not covered or specifically excluded under Allstate's other catastrophe reinsurance agreements. Indeed, the Reinsurance coverages applicable to personal lines residential insurance risks in the State of Florida are designed and placed well over three (3) months after the placement of Allstate's other catastrophe reinsurance agreements.

Notwithstanding these objections, and without waiver thereof, there are no such documents, with the caveats set forth above.

25. For each person identified in paragraph II. B. 23., produce any and all Documents and Communications relating to the agreements, contracts, treaties, or other similar agreements for Reinsurance coverage of personal lines.

RESPONSE: *See* Response to Request Nos. 23 and 24. Further answering, Allstate states the request for "Documents and Communications relating to" such reinsurance agreements strays even further from the subject of the OIR's investigation and is all the more objectionable on grounds of overbreadth and undue burden. This request, as written, seeks all conceivable documents and information related to reinsurance agreements, the overwhelming majority of which are irrelevant.

Notwithstanding these objections, and without waiver thereof, there are no such documents, with the caveats set forth above.

26. For the time period 2004 to the present, produce a list of the names, titles, and addresses of Your employees who are primarily responsible for the negotiation, analysis, and management of the Reinsurance agreements, contracts, treaties, or other similar documents identified in response to paragraph II. B. 23.

RESPONSE: See Response to Request Nos. 23, 24 and 25.

27. For the time period 2004 to the present, produce any and all Documents and Communications related to Your Reinsurance program for personal lines, including, but limited to, the following:

a. Any and all Documents and Communications related to the criteria used by You to select Reinsurance coverage.

b. Any and all Documents and Communications related to Your Reinsurance acquisition costs.

c. Any and all Documents and Communications related to the negotiation of the amount of Your Reinsurance premiums.

d. Any and all Documents and Communications related negotiating and settling Your retention amount(s).

e. Any and all Documents and Communications related to the profitability of Your Florida business.

f. Any and all Documents and Communications related to the monitoring of Your catastrophic loss exposure by geographic zone.

RESPONSE: See response to request Nos. 23, 24, 25 and 26. In addition, Allstate objects on the ground that this request has no limitation on geographic scope. Information related to Allstate's reinsurance program in states other than Florida has no relevance here.

Subparts 5(a)-(f) are further objectionable on the ground that information related to criteria used to select reinsurance coverage, reinsurance acquisition costs, negotiation of the amount of reinsurance premiums and retention amounts, the profitability of Allstate's Florida business, and the monitoring of catastrophic loss exposure by geographic zone has nothing to do with the investigation of Allstate's insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, Allstate objects to this request to the extent the requested documents contain confidential and/or trade secret information, both as to Allstate and third parties.

Notwithstanding these objections, and without waiver thereof, there are no such documents, with the caveats set forth above.

28. For the time period 2004 to present, produce any and all Documents and Communications either from or to Insurance Trade Associations, including, but not limited to, The Florida Insurance Council, Inc., The American Insurance Association, Property Casualty Insurers Association of America, National Association of Mutual Insurance Companies, and the Insurance Information Institute.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, vague, unduly burdensome, and seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant. In addition, this request seeks information or documents pertaining to any and all trade associations, with no limitation to Florida or Allstate's residential property and casualty insurance business in Florida.

Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

29. For the time period 2004 to present, produce any and all internal Documents and Communications relating to Insurance Trade Associations, including, but not limited to, The Florida Insurance Council, Inc., The American Insurance Association, Property Casualty Insurers Association of America, National Association of Mutual Insurance Companies, and the Insurance Information Institute.

RESPONSE: See Response to Request No. 28.

30. For the time period 2004 to the present, produce any and all Documents and Communications either from or to Insurance Rating Organizations or Companies including, but not limited to, A.M. Best Company, Inc., Fitch Credit Rating Company, Moody's Investors Service and Standard and Poor's Rating Group.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, vague, unduly burdensome, and seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. In addition, this request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. This request also seeks information or documents with no limitation to Florida or Allstate's residential property and casualty insurance business in Florida. Allstate further objects to the request to the extent it seeks confidential, copyrighted, private, trade secret, and/or proprietary documents.

Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

31. For the time period 2004 to the present, produce any and all internal Documents and Communications relating to Insurance Rating Organizations or Companies including, but not

limited to, A.M. Best Company, Inc., Fitch Credit Rating Company, Moody's Investors Service and Standard and Poor's Rating Group.

RESPONSE: See Response to Request No. 30.

32. For the time period 2004 to the present, produce a list of the names and addresses of all Reinsurers and Reinsurance Brokers that You communicated with regarding Reinsurance for your Florida business.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, vague, unduly burdensome, and seeks information which is irrelevant to the subject matter of the pending investigation and not reasonably calculated to lead to the discovery of admissible evidence. This request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. In addition, this request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Reinsurance agreements related to other lines of insurance and other risks have nothing to do with the investigation of Allstate's insurance rates vis-a-vis HB1A and are therefore irrelevant. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida it is irrelevant.

In addition, this request is overbroad, unduly burdensome, and irrelevant to the extent it seeks information regarding reinsurance agreements for Reinsurance coverages not applicable to insurance risks located in Florida. [redacted]

Notwithstanding these objections, and without waiver thereof, there are no such documents, with the caveats set forth above.

33. For the time period 2004 to the present, produce any and all Documents and Communications either from or to the Reinsurers and Reinsurance Brokers identified in II. B. 32.

RESPONSE: See Response to Request No. 32. Further answering, Allstate states the request for "Documents and Communications from or to" such reinsurers or brokers strays even further from the subject of the OIR's investigation and is all the more objectionable on grounds of overbreadth and undue burden. This request, as written, seeks all conceivable documents and information related to reinsurance agreements, the overwhelming majority of which are irrelevant. In addition, Allstate objects to this request to the extent the requested documents contain confidential and/or trade secret information, both as to Allstate and third parties.

Notwithstanding these objections, and without waiver thereof, there are no such documents, with the caveats set forth above.

34. For the time period 2004 to the present, produce any and all internal Documents and Communications relating to Reinsurers and Reinsurance Brokers.

RESPONSE: See Response to Request Nos. 32 and 33. In addition, Allstate objects on the ground that this request has no limitation on geographic scope. Information related to Allstate's reinsurance program in states other than Florida has no possible relevance here. In addition, Allstate objects to this request to the extent the requested documents contain confidential and/or trade secret information, both as to Allstate and third parties. Notwithstanding these objections, and without waiver thereof, there are no such documents, with the caveats set forth above.

35. For the time period 2004 to the present, produce any and all Documents and Communications either from or to Risk Modeling Companies including, but not limited to, AIR Worldwide Corporation, Applied Research Associates, Inc., and Risk Management Solutions, Inc.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, vague, unduly burdensome, and seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. In addition, this request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. This request also seeks information or documents with no limitation to Florida or Allstate's residential property and casualty insurance business in Florida. Allstate further objects to the request to the extent it seeks confidential, copyrighted, private, trade secret, and/or proprietary documents.

Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

36. For the time period 2004 to the present, produce any and all internal Documents and Communications relating to Risk Modeling Companies including, but not limited to, AIR Worldwide Corporation, Applied Research Associates, Inc., and Risk Management Solutions, Inc.

RESPONSE: *See* Response to Request No. 35.

37. For the time period 2006 to the present, produce any and all internal and external Documents and Communications relating to special sessions of the Florida Legislature that were called to address the Florida Property Market, including Session 2007A.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, unduly burdensome and vague. Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

38. For the time period 2006 to the present, produce any and all internal and external Documents and Communications relating to Florida House Bill 1-A.

RESPONSE: Allstate objects to this request on the ground that it is overbroad, unduly burdensome and vague. Notwithstanding these objections, and without waiver thereof, Allstate will produce certain documents responsive to this request.

39. For the time period 1995 to the present, produce any and all internal and external Documents and Communications that describe, explain, or relate to Your claims valuation procedures and formulas utilized in assessing and adjusting commercial, personal property and automobile insurance claims.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "internal and external," "claims valuation procedures and formulas," and "utilized in assessing and adjusting." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

In addition, because this request is so broad, Allstate has no way of identifying "any and all" documents that might be responsive to it.

40. For the time period 1995 to the present, produce any and all Documents and Communications to or from consulting or outside firms that have advised or are currently advising Allstate on property claims handling valuation procedures or programs.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "consulting or outside firms," "advised," "currently advising," and "insurance claims handling valuation procedures or programs." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

In addition, because this request is so broad, Allstate has no way of identifying "any and all" documents that might be responsive to it.

