

## CLASS ACTION SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (hereinafter "Agreement") is entered into and effective upon its execution by all parties hereto. It is entered into by and between all members of the class which has previously been certified as identified and defined in Paragraph 3 below (hereinafter, collectively the "Plaintiff Class"), the court approved representative plaintiffs (as identified hereafter) on the one hand, and STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, STATE FARM FIRE AND CASUALTY COMPANY, STATE FARM GENERAL INSURANCE COMPANY and all other entities which comprise the STATE FARM INSURANCE GROUP (hereafter referred to as "Defendants" or "State Farm"), on the other hand, with reference to the following recitals and provisions:

### RECITALS

A. Certain claims, demands and differences have existed heretofore between the Plaintiff Class and the Defendants, including Plaintiff Class' contention that overtime pay is owed to them and Defendants' contention that the claimed overtime pay is not owed to the Plaintiff Class;

B. The Plaintiff Class and the Defendants are parties to a civil action, bearing case number BC 236552 pending in the Superior Court of the State of California for the County of Los Angeles, entitled John Gutierrez, et. al. vs. State Farm Mutual Automobile Insurance Company, et. al. and filed on or about September 8, 2000 ("the Class Complaint");

C. In said action, among other things, plaintiffs allege that the Defendants improperly classified class members as exempt employees, misrepresented that plaintiffs were exempt employees, and failed to pay overtime compensation. Defendants denied said allegations in their entirety and alleged that the members of the class were properly classified as exempt employees and that any and all compensation due class members was paid according to law.

D. The matter has been litigated before Hon. Anthony Mohr, Judge of the Superior Court for the County of Los Angeles.

E. On August 23, 2002, the Court certified this matter as a class action and defined the certified class as set forth in Paragraph 3 hereafter. As used in this Agreement, "Class Members" refers to members of the Plaintiff Class.

F. The Court has approved the following law firms as counsel for the Plaintiff Class:

**Marlin & Saltzman  
The R. Rex Parris Law Firm  
Mazursky, Schwartz, Daniels & Bradley**

G. The Court has appointed the following individuals as representative plaintiffs:

John Gutierrez  
Thomas Phillips  
Lydia Jowyk  
Danelle Johnson

H. Throughout the prosecution of this litigation, Defendants have been represented by:

**Sheppard, Mullin, Richter & Hampton, LLP**

I. On December 15, 2003, the Court entered its order granting the motion by the Plaintiff Class for summary adjudication of the issue of liability, determining that the members of the Plaintiff Class were non-exempt production workers entitled to overtime compensation.

J. On or about May 1, 2003, Defendants commenced paying overtime compensation to all Claim Representatives employed in California. It is the position of Class Counsel that the action brought by plaintiffs herein was a significant factor, along with other events, in causing State Farm to change its policy.

K. The Defendants settling the claims against them are State Farm Mutual Automobile Insurance Company, State Farm Fire and Casualty Company, State Farm General Insurance Company, and all other entities that comprise the State Farm Insurance Group and their respective successors and predecessors in interest, subsidiaries, and affiliates

L. The parties have conducted substantial formal discovery and investigation, and have researched and briefed the legal and factual issues relating to the claims and defenses of the action, and of all the claims contained in the operative Second Amended Complaint, as described hereafter in Paragraph 5 below.

M. The parties have engaged in substantial negotiations over the course of approximately 18 months. During that time, they have engaged the services of two independent mediators, including a retired justice of the California Supreme Court. In addition, the parties have engaged in numerous direct settlement discussions and negotiations.

N. The cost of continuing to prosecute and defend the litigation including the risks and hazards in continuing with the same, have led the parties to resolve the case by way of settlement. On August 5, 2004, the parties reached a tentative settlement, and memorialized the primary terms and conditions of the same in a Memorandum of Agreement executed by counsel on behalf of their respective clients.

O. State Farm has denied and continues to deny each of the claims and contentions alleged by Plaintiffs in the action. State Farm has repeatedly asserted and continues to assert defenses thereto, and has expressly denied and continues to deny any wrongdoing or legal liability arising out of any of the facts or conduct alleged in the action. State Farm also has denied and continues to deny, inter alia, the allegations that the Plaintiffs have suffered damage; that State Farm misclassified any of the Plaintiffs as exempt from overtime, meal/rest period and other wage and hour requirements; that State Farm failed to pay any of the Plaintiffs for all overtime to which they were entitled; that State Farm failed to provide any of the Plaintiffs

unpaid meal periods and paid rest breaks to which they were entitled; that State Farm failed to pay Plaintiffs waiting time penalties and any other penalties to which they were entitled; that State Farm unlawfully converted wages due to Plaintiffs; that State Farm engaged in any unlawful, unfair or fraudulent business practices; that State Farm engaged in any wrongful conduct as alleged in the action; or that the Plaintiffs were harmed by the conduct alleged in the action. Neither this Agreement, nor any document referred to or contemplated herein, nor any action taken to carry out this Agreement, is, may be construed as, or may be used as an admission, concession or indication by or against State Farm of any fault, wrongdoing or liability whatsoever.

