

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES**

JOHN GUTIERREZ, et.al.,	)	CASE NUMBER: BC 236552
Plaintiffs	)	
v.	)	
STATE FARM MUTUAL AUTOMOBILE	)	
INSURANCE COMPANY; STATE FARM FIRE	)	<b>NOTICE OF CLASS ACTION SETTLEMENT</b>
AND CASUALTY COMPANY, et.al.,	)	
Defendants.	)	
_____	)	

TO: **All persons who, since September 8, 1996, have been employed or are currently employed in California as claims adjusters by the defendants State Farm Mutual Automobile Insurance Company, State Farm Fire and Casualty Company, State Farm General Insurance Company, and their related entities, companies, subsidiaries, etc. 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 elected to opt-out of the class at the time notice of class certification was served are not class members.**

On November 24, 2004, the Court granted preliminary approval of the proposed settlement in this Action. If the settlement is granted final approval, the Action will be dismissed and the defendants will be released of all claims related to this case. This Notice is to advise you of the proposed settlement, your rights to object to the terms of the proposed settlement, and how to obtain more information about the settlement.

**Please Read This Entire Notice Carefully.  
Your Rights May Be Affected By The Proposed Settlement Described Below.**

**I. Summary of the Litigation.**

On September 8, 2000, a lawsuit was filed against (1) State Farm Mutual Automobile Insurance Company, and (2) State Farm Fire and Casualty Company 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. The case seeks recovery of overtime pay and penalties which plaintiffs contend are owed to all present and former claims adjusters who adjusted claims in California from September 8, 1996 to the present. The matter has been litigated before the Hon. Anthony J. Mohr, Judge of the Superior Court (hereafter, the Court).

On August 23, 2002, the Court certified this matter as a class action. Class notice was sent to all potential class members at their last known address (as provided by the defendants) via first class U.S. Mail. Thereafter, on December 15, 2003, the Court entered its order granting the plaintiff class' motion for summary adjudication of liability and determining that the members of the plaintiff class were and are non-exempt employees entitled to overtime compensation. That decision of the Court could be the subject of an appeal if the matter was litigated through trial.

During the course of this litigation, attorneys for the plaintiff class and attorneys for the defendants have engaged in mediation with two experienced mediators, including a former justice of the California Supreme Court. In addition, counsel for the parties have engaged in numerous discussions in an attempt to resolve this matter. On August 4, 2004, the parties reached a tentative agreement to settle this matter, subject to the approval of the Court.

As part of the settlement process, the Court has appointed the Hon. Edward Panelli (Ret.), a retired justice of the California Supreme Court, to act as the Referee in this matter. Justice Panelli will conduct the Fairness Hearing described later in this Notice, and shall report his findings to the Court. Justice Panelli will also resolve any disputes involving the settlement process, with his recommendations being presented to the Court for approval.

**II. Class Definition.**

The certified settling class ("Class Members") is defined as follows:

The class is comprised of all persons who, since September 8, 1996, 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. 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 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, persons employed in the Special Investigation Unit or persons employed exclusively to perform subrogation functions, and persons employed as Large Loss Specialists are not included in the class during any time said persons were so employed.

Persons who elected to opt-out of the class at the time notice of class certification was served are not class members. Also, all persons who did not opt out of the settlement of the class action regarding Claim Central Claims 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.

### III. Class Representatives & Class Counsel

The Court has appointed plaintiffs John Gutierrez, Thomas Phillips, Lydia Jowyk and Danelle Johnson to represent the class. The Court appointed the following attorneys to represent the class:

Marlin & Saltzman  
Louis M. Marlin  
2400 E. Katella Ave., Suite 1030  
Anaheim, CA 92806

R. Rex Parris Law Firm  
R. Rex Parris  
963 W. Avenue J  
Lancaster, CA 93534

Marlin & Saltzman  
Stanley D. Saltzman  
29229 Canwood St., Suite 208  
Agoura Hills, CA 91301

Mazursky, Schwartz, Daniels & Bradley  
Arnold Schwartz  
10990 Wilshire Blvd., Suite 1200  
Los Angeles, CA 90024

### IV. Summary of Settlement Terms.

The following is a summary of the proposed settlement contained in the Settlement Agreement that is on file with the Clerk of the Central Civil West division of the Los Angeles California Superior Court in Los Angeles, California. The complete Settlement Agreement may be inspected during normal business hours at the offices of the Clerk or online at [www.overtimelawsuit.com](http://www.overtimelawsuit.com) under the heading of "State Farm Insurance Company".

