

## **SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement (as defined below),<sup>1</sup> dated as of March 8, 2024, is entered into by Plaintiffs Sabrina Timmins (“Timmins”), Holly Johnson (“Johnson”), Elaine Scherer (“Scherer”), Elmira Hobbs (“Hobbs”), Daniel Rogers (“Rogers”), Trina Hawthorne (“Hawthorne”), Brian Marble (“Marble”), Monte Bell (“Bell”), Jill Hodge (“Hodge”), and Tammi Dooley (“Dooley”) (together, “Plaintiffs”) individually and on behalf of the Settlement Classes, and Defendants American Family Insurance Company (“AmFam”), American Family Mutual Insurance Company, S.I. (“AmFam Mutual”), American Standard Insurance Company of Ohio (“American Standard”), Permanent General Assurance Corporation (“Permanent General”), Permanent General Assurance Corporation of Ohio (“Permanent General of Ohio”), and The General Automobile Insurance Company, Inc. (“The General”) (together, “Defendants”). Plaintiffs and Defendants are each individually a “Party” and are collectively the “Parties.” The Parties hereby agree to the following terms in full settlement of the Action, subject to Final Approval, as defined below, by the Court in which the above-captioned actions are consolidated.

### **RECITALS**

WHEREAS, On April 13, 2022, a putative class action Complaint was filed in the U.S. District Court for the Western District of Wisconsin, Case No. 3:22-cv-00214 in the name of Johnson and a putative class of Missouri insureds against AmFam. The Complaint alleged that AmFam systematically underpays its Missouri insureds on auto insurance claims by basing total loss auto claims payments on valuation reports produced by Audatex in which a typical negotiation deduction (“TND”) has been applied to the advertised list price of at least one comparable vehicle (the “Johnson Action”); and

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<sup>1</sup> All capitalized terms herein have the meanings ascribed to them in the definitions section or elsewhere in the Agreement.

WHEREAS, On April 28, 2023, the operative Fourth Amended Class Action Complaint was filed in the Timmins Action in the names of Johnson, Timmins, Scherer, and Hobbs and putative classes of Missouri, Wisconsin, and Kansas insureds against a combination of AmFam and AmFam Mutual; and

WHEREAS, On or about April 21, 2023, a putative class action Complaint was filed in the U.S. District Court, Western District of Wisconsin, Case No. 3:23-cv-00254-jdp in the name of Rogers and Hawthorne and putative classes of Ohio and Illinois insureds against AmFam (the “Rogers Action”); and

WHEREAS, On August 7, 2023, an Amended Class Action Complaint, which added claims on behalf of a class of Arizona insureds, was filed in the Rogers Action in the names of Rogers, Hawthorne, and Marble; and

WHEREAS, On April 7, 2022, a putative Class Action Complaint was filed in the U.S. District Court for the Northern District of Georgia, Case No. 1:22-cv-01360-CAP in the name of Bell and a putative class of Georgia insureds and against American Standard (the “Bell Action”); and

WHEREAS, On June 16, 2022, an Amended Class Action Complaint was filed in the Bell Action in the names of Bell and a putative class of Georgia insureds and against AmFam; and

WHEREAS, on February 28, 2023, the Court dismissed the Bell Action without prejudice; and

WHEREAS, on August 11, 2022, a putative Class Action Complaint was filed in the U.S. District Court for the Middle District of Tennessee, Case No. 3:22-cv-00608, in the name of Hodge, and a putative class of Mississippi insureds against Permanent General. The Complaint

alleged that Permanent General systematically underpays its Mississippi insureds on auto insurance claims by basing total loss auto claims payments on valuation reports produced by Audatex in which a TND has been applied to the advertised list price of at least one comparable vehicle (the “Hodge Action”); and

WHEREAS, on November 9, 2022, an Amended Class Action Complaint was filed in the Hodge Action in the names of Hodge, Dooley, Travis Johnson and Joangela Pulley, and putative classes of Mississippi, Alabama, Ohio, and Virginia insureds and against a combination of Permanent General, Permanent General of Ohio, and The General; and

WHEREAS, on August 29, 2023, the District Court in the Hodge Action denied the Motion to Dismiss as to Plaintiffs Hodge, Dooley, and Travis Johnson, but dismissed the claims of Joangela Pulley, and

WHEREAS, the Parties have now moved to dismiss without prejudice the Johnson, Rogers, Bell, and Hodge Actions and have filed a new Action in Missouri State Court for purposes of seeking preliminary and final approval of this Settlement; and

WHEREAS, Defendants have denied and defended, and in the absence of this settlement, intend to vigorously deny and contest each and every claim in all of the above listed lawsuits, deny all material allegations of the above listed lawsuits, and assert that they have numerous merits and class defenses, and further maintain that they have consistently acted in accordance with governing laws at all times; and

WHEREAS, Plaintiffs, through counsel, while believing that the claims asserted in the above listed actions have substantial merit, examined the benefits to be obtained under the terms of the Settlement (as defined below), considered the risks associated with the continued prosecution and possible appeal of this complex and time-consuming litigation, and the

likelihood of success on the merits of the above listed actions, and believe that, in consideration of all the circumstances, the Settlement (as defined below) embodied in this Agreement is fair, reasonable, adequate, and in the best interests of the Settlement Class Members; and

WHEREAS, Defendants, while denying wrongdoing of any kind whatsoever, and without admitting liability, nevertheless agreed to enter into this Agreement to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation, and to be completely free of any further controversy with respect to the claims which were asserted in the above listed actions;

NOW, THEREFORE, IT IS HEREBY AGREED by and between the Parties, through their respective counsel, that the above listed action, and the claims of the Plaintiffs and putative classes in each of the Johnson Action, the Rogers Action, the Bell Action, and the Hodge Action be settled and compromised as between the Plaintiffs, the Settlement Classes, and Defendants upon approval of the Court after hearing as provided for in this Agreement, on the following terms and conditions:

## **I. DEFINITIONS**

In addition to the foregoing, the following terms shall have the meanings set forth below:

1. “Agreement” means this Settlement Agreement, including all exhibits thereto.
2. “Automobile Insurance Policy” means a Wisconsin, Kansas, Missouri, Georgia, Ohio, Illinois, Arizona, Mississippi, or Virginia policy of insurance issued by Defendants in effect during the Class Periods and providing first-party private-passenger automobile physical damage coverage.
3. “Claim Form(s)” means the document that Settlement Class Members must submit, as set forth in and subject to the provisions of this Agreement, to potentially obtain benefits from the Settlement. The Claim Form is attached hereto as Exhibit 1.

4. “Claim Form Submission Process” means the process by which members of the Settlement Classes will submit Claim Forms either by mail or electronically, which will then be reviewed for timeliness and completeness by the Settlement Administrator and for class membership and Settlement compliance by the Defendants.

5. “Claimant” means anyone who timely submits a Claim Form in accordance with the Claim Form submission requirements in this Agreement.

6. “Claims Deadline” means the date by which Claim Forms must be returned by a Claimant in order to be considered timely. If the Claim Form is submitted by mail, compliance with the Claims Deadline shall be determined by the date in which the postcard is postmarked, and if electronically, the date the Claim Form is submitted online. The Claims Deadline shall be thirty-five days after the issuance of an order granting Final Approval.

7. “Claims Administrator” means the firm approved by the Court to administer all aspects of the Settlement. The Parties agree to jointly recommend to the Kroll Settlement Administration (“Kroll”) be appointed as the Claims Administrator.

8. “Class Counsel” means:

SHAMIS & GENTILE, P.A.  
Andrew Shamis, Esq.  
14 NE 1<sup>st</sup> Avenue  
Suite 705  
Miami, FL 33132

NORMAND PLLC  
Edmund Normand, Esq.  
3165 McCrory  
Pl #175  
Orlando, FL 32803

EDELSBERG LAW  
Scott Edelsberg, Esq.  
Adam Schwartzbaum, Esq.  
20900 NE 30<sup>th</sup> Avenue  
Suite 417  
Aventura, FL 333180

JACOBSON PHILLIPS PLLC  
Jacob Phillips, Esq.  
Joshua Jacobson, Esq.  
478 E. Altamonte Dr., Ste. 108-570  
Altamonte Springs, FL 32701

9. “Class Period” means, for Settlement Class Member Covered Total Loss Claims insured by Defendants, the following periods:

- a. Wisconsin Class: from April 13, 2016, through [date cert entered];
- b. Kansas Class: from April 13, 2017, through [date cert entered];
- c. Missouri Class: from April 13, 2012, through [date cert entered];
- d. Georgia Class: from April 7, 2016, through [date cert entered];
- e. Ohio Class: from April 21, 2017, through [date cert entered];
- f. Illinois Class: from April 21, 2013, through [date cert entered]; and
- g. Arizona Class: from April 21, 2017, through [date cert entered]; and
- h. Virginia Class: from August 11, 2018 through [date cert entered]; and
- i. Mississippi Class: from August 11, 2019 through [date cert entered].