41. For the time period 1995 to the present, produce a list by name, address and dates of engagement of each person or entity that has advised or is currently advising Allstate on insurance claims handling valuation procedures or programs.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "list" "dates of engagement," "advised," "currently advising," and "insurance claims handling valuation procedures or programs." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases. Allstate further objects that the request is not a request for production, but appears to be an interrogatory requiring Allstate to create a list of names.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or

documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

42. Produce any and all contracts or agreements with the individuals and entities identified in paragraph 39 [**sic**] above.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," and "contracts or agreements." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

43. For the time period 1995 to the present, produce any and all internal and external Documents and Communications that describe, explain, or relate to computer programs or systems that are or were used by Allstate in the claims valuation process.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "internal and external," "describe, explain, or relate to," "computers programs or systems," "claims valuation process." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

In addition, because this request is so broad, Allstate has no way of identifying "any and all" documents that might be responsive to it.

44. Produce any and all Documents and Communications created by You **[sic]** describe, explain, or relate to the services provided to Allstate by McKinsey and Co., a New York based consulting firm.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "describe, explain, or relate," "services," and "McKinsey and Co." This request is overly broad, unduly burdensome, harassing and oppressive as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

In addition, because this request is so broad, Allstate has no way of identifying "any and all" documents that might be responsive to it.

45. For the time period 1995 to the present, produce any and all Documents and Communications submitted to You by McKinsey and Co.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto.

Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "submitted to you," and "McKinsey and Co." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

In addition, because this request is so broad, Allstate has no way of identifying "any and all" documents that might be responsive to it.

46. For the time period 1995 to the present, produce any and all Documents and Communications between You and the agents and adjusters for Allstate relating to the claims

valuation advice Allstate received from McKinsey and Co.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "agents and adjusters for Allstate," "claims valuation advice," and "McKinsey and Co." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

In addition, because this request is so broad, Allstate has no way of identifying "any and all" documents that might be responsive to it.

47. Produce any and all Documents and Communications from Allstate to the agents and adjusters for Allstate or its affiliates that evaluate, discuss, analyze, or otherwise refer or relate in any way to the fairness, accuracy and validity of Allstate's insurance claims valuation processes.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "from Allstate," "agents and adjusters for Allstate," "affiliates," evaluate, discuss, analyze, or otherwise refer or relate," "in any way" "fairness, accuracy and validity," and "insurance claims valuation processes. This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or

documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

In addition, because this request is so broad, Allstate has no way of identifying "any and all" documents that might be responsive to it.

48. Produce any and all internal and external Documents and Communications created by You that describe, explain, or relate to the Xactimate and Colossus software claims programs or any successors or revised editions of those programs utilized by Allstate.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "internal and external," "created by," "describe, explain, or relate to," "Xactimate and Colossus software claims programs," "any successors or revised editions," and "utilized by Allstate." In addition, this request is overly broad, unduly burdensome, harassing and in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

In addition, because this request is so broad, Allstate has no way of identifying "any and all" documents that might be responsive to it.

49. Produce any and all Documents and Communications between Allstate and its affiliates that evaluate, discuss, analyze, or otherwise refer or relate in any way to the decision to implement the programs processes and procedures developed by McKinsey and Co.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "between Allstate and its affiliates," "evaluate, discuss, analyze, or otherwise refer or relate in any way," "decision to implement," and "the programs processes and procedures developed by McKinsey and Co." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested.. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

In addition, because this request is so broad, Allstate has no way of identifying "any and all" documents that might be responsive to it.

50. Produce any and all internal and external Documents and Communications that criticize or question the validity or fairness of the claims valuation process or programs used by Allstate.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "internal and external," "criticize or question," "validity or fairness," and "claims valuation process or programs used by Allstate." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

In addition, because this request is so broad, Allstate has no way of identifying "any and all" documents that might be responsive to it.

51. For the time period 2004 to the present, produce copies of any judgments, whether or not they were later vacated, where it was found that Allstate had engaged in the bad faith settlement of an insurance claim(s).

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any judgments," "where it was found," "had engaged in," "bad faith settlement," "insurance claim." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or

documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

52. Produce any and all internal and external Documents and Communications related to a lawsuit filed in Kentucky by attorney Dale Golden alleging bad faith in the handling of a 1997 auto accident on behalf of a Richmond, Kentucky woman.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "internal and external," "related to," "alleging bad faith in the handling of a 1997 auto accident," and "on behalf of a Richmond, Kentucky woman." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

53. Produce any and all internal and external Documents and Communications related to the Advanced Claims Excellence program.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "internal and external," and "Advanced Claims Excellence program." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, ad as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

54. Produce any and all internal and external Documents and Communications related to the Claim Core Process Redesign program.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," and "internal and external." This request is overly broad, unduly burdensome, harassing and oppressive as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

In addition, because this request is so broad, Allstate has no way of identifying "any and all" documents that might be responsive to it.

55. Produce any and all internal and external Documents and Communications associated with the accusations by JoAnn Katzman, a former claims adjuster for Allstate in 2002 and 2003 as to Allstate's claims handling processes.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "internal and external," and "associated with the accusations." This request is overly broad, unduly burdensome, harassing and oppressive n that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

In addition, because this request is so broad, Allstate has no way of identifying "any and all" documents that might be responsive to it.

56. Produce any and all internal and external Documents and Communications related to the accusations made by Shannon Kmatz, a former Allstate claims adjuster concerning the claims adjustment practices of Allstate.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto.

Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "internal and external," "related to the accusations made by," and "Shannon Kmatz." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents. Allstate further objects that the request would require Allstate to violate protective orders issued in other cases.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

In addition, because this request is so broad, Allstate has no way of identifying "any and all" documents that might be responsive to it.

57. Produce any and all Power Point presentations prepared by McKinsey & Co.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "Power Point presentations," and "McKinsey & Co." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant.

58. Produce any and all internal and external Documents and Communications related to the "Zero-Sum Economic Game" program.

RESPONSE: Allstate objects to this request on the grounds that it is overly broad, burdensome and oppressive because it seeks information regarding Allstate offices, regions, claim service areas and personnel outside of the State of Florida. (See State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 422-23 (2003)). In addition, this request is contextually vague and ambiguous, particularly as to the terms "any and all," "internal and external," and "'Zero Sum Economic Game' program." This request is overly broad, unduly burdensome, harassing and oppressive in that it requires the production of documents that are not in Allstate's custody, possession, or control, and as to the time period requested. Allstate also objects to the request on the grounds that the request seeks highly confidential, copyrighted, private, trade secret, and/or proprietary documents.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A. Further, to the extent this request seeks information about Allstate entities that do not write residential personal lines in Florida or risks in states other than Florida it is irrelevant.

59. Produce a copy of any lawsuit(s) filed in any state or federal court in Florida that alleged Allstate engaged in bad faith claims settlement practices.

RESPONSE: Allstate objects to this request on the grounds that it is contextually vague and ambiguous, particularly as to the terms "any lawsuits" and "bad faith claims settlement practices." This request is overly broad, unduly burdensome, harassing and oppressive as to the time period requested.

Allstate further objects to this request on the ground that it seeks information which is irrelevant to the subject matter of the pending investigation. This request seeks information or documents which have nothing to do with the OIR's investigation of Allstate's Florida insurance rates vis-a-vis HB1A and is therefore irrelevant. In addition, this request seeks information or documents related to any and all lines of insurance, when residential property and casualty insurance is the subject of HB1A and the reinsurance program created thereunder. This request seeks information or documents related to risks other than hurricane damage to residential properties, which is the subject of the reinsurance program created under HB1A.

Respectfully submitted,

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Attorneys for Allstate Insurance Company

FILED

JAN 17 2008

Docketed by: ODM

OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY
COMMISSIONER

IN THE MATTER OF:

ALLSTATE FLORIDIAN INSURANCE COMPANY	CASE NOS.: 91774-07
ALLSTATE INDEMNITY COMPANY	91775-07
ALLSTATE PROPERTY & CASUALTY INSURANCE COMPANY	91777-07
ALLSTATE INSURANCE COMPANY	91778-07
ALLSTATE FLORIDIAN INDEMNITY COMPANY	91779-07
ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY	91780-07
ENCOMPASS INSURANCE COMPANY OF AMERICA	91781-07
ENCOMPASS INDEMNITY COMPANY	91786-07
ENCOMPASS FLORIDIAN INSURANCE COMPANY	91787-07
ENCOMPASS FLORIDIAN INDEMNITY COMPANY	91788-07

______________________________________/

IMMEDIATE FINAL ORDER

TO:

ALLSTATE INSURANCE COMPANY, ET AL.
3075 Sanders Road, Suite H1A
Northbrook, Illinois 60062-7127

YOU ARE HEREBY NOTIFIED that pursuant to the provisions of the Florida Insurance Code, including Sections 624.307, 624.317, 624.318, 624.418, 624.4211 of the Florida Statutes (2007), the STATE OF FLORIDA, OFFICE OF INSURANCE REGULATION (the "Office"), has caused an investigation to be made of the insurance-related activities of ALLSTATE FLORIDIAN INSURANCE COMPANY, ALLSTATE INDEMNITY COMPANY, ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY, ALLSTATE FLORIDIAN INDEMNITY COMPANY, ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY, ENCOMPASS INSURANCE COMPANY OF AMERICA, ENCOMPASS INDEMNITY COMPANY, ENCOMPASS FLORIDIAN

INSURANCE COMPANY, and ENCOMPASS FLORIDIAN INDEMNITY COMPANY ("Allstate" or "Respondents"). As a result of its investigation, the Office, finds:

1. The Office has jurisdiction over the parties and the subject matter pursuant to Sections 120.569 (Decisions which affect substantial interests), 624.307 (General Powers and duties), 624.317 (Investigation of agents, adjusters, administrators, service companies and others), 624.318 (Conduct of examination or investigation; access to records; correction of accounts; appraisals), and 626.9541 (Unfair methods of competition and unfair or deceptive acts or practices), Florida Statutes.