#### A. Monetary Award:

The proposed settlement obligates the defendants to pay a potential maximum settlement amount of **one hundred thirty five million dollars (\$135,000,000)**. This payment is "all inclusive," including, but not limited to, unpaid overtime pay, pay for meal and rest break violations, any and all associated penalties, interest, costs, attorneys' fees, class administration costs, referee costs, etc. These settlement proceeds will be paid to Class Members as described in Section V later in this notice.

#### B. The Claims Process:

Enclosed with this Notice you will find a Claim Form. **THIS CLAIM FORM MUST BE COMPLETED, SIGNED UNDER PENALTY OF PERJURY, AND RETURNED TO THE CLAIMS ADMINISTRATOR WITHIN 75 DAYS OF THE MAILING OF THE SAME. THEREFORE, FOR YOUR CLAIM TO BE CONSIDERED TIMELY, IT MUST BE POSTMARKED NO LATER THAN FEBRUARY 19, 2005.** Claims postmarked after that date will be considered as late claims and may be subject to rejection. Please follow the directions on the Claim Form carefully. If you require assistance, you may contact class counsel as identified at the end of this notice.

The Claim Forms shall be maintained by an independent claims 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, action, etc. in regard to 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 this procedure is to ensure that no current or former employee could, in any way, be negatively impacted by filing a claim.

#### C. Notice and Administration.

The settlement process will be administered by a claims administrator chosen by the parties. The costs of administration shall be subtracted from the potential maximum settlement amount to be paid by the Defendants, except that if Defendants elect to have the claims administrator calculate the amount of settlement due each class member and/or disburse settlement proceeds to class members, the cost of those activities will be paid by Defendants.

D. Release and Waiver.

(1) If the settlement is approved by the Court, then upon the Effective Date of the settlement, all Settlement Class Members shall be deemed to have agreed that except for the obligations imposed by this settlement, Defendants shall be forever released and discharged from all Released Claims and that the Class Representatives and all Class Members shall be barred and enjoined from suing the Released Parties for any liability in any way related to or arising out of any Released Claim.

(2) For purposes of the settlement, "Released Claims" means any and all claims, of every kind and nature, known or unknown, that were or could have been asserted against the Defendants by the Class Representatives or Class Members in any type of proceeding, for unpaid overtime compensation and/or statutory penalties, or any other relief sought in the Complaint, or in the Second Amended Complaint filed on November 24, 2004 in this matter for the period September 8, 1996 through the Effective Date of the settlement.

E. Attorneys' Fees:

Class Counsel has litigated this matter since September, 2000. The three law firms representing the class have devoted substantial time, effort and expenses in prosecuting this matter, including taking approximately 150 depositions, reviewing over 50,000 pages of documents produced by defendants, obtaining class certification, obtaining summary adjudication, etc. It is customary for courts to award attorneys' fees based upon a percentage of the potential maximum settlement amount for the benefit of a class in amounts ranging from 25% to 40% of that amount. In this case, each of the three firms representing the plaintiff class will request an award equal to 11 1/9% of the potential maximum settlement amount, for a total attorneys' fee award of 33 1/3%. Class Counsel will also seek reimbursement of the costs and expenses they have incurred on behalf of the class, estimated to be approximately \$500,000.

F. Incentive Award:

The Representative Plaintiffs will seek an incentive award from the potential maximum settlement amount not to exceed ¼ of the average individual settlement award for the time and effort they have expended in bringing this action.

**V. Calculation Of Payments To Class Members**

The settlement administrative costs, incentive awards to each of the Representative Plaintiffs, Referee costs, attorneys' fees and costs and other associated expenses shall be subtracted from the potential maximum settlement amount. The funds remaining after payment of these expenses are designated as the Potential Maximum Claimed Settlement Amount, which is the amount available for distribution among Class Members who submit timely claims. The calculation of each member's share of the funds available for distribution is as follows:

1. 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.