10. “Class Representative(s),” “Plaintiff(s),” or “Named Plaintiff(s)” means Sabrina Timmins, Holly Johnson, Elaine Scherer, Elmira Hobbs, Daniel Rogers, Trina Hawthorne, Brian Marble, Monte Bell, Jill Hodge, and Tammi Dooley.

11. “Class Notice” means the notice that the Settlement has been preliminarily approved, in substantially the same form and with substantially the same content as Exhibit 2 (“Mail Notice”), Exhibit 3 (“Email Notice”), and Exhibit 4 (Long Form Notice). The Mail Notice shall be in the form of a postcard mail notice with a detachable claim form, prefilled, with prepaid postage. The Long Form Notice shall be made available on an informational settlement website, but shall not be mailed.

12. “Consolidated Action” means a consolidated class action complaint to be filed by the Class Representatives against all Defendants in the Circuit Court of St. Louis County,

Missouri, wherein the Plaintiffs will consolidate each of the three actions implicated by this Settlement.

13. “Court” means the Circuit Court of St. Louis County, Missouri.

14. “Covered Total Loss Claim” means any first-party private passenger auto property damage claim determined to constitute a Total Loss to an insured automobile that (a) occurred within the Class Period, (b) relates to an owned or leased vehicle, (c) was determined by Defendants or by a court or arbitrator of competent jurisdiction to be covered by an Automobile Insurance Policy issued by a Defendant, and (d) resulted in a Total Loss Claim Payment.

15. “Defendant(s)” mean American Family Insurance Company, AmFam Mutual Insurance Company, S.I., American Standard Insurance Company of Ohio, Permanent General Assurance Corporation, Permanent General Assurance Corporation of Ohio, and The General Automobile Insurance Company, Inc.

16. “Effective Date” means the 30th day after the latter of:

- A. The expiration of the time to appeal the Final Approval Order (as defined in paragraph 18, below) with no appeal having been filed; or
- B. If an appeal is filed, then the later of: (i) the termination of such appeal on terms that affirm the Final Approval Order or dismiss the appeal with no material modification to the Final Approval Order; and (ii) the expiration of the time to obtain any further appellate review of the Final Approval Order.

17. “Final Approval Hearing” is the hearing held before the Court wherein the Court will consider granting final approval to the Settlement and further determine the amount of fees awarded to Class Counsel and the amount of any Service Awards to the Class Representatives.

18. “Final Approval Order” means the final order that the Court enters granting Final Approval to the Settlement in substantially the same form and substance as Exhibit 5.

19. “Lawsuits” means any of the Johnson Action, the Rogers Action, the Bell Action, or the Hodge Action.

20. “Legally Authorized Representative” means an administrator/administratrix, personal representative, or executor/executrix of a deceased Settlement Class Member’s estate; a guardian, conservator, or next friend of an incapacitated Settlement Class Member; or any other legally appointed Person or entity responsible for handling the business affairs of a Settlement Class Member and/or the spouse or domestic partner of any Class Member provided they can provide reasonable documentation to show their rights to submit a claim.

21. “Opt Out” means any Person who sends a written communication requesting exclusion from this Settlement.

22. “Parties” means the Settlement Class Members, including the Named Plaintiffs, and Defendants.

23. “Person” means any natural person, individual, corporation, association, partnership, trust, or any other type of legal entity.

24. “Preliminary Approval Order” means the Court order that preliminarily approves this Settlement in substantially the same form and content as the proposed order attached hereto as Exhibit 6.

25. “Settlement” means the terms agreed to by the Parties as set forth in this Agreement, prior to final approval of the Settlement.

26. “Released Claims” means a general release through the date that the Court enters the Preliminary Approval Order of any claims, causes of action, Unknown Claims, rights, demands, allegations, actions, suits or causes of action of whatever kind or nature, debts, liens, liabilities, agreements, contracts, interests, costs, expenses, attorneys’ fees, losses or damages



(whether actionable, actual, consequential, statutory, punitive, or treble), whether arising in law or equity, known or unknown, arising out of or relating to Plaintiff and the Settlement Class Members' automotive property damage claims to any Released Persons, including (i) the allegations that were or could have been asserted by the Plaintiff or the Settlement Class Members in any of the Lawsuits (including any iteration of the complaints in those Lawsuits) or the Consolidated Action; (ii) the Released Persons' handling, valuation, or adjustment of the aforementioned automotive property damage claims and/or coverage, including claims for bad faith; (iii) the total loss payments, including but not limited to breach of any written or oral agreement or insurance contract or any similar act; waiver; estoppel; any tortious injury, including any intentional or negligent acts; agent negligence; failure to procure coverage or misconduct; punitive damages; treble damages; statutory damages, regulatory claims; claims for violation of any state Consumer Protection Act or any similar act; claims for violation of any state insurance code or regulatory provisions; misrepresentation; and/or any claim for attorneys' fees and expenses; arising on or before the date hereof, which the Releasing Parties had or have alleged by the Plaintiffs in any Lawsuit or Consolidated Action, for themselves or on behalf of the Settlement Class, that relate in any way whatsoever to any Lawsuit or Consolidated Action's claims related to total loss payment. The Released Claims do not include any claims arising out of bodily injuries to the Plaintiff and/or Settlement Class Members.

27. "Released Persons" means each of: (i) the Defendants and any of their present, former and future direct and indirect parent companies, subsidiaries, affiliates, agents, divisions, predecessors, successors, and members; and (ii) all of the aforementioned's respective present, former, and future agents, assigns, attorneys, directors, employees, officers, contractors, members, shareholders, and policyholders or legal representatives thereof.

28. “Releasing Parties” means; (i) the Plaintiffs and the Settlement Class Members, their present and former spouse(s), their present and former lessors, their present and former lienholders, any present and former co-owners of the subject total loss vehicles; and (ii) all of the foregoing’s predecessors-in-interest, successors-in-interest, assigns, personal representatives, attorneys, officers, stockholders, employees, agents, partners, insurers, reinsurers, underwriters, beneficiaries, directors, Legally Authorized Representatives (in their capacity as a Legally Authorized Representative), including executors and administrators; and/or past, present and future parent, subsidiary and affiliated corporations, and any other person or entity who could or might assert any claim under or through any of the foregoing.

29. “Reminder Notices” means the notices sent to individuals who do not submit a Claim Form in response to the Claim Notices. The Reminder notices shall be in substantially the same form as Exhibit 7 (Mail Reminder) and Exhibit 8 (Email Reminder).

30. “Settlement or Settlement Agreement” mean this Settlement Agreement and Release and/or the terms and conditions of this Settlement Agreement and Release.

31. “Settlement Classes” refers to the classes defined in Paragraphs 31(a) – 31(i) collectively.

- a. **The Wisconsin Class.** All Wisconsin citizens insured by American Family Insurance Company who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to a Wisconsin resident where, from April 13, 2016 through the date an order granting class certification is entered, American Family Insurance Company determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex

where a typical negotiation deduction (“TND”) was applied to at least one comparable vehicle.

b. **The Kansas Class:** All Kansas citizens insured by American Family Insurance Company who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to a Kansas resident where, from April 13, 2017 through the date an order granting class certification is entered, American Family Insurance Company determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

c. **The Missouri Class.** All Missouri citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company or American Family Mutual Insurance Company, S.I. to a Missouri resident where, from April 13, 2012 through the date an order granting class certification is entered, American Family Insurance Company or American Family Mutual Insurance Company, S.I. determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

d. **The Georgia Class.** All Georgia citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Standard Insurance Company of Ohio to a Georgia resident where, from April 7, 2016, through the date an order granting class certification is

entered, American Standard Insurance Company of Ohio determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

e. **The Ohio Class.** All Ohio citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to an Ohio resident where, from April 21, 2017, through the date an order granting class certification is entered, American Family Insurance Company determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

f. **The Illinois Class.** All Illinois citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to a Illinois resident where, from April 21, 2013, through the date an order granting class certification is entered, American Family Insurance Company determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

g. **The Arizona Class.** All Arizona citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to an Arizona resident where, from April 21, 2017 through the date an order granting class certification is entered, American Family Insurance Company determined that the vehicle was a total loss

and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

h. **The Virginia Class.** All Virginia citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by The General to a Virginia resident where, from August 11, 2018 through the date an order granting class certification is entered, The General determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

i. **The Mississippi Class.** All Mississippi citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by Permanent General to a Mississippi resident where, from April 11, 2019 through the date an order granting class certification is entered, Permanent General determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

32. “Settlement Class Member(s)” or “Class Member(s)” means any member of any Settlement Class. Any person who submits a valid and timely written request to be excluded from the Settlement Classes shall not be a Settlement Class Member.

33. “Settlement Class Payment” means the payments to Settlement Class Members described in Section VI below.