2. Section 624.11(1), Florida Statutes, states that: "No person shall transact insurance in this state, or relative to a subject of insurance resident, located, or to be performed in this state, without complying with the applicable provisions of this code."

3. Section 624.04, Florida Statutes, defines "Person" to include an individual, insurer, company, association, organization, Lloyds, society, reciprocal insurer or interinsurance exchange, partnership, syndicate, business trust, corporation, agent, general agent broker, services representative, adjuster, and every legal entity.

4. In accordance with Section 20.121(3)(a)1., Florida Statutes, the Office is responsible for all activities concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision, as provided under the Florida Insurance Code (the "Code") or chapter 636. The Office is required to enforce the provisions of the Code. §624.307(1). In the discharge of its duty, the Office has the powers and authority expressly conferred upon it or reasonably implied from the provisions of the Code. §624.307(2). The Florida Legislature intended to regulate trade practices relating to the business

of insurance under the Unfair Insurance Trade Practices Act. §626.951. Section 627.031, Florida Statutes, provides that the purpose of the Rating Law is "to promote the public welfare ... to protect policyholders and the public against the adverse effects of excessive, inadequate or unfairly discriminatory insurance rates..."

5. The Office is empowered to conduct investigations of insurance matters as it may deem proper to determine whether any person has violated any provision of the Code or to secure information useful in the lawful administration of any such provision. §624.307(3). Sections 624.307, 624.318, 624.321, and 624.324, Florida Statutes, govern investigations conducted by the Office.

6. To facilitate investigations conducted by the Office, Florida law requires insurers to fully cooperate. Section 624.318(2), Florida Statutes, requires:

> Every person being examined or investigated, and <u>its officers, attorneys, employees, agents, and representatives, shall make freely available</u> to the department or office or its examiners or investigators the accounts, records, documents, files, information, assets, and matters in their possession or control relating to the subject of the examination or investigation. (Emphasis added.)

7. In order to implement Section 624.318, Florida Statutes, and to aid the Office in its investigations of insurers in this state, the Code empowers the Office to "subpoena witnesses, compel their attendance and testimony, and require by subpoena the production of books, papers, records, files, correspondence, documents, or other evidence which is relevant to the inquiry." §624.321(1)(b).

8. The Respondents are foreign corporations with a principal place of business at 2775 Sanders Road, Northbrook, Illinois 60062-6127. The Respondents are currently authorized by the Office to conduct business as property and casualty insurers in the state of Florida.

9. On October 16, 2007, the Office served investigative subpoenas and subpoenas

duces tecum ("subpoenas") on the Respondents. The subpoenas required the production of documents on or before November 30, 2007. The subpoenas *duces tecum* required the corporate representative(s) of the Respondents with knowledge, to appear and testify at a public hearing in Tallahassee, Florida on January 15-16, 2008. (See Tab 1)

10. The subpoenas requested documents from the Respondents with regard to non-renewals, underwriting practices, claims settlement practices, reinsurance programs, and relationships to risk modeling companies, insurance rating organizations or companies, and insurance trade associations.

11. The Office specifically requested that the Respondents produce a report issued by McKinsey and Co. ("McKinsey Report"), a New York based consulting firm, which was retained by the Respondents to aid in the formulation of its claims handling procedures. Subpoena items numbered 39. through 59., were carefully crafted by the Office to gather information related to Allstate's improper claims handling processes and to assist the Office in assessing the extent to which Allstate is causing harm to Florida consumers.

12. On November 30, 2007, the Office received approximately 27,000 bates-stamped pages from the Respondents. The documents received by the Office were not in compliance with the subpoenas' instructions. The Office received an additional three boxes of documents on December 31, 2007, that were also non-compliant with the subpoenas' instructions. These productions included public documents that Allstate knew were already in the Office's possession, such as rate filings and also included documents with missing pages.

13. On November 30, 2007, the Respondents filed 51 pages of frivolous objections with the Office. The objections indicated that the Respondents did not intend to produce all

documents responsive to items numbered 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, and 59 of the subpoenas.[1] (See Tab 2)

14. The Respondents failed to comply with the Office subpoenas. Generally, the Respondents objected to the subpoenas as a "fishing expedition" that seeks to obtain information irrelevant to the Office's investigation of their 2007 Florida homeowners' insurance rates as they pertain to House Bill 1A,[2] despite the fact that the investigation is not limited to issues related to House Bill 1A.

15. The Respondents also refused to produce documents on grounds of irrelevancy, privacy, confidentiality, proprietary, trade secrecy, and privilege. The Respondents objected to the release of certain documents that would allegedly infringe upon the privacy rights of policyholders or insureds.

16. The Respondents did not produce the McKinsey Report and related documents claiming that compliance would require them to violate protective orders issued in other cases. Judge Michael Manners, however, of the Circuit Court of Jackson County, Missouri, had previously directed Allstate to produce those documents. (See Tab 3)

17. The significance of these documents is based on complaints received by the Office and information contained in J. Robert Hunter's[3], July 18, 2007, report titled *The "Good Hands" Company or a Leader in Anti-Consumer Practice? Excessive Prices and Poor Claims*

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[1] Note, Encompass Floridian Insurance Company filed the same objections; however, the numbering is different. Thus, the objections for Encompass Floridian Insurance Company contain items numbered 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, and 57.

[2] House Bill 1A became law on January 25, 2007. It is currently Chapter 2007-1, Laws of Florida, but has been consistently referred to as House Bill 1A. Thus, that reference is repeated here to avoid any confusion.

[3]J. Robert Hunter, one of the nation's leading insurance consumer advocates is the Director of Insurance for the Consumer Federation of America. Mr. Hunter is a Fellow of the Casualty Actuarial Society and a former Federal Insurance Administrator and Texas Insurance Commissioner.

Practices at the Allstate Corporation. (See Tab 4) Without full and complete information from Allstate including subpoena items 39. through 59., the Office is unable to document Allstate's claims handling procedures and protect the public.

18. The Hunter Report makes the following specific findings regarding Allstate's claims handling practices:

> In 1992, Allstate adopted the "Claims Core Process Redesign" (CCPR) system recommended by McKinsey & Company. As explained in the book "From 'Good Hands' to Boxing Gloves," the CCPR was intended to "radically alter our whole approach to the business of claims." McKinsey saw the CCPR as a "Zero Sum Game."
>
> As the key element of CCPR, Allstate uses a program known as "Colossus," sold by Computer Sciences Corporation (CSC.) CSC sales literature touted Colossus as "the most powerful cost savings tool" and also suggested that, "the program will immediately reduce the size of bodily injury claims by up to 20 percent." As reported in the book From "Good Hands" to Boxing Gloves, "...any insurer who buys a license to use Colossus is able to calibrate the amount of 'savings' it wants Colossus to generate...<u>If Colossus does not generate 'savings' to meet the insurer's needs or goals, the insurer simply goes back and "adjusts' the benchmark values until Colossus produces the desired results."</u> (Emphasis Added)
>
> Programs like Colossus are designed to systematically reduce payments to policyholders without adequately examining the validity of each individual claim. The use of these programs appears to sever the promise of good faith that insurers owe their policyholders. <u>Any increase in profits that results from arbitrarily selected reductions in claims payments cannot be considered to be legitimate.</u> (Emphasis Added) The introduction of these systems could explain part of the decline in benefits that policyholders have been receiving as a percentage of premiums paid in recent years by Allstate and later, to a lesser degree, by the insurance industry. Most, but not all, major insurance companies are now using Colossus. In most cases the purchase of the system was made by insurers following the marketing efforts of CSC, which promise significant savings in claims costs.

19. Such improper claims handling practices are harmful to Allstate's customers in Florida and are a continuing direct violation of the Florida's Unfair Insurance Trade Practices Act.

