IN THE SUPREME COURT OF THE STATE OF NEVADA

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Case No. 82951

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Elizabeth A. Brown
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NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES,

Appellant,
v.

STATE OF NEVADA EX. REL. DIVISION OF INSURANCE OF THE DEPARTMENT OF BUSINESS AND INDUSTRY;
BARBARA D. RICHARDSON, IN HER OFFICIAL CAPACITY AS COMMISSIONER OF INSURANCE

Respondents.

On Appeal from the Eighth Judicial District Court
Case No. A-21-829339-B

AMICUS CURIAE BRIEF OF THE CONSUMER FEDERATION OF AMERICA AND CENTER FOR ECONOMIC JUSTICE IN SUPPORT OF RESPONDENTS AND AFFIRMANCE

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NRAP 26.1 DISCLOSURE STATEMENT

The undersigned counsel of record certifies that the following are entities as described in NRAP 26.1(a) and must be disclosed. This representation is made in order that the judges of this court may evaluate possible disqualification or recusal.

Consumer Federation of America, an association of non-profit entities
Center for Economic Justice, a non-profit corporation

Neither has a parent corporation, nor is there a publicly held company that owns 10% or more of their stock.

The following law firm has lawyers who appeared on behalf of the amicus curiae or are expected to appear on their behalf in this Court:

Leonard Law, PC

DATED February 3, 2022

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INTRODUCTION

The Consumer Federation of America ("CFA") and the Center for Economic Justice ("CEJ") submit this amicus brief to assist the Court in resolving the lawsuit filed against the Nevada Division of Insurance regarding Regulation R087-20—Adverse Credit Based Rescoring. This regulation is a necessary and proper response to the COVID-19 pandemic and its resulting impact on drivers. This temporary prohibition on the use of credit information to determine insurance rates for personal lines insurance is necessary to address the unfair discrimination created by the impact of the pandemic and related public policy responses on consumer credit histories, as well as the pandemic's exacerbation of racial and ethnic disparities caused by the use of credit information in insurance underwriting, pricing, and other practices.

Disruptions caused by the pandemic and the public policy responses to it made the use of credit history by insurers unfairly discriminatory as an actuarial matter and with respect to protected classes. As such, the rule promulgated by Commissioner Barbara Richardson is within her statutory authority and will protect consumers.

Pursuant to NRAP 29(a), all parties have consented to the filing of this amicus brief and a stipulated consent is being filed concurrently with this brief.

INTEREST OF *AMICI CURIAE*

A. Consumer Federation of America

CFA is an association of over 250 national, state, and local non-profit consumer organizations founded in 1968 to advance the consumer interest through advocacy, research, and education. CFA advocates on behalf of consumers throughout the country, with a focus on the protection of low- and moderate-income consumers. CFA has worked on insurance policy for decades under the direction of J. Robert Hunter, former Federal Insurance Administrator and former Texas Insurance Commissioner.

CFA's insurance expert, Douglas Heller, serves as a member of the United States Department of Treasury's Federal Advisory Committee on Insurance and as a Public Member of the California Automobile Assigned Risk Plan Advisory Board. CFA's insurance advocate Michael DeLong is a member of the Nevada Division of Insurance's Property and Casualty Advisory Committee and has been appointed as a funded Consumer Representative with the National Association of Insurance Commissioners (NAIC). CFA collects, examines, and synthesizes data from a wide variety of sources, including public records, vendors of insurance industry data, and insurers themselves. In recent years CFA has issued several reports related to the issues of credit scoring in insurance, auto insurance affordability, and unfair

discrimination in insurance markets.[1] In 2020, CFA purchased a data set containing auto insurance premiums charged by the largest insurers in every ZIP code in the United States from Quadrant Information Services, LLC.

B. Center for Economic Justice

CEJ is a Texas non-profit organization whose mission is to advocate on behalf of lower-income consumers on issues of availability, affordability, and accessibility of basic goods and services such as utilities, credit, and insurance. CEJ's Director David "Birny" Birnbaum is a member of the Federal Advisory Committee on Insurance, a member of the Federal Reserve Board's Insurance Policy Advisory Committee, and served as Chief Economist and Associate Commissioner for Policy and Research at the Texas Department of Insurance. He has authored reports and testimony for numerous public agencies and consumer organizations, including the California Department of Insurance, the Florida Insurance Commissioner's Task Force on Credit Scoring, the Ohio Civil Rights Commission, the Cities of New York and Philadelphia, and the United States Department of Justice. These reports and testimony have covered a wide variety of topics, including insurance rates, force-placed insurance, consumer credit insurance, title insurance, insurance credit scoring and insurance markets.