34. “Settlement Amount” means the total amount to be made available for Settlement Class Members, which is \$21,840,000.00, from which all Settlement Class Members’ claims,

attorneys' fees and costs, any Service Awards, and all costs of settlement notice and administration will be paid.

35. "Service Award(s)" means any Court ordered payment to Plaintiffs for serving as Class Representatives, which is in addition to any payment due Plaintiffs as a Settlement Class Member.

36. "Total Loss Payment" means the payment issued by Defendants on a Total Loss automobile insurance claim.

37. "Unknown Claims" are any Claims arising out of new facts or facts found hereafter to be other than or different from the facts known at any time during the Class Period.

38. "Valid Claim Form" means a Claim Form: (a) timely submitted; (b) by a Class Member who has not requested exclusion from the Settlement or a Class Member who has not requested exclusion from the Settlement's Legally Authorized Representative; (c) using the Claim Form attached as Exhibit 1 or an electronic copy thereof; (d) that complies with all of the instructions on the Claim Form; (e) includes the signature of the Class Member or the Class Member's Legally Authorized Representative; and (f) affirms that the answers to each of the questions on the Claim Form are true and correct to the best of the Class Member's knowledge.

## **II. PRELIMINARY CLASS CERTIFICATION**

39. Upon execution of this Agreement, Plaintiffs shall move the Court for and order substantively identical to Exhibit 6 hereto, granting preliminary approval of this Settlement.

40. As part of this Settlement, Defendants agree not to oppose any motion by Plaintiffs seeking an order preliminarily approving this Settlement that is substantively identical to Exhibit 6 hereto in form and content.

41. Preliminary certification of the Settlement Classes and appointment of the Settlement Class Representatives and Class Counsel by the Court shall be binding only with respect to the Settlement of the Action. In the event this Agreement is terminated pursuant to its terms, or a Final Judgment approving the Settlement for any reason does not occur, the certification of the Settlement Classes shall be nullified, the Consolidated Action shall be dismissed, and any subsequently refiled lawsuits shall proceed as though the Settlement Classes had never been certified, without prejudice to any Court's consideration, on the merits, of any properly submitted Motion for Class Certification.

42. Upon the Preliminary Approval of this Proposed Settlement by the Court, as evidenced by entry of the Preliminary Approval Order, all proceedings in the Consolidated Action shall be stayed until further order of the Court, except such proceedings as may be necessary either to implement the Proposed Settlement or to comply with or effectuate the terms of this Agreement. Additionally, any other litigation against Defendants of Released Claims shall be stayed or enjoined by the Court.

### **III. CLASS NOTICE, COSTS OF CLASS NOTICE, AND ADMINISTRATION OF SETTLEMENT**

43. The Parties agree to recommend to the Court Kroll as Claims Administrator, which entity will be designated as the "Claims Administrator." The duties of the Claims Administrator shall include, but are not limited to (i) oversee the provision of Notice to the Class; (ii) oversee identification of addresses for any returned mail; (iii) process Claim Forms; (iv) contact Settlement Class Members, if any, whose Claim Forms are deficient; (v) process any cured Claim Forms; (vi) send all Claim Forms to Defendants for challenge or payment and to Class Counsel; (vii) forward inquiries and questions to Class Counsel with copies to Christopher Assise; (viii) establish and maintain a settlement website. The Claims Administrator shall be

paid by Defendants for services rendered pursuant to this Agreement provided that the Claims Administrator shall not incur any costs beyond those specified in their initial quote without the express pre-approval of both Parties. Prior to receiving payment, the Settlement Administrator shall represent and warrant that no portion of their payment is being paid or provided to any Party, attorney, or law firm involved in this matter.

44. Notice of the pendency of the Action and of the Settlement shall be made by the Class Notices, which will be sent by the Claims Administrator.

45. Within 30 days after the entry of the Preliminary Approval Order, Defendants shall make a reasonable search of its claims database and provide the Claims Administrator with the name and current or last-known address and email address of each potential Settlement Class Member and the date of loss.

46. Within 60 days of the entry of the Preliminary Approval Order, the Claims Administrator shall initiate mailing and electronic mailing of the Class Notices, which will be in the forms set forth in Exhibits 2 and 3, for each Settlement Class Member Claim (if a Settlement Class Member has more than one claim, the Settlement Class Member will receive a Claim Form for each claim showing the date of loss).

47. Mailed notice shall be by first-class mail to each potential Settlement Class Member. The Claim Form will be detachable and return-addressed and shall be affixed with prepaid postage sufficient to mail back to the Claims Administrator. The Claim Form shall be pre-filled in the manner and method shown in the agreed Mailed Notice, and will require the Settlement Class Member to affirm, under oath, the good faith belief that the information on the Claim Form is true and correct. The Mailed Notice shall be sent only to Settlement Class



Members, not to any of their attorneys, whether known or unknown, in connection with their original claim to Defendants or otherwise.

48. Prior to mailing the Class Notice, the Claims Administrator shall run the physical mailing addresses through the National Change of Address Database (“NCOA”) to attempt to obtain a more current name and/or physical mailing address for each potential Settlement Class Member.

49. At a date and time suggested by the Settlement Administrator, the Claims Administrator shall send separate Reminder Notices (which notice is in addition to the postcard Class Notice), which will be in the form set forth as Exhibits 7 and 8. Reminder Notices shall be sent to each class member via electronic mail and via first class mail.

50. The Email Notice and electronically mailed Reminder Notice shall have a hyperlink to an informational website, which provides access to a “Make A Claim” button permitting a Class Member to access a pre-filled electronic Claim Form in the form attached hereto as part of Exhibit 1. The parties agree that the website will be <http://www.AmericanFamilyTotalLossSettlement.com> or a website mutually agreed in writing by the parties.

51. The Claims Administrator shall use best practices designed to avoid spam filters, blockers, or any tool designed to prevent receipt of e-mails, and to otherwise design and implement the sending of the e-mail to increase the chance that the Email Notice will be successfully received into the inbox of Settlement Class Members. All Email Notices must include the capability to click-through to the website to make a claim.

52. Settlement Class members for whom the Defendants maintain physical addresses and Email addresses shall be sent both Mailed Notice and Email Notice.

53. Prior to the Class Notice mailing and emailing, the Claims Administrator will create an informational website. The website will provide information and documents—including an online claim form, the Settlement Agreement, Mail Notice, Longform Notice, Claim Forms, Preliminary Approval Order, and frequently asked questions—and enable Settlement Class Members to submit a Claim through that portal. The content of the website will be mutually agreed to by the Parties.

54. The home page of the website shall reflect the case settlement and shall have a “Make A Claim” button permitting a Class Member to access a Electronic Claim Form pre-filled in the same manner as the mailed claim form, by providing a Claimant ID Number, with a method to submit the Electronic Claim Form with an electronic signature, and a method to request that another copy of the paper Claim Form be mailed or emailed to the Settlement Class Member.

55. The website shall provide that a Settlement Class Member may submit a Claim Form without a Claimant ID Number by completing online a Blank Claim Form by entering the Settlement Class Member name, policy number or claim number, and address, and by signing and submitting the Blank Claim Form electronically. A copy of the proposed Blank Claim Form is attached hereto as Exhibit 9.

56. If any Notice and/or Claim Form mailed to any potential Settlement Class Member is returned to the Claims Administrator as undeliverable, the Claims Administrator will promptly log each Notice and/or Claim Form that is returned as undeliverable and provide copies of the log to Defendants and Class Counsel upon request. If the mailing is returned to the Claims Administrator with a forwarding address, the Claims Administrator shall forward the mailing to that address. For the remaining returned mailings, the Claims Administrator will use reasonable

efforts, including potentially an Experian search or skip tracing, to attempt to obtain a new address and those mailings shall be forwarded to any new address obtained through such a search. If any Notice is returned as undeliverable a second time, no further mailing shall be required. It is agreed by the Parties that the procedures set forth in the preceding Paragraph and this Paragraph constitute reasonable and the best practicable notice under the circumstances and an appropriate and sufficient effort to locate current addresses for Settlement Class Members such that no additional efforts to do so shall be required.

57. The Parties agree that a Longform Notice, without material alteration from Exhibit 4, shall be posted to the website, and will be available upon request to Settlement Class Members.

58. The Notice and Claim Form will also be made available to all potential Settlement Class Members by request to the Claims Administrator, who shall send via first-class U.S. mail any of these documents as requested by any potential Settlement Class Member. If a Claimant ID Number is not available to the Claims Administrator for the potential Settlement Class Member, the Claims Administrator shall provide a blank Claim Form to the requester with instruction that the blank Claim Form must be mailed to the Claims Administrator postmarked by the Claims Submission Deadline with the Settlement Class Member name, policy number or claim number, address, and signature.

59. The Claims Administrator shall retain a record of all such Class Notice procedures and provide periodic updates to the Parties during the Class Notice period.