20. The Florida Unfair Insurance Trade Practices Act provides, in pertinent part, at Section 626.9541(1)(i), Florida Statutes, that the following unfair claim settlement practices are defined as unfair methods of competition and unfair or deceptive acts or practices in Florida:

> 2. A material misrepresentation made to an insured or any other person having an interest in the proceeds payable under such contract or policy, for the purpose and with the intent of effecting settlement of such claims, loss, or damage under such contract or policy on less favorable terms than those provided in, and contemplated by, such contract or policy; or
>
> 3. Committing or performing with such frequency as to indicate a general business practice any of the following:
>
> a. Failing to adopt and implement standards for the proper investigation of claims;
> b. Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
> c. Failing to acknowledge and act promptly upon communications with respect to claims;
> d. Denying claims without conducting reasonable investigations based upon available information; ...

21. The Respondents had until and including the date of the public hearing, January 15, 2008, almost 3 months, to produce the subpoenaed documents. The Respondents did not request an extension of time. Instead, the Respondents appeared before the Office at the hearing without any additional documents or witnesses prepared to answer the Office's questions about the subpoenas as directed. The public hearing was dominated by the Respondents' failure to provide responsive documents and knowledgeable witnesses as required by the Office's subpoenas. The transcript clearly shows the lack of any good faith by the Respondents to comply with the Office's subpoenas. (See Tab 5, page 31, lines 15-23, page 42, and page 56).

22. The need to protect Florida consumers is a grave concern of the Office. The comments made by Senator Atwater at the conclusion of the public hearing most accurately express this concern and the importance of the Office's need to enforce the subpoenas:

SENATOR ATWATER: Thank you, Commissioner.

Just a commentary at this point, because from my observations, this hearing has begun and ended on very sad notes, that we came here with the intent today to understand when and how and who would be answering questions that comply with these subpoenas, and to have asked questions that from the very outset that people were not here prepared to answer would lead me to believe that maybe you have even suggested that Allstate has decided to narrow the focus of our observations and our questions today by who they would provide us to talk to.

And I think the saddest commentary that I would offer today is that after all we went through in the creation of House Bill 1-A with representatives of your organization present in this Capitol and involved in those discussions, and after the presumptive factor filing, after the true-up filing, after all the efforts to learn more here, it took sitting here under oath for you to say to us, "The Office of Regulation now has our attention." It took that, to sit here now under oath, to say, "The State now has our attention."

I just wonder, what was it about your customer, what was it about the citizen of Florida, what was

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it about their financial hardship, what was it about their suffering that was unable to get your attention?

And to hear that these questions are breathtakingly broad? What's been breathtakingly broad is the dance that you have offered to avoid answering.

Commissioner, I do have one thing to ask. I would like to understand in Florida law what is the maximum penalty for avoiding and dancing and noncomplying with a subpoena of this office, because I would tell you that this dance is over. The people of Florida needed relief, the state Legislature offered relief and they're going to get relief, and I will tell you in the end, they're also going to get justice.

(See Tab 5, pages 105-106)

23. While the Office may choose to enforce its subpoenas in circuit court under Section 624.321(2), Florida Statutes, it is not the exclusive remedy available to the Office. In

this instance, the actions by the Respondents in the previously referred to Missouri litigation, lead the Office to believe that such a course, if repeated here, would be futile and ineffective.

24. There, a Missouri court ordered the Respondents to produce documents in a civil trial. Similar to the McKinsey documents which the Office now seeks access to, Allstate argued, as they did here, that the documents were trade secret and should not be produced without a protective order. The court refused to enter a protective order and required the Respondents to produce the documents or incur a fine of $25,000 a day until they complied. It is the Office's understanding the Respondents still have not produced those documents and that currently the court imposed fine totals approximately $2.4 million. (See Tab 3)

25. It is apparent to the Office that Allstate is perfectly willing to disobey a lawful court order even if the result is the imposition of a significant fine.

26. Section 624.418(1)(b), Florida Statutes, requires the Office to suspend or revoke an insurer's Certificate of Authority if it finds that the insurer "is using such methods and practices in the conduct of its business as to render its further transaction of insurance in this state hazardous or injurious to its policyholders or to the public."

27. Section 624.418(2)(a), Florida Statutes, gives the Office the discretion to suspend or revoke an insurer's Certificate of Authority when the insurer violates the Code.

28. The Office has the right to receive and review privileged, confidential, or trade secret documents. Absent assertions of a privilege against self-incrimination, the only privilege recognized by the legislature in the Code, insurers must cooperate with an Office investigation. §624.322(1). Insurers, including their attorneys, must produce requested documents. *See* §624.318(2).

29. The Respondents' failure to produce documents is not only a continuing violation of Section 624.318, Florida Statutes, but it is also a willful ongoing crime pursuant to Section 624.15(1), Florida Statutes. [4] Section 624.15(1), Florida Statutes, provides that:

> Each willful violation of this code or rule of the department, office, or commission as to which a greater penalty is not provided by another provision of this code or rule of the department, office, or commission or by other applicable laws of this state is a misdemeanor of the second degree and is, in addition to any prescribed applicable denial, suspension, or revocation of certificate of authority, license, or permit, punishable as provided in s. 775.082 or s. 775.083. Each instance of such violation shall be considered a separate offense.

30. Proper regulation of the business of insurance is essential to protecting policyholders and the public welfare, and therefore, it is imperative that insurers freely and timely provide all records as required by law. Section 624.307(1), Florida Statutes, setting forth the powers and duties of the Office, provides that the Office shall enforce the provisions of the Code and shall execute the duties imposed upon it by the Code. Allstate's actions clearly evidence a continuing attempt to improperly subvert, manipulate, and undermine the regulatory process, and such actions evidence a lack of trustworthiness on the part of Allstate's management, officers, and directors.

WHEREFORE, pursuant to the Florida Insurance Code and other applicable statutes, including, Section 120.569(2)(n), Florida Statutes, the Office finds that the Respondents continuing failure to provide lawfully requested documents and thus its continuous criminal violations of Florida law constitutes an immediate danger to the public welfare so as to require the issuance of this Immediate Final Order to ALLSTATE FLORIDIAN INSURANCE COMPANY, ALLSTATE INDEMNITY COMPANY, ALLSTATE PROPERTY AND

[4] The Respondents labeled documents as trade secret here, even though they had knowledge that some of the documents were already documents in the public domain. The Respondents' representatives admitted during the public hearing that the Respondents' claim of trade secret was not appropriately raised. (Tab 5, pages 40-41). The Respondents have no basis to refuse to produce the McKinsey Report or any other documentation.

CASUALTY INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY, ALLSTATE FLORIDIAN INDEMNITY COMPANY, ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY, ENCOMPASS INSURANCE COMPANY OF AMERICA, ENCOMPASS INDEMNITY COMPANY, ENCOMPASS FLORIDIAN INSURANCE COMPANY, and ENCOMPASS FLORIDIAN INDEMNITY COMPANY.

Accordingly, **IT IS HEREBY ORDERED**:

A. The Certificates of Authority issued by the Office for ALLSTATE FLORIDIAN INSURANCE COMPANY, ALLSTATE INDEMNITY COMPANY, ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY, ALLSTATE FLORIDIAN INDEMNITY COMPANY, ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY, ENCOMPASS INSURANCE COMPANY OF AMERICA, ENCOMPASS INDEMNITY COMPANY, ENCOMPASS FLORIDIAN INSURANCE COMPANY, and ENCOMPASS FLORIDIAN INDEMNITY COMPANY are forthwith IMMEDIATELY SUSPENDED and the Respondents are no longer authorized to transact any new insurance business in the state of Florida, until all of the requested documents are produced in accordance with the subpoenas.

B. Nothing in this Order shall effect current policyholders or prevent the renewal of current policyholders by ALLSTATE FLORIDIAN INSURANCE COMPANY, ALLSTATE INDEMNITY COMPANY, ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY, ALLSTATE FLORIDIAN INDEMNITY COMPANY, ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY, ENCOMPASS INSURANCE COMPANY OF AMERICA, ENCOMPASS INDEMNITY COMPANY, ENCOMPASS FLORIDIAN INSURANCE COMPANY, and ENCOMPASS FLORIDIAN INDEMNITY COMPANY;

C. ALLSTATE FLORIDIAN INSURANCE COMPANY, ALLSTATE INDEMNITY COMPANY, ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY, ALLSTATE FLORIDIAN INDEMNITY COMPANY, ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY, ENCOMPASS INSURANCE COMPANY OF AMERICA, ENCOMPASS INDEMNITY COMPANY, ENCOMPASS FLORIDIAN INSURANCE COMPANY, and ENCOMPASS FLORIDIAN INDEMNITY COMPANY shall inform their agents and all other agents through which they have transacted insurance in Florida, immediately, that they can not write any new business until such time as they have complied with Section 624.318, Florida Statutes, and received approval from the Office;

D. ALLSTATE FLORIDIAN INSURANCE COMPANY, ALLSTATE INDEMNITY COMPANY, ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY, ALLSTATE FLORIDIAN INDEMNITY COMPANY, ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY, ENCOMPASS INSURANCE COMPANY OF AMERICA, ENCOMPASS INDEMNITY COMPANY, ENCOMPASS FLORIDIAN INSURANCE COMPANY, and ENCOMPASS FLORIDIAN INDEMNITY COMPANY shall provide to the Office a copy of the notice sent to all of its Florida agents, alerting them to this action, together with a written statement averring that such notice was transmitted to all such agents immediately. Such written statement shall be signed by a company officer or director and shall state that it is proffered to the Office under Section 624.310, Florida Statutes. The notice shall be delivered to the Office no later than January 22, 2008.