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[1] *See* https://consumerfed.org/cfa-studies-on-the-plight-of-low-and-moderate-income-good-drivers-in-affording-state-required-auto-insurance./ for a list of CFA auto insurance studies.

As a result of CFA and CEJ's research and analysis, *amici* advocate in legislative and regulatory proceedings for consumer protection-oriented reforms and rules such as the protections established by Regulation R087-20. Finally, CFA and CEJ have submitted numerous amicus briefs before state and federal courts on insurance and other topics. As we describe herein, if this regulation is not permitted, consumers will be subject to unfair discrimination, which is prohibited by law. Our organizations therefore have a direct interest in this regulation and this case, since they both impact our work protecting consumers.

ARGUMENT

Regulation R087-20 was adopted by Commissioner Richardson on November 23, 2020 and approved by the Nevada Legislative Commission on December 28, 2020. This approval was the result of multiple hearings and opportunities for public input from insurance companies, consumer advocates, and other interested parties. The rule is predicated on the determination by the Commissioner that the application of a credit-based insurance score as a means of increasing policyholder premiums in the midst of the COVID-19 public health emergency and the resulting economic disruption and dislocation resulted in unfair discrimination in the insurance marketplace. Regulation R087-20, which is scheduled to remain in effect until two years after the termination date of the Declaration of Emergency for COVID-19 issued by Governor Steve Sisolak on March 12, 2020, requires insurers to stop using

credit information that would increase consumers' rates as a result of any change in their credit reports or insurance scores that occurred on or after March 1, 2020.[2]

In order to provide critical context for the public interest in preserving this regulation, this brief begins with important background information describing the use of credit information in insurance markets, with a specific focus on its use in auto insurance pricing, and illustrating how credit-based insurance scores result in drivers with clean driving records paying significantly higher premiums when their scores decline or they have anything other than good or excellent credit. We will then show how the pandemic, its resulting economic impacts, and government responses made this practice unfairly discriminatory, and why the regulation not only complies with Nevada law but is necessary to prevent insurers from charging insurance premiums that violate the state law governing unfair discrimination.

A. Background on the Use and Impact of Credit Information in Nevada's Insurance Market as Context for Understanding the Necessity of Regulation R087-20

In order to understand the reasons why the use of credit information can be deemed *unfairly* discriminatory – and the regulation justifiable – due to the current

[2] "Guidance for Insurers and Answers to Frequently Asked Questions: Implementation of Prohibition on Adverse Credit-Based Re-Scoring and Consumer Refunds Pursuant to Regulation R087-20." Nevada Division of Insurance. January 21, 2021. Available at https://doi.nv.gov/uploadedFiles/doi.nv.gov/Content/News_and_Notices/FAQ_on_Regulation_R087-20_FINAL.pdf.

pandemic-influenced conditions, it is important to first describe how credit information is used to discriminate among consumers. While our discussion here focuses on auto insurance, the practice is much the same in homeowners and renters insurance, as well as in the underwriting practices of insurers. As a general proposition, the worse one's credit information, the more likely they will be labelled ineligible for coverage or shunted to a more expensive affiliate insurer.

Furthermore, while insurers argue that they use "credit-based insurance scores" instead of traditional "credit scores," both are derived from the same credit histories compiled by the same credit bureaus and converted to their respective scores using similar statistical techniques. The difference among different types of scores – auto insurance, home insurance, auto loan, mortgage loans – is the outcome measured, not the raw material used to develop the scores. For example, one leading scoring firm – FICO – describes the contents of its credit score[3] and insurance score[4] as follows:

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[3] See https://www.myfico.com/credit-education/whats-in-your-credit-score, retrieved on January 11, 2022.
[4] See https://insurancescores.fico.com/InScore, retrieved on January 11, 2022.

Credit Score	Insurance Score
• Payment history (35%), • Amounts owed (30%), • Length of credit history (15%), • New credit (10%), and • Credit mix (10%).	• Previous credit performance (40%), • Current level of indebtedness (30%), • Length of credit history (15%), • New credit/Pursuit of new credit (10%), and • Types of credit used (5%).

The following states prohibit the use of credit information for personal lines insurance underwriting and rating: California, Hawaii, and Massachusetts prohibit it in auto insurance transactions, and California, Maryland, and Massachusetts prohibit its use in their home insurance markets. These prohibitions predate and are not tied to the pandemic or its impacts.