P. It is the intention of the parties to the Agreement to settle and dispose of, fully and completely, any and all claims, demands and causes of action set forth in the Second Amended Complaint as described hereafter and any related claims, as between the Plaintiffs and the Defendants, including but not limited to requests for legal or equitable relief, requests for damages, and requests for injunctive relief, which have been asserted, or could have been asserted, or which might arise from receipt of any notice of this class action or this class action settlement, or by or on behalf of any individual plaintiff alleging relief for a settled claim.

## **PROVISIONS**

### 1. **COOPERATION BY THE PARTIES**

The Plaintiff Class and Defendants and their counsel agree to cooperate fully with each other to promptly execute all documents and take all steps necessary to effectuate the terms and conditions of this settlement.

### 2. **APPOINTMENT OF REFEREE**

The parties have previously stipulated to, and the Court has approved, the appointment of the Hon. Edward Panelli (Ret.) as the Referee in this matter. Said appointment shall be to assist the Court in effectuating the settlement of this case. In that regard, the Referee shall perform the following:

- a. Meet and confer with the parties and mediate any disputes concerning the language of a formal settlement agreement.
- b. Conduct a hearing concerning preliminary approval of the terms and conditions of the settlement. Said hearing shall be conducted in public.
- c. Report, in writing, to the Court concerning preliminary approval of the terms and conditions of the proposed settlement and make a recommendation to the Court as to the granting or denial of preliminary approval.
- d. If at the time the Referee reports to the Court concerning preliminary approval of the settlement it is the Referee's recommendation that preliminary approval should be granted, the Referee shall also present to the Court a form of class notice approved by the Parties, and a method of

distribution of notice approved by the Parties, which the Referee believes meets due process requirements.

- e. If the Court grants preliminary approval of the terms and conditions of the settlement and approves the proposed form and method of class notice, the Referee shall hold a final fairness hearing. Said hearing shall be conducted in a public courtroom and shall not commence prior to 10:00 a.m. At the conclusion of that hearing, the Referee shall report his findings to the Court. Included in this report shall be a summary of any timely and proper objections received, the Referee's recommendation as to the granting of final approval, and such other matters as the Referee deems appropriate to bring to the Court's attention.

### 3. DEFINITION OF THE PLAINTIFF CLASS

The class is comprised of all persons who, since September 8, 1996 up until the date of Final Judgment in this matter ("Class Period"), have been employed or are currently employed in California as claims adjusters by the defendants. As used in the class definition, the term "claims adjuster" refers to any individual whose assigned duties as an employee of any of the defendants included or currently include, but were not limited to, the adjustment and/or investigation and/or analysis and/or evaluation of the monetary worth of any claim made to any defendant for any bodily injury, property damage, and/or monetary damage of every nature and type and who have been or currently are paid as exempt employees as the same are defined pursuant to statute and/or California or federal regulatory determination. Persons who performed such functions while classified, employed and compensated by defendants as supervisors, managers or officers of said defendants are not included in the class during any time said persons were so employed. In addition, the Court ruled that persons employed in the Special Investigation Unit or persons employed exclusively to perform subrogation functions, and persons employed as Large Loss Specialists (as that term is defined in paragraph 2n at line 9 on page 3 of the declaration of Virginia Cass dated September 6, 2001, filed in support of defendants' opposition to plaintiffs' certification motion) are not included in the class during any time said persons were so employed. For purposes of this Settlement, Class Members shall include those individuals employed as "claims adjusters" pursuant to the above definition but who are no longer paid as exempt employees since State Farm's conversion to hourly pay for all claims adjusters in May 2003.

Persons who elected to opt-out of the class at the time notice of class certification was served are not Class Members unless the parties agree in writing to reinstate an individual to class member status. Also, all persons who did not opt out of the settlement of the class action regarding Claim Central Claim Representatives in California, entitled Jason Quick et al. v. State Farm Mutual Automobile Insurance Company et al., U.S. District Court, Northern District of California, Case No. C 01 2138 CW, are not Class Members pursuant to this Settlement for the period during which they worked in a Claim Central environment.

#### 4. CONSIDERATION BY DEFENDANTS

In consideration for the releases and dismissals set forth in Paragraphs 14, 15 and 16 below, the Defendants agree to (1) payment to Class Members pursuant to the payment procedure as described in Paragraphs 7 and 8 herein; (2) the payment of attorneys' fees, costs and expenses, as set forth herein, and (3) the payment of the cost of administration of the settlement, including all fees of the Referee and of the claims administrator, all subject to the limitations contained in sub-sections (a) and (b) hereafter.

##### a. Potential Maximum Consideration To Be Paid By Defendants:

The potential maximum consideration to be paid by Defendants is the total sum of one hundred thirty five million dollars (\$135,000,000). The payment by the Defendants shall be "all inclusive," including, but not limited to: unpaid overtime pay, and any penalties, premium pay or damages associated with or related to such alleged violations, including possible penalties under the Private Attorneys General Act ("PAGA") of 2004; pay for meal and rest break violations, and any penalties, premium pay or damages associated with or related to such alleged violations, including possible penalties under the PAGA of 2004; interest, costs, attorneys' fees, class administration costs, referee costs, incentive payments to class representatives, etc. However, any costs (independent of costs incurred by the third party claim administrator) incurred as a result of Defendants issuing settlement payments to Class Members and/or class counsel shall be borne by Defendants. In the event the Defendants elect to have the independent administrator determine the claim amount to be paid to class members and/or distribute settlement proceeds, such costs shall be borne by Defendants.