E. ALLSTATE FLORIDIAN INSURANCE COMPANY, ALLSTATE INDEMNITY COMPANY, ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY, ALLSTATE FLORIDIAN INDEMNITY COMPANY, ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY, ENCOMPASS INSURANCE COMPANY OF AMERICA, ENCOMPASS INDEMNITY COMPANY, ENCOMPASS FLORIDIAN INSURANCE COMPANY, and ENCOMPASS FLORIDIAN INDEMNITY COMPANY shall continue to administer and service all existing insurance policies issued in Florida in accordance with the insurance policies' provisions and the Florida Insurance Code;

F. ALLSTATE FLORIDIAN INSURANCE COMPANY, ALLSTATE INDEMNITY COMPANY, ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY, ALLSTATE FLORIDIAN INDEMNITY COMPANY, ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY, ENCOMPASS INSURANCE COMPANY OF AMERICA, ENCOMPASS INDEMNITY COMPANY, ENCOMPASS FLORIDIAN INSURANCE COMPANY, and ENCOMPASS FLORIDIAN INDEMNITY COMPANY shall continue to file with the Office all documents and information and pay all fees and taxes as if the Certificates of Authority had continued in full force pursuant to Section 624.421(2), Florida Statutes;

G. ALLSTATE FLORIDIAN INSURANCE COMPANY, ALLSTATE INDEMNITY COMPANY, ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY, ALLSTATE FLORIDIAN INDEMNITY COMPANY, ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY, ENCOMPASS INSURANCE COMPANY OF AMERICA, ENCOMPASS INDEMNITY COMPANY, ENCOMPASS FLORIDIAN INSURANCE COMPANY, and ENCOMPASS FLORIDIAN INDEMNITY COMPANY shall comply with all requirements applicable to foreign insurers licensed to transact insurance in this state as set forth in the Florida Insurance Code and the Florida Administrative Code.

H. ALLSTATE FLORIDIAN INSURANCE COMPANY, ALLSTATE INDEMNITY COMPANY, ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY, ALLSTATE FLORIDIAN INDEMNITY COMPANY, ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY, ENCOMPASS INSURANCE COMPANY OF AMERICA, ENCOMPASS INDEMNITY COMPANY, ENCOMPASS FLORIDIAN INSURANCE COMPANY, and ENCOMPASS FLORIDIAN INDEMNITY COMPANY shall honor all current and future claims arising from policies currently issued in Florida as well as all other obligations and liabilities which have or may arise from their past and current operations in Florida.

DONE AND ORDERED this 17TH day of January 2008.

Kevin M. McCarty

KEVIN M. McCARTY
Commissioner
Office of Insurance Regulation

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review of this Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Fla.R.App.P. Review proceedings must be instituted by filing a petition or notice of appeal with the General Counsel of the Office of Insurance Regulation, acting as the Agency Clerk, at 612 Larson Building, Tallahassee, Florida 32399-4206, and a copy of the same with the appropriate District Court of Appeal, within thirty (30) days of rendition of this Order.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing IMMEDIATE FINAL ORDER has been furnished by U.S. Certified Mail to: ALLSTATE FLORIDIAN INSURANCE COMPANY, ALLSTATE INDEMNITY COMPANY, ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY, ALLSTATE FLORIDIAN INDEMNITY COMPANY, ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY, ENCOMPASS INSURANCE COMPANY OF AMERICA, ENCOMPASS INDEMNITY COMPANY, ENCOMPASS FLORIDIAN INSURANCE COMPANY, AND ENCOMPASS FLORIDIAN INDEMNITY COMPANY, 3075 Sanders Road, Suite H1A, Northbrook, Illinois 60062-7127, and by Regular U.S. Mail to: PETER ANTONACCI, ESQUIRE, Gray Robinson, P.A., 301 South Bronough Street, Suite 600, Tallahassee, Florida 32301, and DAVID A. YON, ESQUIRE, 301 South Bronough Street, Suite 200, Tallahassee, Florida 32301, this 17 day of January 2008.

RHODA K. JOHNSON
Assistant General Counsel
Florida Bar No. 0016653
Office of Insurance Regulation
612 Larson Building
200 East Gaines Street, Suite 645A-5
Tallahassee, Florida 32399-4206

Detail by Entity Name

Foreign Profit Corporation

ALLSTATE INSURANCE COMPANY

Filing Information

Document Number	804956
FEI Number	360719665
Date Filed	10/18/1938
State	IL
Status	ACTIVE

Principal Address

2775 SANDERS RD
NORTHBROOK IL 60062 US

Changed 04/27/1994

Mailing Address

3075 SANDERS RD
STE - H1A
NORTHBROOK IL 60062 US

Changed 07/01/1996

Registered Agent Name & Address

CHIEF FINANCIAL OFFICER
P O BOX 6200 (32314-6200)
200 E. GAINES ST
TALLAHASSEE FL 32399-0000 US

Name Changed: 03/17/2003

Address Changed: 03/17/2003

Officer/Director Detail

Name & Address

Title CFO

HALE, DANNY L
2775 SANDERS RD, F8
NORTHBROOK IL 60062

Title PR

WILSON, THOMAS J
2775 SANDERS RD, F9
NORTHBROOK IL 60062

Title GVP

PILCH, SAMUEL H
3075 SANDERS ROAD, H1A
NORTHBROOK IL 60062

Title DIR

BRUNE, CATHERINE S
2775 SANDERS RD
NORTHBROOK IL 60062

Title DIR

SIMONSON, ERIC A
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NORTHBROOK IL 60062

Title DIR

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NORTHBROOK IL 60062

Annual Reports

Report Year	Filed Date
2005	03/17/2005
2006	04/07/2006
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IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

ALLSTATE FLORIDIAN INSURANCE COMPANY; ALLSTATE INDEMNITY COMPANY; ALLSTATE PROPERTY & CASUALTY INSURANCE COMPANY; ALLSTATE INSURANCE COMPANY; ALLSTATE FLORIDIAN INDEMNITY COMPANY; ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY; ENCOMPASS INSURANCE COMPANY OF AMERICA; ENCOMPASS INDEMNITY COMPANY; ENCOMPASS FLORIDIAN INSURANCE COMPANY; and ENCOMPASS FLORIDIAN INDEMNITY COMPANY,

Respondents/Appellants,

vs. CASE NO. 1D08-275

OFFICE OF INSURANCE REGULATION,

Petitioner/Appellee.

_______________________________________/

CORRECTED[1] EMERGENCY MOTION FOR IMMEDIATE RELIEF FROM IMMEDIATE FINAL ORDER SUSPENDING LICENSES

After requesting the Office of Insurance Regulation's ("OIR") agreement to a stay of its Immediate Final Order ("IFO"), which the OIR refused, appellants Allstate Floridian Insurance Company; Allstate Indemnity Company; Allstate

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[1] This Corrected Emergency Motion includes a few minor typographical errors and corrections, and completes the citations to the Appendix which is being filed and served simultaneously with this Corrected Motion.

Property & Casualty Insurance Company; Allstate Insurance Company; Allstate Floridian Indemnity Company; Allstate Fire and Casualty Insurance Company; Encompass Insurance Company of America; Encompass Indemnity Company; Encompass Floridian Insurance Company; and Encompass Floridian Indemnity Company (collectively the "Allstate Companies" or "Appellants") now request the Court to enter an Order providing immediate relief from the OIR's unlawful IFO. The IFO purports to instantaneously deprive Appellants of their substantial rights by suspending, from the moment rendered, the Allstate Companies' certificates of authority (licenses) to write new insurance policies in the state of Florida. A copy of the IFO with its voluminous attachments has been filed with the Notice of Administrative Appeal, and a copy of the IFO without attachments is included in the appendix to this motion. (App. Tab 1) OIR did not give prior notice or hearing or process, other than press conferences,[2] to Appellants in connection with the IFO.

The immediately effective license suspension order purports to be an exercise of OIR's extraordinary emergency order authority that is supposed to be limited to taking only that action necessary to stop specific immediate dangers to the public health, safety, or welfare. Instead, OIR has abused its power by issuing an emergency order that is intended to function as a punitive stick against the Allstate Companies. The OIR apparent goal is to use punishment against the

[2] The OIR press release on January 16, 2008 (App. Tab 2) announced the suspension, although the IFO was not rendered until the next day.