B. How Credit Information Impacts Auto Insurance Premiums in Nevada

Until the adoption of R087-20, insurers used credit information to determine premium charges for consumers such that those with the best credit-based insurance scores pay the lowest rates and those with worse scores pay increasingly more for coverage. This is the case even when consumers had perfect driving records and unblemished claims histories and were otherwise similarly situated except for their personal credit history. In fall 2020, before the implementation of R087-20, CFA acquired data from Quadrant Information Services, LLC on auto insurance premiums charged by ten of the largest auto insurers for every ZIP code in the United States. Quadrant's data are sourced directly from insurers or from the public filings

submitted to insurance departments. CFA analyzed the premium data for Nevada and found that insurers charged consumers dramatically different premiums based solely on their credit information.

To purchase the state-mandated minimum limits, liability-only auto insurance in Nevada, consumers with excellent credit-based insurance scores and a perfect driving record paid an average statewide annual premium of $770.03. Yet if those exact same consumers have fair credit, their average annual premium rose to $1,044.15—a 36% increase. And consumers with poor credit paid an average annual premium of $1,348.65—a 75% increase compared to consumers with excellent credit.[5]

Table 1 below shows the average statewide premiums charged by ten Nevada auto insurers based on policyholders' credit information as of August 2020.

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[5] For the quotes provided, "excellent" credit represents customers with scores in the highest 10%, those with "fair" credit are those with scores that are 40%-50% of the best scores, and those with "poor" credit fall in the 10%-20% range of scores relative to the best.

Table 1: Auto Insurance Premiums Charged by Largest Nevada Insurers Based on Credit Information

Auto Insurer	Average Premium Charged for Drivers With Excellent Credit	Average Premium Charged for Drivers With Fair Credit	Average Premium Charged for Drivers With Poor Credit
Allstate	$1,053.87	$1,400.88	$1,841.83
American Family	$739.43	$1,001.17	$1,456.97
Berkshire Hathaway (GEICO)	$539.71	$825.40	$1,050.34
CSAA	$875.81	$1,157.06	$1,448.76
Farmers	$895.05	$1,337.22	$1,636.66
Key	$1,248.86	$1,248.86	$1,248.86
Progressive	$644.71	$921.95	$1,086.20
State Farm	$390.07	$652.85	$1,096.17
Travelers	$790.63	$1,172.22	$1,572.30
USAA	$522.14	$723.85	$1,048.44
Average of All Companies	**$770.03**	**$1,044.15**	**$1,348.65**

The data are based on rates for state minimum liability coverage—25/50/20—in effect as of August 2020 and are representative of publicly sourced data. The driver profile for this information is a 35-year-old, unmarried driver who has been licensed for 19 years and has a perfect driving record. The driver has a high school diploma, rents their home, and drives a 2011 Honda Civic LX. Their commute is 12 miles a day, 5 days per week, for a total of 12,000 miles per year.

All of the major auto insurers except Key Insurance Company imposed a credit penalty on the sample drivers. Even the smallest credit surcharge, levied by CSAA, forced consumers with fair credit to pay premiums that were 32% higher and consumers with poor credit to pay premiums that were 65% higher compared to consumers with excellent credit. The other eight insurers imposed larger credit penalties; State Farm required consumers with fair credit to pay premiums that were 67% higher and consumers with poor credit to pay premiums that were 181% higher compared to consumers with excellent credit.

In many individual ZIP codes the impact of credit information on consumers was quite dramatic. In the ZIP code 89101 in Las Vegas, the average annual premium charged to consumers with excellent credit was $1,199.55. But if those same consumers had fair credit their average premium climbed to $1,656.55. And if they had poor credit their average premium rose further to $2,179.70—a $980 higher premium for minimum coverage charged to a good driver due to their credit-based insurance score.

In 2015, Consumer Reports conducted a similar study on auto insurance premiums and credit information. They found that the average premium for standard coverage for a Nevada driver with a perfect driving record but poor credit was $3,323. This was $2,023 more expensive than the coverage billed to a driver with the same driving record but excellent credit. Shockingly, the safe driver with poor

credit paid $758 more on average than a Nevada driver with excellent credit and a drunk driving conviction.[6]

C. The Use of Credit Information Disproportionately Burdens People of Color

When auto insurers use credit information in their underwriting and pricing, the result is that African-American, Latinx, and Indigenous consumers are disproportionately impacted and pay higher premiums. The 2019 study "The Geography of Subprime Credit" published by the Federal Reserve Bank of Chicago, for example, found that "[p]laces with lower credit scores show more signs of economic adversity and reflect patterns of segregation." The authors also reported a "disproportionate representation of black households in the most subprime neighborhoods."[7]

The Urban Institute found that median credit scores reveal persistent racial disparities and discrimination, and, as a result, median credit scores for white Americans are significantly higher than median credit scores for African-Americans,

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[6] "The Secret Score Behind Your Rates." Consumer Reports. July 30, 2015. Available at https://www.consumerreports.org/cro/car-insurance/credit-scores-affect-auto-insurance-rates/index.htm.