##### b. Attorneys' Fees And Costs:

Defendants acknowledge that Class Counsel will apply to the court for an award of attorneys' fees and reimbursement of costs and expenses incurred in the prosecution of this matter for the benefit of the Plaintiff Class. The parties agree that, subject to the approval of the referee and the Court as set forth hereafter, Class Counsel will seek attorneys' fees as a percentage, not to exceed 33 1/3%, of the total potential maximum payout of one hundred thirty five million dollars (\$135,000,000). Any attorneys' fees, costs and expenses approved by the Court shall be subtracted from the \$135,000,000 total potential maximum payout.

#### 5. FILING OF A SECOND AMENDED COMPLAINT

On or before November 29, 2004, Class Counsel agrees to file a Second Amended Complaint adding allegations of meal and rest period violations; for any penalties, premium pay or damages associated with or related to alleged overtime violations or meal and rest period violations, including possible penalties under the PAGA of 2004; for overtime violations under the Federal Fair Labor Standards Act ("FLSA"); and for all other remedies or penalties which may or may not be available under the PAGA of 2004, the California Labor Code, or the wage orders. Defendants shall stipulate to allow the filing of a Second Amended Complaint in compliance with this provision. Defendants' Answer to the First Amended Complaint shall be deemed to be the Answer to Plaintiff Class' Second Amended Complaint.

6. NOTICE OF SETTLEMENT AND CLAIM FORM

Class Members will be provided with notice of the terms and conditions of this settlement in a form of notice approved by the Referee and the Court and attached hereto as Exhibit "A". Said notice shall be accompanied by a Claim Form/FLSA Consent Form ("Claim Form"), also in a form approved by the Referee and the Court and attached hereto as Exhibit "B." Said Claim Form shall provide that by submission of the Claim Form, Class Members agree to participate in the settlement for FLSA purposes and thereby waive any additional rights they may have pursuant to the FLSA. Class Counsel shall select a third party administrator, (hereinafter "Administrator") which shall send the settlement notice and Claim Form to all Class Members via first class U.S. Mail, with skip trace follow up by the Administrator as necessary. The notice and Claim Form shall provide that Class Members have 75 days from the Administrator's mailing of the Claim Form within which to submit their Claim Form, or a copy thereof.

The Claim Form shall ask Class Members to declare under penalty of perjury that they worked overtime for State Farm as a Class Member during the Class Period, and they will be asked to provide certain identifying information. If a Class Member fails to make this declaration or fails to provide accurate identifying information, that Claim Form shall be deemed defective. If the Administrator receives a defective Claim Form, the Administrator shall return the Claim Form to the Class Member via first class mail and instruct the Class Member that he or she has 15 days within which to correct and/or complete the Claim Form and return it via first class mail. If a completed Claim Form is not received within 15 days from the date of re-mailing by the Administrator, the Claim Form shall be considered defective and invalid for purposes of this settlement. The Administrator will provide the identity of Class Members who submitted defective Claim Forms to Plaintiffs' counsel and Defendants' counsel at the same time a Class Member is notified that his/her Claim Form is defective.

The notice shall provide that Class Members have 75 days within which to submit their Claim Form, or a copy thereof. Plaintiffs' Counsel shall post the Claim Form on their website and Class Members may download the same for use in presenting their claim. As to any notices and Claim Forms which are returned by the post office for invalid addresses, one skip trace shall be performed. Those Class Members who receive notice pursuant to the one skip trace, shall be informed (via an insert in the notice) that his/her time to submit a claim shall be 30 days from the date notice is mailed to the updated address. Submission of a claim will be deemed completed on the postmark date on the envelope containing the same. Plaintiffs' Counsel and Defendants' Counsel shall be advised by the Administrator of the identity of all class members who were sent notice as a result of a skip trace and whose notice was again returned, within 7 days of receipt of same by the Administrator.

Any claim received after the time limit described herein shall be considered as a late claim. Persons submitting late claims shall be informed that their claims are late. Persons submitting late claims shall have an opportunity to present the Referee with a written statement, under penalty of perjury, as to the basis for their claim being late. If the Referee determines that a claim is late due to an invalid mailing address, the claims shall be allowed. Late claims shall not be permitted for any other reason. However, under no circumstances will any late claim be considered more than 30 days after the last date set for the submission of claims by persons whose addresses are obtained by the Administrator through the skip trace process.

The Claim Forms shall be maintained by the Administrator until the claims period has been completed. At that time, the forms shall be provided to Defendants for use in distributing the settlement proceeds. However, at no time shall any such form (1) be used in any proceeding or action regarding the potential discipline of any individual employee, (2) be placed (or a copy placed) in any individual employee's personnel file, or (3) be provided to any manager or supervisor at the claims office level or below. The purpose of the previous sentence is to ensure that no current or former employee could, in any way, be negatively impacted by the fact of filing a claim.