Allstate new insurance business as an indirect means to extract better responses to OIR investigative subpoenas issued in furtherance of its highly publicized investigation of residential property insurance rate practices, when the Allstate Companies have attempted and are continuing in good faith to respond to the subpoenas and produce as best they can and as quickly as is practicable the huge volumes of documents requested by the OIR, while preserving their right to interpose appropriate objections to improper requests.

The OIR apparently believes that the Allstate Companies have not moved quickly enough to respond to the investigation, but that belief does not give rise to an immediate danger to the public health, safety, or welfare at all, much less one that would be stopped by the OIR's immediate order stopping the Allstate Companies from writing new insurance policies in Florida while allowing the Allstate Companies to continue all of their existing insurance business and renewals of that insurance. There is a fatal disconnect between the OIR's exercise of emergency authority and the circumstances relied on as the basis for the action.

If OIR firmly believes that the Allstate Companies have not adequately responded to its subpoenas, then the remedy provided for OIR, in the very statute that provided OIR with the subpoena authority to begin with, is to seek enforcement of its subpoenas in the Circuit Court of Leon County. § 624.321(2), Fla. Stat. (2007). The OIR does not have the authority to self-enforce its own subpoenas, much less to attempt to indirectly extract what it perceives to be full compliance by taking punitive vindictive measures under the guise of a so-called emergency.

As set forth below and in the appendix filed in support of this motion, there is no emergency here, and the OIR's order is facially insufficient. Yet meanwhile, the very issuance of this emergency order and strategic press releases have set into motion the desired frenzy and confusion that has instantly damaged Allstate's reputation, instantly caused irreparable harm to the Allstate Companies, instantly jeopardized the livelihoods of agents and their support staff who rely on revenues generated from issuing new insurance policies, and instantly caused harm to Florida consumers who want to purchase new Allstate insurance policies and have been deprived of that option when there is no good reason, or even any colorable reason, why Allstate issuance of new insurance policies creates any risk of any harm to anyone.

Background

In a special legislative session last January, HB 1-A was enacted in an effort to address a perceived chronic and building crisis in the residential property insurance industry. Ch. 2007-1, Laws of Fla. (2007). The hope and intent was that the legislation would spark a reduction in homeowners' insurance premiums. When that did not occur as hoped, the OIR initiated investigations into insurance company activities. As part of this investigation, on October 16, 2007, OIR issued 20 subpoenas to 10 different Allstate-related companies,[3] and OIR issued a press release announcing the subpoenas and their purpose. (App. Tab 3). With two exceptions, each subpoena and subpoena duces tecum sought production of the same 59 categories of documents.[4] A representative example of these subpoenas, the subpoena duces tecum served on Allstate Insurance Co., is included in the appendix. (App. Tab 4). Allstate immediately marshaled the necessary resources. Over 45 Allstate employees were deployed to identify persons likely to have knowledge or possession of documents responsive to the OIR subpoenas. Since October 16, 2007, Allstate employees have spent over 2,000 personnel hours searching for documents, preparing documents for production, and accomplishing production to OIR. (Doughty Affidavit, App. Tab 5, ¶ 3).

On November 30, 2007, Allstate filed general and specific objections to the subpoenas on various grounds, as provided by Florida law. *See, e.g., Check 'n Go*

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[3] A subpoena and a subpoena duces tecum were served on the following 10 companies: Allstate Fire and Casualty Insurance Company, Allstate Floridian Indemnity Company, Allstate Floridian Insurance Company, Allstate Indemnity Company, Allstate Insurance Company, Allstate Property & Casualty Insurance Company, Encompass Floridian Indemnity Company, Encompass Floridian Insurance Company, Encompass Indemnity Company, and Encompass Insurance Company of America.

[4] The subpoenas served on Encompass Floridian Insurance Co. omitted paragraphs 6 and 7, and thus sought only 57 categories of documents.

of Florida, Inc. v. State, 790 So. 2d 454 (Fla. 5th DCA 2001); *Advance America v. State*, 801 So. 2d 310 (Fla. 1st DCA 2001). The objections filed by Allstate Insurance Co., are included in the appendix to this motion. (App. Tab 6) Categories of documents sought by the subpoenas were sweeping in scope, sought documents constituting confidential trade secrets, or were protected by various, legally recognized privileges, and were interposed as contemplated by the subpoenas on their face. (App. Tab 4, p. 5, subpoena instruction 3)

However, the Allstate response makes clear that, notwithstanding the objections, it would produce documents responsive to categories 1- 38 in the subpoenas and, in fact, nearly 28,000 pages of responsive documents accompanied the objections. The Allstate response asserted objections to the document requests in categories 39 – 59. (App. Tab 6) A cover letter by investigative counsel for Allstate submitted with this production and objections confirmed that efforts to respond were continuing and OIR could expect a rolling production under which the company would "continue to review files and will produce additional documents responsive to the subpoenas as quickly as reasonably possible." The letter further stated that "the next production would occur in late December." (App. Tab 7; Graw affidavit, App. Tab 8, ¶3)

Following the November 30, 2007, submissions, no complaint, written or verbal, was made by OIR to Allstate's general or specific objections, or the rolling nature of the production, and OIR did not seek relief in circuit court as provided by law. As will be discussed in greater detail below, the statute authorizing the OIR investigative subpoenas provides a specific avenue for OIR to seek enforcement of its subpoenas in circuit court. § 624.321(2), Fla. Stat. (2007). That is the way administrative agencies can obtain an adjudication regarding compliance with their investigative subpoenas and the propriety of asserted objections based on such matters as the scope of the subpoena and entitlement to privileges. *See, e.g., Check 'n Go, supra; Advance America, supra;* and *Bayfront Medical Center, Inc. v. Agency for Health Care Administration*, 741 So. 2d 1226 (Fla. 2d DCA 1999) (all involving appeals from circuit court actions by administrative agencies to enforce investigative subpoenas, in which the propriety of objections to overbreadth and privileges were adjudicated).

Allstate continued its production by delivering over 8,000 additional pages of documents on December 31, 2007. Once again, Allstate accompanied its production with a letter referencing, among other things, Allstate's continuing efforts to produce documents and its position that documents produced contained confidential and privileged information. The letter also expressed Allstate's particular concern about confidentiality because it had been reported in the media that state officials outside OIR had seemingly formed an alliance with a group of private lawyers to perform the same investigation being conducted by OIR. (App. Tab 9)

Once again, following the December 31, 2007, submissions, OIR took no action to enforce its subpoenas in circuit court to test compliance. Instead, OIR sent a letter to Allstate on January 4, 2008, complaining that Allstate had not organized the documents produced according to the almost 60 categories set forth in the subpoenas, and demanded that it receive an "index or some other means to organize the documents produced" no later than Monday January 7, 2008. (App. Tab 10) In accordance with OIR's demand, an index was provided to OIR on Monday, January 7, 2008. (App. Tab 11) To date, OIR has not expressed dissatisfaction with the index or challenged the asserted objections in a circuit court enforcement action.

The IFO was issued by OIR on January 17, 2008, after being extensively previewed to the press via OIR press release (App. Tab 2), media accounts, and an appearance by the OIR Commissioner on CNBC the afternoon before the IFO was rendered. On its face, rhetoric aside, the IFO can be boiled down to the following finding by the OIR:

> Proper regulation of the business of insurance is essential to protecting policyholders and the public welfare, and therefore, it is imperative that insurers freely and timely provide all records as required by law. …

> WHEREFORE, pursuant to the Florida Insurance Code and other applicable statutes, including, Section 120.56(2)(n), Florida Statutes, the Office finds that the Respondents continuing failure to provide lawfully requested documents and thus its continuous criminal violations of Florida law constitutes an immediate danger to the public welfare so as to require the issuance of this Immediate Final Order …

(App. Tab 1, p. 11) The remainder of the IFO engages in conclusory allegations and speculation regarding where OIR's investigation may lead, including suggestions that it might, if there were more production, lead to concerns about Allstate's insurance practices. The OIR concludes, for example, in paragraph 18, "Without full and complete information from Allstate including subpoena items 39. through 59., the Office is unable to document Allstate's claims handling procedures and protect the public." (App. Tab 1, p. 6) In short, then, the IFO is the indirect means by which OIR is seeking to coerce what it considers to be complete production, while rejecting out of hand any assertion of privilege and any objection to the scope of the subpoena.

Finally, although the OIR is full aware that there is a statutory avenue provided for enforcement of its investigatory subpoenas in circuit court, the IFO asserts that Section 624.321(2), Florida Statutes, "is not the exclusive remedy available to the Office." (App. Tab 1, p. 9) Based on speculation, incomplete information, and "the Office's understanding" about civil trial matters in another state, OIR concludes that it may forego judicial remedies because they would be "ineffective." IFO, p. 9-10 (App. Tab 1, p. 9-10).

