

## INFORMATIONAL NOTICE RE: PENDING PROPOSED CLASS ACTION

**This Correspondence Is Being Sent To You With The Permission Of The Superior Court. The Granting of Permission Does Not Constitute An Endorsement By The Court Of Any Of The Statements Contained Herein. The Court Has Not Rendered An Opinion As To The Merits Of This Case.**

A lawsuit has been filed against Coast National Insurance Company, Bay View Adjusting and Bristol West Insurance Group of California, Inc. on behalf of former and current claims adjusters of those companies who have worked in California in connection with the adjusting of property damage and/or bodily injury claims (referred to in this Notice as "Claims Adjusters") The lawsuit is entitled *Roberts vs. Coast National Insurance Company, et.al.* The case seeks recovery of overtime pay which plaintiffs contend is owed to all present and former Claims Adjusters who adjusted claims in California from June of 1997, up to and including the date a judgment is rendered.

By agreement of the parties, and approval of the court, this communication is being provided to you by both the plaintiffs and the defendants.

At issue in this lawsuit is whether Claims Adjusters are entitled to overtime compensation. Plaintiffs allege that the law requires that overtime be paid to Claims Adjusters. The defendants claim that Claims Adjusters fall within an exemption from the payment of overtime.

The attorneys for the plaintiffs wish to gather information regarding the nature of the work you do (or used to do), as a Claims Adjuster, including the amount of any overtime you may have worked.

You have the right to contact plaintiffs' counsel and provide information to them if you wish. If you seek legal advice from them, your communication will be privileged and not subject to disclosure.

You may contact any of the following plaintiffs' attorneys:

**Marlin & Saltzman  
Attorneys at Law**  
Lou Marlin  
2400 E. Katella Ave., Suite 1030  
Anaheim, CA 92806  
(714) 937-5300

**Law Offices Of  
R. Rex Parris**  
Rex Parris  
963 W. Avenue J  
Lancaster, CA 93534  
(661) 949-2595

**Marlin & Saltzman  
Attorneys At Law**  
Stan Saltzman  
29229 Canwood St., Suite 208  
Agoura Hills, CA 91301  
(818) 991 8080

**Mazursky, Schwartz & Angelo  
Attorneys at Law**  
Arnold Schwartz  
10990 Wilshire Blvd., Suite 1200  
Los Angeles, CA 90024  
(310) 478-5838

You are under no obligation to contact plaintiffs' counsel.

The attorneys for the defendants also wish to gather information, and information may also be provided to them. You are also free to contact the attorneys representing the defendants as follows:

**Barger & Wolen, LLP**  
Steven Weinstein  
515 S. Flower Street  
34<sup>th</sup> Floor  
Los Angeles, CA 90071  
(213) 680-2800

You are under no obligation to contact defendant's counsel.

You are under no obligation to discuss this matter with any person at Coast National Insurance, Bay View Adjusting or Bristol West Insurance Services of California, Inc.

**Plaintiffs' Position:**

It is clear, under California law, that all non-exempt employees must be paid at least time and a half for all overtime worked. Employees who are not entitled to overtime compensation are the *exception* under the law. In 1998, the California Division of Labor Standards Enforcement (which plaintiffs allege has ultimate authority over persons employed in the State of California) issued a written opinion which decided that persons employed as claims adjusters by insurance companies are *non-exempt* employees because they are not "administrators" of the insurance company, 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 the same conclusion. Earlier this year, the California Supreme Court refused to review the decision in *Bell vs. Farmers Insurance Exchange* and it thus now stands as legal authority in California as to the issues presented in that case.

You may read both the Labor Commissioner's opinion and the Court of Appeal decision in the *Farmers Insurance Exchange* case at a website established by the plaintiffs counsel at [www.overtimelawsuit.com](http://www.overtimelawsuit.com). In the alternative, you may contact any of the offices of plaintiffs' attorneys and they will provide a copy of these items to you.

Even if the defendants could, somehow, establish that its Claims Adjusters perform "administrative" work for them, the defendants would still have to meet another test in order to deny overtime compensation to its Claims Adjusters. The defendants would have to prove that you spend more than 50% of your working day exercising *independent* discretion, free from comprehensive oversight and supervision.

If the lawsuit is successful, any judgment received would directly benefit both current and former employees of the defendants, and would compensate for overtime worked from June of 1997. As an example, if your salary was \$40,000 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 \$16,000 (inclusive of interest and penalties), for each year of employment. If you averaged that same amount of overtime for 4 years, your recovery could total as much as \$64,000. Your potential recovery would be greater or less than this number depending upon the number of overtime hours you have worked and for how long you have been employed by the defendants during the proposed class period (June 1997 to the time of judgment).

**Defendants' Position:**

It is the position of defendants' counsel that under California law, claim adjusters are exempt employees who are not entitled to receive overtime compensation. Defendants believe that the decision in *Bell vs. Farmers Insurance Exchange* is an improper change in the law and was incorrectly decided. Moreover, the employment practices in *Bell v. Farmers Insurance Exchange* are different than defendants' employment practices.

Furthermore, claims adjusters were and are properly classified as "administrative" employees. Defendants will establish that claims adjusters exercise the required amount of independent discretion to qualify as an exempt administrative employee.

Defendants also maintain that the example described above as to the potential value of an adjuster's claim is incorrect. Defendants believe that the example of \$64,000 recovery is misleading in that the amount is speculative and hypothetical. Defendants also note that any attorneys' fees awarded may be paid out of the recovery obtained by plaintiffs' counsel (a contingency fee). In fact, plaintiffs' alleged potential (albeit unlikely) recovery of \$64,000 for a few potential class members does not account for attorney fees and other factors and is not representative of the typical, average, or median potential recovery, assuming plaintiffs can establish a claim to overtime payments.

Please Do Not Address Any Inquiries To The Court