7. PAYMENT TO CLASS MEMBERS AND CLAIMS PROCEDURE

a. Definition of "Potential Maximum Claimed Settlement Amount":

As used herein, the term "Potential Maximum Claimed Settlement Amount" shall be defined as follows:

The sum of one hundred thirty five million dollars (\$135,000,000) less:  
Court approved attorneys' fees;  
Court approved reimbursement of costs and expenses;  
Court approved expenses incurred by the Referee;  
The administrative costs relating to the claims process; and  
Court approved incentive awards to the named class representatives.

Class Members who submit timely and complete Claim Forms in accordance with Paragraph 6 above shall have their individual settlement awards ("Individual Settlement Awards") calculated based upon the Potential Maximum Claimed Settlement Amount as set forth in Paragraph 7.b. immediately below.

b. Calculation of Individual Settlement Awards from the Potential Maximum Claimed Settlement Amount

If a Class Member submits a timely and properly completed Claim Form attesting to the fact that he or she has worked overtime during the Class Period in accordance with Paragraph 6 above, he or she shall be considered a "Settlement Class Member" and shall be entitled to an Individual Settlement Award. State Farm shall pay Individual Settlement Awards to Settlement Class Members only. An Individual Settlement Award shall be calculated as follows:

- i. Each Class Member will be assigned a monetary value ("Value") which will equal the gross compensation earned by that Class Member in each calendar year while working as a Class Member during the Class Period. Each Class Member's Value for each year will then be divided by the total gross compensation paid to all Class Members during each year of the Class Period. The resulting Percentage indicates the percentage of the Potential Maximum Claimed Settlement Amount to which the Class Member is entitled for each year if the Class Member submits a timely and complete Claim Form.

- ii. The total gross compensation paid to all Class Members during each year of the Class Period will be divided by the total gross compensation paid to all Class Members during the entire Class Period up to May 1, 2003. The resulting Percentage indicates the percentage of the Potential Maximum Claimed Settlement Amount to be apportioned to each year of the class. Interest on the amount apportioned to each year of the class will be calculated at 7% per annum simple interest. The calculation of this interest shall not increase the Potential Maximum Claimed Settlement Amount, but shall be used to fairly apportion the Potential Claimed Settlement Amount over the Class Period. The total of the amount to be apportioned to each year of the class plus the calculated interest shall be the Potential Gross Annual Apportioned Amount.
- iii. For example, if a Class Member worked during a year in the Class Period and earned a total of \$1, and the total gross compensation paid out to Class Members during that year was \$100, that Class Member would be entitled to 1 percent (1/100) of the Potential Gross Annual Apportioned Amount. However, every Class Member who was employed as a Catastrophe ("CAT") Services Claim Representative during the Class Period shall have his or her annual Value (gross compensation) increased by 60% for each day in which the Class Member performed CAT services. This increase shall be calculated as follows: the Class Member's annual Value will be multiplied by the ratio of the number of days that Class Member worked in CAT services that year over 365; and then multiplied by 60%. Accordingly, the annual Percentages for Class Members who worked in CAT services that year will be increased, and the annual Percentages for Class Members who did not work in CAT Services shall be proportionally reduced. The resulting monetary amount of each Class Member's Percentage of the Potential Maximum Claimed Settlement Amount is the Individual Settlement Award.
- iv. The total of Individual Settlement Awards claimed by Settlement Class Members through properly completed Claim Forms shall be the "Claimed Settlement Amount." If each and every Class Member submits a timely and properly completed Claim Form, then the Claimed Settlement Amount shall equal the Potential Maximum Claimed Settlement Amount and all Individual Settlement Awards shall be distributed to all Settlement Class Members. If all Class Members do not submit timely and properly completed Claim Forms, State Farm will pay less than the Potential Maximum Claimed Settlement Amount.

c. Tax Liability and Net Payments:

The payment by the Defendants pursuant to this Agreement is for alleged failure to pay overtime compensation, interest on said sum, and all other claims as set forth in the operative Second Amended Complaint (as described in Paragraph 5 herein). In accordance with both State and Federal tax laws, Defendants shall withhold such sums from each Class Member's Individual

Settlement Award as is required in order to comply with the same. Portions of any Individual Settlement Award not subject to withholding will be issued with a 1099 form. After appropriate tax withholding, the net payment to be received by each Settlement Class Member shall be designated as the "Net Payment", and said sum shall be paid as provided in Paragraph 12 below. Defendants shall report the taxes withheld from each Class Member as required via a W-2 form, and shall immediately pay over all such withheld funds, plus the employer's contribution, to the appropriate State and Federal taxing authority. However any required employer contribution is not included in the "Potential Maximum Claimed Settlement Amount." Defendants shall provide each Class Member with appropriate documentation setting forth the amount of any tax or other payment withheld in accordance with State and Federal tax requirements. In addition, Defendants shall provide such information to the Administrator and to Class Counsel.