[7] "Mortgage Market Conditions and Borrower Outcomes: Evidence from the 2012 HMDA Data and Matched HMDA-Credit Record Data." By Neil Bhutta, Shira Stolarsky, and Madura Watanagase. (Table 14a) Federal Reserve Bulletin Vol. 99, No. 4. November 2013. Available at https://www.federalreserve.gov/pubs/bulletin/2013/pdf/2012_hmda.pdf.

Hispanics, and Native Americans.[8] According to Federal Reserve data published in 2013, the average credit score for white Americans is 734, while the average score for African-Americans is 677, and the average score for Hispanic/Latino Americans is 701. 5.4% of white Americans have a credit score below 620 (meaning a significant penalty) while 21.3% of African-Americans and 11.2% of Hispanic/Latino Americans have a credit score below 620.[9]

These credit disparities are connected to systemic biases against Black, Indigenous, and Latinx consumers and long-standing structural hurdles to achieving financial stability for these communities. When credit information is used to construct credit-based insurance scores for underwriting and rating auto insurance, the result is higher auto insurance premiums for drivers of color with perfect safety records. A 2007 Federal Trade Commission report on credit-based insurance scores acknowledges this fact, noting that credit-based insurance scores for African-Americans and Hispanics are not evenly distributed but weighted heavily toward the lower scores that result in higher premiums.[10]

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[8] "Credit Health During the COVID-19 Pandemic." Urban Institute. February 25, 2021. Available at https://apps.urban.org/features/credit-health-during-pandemic/.

[9] Bhutta, N., & Canner, G. B. (2013). Mortgage market conditions and borrower outcomes: Evidence from the 2012 HMDA data and matched HMDA-credit record data. *Federal Reserve Bulletin*, *99*(4).

[10] "Credit-Based Insurance Scores: Impacts on Consumers of Automobile Insurance." Federal Trade Commission. 2007. Available at https://www.ftc.gov/sites/default/files/documents/reports/credit-based-insurance-

D. Regulation R087-20 Was Well Within the Commissioner's Legal Authority to Address Discrimination During the Pandemic

Under Nevada law, "[r]ates must not be excessive, inadequate, or unfairly discriminatory." NRS 686B.050. It is the authority and obligation of the Commissioner to enforce this provision.

The first two elements of this statute requiring that insurance is not excessive or inadequate are crafted to avoid windfall profits (excessive) or insurers being unable to pay claims (inadequate). The third element requires that insurers' practices—underwriting, pricing, claims settlement—are not "unfairly discriminatory." *Id.* Unfair discrimination should be understood in two ways: the first is actuarial—similarly situated consumers must be treated similarly. That means there must be a valid statistical and actuarial basis for treating consumers differently for underwriting, pricing, and claims settlement. *Id.* ("One rate is unfairly discriminatory in relation to another in the same class if it clearly fails to reflect equitably the differences in expected losses and expenses."). The second type of unfair discrimination is protected class discrimination—discriminating on the basis of race, religion, or national origin, for example, regardless of any actuarial basis.

As the background above illustrates, there is substantial evidence that any use of credit information, under any economic conditions and irrespective of a state of

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scores-impacts-consumers-automobile-insurance-report-congress-federal-trade/p044804facta_report_credit-based_insurance_scores.pdf.

emergency, leads to unfair discrimination in the insurance market and conflicts with other public policy goals. However, it is not necessary to reach that broad conclusion in order to uphold this regulation, because the rule is not a blanket prohibition on the use of credit. Instead, the rule at issue is a time-limited response to the fact that the unique circumstances of the pandemic have made credit-based insurance scoring unfairly discriminatory for reasons particular to this public health emergency. Below we explain why the regulation is necessary to combat the way the pandemic has led to both types of unfair discrimination due to the use of credit information by insurers.