60. The Claims Administrator shall maintain a toll-free IVR telephone system containing recorded answers to frequently asked questions and information with respect to how a Class Member may receive further assistance, along with an option permitting callers to punch

request to reach a live operator. The recorded answers to frequently asked questions are to be agreed to by the Parties.

61. The Claims Administrator shall rent a post office box to be used for receiving requests for exclusion, objections, notices of intention to appear, and any other settlement-related communications. Only the Claims Administrator, the Court, the Clerk of the Court, and their designated agents shall have access to this post office box, except as otherwise expressly provided in this Agreement.

62. Neither Defendants, nor Plaintiffs, nor any of the Released Persons, nor any of the Releasing Parties, nor any of their counsel, shall be liable for any act, or failure to act, of the Claims Administrator.

#### IV. CLAIMS PROCEDURE

63. In order to receive payment under this Settlement, a Settlement Class Member must submit a Valid Claim Form postmarked, or submitted electronically, by a date no later than the Claims Deadline.

64. A Claimant who submits a Valid Claim Form will be presumed to not be eligible to receive payment under this Settlement if:

- a. Any Defendant submits proof that the claim does not fall within the Settlement Classes; or
- b. The insured answers “Yes” to the following question:

**QUESTION (required):** Did you resolve your total loss claim via any of: (1) appraisal (2) a negotiated agreement with your insurer; or (3) a lawsuit that led to a settlement or judgment? Check One:

Yes\_\_ No\_\_

65. Settlement Class Members will be deemed Settlement Class Members unless they timely submit a written request for exclusion from the Settlement Classes, postmarked no later than 30 days prior to the Final Settlement Hearing.

66. The Claims Administrator will promptly notify a Settlement Class Member if it deems that Person's Claim Form materially incomplete or deficient, and specify any additional information that must be submitted. Notification shall be by first-class mail. Such Settlement Class Members shall have 14 days from the date the notification is mailed by the Settlement Administrator, or until the expiration of the Claim Period, whichever is longer, to submit the requested information.

67. Defendants shall provide notice to Class Counsel, within forty-five (45) days after the Claim Deadline, if it believes that any Claimant who has submitted a Claim Form is ineligible to receive payment. Class Counsel shall provide any objections within thirty (30) days of receipt of such notice.

68. Payments shall be made no later than 60 days after the completion of the process described in paragraph 63 through 67 above.

69. For the avoidance of doubt, Class Members who do not submit a Valid Claim Form shall not be entitled to any payment under this Settlement.

## **V. CALCULATION OF PAYMENT AND DEFENDANTS' MONETARY OBLIGATIONS UNDER THE SETTLEMENT**

70. The calculation and implementation of allocations of the Settlement Amount contemplated by this section shall be done by the Settlement Administrator, subject to review and approval from both Parties. Each Class Member who submits a Valid Claim Form will receive a settlement payment calculated as follows:

Class Member Payment = Distributable Settlement Amount x Class Member's  
Proportional Share

- a. The Distributable Settlement Amount shall equal \$21,840,000 less the amounts of: (a) attorney's fees and costs; (b) any class representative service award; and (c) all costs of settlement notice and administration.
- b. Each Class Member's Proportional Share shall be calculated by dividing the amount of the typical negotiation adjustment applied to the Class Member's total loss vehicle by the sum of all of the typical negotiation adjustment applied to the Class Member's total loss vehicles.

71. As soon as practicable, but no later than 60 days from the Effective Date, Defendants shall send to the Settlement Administrator the funds necessary to pay the sum of every Class Member Payment (as calculated above) for every Class member who submits a Valid Claim Form and is not otherwise ineligible under paragraph 63 through 67 above.

72. The Releasing Parties fully understand and intend, upon advice of counsel, that, pursuant to this Agreement, the payments set forth above shall be the only payment any or all of them will ever receive from the Released Persons relating in any way whatsoever to the Lawsuits and/or any and all possible claims related to and/or associated with their insured total loss automobiles.

73. For any returned checks, the Settlement Administrator shall make a reasonable effort to locate a current mailing address for the Settlement Class Members whose checks were returned (such as by running addresses of returned checks through the NCOA database) to effectuate delivery of such checks. For any such recipients for whom updated addresses are found, the Settlement Administrator shall make a single additional attempt to re-mail or re-issue a Settlement Class Member Payment to the updated address.

74. The check shall be valid for 120 days after the date of the check. Any uncashed check that is uncashed after 120 days shall be deemed a forfeiture of the claim. Uncashed checks will not be subject to any applicable escheat laws, will not be considered residential settlement funds, and shall not be subject to the doctrine of *cy pres* or any state law equivalent.

75. The Parties acknowledge and agree that this Agreement does not and shall not constitute an admission by Defendants that its use of an Audatex report that included typical negotiation adjustments on any individual claim or on any of the Settlement Class Members' claims was incorrect or improper.

76. The terms of this Settlement shall be effective upon the finality of the Settlement, except that claims for non-payment of amounts due under this Settlement Agreement are not released until payments are made.

77. Defendants' liability under this Settlement shall be limited to: (a) paying the Settlement Class Payments to Eligible Settlement Class Members; (b) paying the costs of Class Notice and settlement administration, including the fees and costs of the Claims Administrator; (c) paying any attorneys' fee award awarded by the Court up to \$5,460,000.00, as set forth below; and (e) paying any Class Representative awards to the Named Plaintiffs awarded by the Court up to \$5,000.00 for each Plaintiff, as set forth below. In no event shall Defendants be liable under this Settlement to pay any additional amounts other than those set forth above.

#### **VI. CLASS COUNSEL'S FEES AND COSTS AND CLASS REPRESENTATIVE FEES**

78. No compensation for Class Counsel was negotiated as part of this Settlement until all material terms were agreed upon. The Parties recognize that Class Counsel are entitled to seek an award of attorneys' fees and expenses for the work performed and the results obtained for the Classes in the Action. Class Counsel intends to seek Court approval for a fee award not to exceed

\$5,460,000.00, to be paid 21 days after the Effective Date. Defendants shall not oppose, either directly or indirectly, an attorneys' fee request that does not exceed this amount. Under no circumstances will Defendants be obligated to pay any costs or sums in excess of \$5,460,000.00 for attorneys' fees.

79. Additionally, the Parties agree that Class Counsel will request Class Representative Service Awards to the Named Plaintiffs in the amount of \$5,0000.00 for each Plaintiff, in recognition of the risk and effort undertaken in prosecuting this case, to be paid by Defendants within 21 days of the Effective Date, which Defendants will not oppose.

## **VII. CONDITIONS OF SETTLEMENT AND EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION OF AGREEMENT**

80. The Named Plaintiffs, Settlement Class Members and Defendants consent to the entry of a Final Approval Order in the form attached as Exhibit 5.

81. Within twenty (20) business days after notice of the occurrence of any of the following events, the Parties shall individually have the right to terminate this Settlement by delivering written notification to the other:

- a. The Court or any appellate court declines to provide preliminary approval of this Agreement, or declines to enter or materially modifies the contents of the Preliminary Approval Order in the form agreed to by the Parties, or the Preliminary Approval Order is vacated, reversed or modified in any material respect on any appeal or other review or in a collateral proceeding occurring prior to the Effective Date, provided, however that any order or change concerning the Class Representative fee or attorney's fees and costs shall not entitle the Plaintiff or the Class Members to terminate this Settlement;
- b. The Court or any appellate court declines to provide Final Approval of this Agreement, or declines to enter or materially modifies the contents of the Final Approval Order in the form agreed to by the Parties, provided, however that any order or change concerning the Class Representative fee or attorney's fees and costs shall not entitle the Plaintiffs or the Class Members to terminate this Settlement;



- c. The Court's Final Approval Order is vacated, reversed or modified in any material respect on any appeal or other review or in a collateral proceeding occurring prior to the Effective Date, provided, however that any order or change concerning the Class Representative fee or attorney's fees and costs shall not entitle the Plaintiffs or the Class Members to terminate this Settlement;
- d. The Effective Date does not occur for some other reason;
- e. The Court refuses to certify the Settlement Classes and/or materially modifies the definitions of the Settlement Classes;
- f. Any federal or state authorities object to or require material modification to the Agreement; or
- g. If the amount or number of Class Members that opt out exceeds 20% of the class by either count or dollars.

82. In the event this Settlement is terminated, the Parties will return to their respective positions in the litigation as those positions existed on November 10, 2023. As part of effecting this return to the prior status quo:

- a. Plaintiffs shall immediately and completely dismiss the Consolidated Action and refile the Lawsuits in the same venues in which they were pending as of November 10, 2023;
- b. The parties will destroy any materials exchanged between them for settlement purposes only;
- c. This Settlement and all negotiations, statements and proceedings relating to them shall be without prejudice to the rights of any of the Parties;
- d. This Settlement, provisions of this Settlement, and the fact of this Settlement having been made shall not be admissible or entered into evidence in this or any other action or proceeding for any purpose whatsoever;

- e. To the extent permissibly by law, the parties agree to stipulate that any judgment or order entered after the date of this Settlement will be vacated and will be without any force or effect;
- f. All obligations under this settlement, except for those stated in this Paragraph 81 shall be deemed null and void. The Parties agree that this Paragraph 81 shall survive any termination of this Settlement.