8. ADMINISTRATION OF POTENTIAL MAXIMUM CLAIMED SETTLEMENT AMOUNT

- a. At no time shall State Farm have the obligation to segregate the funds comprising the Potential Maximum Claimed Settlement Amount from its other assets. State Farm will retain exclusive authority over, and responsibility for, those funds until paid.
- b. Either State Farm or the Administrator, as determined by State Farm, will calculate the net amounts to be paid to the Settlement Class Members from the Potential Maximum Claimed Settlement Amount in accordance with the terms and provisions of this Agreement. In the event State Farm requests that the Administrator calculate or participate in the calculation of the net amounts to be paid to Settlement Class Members, State Farm shall bear all costs and expenses incurred in employing the Administrator in this manner. Class Counsel will be provided access to all calculations and all data forming the basis for such determinations. The Court shall retain jurisdiction over the correctness of such calculations and the amount of payment due, and the parties shall submit any disagreements regarding these issues to the Referee for determination.
- c. No person shall have any claim against State Farm, State Farm's Counsel, the Named Plaintiffs, Plaintiffs, the Class, Plaintiffs' Counsel or the Administrator based on distributions and payments made in accordance with this Agreement, once finally approved by the Court.
- d. The maximum amount State Farm can be required to pay under this Settlement for any purpose is \$135,000,000, with the exception of State Farm's FICA and FUTA contributions on Individual Settlement Awards, and the costs associated with calculating and making payments to Settlement Class Members.

9. PRELIMINARY APPROVAL

The parties shall jointly seek preliminary approval of this settlement from the Referee via ex parte application made in public. The Referee shall be asked to approve the terms of the settlement, the form of notice, the method of notice, the Claim Form, the procedure for the calculation of claims, and the attorneys' fees and costs and expenses sought by Class counsel, all as part of preliminary approval. The Referee shall report his finding concerning preliminary approval in writing to the Court. The Court will be asked to adopt the findings of the Referee and issue an Order granting preliminary approval.

10. FINAL APPROVAL

The notice of settlement shall contain a date, time and location for a "Final Approval (Final Fairness) Hearing" to be conducted by the Referee. Said hearing shall be held in a courtroom in Los Angeles County and shall not commence prior to 10:00 a.m.

If, after receiving the Referee's written report concerning the Final Approval Hearing (and if that report recommends final approval), the Court is in agreement with the recommendation of the Referee, the Court will grant final approval of the settlement. If the Court is not in agreement with the Referee's findings, the Court will refer the matter back to the Referee for such other proceedings as may be appropriate.

If final approval is granted by the Court, the Referee shall be empowered to hear any remaining disputes between the parties, to resolve administrative and or procedural problems, etc. All such actions shall be subject to ratification by the Court.

11. PROCEDURE FOR OBJECTIONS TO SETTLEMENT

The Notice shall provide that Class Members who wish to object to the Settlement must file with the Referee and serve on counsel for the Parties a written statement objecting to the Settlement. Such written statement must be filed with the Referee and served on counsel for the Parties no later than thirty (30) days after the date the Notice is first mailed (the "Objection Deadline Date"). No Class Member shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) or to object to the Settlement, and no written objections or briefs submitted by any Class Member shall be received or considered by the Referee at the Final Approval Hearing, unless written notice of the Class Member's intention to appear at the Final Approval Hearing, and copies of any written objections or briefs, shall have been filed with the Referee and served on counsel for the Parties on or before the Objection Deadline Date. Class Members who fail to file and serve timely written objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement.

12. PAYMENT OF SETTLEMENT PROCEEDS

- a. As used in this Settlement, "Effective Date" means the date by which this Settlement is finally approved as provided herein and the Superior Court's Final Judgment and Order of Dismissal with Prejudice ("Final Judgment" or "Judgment") becomes final. For purposes of this Settlement, the

Superior Court's Final Judgment "becomes final" upon the latter of: (i) the date of final affirmance of an appeal of the Final Judgment; (ii) the expiration of the time for a petition for a writ of certiorari to review the Final Judgment; (iii) the date of final dismissal of any appeal from the Final Judgment or the final dismissal of any appeal or proceeding on certiorari to review the Final Judgment; or (iv) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from the Superior Court's Final Judgment.

- b. Defendants shall endeavor to make payments of Net Payments to Settlement Class Members, within 30 days of the Effective Date as defined above.

The class acknowledges that the claims process may take longer than described above due to (1) the length of the claims period, and (2) the reasonable time necessary for Defendants to calculate the settlement amount due each claimant. Defendants will employ all due speed to distribute the proceeds to claimants at the earliest reasonable date.

- c. Defendants shall also endeavor to make payments to Class Counsel for judicially approved attorney fees awards and costs, and any approved incentive awards to individual class representatives within 30 days of the Effective Date as defined above.

13. DEFENDANTS' COSTS

The Defendants shall bear their own costs, expenses and attorneys fees which they have incurred in connection with or arising out of the Action.