2. 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.

3. 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.

4. 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.

5. Defendants will withhold from settlement payments federal and state withholding amounts as required by federal and state tax laws.

#### **VI. Settlement Approval Hearing.**

A Hearing has been scheduled on January 10, 2005 at 10:00 a.m. before the Honorable Edward Panelli (Ret.) at Los Angeles Superior Court, Central Civil West Courthouse, Department 309, 600 S. Commonwealth Avenue, Los Angeles, CA 90005 at which time the Referee will determine: (1) whether the proposed settlement should be approved as fair, reasonable and adequate to Class Members; and (2) whether the application of Class Counsel for an award of attorneys' fees and expenses should be approved and in what amount. The Referee will thereafter report his findings to the Court and, if those findings are favorable and approved by the Court, an order granting final approval will be entered.

#### **You Are Not Required To Attend The Settlement Approval Hearing.**

#### **VII. Right To Object to the Settlement.**

If you fall within the Class definition and are a Class Member, you will be bound by any Final Judgment related to this settlement. **If you do not properly complete and mail in a claim form in a timely manner you will not receive any award under the settlement.** All Class Members will be bound by a Final Judgment in this Action.

At the Settlement Hearing, any Class Member may appear in person or by counsel of his or her own choosing and at his or her own expense. To the extent allowed by the Court, such a Class Member may be heard in opposition to the fairness, reasonableness and adequacy of the settlement, or to the application for an award of attorneys' fees and reimbursement of expenses and costs. However, no Objector shall be heard in opposition to the settlement and/or the application for attorneys fees and expenses, nor shall any paper or brief submitted by the Objector be accepted or considered by the Court, unless, on or before January 5, 2005 ("the Objection Deadline"), the Objector (a) files with the Referee, the Hon. Edward Panelli (Ret.), at Judicial Arbitration & Mediation, 707 Wilshire Blvd., 46<sup>th</sup> Floor, Los Angeles, CA 90017 written notice of such person's intention to appear, together with a written notice of objection and a statement providing the basis for the objection, along with any and all documentation in support of such objection, and (b) simultaneously serves copies of such notice, statement, and documentation, together with copies of any other papers or briefs filed with the Referee, upon Class Counsel and Defendant's Counsel as follows:

<u>Class Counsel:</u> Louis M. Marlin Marlin & Saltzman 2400 E. Katella Ave. Suite 1030 Anaheim, CA 92806	<u>Defendant's Counsel:</u> Douglas R. Hart Sheppard, Mullin, Richter & Hampton, LLP 333 S. Hope Street 48th Floor Los Angeles, CA 90071
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Any Objector who does not object in the manner provided above shall be deemed to have waived such objection, and shall forever be foreclosed from objecting to the fairness, reasonableness or adequacy of the proposed settlement, or any award of attorneys' fees or reimbursement of costs and expenses.

#### **VIII. Reminder of Important Settlement Dates and Deadlines.**

The following are important dates and deadlines under the proposed settlement:

Objection Deadline:	January 5, 2005
Settlement Hearing:	January 10, 2005
Proof of Claim Deadline:	February 19, 2005

#### **IX. Additional Information.**

For more detailed information concerning the matters involved in this Action, reference is made to the pleadings, to the Settlement Agreement, to the Orders entered by the Court and the Referee, and to the other papers filed in the Action, which may be inspected at the Clerk of Central Civil West division of the Superior Court of the County of Los Angeles, State of California, during regular business hours. In addition, the Settlement Agreement can be viewed online at [www.overtimelawsuit.com](http://www.overtimelawsuit.com) under the "State Farm" tab.

Any questions concerning the matters contained in this Notice may be directed to any of the Class Counsel identified above in writing, via e-mail links at [www.overtimelawsuit.com](http://www.overtimelawsuit.com), or by calling Class Counsel at:

**888-587-7100**

You may also seek the advice and counsel of your own attorney, at your own expense, if you desire. **Do Not Contact The Court Or The Referee.**