#### **VIII. FINAL APPROVAL OF SETTLEMENT**

83. Class Counsel will file a motion seeking the Court's Final Judgment as to the Proposed Settlement at a Final Approval Hearing to be held at a time, date, and location that will be stated in the Preliminary Approval Order and listed in the Class Notice. The Parties will request that the Final Approval Hearing be held at the earliest date that is at least 130 days after the Preliminary Approval Order that the Court is available to hear the matter or as soon as possible thereafter. Class Counsel shall request the Court to enter a Final Approval Order in the form attached hereto as Exhibit 5 and without any material alterations thereto.

#### **IX. OBJECTIONS AND REQUESTS FOR EXCLUSION**

84. Settlement Class Members who wish to exclude themselves from the Settlement Classes must prepare a written request for exclusion, postmarked no later than 30 days prior to the Final Settlement Hearing. Written requests for exclusion must be signed and include the Settlement Class Member's name, address, and telephone number, and expressly state the desire to be excluded from the Settlement Classes. No Settlement Class Member may affect an exclusion of a class of individuals or represent such a class.

85. The Claims Administrator shall promptly log each request for exclusion that it receives and provide copies of the log and all such requests for exclusion to counsel for the Parties.

86. Settlement Class Members who do not file a timely request for exclusion may file a notice of intent to object to the Settlement, or intervene in the Action for the purpose of contesting the Settlement. The written notice of intent to object and/or intervene must be: (a) filed with the Clerk of the Court not later than 30 days before the Final Settlement Hearing; and (b) sent by first-class mail, postmarked no later than 30 days before the date set for the Final Settlement Hearing, to Class Counsel:

Scott Edelsberg  
Edelsberg Law, P.A.  
20900 NE 30th Avenue, Suite 417  
Aventura, FL 33180.

And to Defendants' Counsel:

Christopher Assise  
Sidley Austin LLP  
One South Dearborn Street  
Chicago, IL 60603

87. Any Settlement Class Member who does not so request to object or intervene waives the right to do so in the future and shall be forever barred from intervening or making any objection to the Proposed Settlement or Final Judgment.

88. Any Notice of Intent to Object or Intervene must contain the following: (a) the name of the Action; (b) the objector's full name, address and telephone number; (c) all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel; (d) the number of times the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each

case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case; (e) the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application; (f) the number of times in which objector's counsel and/or counsel's law firm have objected to a class action settlement within the five years preceding the date that objector filed the objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding five years; (g) any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity; (h) the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing; (i) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection; (j) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and (k) the objector's signature (an attorney's signature is not sufficient). The Parties must file any briefs in response to any objection on or before 10 days prior to the date of the Final Approval Hearing. Class Counsel and/or Defendants may conduct limited discovery on any objector consistent with the Missouri Rules of Civil Procedure. Any Settlement Class Member who does not make his or her objections in the manner and by the Objection Deadline shall be deemed to have waived any objection(s), and shall be forever barred from raising such objections in this or any other action or proceeding, absent further order of the Court.

89. Class Counsel agree that any representation, encouragement, solicitation or other assistance, including, but not limited to, referral to other counsel, of any Opt Out or any other person seeking to litigate with any of the Released Persons over any of the Released Claims or to represent any form of opt-out class, could place Class Counsel in an untenable conflict of interest with the Class. Accordingly, Class Counsel and their respective firms agree (only to the extent that it is otherwise not violative of any applicable rules governing the practice of law) not to represent, encourage, solicit or otherwise assist, in any way whatsoever (including, but not limited to referrals to other counsel) any Opt Out except that referring such person to the individual Notice or suggesting to any such person the option of obtaining separate counsel, without specifically identifying options for such counsel, shall be permitted under the terms of this provision. Additionally, Class Counsel and their respective firms agree (only to the extent that it is otherwise not violative of any applicable professional rules) not to represent, encourage, solicit or otherwise assist, in any way whatsoever, any Opt Out or any other person who seeks to represent any form of opt-out class, or any other person, in any subsequent litigation that person may enter into with Released Persons regarding the Released Claims or any related claims, except that suggesting to any such person the option of obtaining separate counsel shall be permitted under the terms of this provision.

#### **X. DISMISSAL OF ACTION AND RELEASES**

90. Upon the Court's Final Approval of this Agreement and the Settlement set forth herein, the Final Approval order shall be entered providing for the dismissal, with prejudice and without leave to amend, of the Action.

91. Upon Final Approval of this settlement, and as of the Effective Date, by operation of the entry of the Final Approval Order and Judgment, the Releasing Parties and each

Settlement Class Member, including Plaintiff, shall be held to have fully released, waived, relinquished and discharged all the Released Persons from all the Released Claims, to the fullest extent possible allowed by law, and shall be enjoined from continuing, instituting or prosecuting any legal proceeding against the Released Persons relating in any way whatsoever to the Released Claims, except that Defendants shall not be released from its obligations to carry out the terms of this Agreement.

92. Notwithstanding the Court's entry of the Final Approval Order, the Court shall retain ongoing jurisdiction over this Action for purposes of enforcing and interpreting this Agreement and the Final Approval order, including entering such orders and injunctions to prevent any collateral litigation that may be filed by Settlement Class Members, if necessary, and/or enforcing the litigation bar as to the Released Claims provided for by this Settlement.

#### **XI. DECEASED OR INCAPACITATED CLASS MEMBERS**

93. Claims may be submitted, along with sufficient proof of representative status, by a Legally Authorized Representative on behalf of a deceased Settlement Class Member's estate.

94. Claims may be submitted by a Legally Authorized Representative on behalf of an incapacitated Settlement Class Member.

#### **XII. TAX OBLIGATIONS**

95. Tax obligations which may arise by virtue of the Settlement Class Payments made pursuant to this Agreement, if any, are solely the responsibility of the Persons who receive such Settlement Class Payments, and are not in any way the responsibility of Defendants or Class Counsel. The Parties to this Agreement do not in any way express any belief or opinion regarding the existence of such tax obligations and do not undertake to provide any advice to any

Settlement Class Member regarding any tax obligations which may arise by virtue of any Settlement Class Payments made pursuant to this Agreement.

### **XIII. MISCELLANEOUS PROVISIONS**

96. The Parties hereto agree to defend this Agreement against objections made to final approval of the Settlement or in any appeal of the Final Approval Order or collateral attack on the Agreement or Final Approval Order.

97. The undersigned counsel represent that they are fully authorized to execute and enter into the terms and conditions of this Agreement on behalf of their respective clients.

98. Except as otherwise provided, this Agreement contains the entire agreement between the Parties hereto, and supersedes any prior agreements or understandings between them. All terms of this Agreement are contractual and not mere recitals, and shall be construed as if drafted by all Parties hereto. The terms of this Agreement are and shall be binding upon each of the Parties hereto, their agents, attorneys, employees, successors and assigns, and upon all other Persons claiming any interest in the subject matter hereof through any of the Parties hereto, including any Settlement Class Member.

99. This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties hereto. Amendments and modifications may be made without additional notice to the Settlement Class Members unless such notice is required by the Court.

100. This Agreement shall be subject to, governed by, construed, and enforced pursuant to the laws of the State of Missouri.

101. The exhibits to this Agreement are an integral part of the Settlement and are hereby incorporated into and made a part of this Agreement.

102. To the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of this Agreement.

103. This Agreement shall be deemed to have been executed upon the last date of execution by all the undersigned counsel.

104. This Agreement may be executed in counterparts, each of which shall constitute an original.

105. The Parties will request that the Court retain continuing jurisdiction for the specific purpose of any enforcement, suit, action, proceeding or dispute arising out of or relating to this Agreement and the Proposed Settlement embodied herein, and maintain jurisdiction over all Settlement Class Members. Specifically, the parties shall request that the Court retain jurisdiction for purposes of: (a) implementation, enforcement, and administration of the Settlement, including any releases in connection therewith; (b) resolution of any disputes concerning Settlement Class membership or entitlement to benefits under the terms of the Settlement; (c) enforcing and administering the Settlement and the Final Judgment until each and every act agreed to be performed by the Parties has been performed pursuant to this Agreement; and (d) other matters related to the foregoing.

106. Titles of sections to this Agreement are illustrative only and are neither binding on the Parties nor to be considered any part of the drafting history or other means of interpreting this Agreement. This Agreement shall be deemed to have been drafted by all the Parties hereto and their counsel.