14. RELEASE AS TO ALL CLASS MEMBERS

As of the Effective Date, the Class Members, including the Named Plaintiffs, release State Farm Fire and Casualty Company, State Farm Mutual Automobile Insurance Company, State Farm General Insurance Company and each of their past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and its and their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys and each of their company-sponsored employee benefit plans and all of their respective officers, directors, employees, administrators, fiduciaries, trustees and agents (the "Released Parties"), from the "Released Claims." For purposes of this Agreement, the "Released Claims" are defined as:

all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal constitution, statute, rule or regulation, including state wage and hour laws, whether for economic damages, non-economic damages, restitution, penalties or liquidated damages, arising out of:

(1) any and all facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to act alleged, or related to acts alleged, in the Second Amended Complaint, including but not limited to claims: (a) that State Farm did not pay the Plaintiffs all overtime they were owed for work performed as Claim Representatives in California; (b) that State Farm failed to provide unpaid meal periods and paid rest breaks to the Plaintiffs while they performed work as Claim Representatives in the State of California; and/or (c) that State Farm owes wages, waiting time penalties, penalties, including any penalties which may be available pursuant to the PAGA of 2004, interest, attorneys' fees or other damages of any kind related to the claims alleged in the Second Amended Complaint, at any times on or before the last day of the Class Period (whether based on California state wage and hour law, contract, or otherwise); and/or

(2) the causes of action asserted in the Second Amended Complaint, including but not limited to any and all claims for alleged failure to pay overtime, for alleged failure to provide unpaid meal periods and paid rest breaks, for alleged failure to maintain and furnish records of hours worked, for alleged unlawful conversion of wages, for failure to timely pay wages, for alleged minimum wage and pay stub violations and related violations of Wage Orders, for waiting time penalties, and, as related to the foregoing, for alleged unlawful, unfair and/or fraudulent business practices under California Business and Professions Code § 17200, et seq.

The Released Claims include any unknown claims that the Class Members do not know or suspect to exist in their favor at the time of the release, which, if known by them, might have affected their settlement with, and release of, the Released Parties or might have affected their decision not to object to this Settlement. With respect to the Released Claims, the Class Members stipulate and agree that, upon the Effective Date, the Class Members shall be deemed to have, and by operation of the Final Judgment shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which Section provides:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.**

The Class Members may hereafter discover facts in addition to or different from those they now know or believe to be true with respect to the subject matter of the Released Claims, but upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever settled and released any and all of the Released Claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now

exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.

The Class Members agree not to sue or otherwise make a claim against any of the Released Parties that is in any way related to the Released Claims.

15. RELEASE AS TO ALL SETTLEMENT CLASS MEMBERS.

As of the Effective Date, the Settlement Class Members, including the Named Plaintiffs, in addition to releasing the Released Parties from the Released Claims as outlined above in Paragraph 14, release the Released Parties from the "Released Federal Claims." For purposes of this Agreement, the "Released Federal Claims" are defined as:

all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal constitution, statute, rule or regulation, including federal wage and hour laws, whether for economic damages, non-economic damages, restitution, penalties or liquidated damages, arising out of:

(1) any and all facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to act alleged, or related to acts alleged, in the Second Amended Complaint, including all federal claims pursuant to the Fair Labor Standards Act, including claims: (a) that State Farm did not pay the Plaintiffs all overtime they were owed for work performed as Claim Representatives in the State of California; (b) that State Farm failed to provide unpaid meal periods and paid rest breaks to the Plaintiffs while they performed work as Claim Representatives within the State of California; and/or (c) that State Farm owes wages, waiting time penalties, penalties, including any penalties which may be available pursuant to the PAGA of 2004, interest, attorneys' fees or other damages of any kind related to the claims alleged in the Second Amended Complaint, at any times on or before the last day of the Class Period (whether based on federal wage and hour law, contract, or otherwise); and/or

(2) the causes of action asserted in the Second Amended Complaint, including any and all federal claims arising from the Fair Labor Standards Act for alleged failure to pay overtime, for alleged failure to provide unpaid meal periods and paid rest breaks, for alleged failure to maintain and furnish records of hours worked, and for alleged unlawful conversion of wages due to Plaintiffs for hours worked as Claim Representatives within the State of California.

The Released Federal Claims include any unknown claims that the Settlement Class Members do not know or suspect to exist in their favor at the time of the release, which, if known by them, might have affected their settlement with, and release of, the Released Parties or might have affected their decision not to object to this Settlement. With respect to the Released Federal Claims, the Settlement Class Members stipulate and agree that, upon the Effective Date, the Settlement Class Members shall be deemed to have, and by operation of the Final Judgment shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which Section provides:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.**

The Settlement Class Members may hereafter discover facts in addition to or different from those they now know or believe to be true with respect to the subject matter of the Released Federal Claims, but upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever settled and released any and all of the Released Federal Claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.

The Settlement Class Members agree not to sue or otherwise make a claim against any of the Released Parties that is in any way related to the Released Federal Claims.

16. WAIVER OF RIGHTS:

Defendants waive any right they may have to further appeal or contest, in any manner, the order certifying this matter as a class action or the order granting Plaintiffs' motion for summary adjudication.

Plaintiff class waives any right they may have to overtime pay or any other matter alleged in or related to allegations in the Second Amended Complaint except as provided for in this settlement agreement.