E. Government Responses to the COVID-19 Pandemic Have Compromised Credit Data and Rendered Credit-Based Insurance Scores Unfairly Discriminatory

The COVID-19 pandemic had a dramatic impact on consumers, as businesses closed, workers were laid off, and people curtailed their driving. Many Nevadans lost their jobs or saw their earnings decline and therefore struggled to, or could not, pay their bills, which will result in declines in their credit. At the same time, the number of miles driven, auto crashes, and claims filed fell due to stay-at-home orders and closures. Traditionally, auto insurers have claimed that credit information is an accurate indicator of risk in auto insurance because consumers with better credit information are more reliable and less risky to cover with insurance policies. Over the past twenty-two months, however, credit information has become completely

separated from that theoretical connection to risk, both due to the CARES Act enacted by Congress and to consumers being affected by the pandemic.

As the pandemic unfolded in 2020, Congress, Nevada, and several municipalities took action to help consumers, businesses, and communities. Among other protections, these efforts gave consumers opportunities to avoid the negative credit impacts that would normally accrue due to certain personal financial actions, such as missing a mortgage payment.

On the similarly-situated (actuarial) basis for unfair discrimination, there can be no dispute that key consumer protections related to consumer credit reporting in the CARES Act have made insurance credit scoring unfairly discriminatory. The CARES Act contains a requirement for credit bureaus to report any borrower who has received some form of forbearance by a lender as current on their loan.[11]

Forbearance can take a number of different forms, including permitting borrowers to miss required payments without penalty. Millions of borrowers have taken advantage of forbearance, although millions more who were eligible for forbearance did not seek this assistance. The Urban Institute's Housing Finance Policy Center has tracked forbearance activity, which peaked at 6.4% of the tens of

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[11] "Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act." Bureau of Consumer Financial Protection. April 1, 2020. Pg. 2. Available at https://files.consumerfinance.gov/f/documents/cfpb_credit-reporting-policy-statement_cares-act_2020-04.pdf.

millions of loans insured or owned by Fannie Mae and Freddie Mac.[12] The Urban Institute also concluded that homeowners in neighborhoods of color are less likely to use or access forbearance protections.[13] The Brookings Institution reported that a survey of low and moderate income homeowners found 40% of respondents were unaware of forbearance programs.[14]

It is straightforward to show how the CARES Act provisions lead to unfair discrimination with credit-based insurance scores. Consider two similarly-situated consumers—identical in all respects, including missing several monthly mortgage payments—but one has sought and obtained forbearance while the other has not. Although similarly situated, the credit report of the consumer who did not get forbearance shows a delinquency while the credit report of the consumer who got forbearance shows no delinquency. Pre-pandemic, both consumers would have suffered higher premiums due to delinquencies lowering the credit-based insurance

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[12] "Housing Finance at a Glance: A Monthly Chartbook." Urban Institute. February 2021. Available at https://www.urban.org/research/publication/housing-finance-glance-monthly-chartbook-february-2021.

[13] "Delinquent Homeowners in Neighborhoods of Color Are Less Likely to Be Protected by Forbearance." Michael Neal and Caitlyn Young. Urban Institute. December 2, 2020. Available at https://www.urban.org/urban-wire/delinquent-homeowners-neighborhoods-color-are-less-likely-be-protected-forbearance.

[14] "Low to Moderate-Income Families are Losing Ground: How to Save Their Homeownership Dreams." Makada Henry-Nickle, Tim Lucas, Radha Seshagiri, and Samantha Elizondo. Brookings Institute. June 24, 2021. Available at https://www.brookings.edu/blog/how-we-rise/2021/06/24/working-class-families-are-losing-ground-how-to-save-their-homeownership-dreams/.

scores. Post-pandemic insurance credit scoring will cause the first consumer (who got no forbearance) to be charged more because of a lower credit score even though the consumers are similarly situated, a hallmark of unfair discrimination in insurance.

Furthermore, on an actuarial basis, the ability of consumer credit information to predict claims has been severely harmed. Economic conditions changed during and after March 2020. Unemployment skyrocketed as businesses were shuttered and certain industries—such as personal services, travel, and tourism—were especially impacted. Predictive models, including credit-based insurance scoring models, are developed based on historical data—the data are mined to see what factors are most predictive of a particular outcome. If the training data are biased, incorrect, incomplete, or, as with the current situation, unrepresentative of the future experience, the model will reflect and perpetuate the bias in the data. In the case of insurance credit scoring, historical data will not reflect the current and near future credit experience of many consumers who have been laid off, whose businesses have closed, or who have major medical bills or lost family income after a death due to COVID-19, among other reasons.