## **IX. CONFIDENTIALITY**



107. The following information constitutes highly confidential and proprietary business information of the Defendants (the "Confidential Information"): (a) the names, addresses, policy numbers, and other data concerning any insured or former insured of Defendants; (b) the electronic data processing and other record keeping procedures and materials to be utilized by any Defendant in identifying the Settlement Class Members and in otherwise effectuating Defendants' other obligations under the Settlement; and (c) any documents produced by Defendants to Plaintiffs in this Action that have been stamped confidential. The confidentiality of all Confidential Information shall be protected from disclosure by Class Counsel to any persons other than those described below. Within ninety (90) days after all settlement checks have been distributed, Class Counsel and Claims Administrator shall return, upon request, to Defendants all Confidential Information and copies thereof in their possession, custody, or control and delete any electronic copies of Confidential Information.

108. Class Counsel and the Class Representatives agree not to make any statements to the media or in any public forum, orally or in writing, about the Action, or this Settlement or its negotiation except as necessary to provide advice to Settlement Class Members.

## **X. DENIAL OF LIABILITY**

109. Were it not for this Settlement, Defendants would have contested each and every claim in the Action. Defendants maintain that they have consistently acted in accordance with governing laws at all times. Each Defendant denies all the material allegations set forth in the Action. Defendants have nonetheless concluded that it is in their best interest that the Action be settled on the terms and conditions set forth in this Agreement. Defendants have reached this conclusion after considering the factual and legal issues in the Action, the substantial benefits of

a final resolution of the Action, the expense that would be necessary to defend the Action through trial and any appeals that might be taken, the benefits of disposing of protracted and complex litigation, and the desire of Defendants to conduct its business unhampered by the distractions of continued litigation.

110. As a result of the foregoing, Defendants enter into this Agreement without in any way acknowledging any fault, liability, or wrongdoing of any kind. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by any Defendant of the truth of any of the allegations made in the Action, or of any liability, fault, or wrongdoing of any kind whatsoever on the part of any Defendant in this or any other action or proceeding.

111. To the extent permitted by law, neither the Settlement, nor this Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be offered as evidence or received in evidence in this Action or any pending or future civil, criminal, administrative, arbitration, or other dispute resolution action or proceeding, to establish any liability or admission by a Defendant except in any proceedings brought to enforce the Agreement.

112. Neither this Agreement, nor any pleading or other paper related in any way to this Agreement, nor any act or communication in the course of negotiating, implementing or seeking approval of this Agreement, shall be deemed an admission by any Defendant that certification of a class is appropriate in any other litigation, or otherwise shall preclude any Defendant from opposing or asserting any argument it may have with respect to certification of any class(es) or subclass(es) in any proceeding, or shall be used as precedent in any way as to any subsequent conduct of Defendants except as set forth herein.

IN WITNESS HEREOF, the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below and agree that it shall take effect on the date it is executed by all of the undersigned.


**SIGNATURES CONTINUED ON FOLLOWING PAGE**


DATED this 8th day of March, 2024


For Plaintiffs:


By:   
Sabrina Timmins (Mar 11, 2024 15:05 CDT)  
Sabrina Timmins  
Plaintiff

By:   
Holly Johnson (Mar 11, 2024 15:58 CDT)  
Holly Johnson  
Plaintiff

By:   
Elaine Scherer (Mar 11, 2024 16:05 CDT)  
Elaine Scherer  
Plaintiff

By:   
Elmira Hobbs (Mar 11, 2024 16:16 CDT)  
Elmira Hobbs  
Plaintiff

By:   
Daniel Rogers (Mar 11, 2024 16:22 CDT)  
Daniel Rogers  
Plaintiff

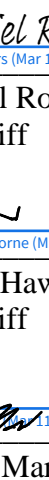
By:   
Trina Hawthorne (Mar 11, 2024 17:47 EDT)  
Trina Hawthorne  
Plaintiff

By:   
Brian Marble (Mar 11, 2024 16:33 PDT)  
Brian Marble  
Plaintiff

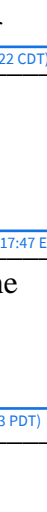
By:   
Monte Bell (Mar 11, 2024 18:25 EDT)  
Monte Bell  
Plaintiff

By:   
Jill Hodge (Mar 12, 2024 15:36 CDT)  
Jill Hodge  
Plaintiff

For Defendants:

By:   
\_\_\_\_\_

American Family Insurance Company

By:   
\_\_\_\_\_


American Family Mutual Insurance Company, S.I.

By:   
\_\_\_\_\_

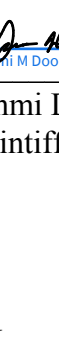
American Standard Insurance Company of Ohio

By:   
\_\_\_\_\_

Permanent General Assurance Corporation of Ohio

By:   
\_\_\_\_\_


The General Automobile Insurance Company

By:   
\_\_\_\_\_

Tammi Dooley  
Plaintiff

**APPROVED AS TO FORM AND SUBSTANCE**

EDELSBERG LAW

By:   
\_\_\_\_\_

Adam Schwartzbaum

*Attorneys for Named Plaintiffs  
and the Settlement Classes*

SIDLEY AUSTIN LLP

By: \_\_\_\_\_  
Christopher Assise

*Attorneys for Defendants*

# **EXHIBIT 1**



# **EXHIBIT 2**



## First Postcard

You are receiving this Notice because you may be a Settlement Class Member in a class action against American Family Insurance Company, American Family Mutual Insurance Company, S.I., American Standard Insurance Company of Ohio, Permanent General Assurance, Permanent General Assurance Corporation of Ohio, and The General Automobile Insurance Company, Inc. (collectively, "Defendants").

The lawsuit that is part of this settlement is *Johnson, et al. v. American Family Insurance Company, et al.*, Case No. 24SL-CC00378 (St. Louis Cnty. Cir. Ct.)

**Why am I getting this Notice?** You have been identified as a potential "Settlement Class Member" from Defendants' claims data, because (1) you were insured by one of the Defendants under a Wisconsin, Kansas, Missouri, Georgia, Ohio, Illinois, Mississippi, Virginia, or Arizona private passenger automobile insurance policy; and (2) you submitted a physical damage claim with respect to a covered vehicle that was deemed a Total Loss and paid during the following periods:

- from April 13, 2016, through [date of preliminary approval order], if you were a Wisconsin insured;
- from April 13, 2017, through [date of preliminary approval order], if you were a Kansas insured;
- from April 13, 2012, through [date of preliminary approval order], if you were a Missouri insured;
- from April 7, 2016, through [date of preliminary approval order], if you were a Georgia insured;
- from April 21, 2017, through [date of preliminary approval order], if you were an Ohio insured;
- from August 11, 2019, through [date of preliminary approval order], if you were an Mississippi insured;
- from August 11, 2018, through [date of preliminary approval order], if you were an Virginia insured;
- from April 21, 2013, through [date of preliminary approval order], if you were an Illinois insured; or
- from April 21, 2017, through [date of preliminary approval order], if you were an Arizona insured; and

(3) your claim payment was based on an appraisal report from Audatex where a typical negotiation deduction ("TND") was applied to at least one comparable vehicle.

**Settlement Terms.** Defendants will pay Settlement Class Members who make a claim an amount equal to their Proportional Share multiplied by the Distributable Settlement Amount. The Distributable Settlement Amount shall equal the Maximum Settlement Amount (\$21,840,000.00) less the amounts of: (a) attorneys' fees and costs; (b) any class representative service award; and (c) all costs of settlement notice and administration. Each Settlement Class Member's Proportional Share of the Distributable Settlement Amount shall be calculated by dividing the amount of the Settlement Class Member's TND by the sum of all class members' TNDs. Class Counsel will be seeking attorneys' fees and costs of up to \$5,460,000.00, to be paid from the available settlement amount, plus costs up to \$75,000.00, and Service Awards of \$5,000.00 to each of the eight Class Representatives, with all amounts to be approved by the Court.

**How do I receive payment?** To receive a payment, you must complete and mail the attached Claim Form (postage is prepaid) or submit a Claim Form online at [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com). Claim Forms must be postmarked or submitted online by [DUE DATE].

**What are my options?** You can make a claim, exclude yourself ("opt out"), object to the Settlement, or do nothing. The deadline to opt out or object is \_\_\_\_\_. If you do not opt out, and the Court approves the Settlement, you will release your claims against American Family Companies. The Court will hold a hearing on \_\_\_\_\_ to decide whether to approve the Settlement. You may attend.

**How do I get more information?** Go to [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com) or call toll-free \_\_\_\_\_ to get more detailed information, FAQs, an online claim form, court filings, and the Settlement Agreement.