The Parties hereto, including the Plaintiff Class, stipulate and agree that the consideration paid to the Class Members pursuant to this Settlement Agreement compensates the Plaintiff Class for all overtime compensation due to them, all penalties, all liability for meal and rest period violations and any compensation to which they may be entitled pursuant to the California Labor Code, or the applicable Wage Order, and any related penalties and as such, the Plaintiff Class are not "aggrieved employees" for purposes of the Private Attorney's General Act

("PAGA") of 2004, and, therefore, Defendants are not liable for any penalties pursuant to the PAGA.

The Parties hereto, including the Plaintiff Class, further stipulate and agree that even if any Class Member is considered or determined to be an "aggrieved employee" for purposes of the PAGA, said Class Member waives any potential right to any penalty prescribed by the PAGA, the California Labor Code or the applicable Wage Order.

The Parties hereto, including the Plaintiff Class, further stipulate and agree that Defendants have taken reasonable steps to insure that meal and rest periods are taken as required by law and that Defendants are in compliance with the California Labor Code and applicable Wage Order and that Class Counsel has conducted a reasonable investigation and determined that Defendants are currently in compliance with the California Labor Code and applicable Wage Order and that meal and rest periods are being provided as required by law.

The Referee and the Court has reviewed this Settlement Agreement and concluded that Plaintiff Class has been adequately compensated for all violations alleged in the Second Amended Complaint and to which they otherwise may be entitled and that any additional penalties pursuant to the PAGA would be an unjust and oppressive award. Accordingly, to the extent any PAGA penalties could potentially be awarded to the Plaintiff Class, the Court hereby determines that no PAGA penalties should be awarded. The Parties to this Settlement Agreement concur with this determination.

17. NO ADMISSION BY THE PARTIES:

State Farm and the Released Parties deny any and all claims alleged in this Class Action and in the Second Amended Complaint and deny all wrongdoing whatsoever. State Farm continues to assert that it properly classified its Claim Representatives as administrative employees exempt from California and Federal overtime regulations. This Agreement is neither a concession nor an admission, and shall not be used against State Farm or any of the Released Parties as an admission or indication with respect to any claim of any fault, concession or omission by State Farm or any of the Released Parties. Whether or not the Settlement is finally approved, neither the Settlement, nor any document, statement, proceeding or conduct related to this Agreement, nor any reports or accounts thereof, shall in any event be:

- a. construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or
- b. disclosed, referred to or offered or received in evidence against any of the Released Parties, in any further proceeding in the Class Action, or any other civil, criminal or administrative action or proceeding except for purposes of settling this Class Action pursuant to this Agreement.

18. NULLIFICATION OF SETTLEMENT AGREEMENT

In the event: (i) the Superior Court does not enter the Order specified herein; (ii) the Superior Court does not finally approve the Settlement as provided herein; (iii) the Superior Court does not enter a Final Judgment as provided herein which becomes final as a result of the occurrence of the Effective Date; or (iv) the Settlement does not become final for any other reason, this Settlement Agreement shall be null and void and any order or judgment entered by the Court in furtherance of this Settlement shall be treated as void ab initio. In such a case, the Parties and any funds to be awarded under this Settlement shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed.

19. PRIVACY OF DOCUMENTS AND INFORMATION

Plaintiffs and their counsel agree that none of the documents and information provided to them by State Farm shall be used for any purpose other than prosecution of this Class Action. Within 10 days of the Effective Date of this Agreement, Plaintiffs and their counsel shall return all copies of all documents marked as "confidential" which were produced to them during this litigation.

20. REPRESENTATIONS AND WARRANTIES

Each party represents and warrants that he, she or it has not heretofore assigned or transferred, or purported to assign or transfer, any of the claims released pursuant to this Agreement to any other person not a party hereto and that he, she or it is fully entitled to compromise and settle same.

21. CALIFORNIA LAW

All questions with respect to the construction of this Agreement and the rights and liabilities of the parties hereto shall be governed by the laws of the State of California applicable to agreements to be wholly performed within the State of California.

22. OWN COUNSEL

Each party acknowledges that he, she or it has been represented by counsel of his, her or its own choice throughout all of the negotiations which preceded the execution of this Agreement and in connection with the preparation and execution of this Agreement.

23. FURTHER ACTS AND DOCUMENTS

The parties agree to do such acts and execute all such documents necessary to effectuate the intent of this Agreement.

24. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

25. HEADINGS

The headings contained in this Agreement are for reference only and are not to be construed in any way as a part of the Agreement.

26. ENTIRE AGREEMENT

This Agreement represents the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior contemporaneous oral and written agreements and discussions. Each of the parties covenants that he, she or it has not entered in this Agreement as a result of any representation, agreement, inducement, or coercion, except to the extent specifically provided herein. Each party further covenants that the consideration recited herein is the only consideration for entering into this Agreement and that no promises or representations of another or further consideration have been made by any person. This Agreement may be amended only by an agreement in writing duly executed by all parties hereto.