What the IFO does not do is provide particular facts regarding specific incidents of immediate serious danger that is supposedly the result of Allstate's production responses in the investigation. Nor does the IFO recite why or how the specific action taken here is necessary to stop such immediate serious danger (because no such danger is ever articulated). Instead, there is nothing more than generic conclusory allegations that Allstate's investigation responses have been inadequate, therefore in violation of the Insurance Code, therefore an immediate danger.

Court's Authority to Grant Immediate Relief

A party in the position of the Allstate Companies who is subjected to an immediate final order has the right to seek immediate review in the district court of appeal, and also, to seek ancillary relief to enjoin or stay the IFO pending review, pursuant to the Court's broad powers under Subsection 120.68(6), Florida Statutes (formerly Subsection 120.68(13)). *Commercial Consultants Corp. v. Department of Business Regulation, Division of Florida Land Sales and Condominiums*, 363 So. 2d 1162, 1163 (Fla. 1st DCA 1978) (temporary cease and desist order, including requirement to immediately notify customers, is subject to immediate review by district court, and effect of Division's order stayed by court pending review); *Criterion Ins. Co. v. State, Department of Insurance*, 458 So. 2d 22, 28 (Fla. 1st DCA 1984) (remedy for immediate final order disapproving rate increase before administrative hearing is to seek immediate review in appellate court, and to ask for court to enjoin or stay order during pendency of review). Accordingly, this Court has the power to grant the relief requested in this Motion by the Allstate Companies.

In addition, where as here the immediate order has the effect of suspending licenses, the licensees are entitled to supersedeas as a matter of right, unless the Court determines that supersedeas would constitute a probable danger to the health, safety, or welfare of the state. § 120.68(3), Fla. Stat. OIR has not alleged, nor could it allege, that the issuance of new insurance policies by Allstate Companies constitutes any danger to anyone of any kind.

Florida Rule of Appellate Procedure 9.190(e)(2)(B) provides one type of expedited procedure for staying an emergency license suspension order, but the Allstate Companies respectfully submit that in this unique case, the Court should exercise its discretion to immediately stay or enjoin the effect of the IFO pending a response by OIR, given the extreme circumstances presented and the patent insufficiency of the OIR IFO.

Legal Standards Applicable to this Motion

Florida Rule of Appellate Procedure 9.190(e)(2)(B) provides an expedited procedure for a stay of an emergency license suspension order, but the extraordinary circumstances in this case compel immediate relief in the interim based on the legal prerequisites for an injunction. By granting this interim relief, this Court can maintain the status quo until OIR can be heard.

Although it is not clear that the same requirements for seeking an injunction in Circuit Court apply here, nonetheless the Allstate Companies believes that those requirements provide a useful analytic framework to decide this Motion. As discussed below, the Appellants satisfy each of the elements for such an injunction: substantial likelihood of success on the merits; likelihood of irreparable harm; unavailability of an adequate remedy at law; and considerations of public interest. *Spradley v. Old Harmony Baptist Church*, 721 So. 2d 735, 737 (Fla. 1st DCA 1998). These factors show the Appellants' entitlement to an injunction or other form of ancillary relief to immediately stay the effectiveness of the IFO pending the Court's consideration of the merits of this appeal.

LIKELIHOOD OF SUCCESS ON THE MERITS

An immediate order issued pursuant to the Florida Administrative Procedure Act, which by its terms is effective without first affording the subject of the order an opportunity for a formal administrative hearing, is subject to immediate judicial review pursuant to Sections 120.569(2)(n) and 120.68, Florida Statutes. Where, as here, the effect of the immediate order is to suspend a license, Section 120.60(6) also applies, as well as heightened constitutional due process considerations described in *Aurora Enterprises, Inc. v. State, Department of Business Regulation*, 395 So. 2d 604 (Fla. 3d DCA 1981).

Section 120.60(6) requires the following for the emergency suspension of licenses:

> If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension, restriction, or limitation of a license, the agency may take such action by any procedure that is fair under the circumstances if:
> (a) The procedure provides at least the same procedural protection as is given by other statutes, the State Constitution, or the United States Constitution;
> (b) The agency takes only that action necessary to protect the public interest under the emergency procedure; and
> (c) The agency states in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. The agency's findings of immediate danger, necessity, and procedural fairness are judicially reviewable. Summary suspension, restriction, or limitation may be ordered, but a suspension or revocation proceeding pursuant to ss. 120.569 and 120.57 shall also be promptly instituted and acted upon.

In reviewing an agency's immediate order, "Every element necessary to the order's validity must appear on its face." *Commercial Consultants Corp. v.*

Department of Business Regulation, 363 So.2d 1162, 1164 (Fla. 1st DCA 1978). To be facially sufficient, the order must "allege facts showing that specific incidents of irreparable harm to the public interest will occur without an immediate cease and desist order," *Id.* As this Court has made clear, an immediate final order is an "extraordinary device" that cannot be predicated on conclusory allegations. *Unimed v. State of Florida, Office of Insurance Regulation*, 884 So. 2d 963, 964 (Fla. 1st DCA 2004) (reversing immediate final order predicated solely on conclusory allegations that appellants' failure to be licensed in violation of Florida law, by itself, constitutes an immediate danger to the public health, safety, and welfare).

Not only must there be particularized factual allegations of specific incidents of irreparable harm to the public without an immediate order, there must also be explicit findings that the emergency action taken is "necessary." § 120.60(6)(b), Fla. Stat.; *Premier Travel International, Inc. v. State of Florida, Department of Agriculture and Consumer Services,* 849 So. 2d 1132, 1136 (Fla. 1st DCA 2003). In explaining why emergency action is necessary, an agency must also explain why less harsh or more narrowly tailored remedies would be insufficient to stop the alleged harm. *Id.; see also Cunningham v. Agency for Health Care Administration,* 677 So. 2d 61 (Fla. 1st DCA 1996) (more narrowly tailored IFO could have adequately addressed concerns).

In this case, the OIR has determined only that in its view, the Allstate Companies have not responded quickly enough or completely enough to allow OIR to complete its investigation, and that such investigation might reveal insurance practice violations. This sort of speculation is patently insufficient. *See, e.g., United Insurance Co. of America v. State Department of Insurance*, 793 So. 2d 1182 (Fla. 1st DCA 2001) (speculation that ongoing investigation may show that insurers have engaged in unlawful racially disparate premium practices insufficient for emergency cease and desist order); *Kodsy v. Department of Financial Services*, __ So. 2d ____, 2008 WL 36616 (Fla. 4th DCA, January 2, 2008) (general conclusory predictions of harm will not be accepted by reviewing court as support for an IFO).

Beyond just the disconnect between the asserted problem that OIR purports to address via its IFO and the action taken in the IFO, there is a more fundamental defect in the OIR action: OIR arrogating to itself the power to adjudicate the validity of its subpoenas, objections to the scope of the requests, and assertion of privileges usurps the power vested in the judiciary, and must be viewed as a violation of the constitutional separation of powers. As previously noted, Section 624.321(2), Florida Statutes (2007), not only provides OIR with the authority to issue investigative subpoenas, it also provides the avenue for OIR to seek enforcement of such subpoenas – in circuit court.[5] This is how administrative agencies can obtain an adjudication as to whether there has been sufficient compliance with an administrative subpoena or whether objections to such matters as the scope of the subpoena or asserted privileges are appropriate. *See, e.g., Check 'n Go of Florida, Inc. v. State*, 790 So.2d 454 (Fla. 5th DCA 2001); *Advance America v. State*, 801 So. 2d 310 (Fla. 1st DCA 2001); *Bayfront Medical Center, Inc. v. Agency for Health Care Administration*, 741 So. 2d 1226 (Fla. 2d DCA 1999). Each of these cases involved appeals from circuit court actions brought by administrative agencies to enforce investigative subpoenas, and in each case, the court determined that the administrative subpoenas had to be limited because of appropriate objections to overbreadth or assertions of privilege.

This Court's decision in *Carrow v. Department of Professional Regulation*, 453 So. 2d 842 (Fla. 1st DCA 1984) is instructive. There, the Department issued an administrative subpoena duces tecum to a doctor for certain patient records. The doctor asked the Department to quash its subpoena, asserting that the records were privileged and protected from disclosure. The Department refused, and the

[5] The OIR subpoena itself contemplates such enforcement proceedings in the event of non-compliance: "Failure to comply with this subpoena may result in the initiation of enforcement proceedings pursuant to the Florida Insurance Code." (App. Tab 4, p. 1) The only enforcement proceeding provided for in the Florida Insurance Code for investigative subpoenas is an enforcement proceeding in circuit court pursuant to Section 624.321(2), Florida Statutes.

doctor sought appellate review, fearing that he would be subjected to disciplinary proceedings for failing to comply with the subpoena. This Court, however, ruled that the appeal was premature given the doctor's assertion of privilege, raising justiciable issues concerning the validity of the subpoena:

> We think that under the facts of this case, the circuit court would be the exclusive forum for enforcement proceedings regarding this administrative subpoena. ... [T]he Department may not charge him by administrative complaint with failure to comply with the subpoena until it has first sought enforcement in the circuit court under Section 120.58(3), the court has ruled adversely to him, and he has failed to comply with the subpoena within a reasonable time thereafter.