### COURT ORDERED LEGAL NOTICE

**If you suffered a total-loss of a vehicle insured by American Family or American Standard or Permanent General from 2012-2023, you may be entitled to a cash payment.**

**Class Member John Doe  
123 ABC Street**

**Complete and return the enclosed form by \_\_\_\_\_ to  
receive a cash payment.**



First Postcard

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

postage  
prepaid  
mark

Johnson v. American Family  
Settlement Claims  
Administrator  
P.O. Box \_\_\_\_\_

# **EXHIBIT 3**

EMAIL

**To:**  
**From:**  
**Subject: Notice: Claim Payment Pursuant to Class Action Settlement**

Records show you suffered a total loss while insured with by American Family Mutual Insurance Company, S.I., American Family Insurance Company, American Standard Insurance Company of Ohio, Permanent General Assurance Corporation, Permanent General Assurance Corporation of Ohio, or The General Automobile Insurance Company, Inc., and you may be entitled to payment from the class action settlement in the case:

*Johnson v. American Family Insurance Company, Case No. 24SL-CC00378, St. Louis County, Missouri*

**Claim your potential cash payment from the Settlement by [Date].**

TO MAKE A CLAIM: Click [here](#), or go to [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com) and enter your Claimant ID Number [\[insert Claimant ID Number\]](#)

**Who's Included?** You have been identified as a potential "Settlement Class Member" from American Family Companies' claims data, because (1) you were insured by one of the American Family Companies under a Wisconsin, Kansas, Missouri, Georgia, Ohio, Illinois, Virginia, Mississippi, or Arizona private passenger automobile insurance policy; and (2) you submitted a physical damage claim with respect to a covered vehicle that was deemed a Total Loss and paid during the period

- from April 13, 2016, through [date of preliminary approval order], if you were a Wisconsin insured;
- from April 13, 2017, through [date of preliminary approval order], if you were a Kansas insured;
- from April 13, 2012, through [date of preliminary approval order], if you were a Missouri insured;
- from April 7, 2016, through [date of preliminary approval order], if you were a Georgia insured;
- from April 21, 2017, through [date of preliminary approval order], if you were an Ohio insured;
- from August 11, 2018, through [date cert entered], if you were a Virginia insured;
- from August 11, 2019, through [date cert entered], if you were a Mississippi insured;
- from April 21, 2013, through [date of preliminary approval order], if you were an Illinois insured; or
- from April 21, 2017, through [date of preliminary approval order], if you were an Arizona insured; and

(3) your claim payment was based on an appraisal report from Audatex where a typical negotiation deduction ("TND") was applied to at least one comparable vehicle.

**What is the case about?** The Settlement resolves a lawsuit claiming that Defendants breached their auto insurance policies by applying TNDs in valuation reports used to calculate insurance payments to customers who submitted Wisconsin, Kansas, Missouri, Georgia, Ohio, Illinois, Virginia, Mississippi, or Arizona first-party total loss auto claims. The Court has not yet ruled on the merits of these claims. Defendants deny these claims. Detailed information about the certified Class can be found on the website below.

**Settlement Terms:** Defendants will pay eligible Settlement Class Members who make a claim an amount equal to their Proportional Share multiplied by the Distributable Settlement Amount. The Distributable Settlement Amount shall equal the Maximum Settlement Amount (\$21,840,000.00) less the amounts of: (a) attorneys' fees and costs; (b) any class representative service award; and (c) all costs of settlement notice and administration. Each Settlement Class Member's Proportional Share of the Distributable Settlement Amount shall be calculated by dividing the amount of the Settlement Class Member's TND by the sum of all class members' TNDs. Class Counsel will be seeking attorneys' fees and costs of up to \$5,460,000.00 to be paid from the available settlement amount, plus costs up to \$75,000.00, and Service Awards of \$5,000.00 to each of the eight Class Representatives, with all amounts to be approved by the Court.

**What are my options?** To be eligible for payment, you must complete and mail the Claim Form attached to the postcard you received in the mail or submit a Claim Form online at [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com) by using the above link and Claimant ID information. Claim Forms must be postmarked or submitted online by [\[redacted\]](#).

Unless you timely file a Claim Form, you will not get a settlement payment and your rights will be affected. If you don't want to be legally bound by the Settlement, you must exclude yourself from it by [MONTH], [DAY], [YEAR]. Unless you exclude yourself, you won't be able to sue or continue to sue Defendants for any claim made in this lawsuit or released by the Settlement Agreement. If you stay in the Settlement (i.e., don't exclude yourself), you may object to it or ask for permission for you or your own lawyer to appear and speak at the hearing—at your own cost—but you don't have to. Objections and requests to appear are due by [MONTH], [DAY], [YEAR], and must comply with all instructions for submission.

More details and the full terms of the Proposed Settlement are available at [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com). You may also contact class counsel at:

Adam Schwartzbaum, Esq.  
Scott Edelsberg, Esq.  
[adam@edelsberglaw.com](mailto:adam@edelsberglaw.com)  
[scott@edelsberglaw.com](mailto:scott@edelsberglaw.com)  
20900 NE 30th Avenue, Suite 417  
Aventura, FL 333180.

# **EXHIBIT 4**

## **NOTICE OF CLASS ACTION SETTLEMENT**

***Johnson, et al. v. American Family Insurance Company, et al.,***  
**Case No. 24SL-CC00378 (St. Louis Cnty. Cir. Ct.)**

**A court authorized this Notice.  
This is not a solicitation from a lawyer.  
You are not being sued.**

### **PLEASE READ THIS NOTICE CAREFULLY**

A settlement has been reached in the case *Johnson, et al. v. American Family Ins. Co., et al.*, No. 24SL-CC00378, (Cir. Ct. Mo.), entitling Settlement Class members to payment of amounts for deductions applied in the valuation of total loss insurance claims paid by the Defendants. This Notice explains: 1) the terms of the Settlement; 2) who is a member of the Settlement Class; 3) how to submit a Claim Form for payment; 4) how to request exclusion from the Settlement; 5) how to object to the Settlement; and 6) how to get more information about the Settlement.

IF YOU ARE A SETTLEMENT CLASS MEMBER, THIS LEGAL PROCEEDING MAY AFFECT YOUR RIGHTS.

HELP IS AVAILABLE TO ASSIST YOUR UNDERSTANDING OF THIS NOTICE.

Call 1-###-###-#### toll free or visit [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com) for more information.

## **BASIC INFORMATION**

### **1. What is a class action and who is involved?**

In a class action, one or more people called “Class Representatives” file a lawsuit on behalf of other people who have similar claims. This avoids the necessity for a large number of people to file similar individual lawsuits and enables the court system to resolve similar claims in an efficient and economical way.

### **2. What is this Class Action about?**

This Class Action alleges that the Defendants (defined below) breached their contracts (insurance policies) by failing to pay Plaintiffs and other insureds who submitted physical damage claims for their vehicles during the class periods—and which resulted in a total loss claim payment—the “actual cash value” of their total loss vehicles. Specifically, Plaintiffs alleged that Defendants’ settlement practice of applying TNDs in valuation reports to members of the Classes was improper. The Defendants maintain that they complied with the terms of the insurance policies and applicable law and deny that they acted wrongfully or unlawfully and continue to deny all material allegations.



### 3. Why is this notice being provided?

You have been identified as a potential “Settlement Class Member” from Defendants’ claims data, because (1) you were insured by one of the Defendants under a Wisconsin, Kansas, Missouri, Georgia, Ohio, Illinois, Mississippi, Virginia, or Arizona private passenger automobile insurance policy; and (2) submitted a physical damage claim with respect to a covered vehicle that resulted in a total loss claim payment during the period covered by the settlement; and (3) your claim payment was based on an appraisal report from Audatex where a typical negotiation adjustment was applied to at least one comparable vehicle.

This notice explains that the Court has allowed, or “certified,” the lawsuit described above as a class action for settlement purposes and describes Class members’ legal rights and options in the lawsuit.

### 4. What are the terms of the settlement?

As a part of the settlement, American Family Insurance Company, American Family Mutual Insurance Company, S.I., American Standard Insurance Company of Ohio, Permanent General Assurance Corporation, Permanent General Assurance Corporation of Ohio, and The General Automobile Insurance Company, Inc. (collectively the “Defendants”), have agreed, upon Court approval, to:

1. Pay up to a “Maximum Settlement Amount” of \$21,840,000.00 for valid claims, attorneys’ fees, costs, and Service Awards as described further below.
  - a. Defendants will pay eligible Settlement Class Members who make a claim an amount equal to their Proportional Share multiplied by the Distributable Settlement Amount. The Distributable Settlement Amount shall equal the Maximum Settlement Amount less the amounts of: (a) attorneys’ fees and costs; (b) any class representative service award; and (c) all costs of settlement notice and administration. Each Settlement Class Member’s Proportional Share of the Distributable Settlement Amount shall be calculated by dividing the amount of the Settlement Class Member’s TND by the sum of all class members’ TNDs.
  - b. Defendants will pay a Service Award of \$5,000.00 to each of the ten (10) named Plaintiffs.
  - c. Class Counsel will seek, and Defendants will not oppose, attorneys’ fees in the amount of \$5,460,000.00, plus costs up to \$75,000.00.

