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You recently were provided with a letter from your employer Allstate Insurance Company concerning a proposed class action law suit currently pending in the Los Angeles Superior Court. We are the attorneys representing the plaintiffs in that matter. We wish to communicate with you in order to express our disagreement with several matters stated in the Allstate communication.

The court has not rendered an opinion as to the merits of this case. The sending of this letter does not constitute an endorsement by the court of the statements contained herein. The court, however, has permitted us to send this letter to you.

The action in question is entitled *Bednar vs. Allstate Insurance Company, et.al.* The action seeks recovery of overtime pay due to **all** persons employed as claims adjusters by Allstate in California since November of 1996, *up to and including the date a judgment is rendered.* It seeks to protect the rights of *both* current and former adjusters. Any judgment received will directly benefit you as current employees of Allstate, and would compensate you for overtime from November of 1996. As an example, if your salary was \$50,000 during the last 12 months, and you worked an average of only 10 hours per week of overtime, you may be entitled to recover the sum of approximately \$20,000 (inclusive of interest and penalties). If you averaged that same amount of overtime for 4 years, your recovery could total as much as \$80,000.

The lawsuit does not insult you, question your intelligence or demand that you account for every minute of your working day. California law is very clear that employees who are classified as “non-exempt” must be paid time and a half for every hour worked more than 40 in any given week. Employees who are not entitled to overtime compensation are the *exception* under the law. In 1998, the California Division of Labor Standards Enforcement issued a written opinion which we believe holds that claims adjusters employed by insurance companies are *non-exempt* employees, and are thus entitled to overtime compensation. Recently, the California Court of Appeal in a decision entitled *Bell vs. Farmers Insurance Exchange* (2001) 87 Cal.App.4th 805, reached what we believe to be the same conclusion. You may read both the Labor Commissioner’s opinion and the decision in the *Farmers Insurance Exchange* appellate decision at a website we have established at www.overtimelawsuit.com. In the alternative, you may contact any of our offices and we will be happy to provide a copy of these items to you.

There are several legal hurdles an employer must overcome in order to classify an employee as exempt from the payment of overtime. In this case, the first step is to establish that the employee does “administrative” work. Administrative work pertains to the operations of Allstate (i.e., purchasing, preparing payroll, making decisions on investing premiums, etc.) Employees who produce the very service or product that a company sells to the public are not administrative employees. We believe that the Labor Commissioner and the Court of Appeal have held that claims adjusters produce the service that insurance companies sell and are thus *not* exempt and are entitled to overtime compensation.

Even if Allstate could meet the first legal hurdle of establishing that you perform administrative work for Allstate, we doubt that it could meet the next test, which is a determination of whether or not you

spend more than 50% of your working day exercising *independent* discretion, free from general and comprehensive oversight and supervision (and free from computer programs that instruct you on the amount a claim may be worth). We have alleged that Allstate, like most insurance companies, does not permit you to adjust claims free from their rules, regulations, procedures and checks and balances. We believe that you use your experience and training. However, we contend it is clear that the use of those skills are prescribed by the claims adjusting practices mandated by your employer.

The letter you received from Allstate appears to be an attempt to threaten you that if the litigation is successful, you will suffer unhappy consequences. We do not believe that is an accurate statement. Under both California and federal law, Allstate is not permitted to penalize you for exercising your right to receive overtime pay by denying you any of your benefits of employment. If we are successful, two goals will be accomplished. First, you and other present and former adjusters, will receive the overtime compensation, plus penalties and interest, you deserve under the law. Second, when you are required to work overtime hours in the future, you will be paid for them. The law places the burden on Allstate, not on you, to maintain records of the number of hours you work. As you may be aware, Allstate's non-exempt support personnel who are entitled to receive overtime pay, are not required to punch time clocks. Nothing in our lawsuit or in the California Wage Orders prohibits Allstate from allowing you to work flexible hours. Allstate must merely do what thousands of other companies do - keep track of the hours it requires you to work so you can be properly compensated.

As a potential class member, you are free to contact us at any time, and if you seek legal advice it will be confidential.

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