453 So. 2d at 843.

Contrary to the dictates of these cases and the subpoena enforcement process set forth in Section 624.321(2), Florida Statutes, the OIR has not initiated enforcement proceedings in circuit court. Instead, OIR has purported to resolve all justiciable issues itself as if it were a court, and then circumvented the administrative process as well by immediately imposing punishment for the violations it has adjudged. The OIR action plainly offends state and federal constitutional principles of due process and separation of powers.

IRREPARABLE HARM

As more fully described in affidavits submitted by representatives of the Allstate Companies, and by agents whose business is cut off by the IFO, the IFO has caused immediate and irreparable harm that cannot be entirely alleviated, but would be minimized by the Court's entry of an immediate order enjoining or staying the effect of the IFO. These affidavits are set forth in the appendix at Tabs 5 (Doughty Affidavit), 12 (Gill Affidavit), 13 (Torres Affidavit), and 14 (Martinez Affidavit).

The immediate adverse effect of OIR's IFO is to suspend the Allstate Companies' ability to write new insurance in Florida. The direct injury caused by the IFO to the Allstate Companies, to the Allstate Companies' agency force and to the Allstate Companies' existing and potential customers is immediate and irreparable. Additional immediate and irreparable harm to the Allstate Companies' business reputation and good will was caused by OIR's widespread pre-issuance publicity campaign consisting of press releases, press conference and an appearance by the head of OIR on CNBC announcing how OIR intended to punish the Allstate Companies for objecting to OIR's subpoenas. For example, on January 16, 2008, OIR's website announced the headline, "Florida Insurance Commissioner suspends Allstate Insurance Co." and provided a press release (App. Tab 2) describing the suspension as if it was already in effect, when in fact the IFO was not even rendered until January 17, 2008.

NO OTHER ADEQUATE REMEDY

A stay or an injunction is an extraordinary remedy available only where other remedies are unavailable. The Appellants will suffer immediate adverse impacts from the IFO. Section 120.68 requires this appeal to this Court and the review authority of this Court is exclusive. The Allstate Companies have no other adequate remedy to seek the interim relief sought here during the pendency of its appeal. Because valuable property rights are involved and have been summarily suspended, Florida law recognizes that a stay should be granted during the pendency of this appeal. § 120.68(3), Fla. Stat.; Fla. R. App. P. 9.190(e)(2)(B).

While the Appellants may seek to recover attorney's fees and costs from the OIR caused by Kevin McCarty's IFO, the immediate cost of compliance with the IFO probably cannot be recovered from Kevin McCarty or the OIR. Likewise, the permanent loss of revenue during the period of time while the IFO remains in effect could not be recovered in a damages action.

Ironically, it is OIR that has another adequate remedy – really, the only appropriate remedy for OIR to address the purported concern underlying the IFO. The same statute that provided OIR with the authority to issue investigative subpoenas also provides the means to enforce such a subpoena by bringing an action in circuit court. § 624.321(2), Fla. Stat. (2007).

CONSIDERATIONS OF THE PUBLIC INTEREST

The public interest weighs heavily in favor of staying immediate enforcement of the IFO until the Court can rule on the merits of the Allstate Companies' appeal. OIR is attempting to deprive the Florida public of a valued insurer, agents of their business, and agents' employees of their jobs over what is essentially an inchoate discovery dispute. *Florida Land Co. v. Orange County*, 418 So.2 d 370, 372 (Fla. 5th DCA 1982) (public interests are not served where there is "confusion and disorder" that "produce[s] an injury to the public"); *Fredericks v. Blake*, 382 So. 2d 368 (Fla. 3d DCA 1980) (same).

First, the Allstate Companies presently provide insurance to over two million customers in Florida. (Gill Affidavit, App. Tab 12, ¶ 4) Every year over one hundred thousand Floridians select Allstate as their carrier of choice. (*Id.* ¶ 8) The IFO will remove the Allstate Companies from the market for new business, dramatically decreasing the available choices for Florida consumers. (*Id.*) This will lessen competition and drive up insurance prices, contrary to the purpose of the insurance statutes enacted by the legislature. *E.g.*, *Cummins v. Allstate Indem. Co.*, 732 So. 2d 380, 382 (Fla. 4th DCA 1999) ("The statutes likewise manifest a strong public-policy interest in having motor vehicle insurance made readily available to owners and operators of automobiles at the lowest reasonable cost."); *Hepler v. Atlas Mut. Ins. Co.*, 501 So. 2d 681, 684 (Fla. 1st DCA 1987) (same). In addition, some Florida consumers have obtained quotes from Allstate but have not yet bound coverage. (Gill Affidavit, App. Tab 12, ¶ 9) The IFO, issued when these transactions were pending and awaiting consummation, prevents the Allstate Companies from insuring these customers at the quoted rate, forcing them to seek coverage from another agency and carrier. (*Id.*)

Second, insurance agents and their employees will needlessly suffer severe economic harm from the IFO. Allstate has a sales force of over 1,100 exclusive agents through which it offers insurance in Florida. (*Id.* ¶ 5) Customers whose choices the IFO subverts may never return to those agents. Every one of these agents will see a dramatic, irreplaceable loss of income for as long as the IFO remains in effect and Floridians are forced to use other agents and insurers. (*Id.*) Over 350 agents do not yet have sufficient renewal income and, instead, rely principally on commission income from new business. (*Id.* ¶ 7) The IFO is likely to force some of these agents out of business, along with other agency employees. Further, dozens of new agencies are scheduled to open in the coming weeks. The IFO severely hampers their ability to successfully open and operate their business as well. (*Id.*)

Third, the public interest is not served, but is indeed undermined, when a State agency acts without authority and deprives parties of their constitutional and substantive rights. There is no emergency here. There is no risk to anyone. The

Allstate Companies, their agents, and customers of this state are being irreparably harmed by the mere issuance of the IFO. The Allstate Companies understand that they have a discovery dispute with the OIR. The limited powers accorded the OIR by statute provide the OIR with a way to resolve that discovery dispute -- *i.e.*, by going to the Circuit Court. On its face, however, the OIR is not accorded the power to skip the courts and put companies and their agents out of business. Such conduct is not right; such an Order is not fair; and such an Order deprives the Allstate Companies of their substantive and constitutional rights. OIR has simply chosen to take absolute power into its own hands with immediate effect. Such an Order cannot stand.

In sum, the public interest demands that the OIR follow the law by seeking to enforce its subpoena in this State's judiciary rather than using a discovery dispute to enter an IFO that destroys consumer choice as well as the livelihoods of hundreds of Floridians associated with Allstate.

CONCLUSION

The only immediate danger presented here is the danger that OIR's abuse of power will be allowed to stand in the form of the IFO. If OIR really believes there has been insufficient compliance with its investigative subpoenas, then OIR should avail itself of the statutory avenue afforded to enforce subpoenas. The purported emergency action taken here has nothing to do with any immediate danger, except the immediate danger presented by the IFO itself of an agency's abuse of power. Based on the information presented here, this Court should immediately enter its Order enjoining or staying the enforcement of the IFO during the pendency of this appeal.

I hereby certify that a true and correct copy of the foregoing Corrected Emergency Motion for Immediate Relief from Immediate Final Order Suspending Licenses, along with a copy of the Appendix to the Emergency Motion, were furnished by hand delivery to Steve Parton, Esq., General Counsel, Office of Insurance Regulation, Larson Building, 200 East Gaines Street, Tallahassee, Florida, 32399, this 18th day of January, 2008.

Respectfully submitted,

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January 18, 2008

CASE NO.: 1D08-275
L.T. No. : 91774-07

Allstate Floridian Insurance Company, Et Al.	v.	Office Of Insurance Regulation
Appellant / Petitioner(s),		Appellee / Respondent(s).

BY ORDER OF THE COURT:

Appellants' emergency motion for immediate relief from immediate final order suspending licenses filed January 17, 2008, is granted. The January 17, 2008, Immediate Final Order issued by the Office of Insurance Regulation is stayed pending further order of this court.

Appellee shall show cause within 10 days of the date of this order why the stay should not remain in effect pending a final disposition on the merits of the appeal.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

Served:

Steve Parton, Clerk
Elizabeth Mcarthur
Hon Kevin Mccarty, Commissioner
Harry O. Thomas
Steve Parton, G.C.
David Yon

am

Jon S. Wheeler

JON S. WHEELER, CLERK

DISTRICT COURT OF APPEAL
FIRST DISTRICT
STATE OF FLORIDA