Stated simply, even if one assumed that insurance credit scoring had a sound actuarial basis prior to March 2020, it is clear that the actuarial basis no longer held after March 2020.

The regulation is necessary to block the actuarial unfair discrimination resulting from pandemic-related laws and practices that undermine the validity of credit-based insurance scoring models.

F. The Racial Bias in Credit-Based Insurance Scores Has Increased As a Result of the Pandemic

While hardships caused by COVID-19 have affected almost all Americans, these impacts are felt unequally. According to the Joint Center for Housing Studies of Harvard University, Black and Hispanic households have been far more likely to not only contract COVID-19, but also to suffer from lost income and to face housing insecurity as a result of the pandemic. The center also reports that "minority homeowners were also less likely to receive a deferment than white homeowners."[15] This means that the credit relief offered either by state and federal laws or voluntary actions of credit reporting private entities provided less protection to the credit histories of Black and brown Americans during the pandemic. For those who did receive protection and avoided some negative reports, the phasing out of deferments and credit reporting moratoria will also hit the credit histories of communities of color harder, as these communities experience higher levels of job loss and face

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[15] "A Triple Pandemic? The Economic Impacts of COVID-19 Disproportionately Affect Black and Hispanic Households." Sharon Cornelissen and Alexander Hermann. Joint Center for Housing Studies of Harvard University. July 7, 2020. Available at https://www.jchs.harvard.edu/blog/a-triple-pandemic-the-economic-impacts-of-covid-19-disproportionately-affect-black-and-hispanic-households.

increased likelihood of foreclosure and eviction. Without the proposed regulation, the use of credit in the wake of the pandemic will worsen the racial disparities discussed above that are already inherent in credit-based insurance scoring.

The regulation is also needed to address the disproportionate financial harm the pandemic has caused in communities of color that will exacerbate the racial disparities associated with credit-based insurance scores.

G. The Commissioner Has the Responsibility and the Authority to Stop Unfair Discrimination of Credit-Based Insurance Scores Caused by the Pandemic

The COVID-19 pandemic caused widespread disruptions in society and the economy. Businesses closed or reduced hours, workers lost jobs, and many consumers have fallen behind on payments to the pandemic's many intersecting challenges. Theoretically, consumer credit information provided insurers with a measurement of customers' relative risk level. This link was always tenuous and the pandemic has completely severed the connection. It is neither logical nor just for consumers to be charged higher premiums due to poor credit if their credit has declined because of a historic and unprecedented pandemic. Nor should other customers with similar risk profiles get discounted rates just because the pandemic did not harm their credit, or they were able to access certain tools to mask their credit risk.

Additionally, consumer credit protections in the CARES Act will soon expire, likely leading to a large volume of negative credit corrections. A recent survey conducted by National Public Radio, the Robert Wood Johnson Foundation, and the Harvard T.H. Chan School of Public Health found that:

- 38% of households across America report facing serious financial problems in the past few months;
- 19% of households report losing all their savings during the COVID-19 pandemic and not currently having any savings to fall back on;
- At the time the Centers for Disease Control and Prevention's eviction ban expired, 27% of renters report they had serious problems paying their rent in the past few months;
- 24% of employed adults report they have a worse job situation now compared to before the pandemic.[16]

CONCLUSION

The Nevada Division of Insurance has both the legal responsibility and the authority to stop the unfair discrimination resulting from credit-based insurance scores during and in the wake of the COVID-19 public health emergency. This temporary prohibition on the use of credit information protects the public interest in preventing unfair discrimination in insurance markets while consumers recover from the financial shocks created by the pandemic. Denying the Commissioner her

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[16] "Household Experiences in America During the Delta Variant Outbreak." National Public Radio. October 2021. Available at https://media.npr.org/assets/img/2021/10/08/national-report-101221-final.pdf.

authority to enforce the prohibition against unfair discrimination would undermine the rule of law of in Nevada and leave many Nevadans facing higher insurance premiums than the anti-discrimination provisions in state law allow.

AFFIRMATION

Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: February 3, 2022

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type-style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2007 in 14-point font, Times New Roman style. I further certify that this brief complies with the type-volume limitation of NRAP 29(e) because it contains 4,232 words.

Pursuant to NRAP 28.2, I hereby certify that I have read this brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e), which requires every assertion regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that this brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED: February 3, 2022

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Leonard Law, PC, and that on February 3, 2022, a copy of the foregoing document was electronically filed with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (E-Flex). The following participants who are registered as E-Flex users will be served by the EFlex system upon filing. All others will be served by first-class mail.

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