27. BINDING EFFECT

This Agreement shall be binding upon and inure to the benefit of the parties hereto and to their respective heirs, assigns and successors-in-interest.

28. DRAFTING

Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any party as drafter of the Agreement.

29. SEVERABILITY

In the event any covenant or other provision herein is held to be invalid, void or illegal, the same shall be deemed severed from the remainder of this Agreement and shall in no way affect, impair or invalidate any other covenant, condition or other provision herein. If any covenant, condition or other provision herein is held to be invalid due to its scope or breadth, such covenant, condition or other provision shall be deemed valid to the extent of the scope or breadth permitted by law.

30. INCORPORATION OF EXHIBITS

All exhibits attached hereto are hereby incorporated by reference as though set forth fully herein.

31. AUTHORITY

Each party warrants and represents that each of the persons/or entities executing this Agreement is duly empowered and authorized to do so.

32. NAMED PLAINTIFFS' WAIVER OF RIGHT TO OBJECT

The Named Plaintiffs agree to sign this Agreement and by signing this Agreement are bound by the terms herein stated and further agree not to request to be excluded from the Settlement Class and agree not to object to any of the terms of this Agreement. Non-compliance by any of the Named Plaintiffs with this paragraph shall be void and of no force or effect. Any such request for exclusion or objection shall therefore be void and of no force or effect.

33. ADMINISTRATION OF SETTLEMENT AND COMPLIANCE

The Referee shall further have continuing jurisdiction to resolve any dispute which may arise with regard to the terms and conditions of this Agreement, subject to approval by the Court.

34. FINAL ORDER AND JUDGMENT OF SETTLEMENT

Upon final approval of the settlement, a final order and judgment shall be entered by the Court which shall:

- a. Grant final approval to the settlement as fair, reasonable, adequate, in good faith and in the best interests of the Plaintiff Class, as a whole, and order the parties to carry out the provisions of this Agreement;
- b. Dismiss with prejudice all actions, complaints and claims and any lawsuit as against the settling Defendants arising out of or related to any of the actions or events complained of in the Second Amended Complaint herein;
- c. Adjudge that Class Members are conclusively deemed to have released any and all rights, claims, causes of action against the settling Defendants and their parents, subsidiaries, affiliates, successors, shareholders, and all their present and former employees, officers, directors, partners, insurers, attorneys, agents, consultants, and contractors, of and from any and all rights, claims, demands, liabilities, causes of action, liens and judgments arising out of or in any way related to the matters set forth in the Second Amended Complaint;
- d. Bar and permanently enjoin each Class Member from prosecuting against the Released Parties any and all of the settled claims which the Class Members or any of them had, have or may have in the future, arising out of, based upon, or otherwise related to any of the settled claims, or any of the allegations contained in the operative complaint or in the Second Amended Complaint.

e. Reserve continuing jurisdiction as provided herein above.

35. NOTICE

After the Court enters its order granting final approval of this Agreement, all notices, requests, demands and other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be delivered personally, telecopied or mailed postage pre-paid by first class mail to the following persons at their addresses set forth as follows:

Class Counsel:

Louis M. Marlin, Esq.  
MARLIN & SALTZMAN  
2400 E. Katella Ave, Suite 1030  
Anaheim, CA 92806

R. Rex Parris, Esq.  
THE R. REX PARRIS LAW FIRM  
963 West Avenue J  
Lancaster, CA 93534

Stanley D. Saltzman, Esq.  
MARLIN & SALTZMAN  
29229 Canwood St., Suite 208  
Agoura Hills, CA 91301

Arnold W. Schwartz, Esq.  
MAZURSKY, SCHWARTZ, DANIELS  
& BRADLEY  
10990 Wilshire Blvd., Suite 1200  
Los Angeles, CA 90024-3927

Defendants' Counsel:

Douglas Hart, Esq.  
Derek Havel, Esq.  
Elicia Bernstein, Esq.  
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
333 South Hope Street, 48th Floor  
Los Angeles, CA 90071-1448

WHEREFORE, the representative plaintiffs on their behalf and on behalf of the Plaintiff Class, and the Defendants, by their duly authorized agents or counsel, have executed this Settlement Agreement as of the dates set forth below.

**Class Representatives**

Dated: \_\_\_\_\_

\_\_\_\_\_  
John Gutierrez

Dated: \_\_\_\_\_

\_\_\_\_\_  
Thomas Phillips

Dated: \_\_\_\_\_

\_\_\_\_\_  
Lydia Jowyk

Dated: \_\_\_\_\_

\_\_\_\_\_  
Danelle Johnson

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

STATE FARM FIRE & CASUALTY  
COMPANY

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

**Approval As To Form And Content By Counsel**

On Behalf of the Plaintiff Class:

MARLIN & SALTZMAN

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Louis M. Marlin

THE R. REX PARRIS LAW FIRM

Dated: \_\_\_\_\_

By \_\_\_\_\_  
R. Rex Parris

MAZURSKY, SCHWARTZ, DANIELS &  
BRADLEY

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Arnold Schwartz

**On Behalf of Defendants:**

SHEPPARD, MULLIN, RICHTER &  
HAMPTON LLP

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Douglas R. Hart