In exchange, Plaintiffs and the Settlement Class members who do not exclude themselves from the Settlement agree to give up any claim they have arising out of or relating to the settlement of total-loss claims in the Class Periods. If you are a member of the Settlement Classes, you can

submit a Claim Form to be eligible to be paid. Alternatively, you may, if you wish, request to be excluded from the Settlement, which means you are not eligible for payment, and you maintain your right to sue Defendants individually and separately for claims arising from or relating to Defendants' adjustment of your total-loss claim. You may also object to the terms of the Settlement, if you comply with the requirements set forth below.

## 5. How do I know if I'm a member of the Settlement Class?

You may be a member of the Settlement Class against the Defendants if (1) you were insured by one of the Defendants under a Wisconsin, Kansas, Missouri, Georgia, Ohio, Illinois, Mississippi, Virginia, or Arizona private passenger automobile insurance policy; and (2) you submitted a physical damage claim with respect to a covered vehicle and were issued a Total Loss Claim Payment during the period

- from April 13, 2016, through [date cert entered], if you were a Wisconsin insured;
- from April 13, 2017, through [date cert entered], if you were a Kansas insured;
- from April 13, 2012, through [date cert entered], if you were a Missouri insured;
- from April 7, 2016, through [date cert entered], if you were a Georgia insured;
- from April 21, 2017, through [date cert entered], if you were an Ohio insured;
- from August 11, 2018, through [date cert entered], if you were a Virginia insured;
- from August 11, 2019, through [date cert entered], if you were a Mississippi insured;
- from April 21, 2013, through [date cert entered], if you were an Illinois insured; or
- from April 21, 2017, through [date cert entered], if you were an Arizona insured; and

(3) your claim payment was based on an appraisal report from Audatex where a TND was applied to at least one comparable vehicle.

You received this Notice because the Defendants' records indicate you may be a member of the Settlement Class.

## 6. If I am a Settlement Class Member, what are my options?

If you are a Class Member, you have four options.

### **Option 1: Submit a Claim Form for Payment.**

You may submit a Claim Form for recovery of the TNDs applied relative to your Total Loss Claim Payment. The total amount to be made available to Settlement Class Members is \$21,840,000.00, less attorneys' fees and costs, any class representative service award, and all costs of settlement notice and administration. If you received a Notice in the mail, the Notice included a pre-filled Claim Form. You can submit a claim by signing the Claim Form, carefully tearing at the perforation, and putting the Claim Form in the mail or you may upload the Claim Form and submit it online at [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com). You can call 1-800-XXX-XXXX or visit [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com) and request that the Settlement

Administrator send you a Claim Form as described above (or a blank form that you will need to fill out).

You can also submit an Electronic Claim Form by visiting [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com), clicking the SUBMIT A CLAIM button, and following the steps outlined for you. You will need your last name and Policy number or claim number and upload your signed Claim Form.

If you submit a Claim Form in the mail, it must be postmarked no later than [REDACTED]. If you submit an electronic Claim, you must do so by 11:59 p.m. on [REDACTED].

**Option 2. Exclude yourself from the Settlement.**

You have the right to not be part of the Settlement by excluding yourself or “opting out” of the Settlement Class. If you wish to exclude yourself, you must do so on or before [REDACTED] as described below. You do not need to hire your own lawyer to request exclusion from the Settlement Class. If you exclude yourself from the Settlement Class, you give up your right to receive any benefits as part of this Settlement, and you will not be bound by any judgments or orders of the Court, whether favorable or unfavorable. However, you will keep your right to sue any of the Defendants separately in another lawsuit if you choose to pursue one.

To exclude yourself from this lawsuit and/or preserve your right to bring a separate case, you must make a request to be excluded in writing and, with sufficient postage, mail the request to:

Johnson, et al., v. American Family Insurance Company, et al.  
c/o NAME  
ADDRESS  
ADDRESS

A request for exclusion must be postmarked on or before [REDACTED].

Your request for exclusion must contain the following:

1. The name of the Action (Johnson, et al., v. American Family Insurance Company, et al.);
2. Your full name;
3. Your current address;
4. A clear statement that you wish to be excluded from the Settlement Class, such as: “I request exclusion from the Settlement Class”; and
5. Your signature.

The Settlement Administrator will file your request for exclusion with the Court. If you are signing on behalf of a Settlement Class member as a legal representative (such as an estate, trust or incompetent person), please include your full name, contact information, and the basis for your authority. A request for exclusion must be exercised individually and not on behalf of a group.

**IF YOU DO NOT EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY THE POSTMARK DEADLINE OF [REDACTED], YOU WILL REMAIN PART OF THE SETTLEMENT CLASS AND WILL BE BOUND BY THE ORDERS OF THE COURT IN THIS LAWSUIT**

AND BY THE TERMS OF THE SETTLEMENT IF IT IS APPROVED BY THE COURT, EVEN IF YOU DO NOT SUBMIT A CLAIM FORM FOR PAYMENT. IF YOU DO NOT WISH TO BE BOUND BY THE DECISIONS OR SETTLEMENT IN THIS CASE, YOU MUST REQUEST EXCLUSION FROM THE CLASS ACTION.

**Option 3: Object to the Terms of the Settlement.**

The full terms of the Settlement can be found at [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com). If you think the terms of the Settlement are not fair, reasonable, or adequate to the Settlement Class, you may file a written objection to the terms of the Settlement. If you object to the terms of the Settlement, you cannot request exclusion from the Settlement. If you object to the terms of the Settlement and your objection is overruled, you will be bound by the terms of the Settlement and all rulings and orders from the Court.

To properly object to the terms of the Settlement, you must send, with sufficient postage, a written objection to the terms of the Settlement. The written objection must include the following:

1. the name of the Action (Johnson, et al., v. American Family Insurance Company, et al.);
2. the objector's full name, address and telephone number;
3. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
4. the number of times the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;
5. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;
6. the number of times in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the five years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years;
7. any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity;
8. the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing;
9. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection;
10. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
11. the objector's signature (an attorney's signature is not sufficient).

You must submit your objection to all the people listed below, postmarked no later than **DATE**.

|   |   |
|---|---|
| Scott Edelsberg, Esq.<br>Edelsberg Law, P.A.<br>20900 NE 30th Avenue<br>Suite 417<br>Aventura, FL 33180 | Kroll Settlement Administrator<br>2000 Market Street, Ste. 2700<br>Philadelphia, PA, 190103 |
| Christopher M. Assise<br>Sidley Austin LLP<br>One South Dearborn St.<br>Chicago, IL 60603               |   |

Note that, if you object, you may be subject to discovery requests, such as answering questions in writing, producing documents, or providing testimony, consistent with the Federal Rules of Civil Procedure.

Any objection that is not postmarked by the deadline set forth above or which does not comport with the requirements listed above may waive the right to be heard at the Final Approval Hearing. If you file an objection, you waive the right to request exclusion from the Settlement Class and will be bound by any decisions and orders from the Court and by the terms of the Settlement if it is approved by the Court. If you do not want to be bound by the decisions and rulings by the Court and the terms of the settlement, you must file a request for exclusion and not a notice of intent.

**Option 4. Do Nothing Now. Stay in the Case.**

You have the right to do nothing. If you do nothing, you will be bound by the terms of the Settlement and will release any claim against Defendants related to TNDs, even if you do not submit a Claim for payment. You will not receive a Settlement Class Member Payment if you do nothing.

**7. Who is representing the Class?**

The Court has preliminarily appointed Plaintiffs, Sabrina Timmins, Holly Johnson, Elaine Scherer, Elmira Hobbs, Daniel Rogers, Trina Hawthorne, Brian Marble, Monte Bell, Jill Hodge, and Tammi Dooley, to be the representatives of the Settlement Class. The Court has also preliminarily appointed the following lawyers as Class Counsel for the Settlement Class:

**JACOBSON PHILLIPS**

Jacob Phillips, Esq.  
Joshua R. Jacobson, Esq.  
478 E. Altamonte Dr., Ste. 108-570  
Altamonte Springs, FL 32701

**SHAMIS & GENTILE, P.A.**

**EDELSBERG LAW**

Adam Schwartzbaum, Esq.  
Scott Edelsberg, Esq.  
20900 NE 30<sup>th</sup> Avenue, Suite 417  
Aventura, FL 333180  
<https://edelsberglaw.com/>

Andrew Shamis, Esq.  
14 NE 1<sup>st</sup> Avenue, Suite 705  
Miami, FL 33132  
<https://shamisgentile.com/>

**NORMAND PLLC**  
Edmund Normand, Esq.  
3165 McCrory  
PI #175  
Orlando, FL 32803  
[www.normandpll.com](http://www.normandpll.com)

These lawyers are experienced in handling class action lawsuits, including actions on behalf of insured policyholders. More information about Class Counsel is available on their websites above.

Class Counsel will file an application for attorneys' fees of no more than \$5,460,000.00, plus costs up to \$75,000.00, to be paid from the available settlement amount, with all amounts to be approved by the Court. Defendants have agreed to pay these amounts if approved by the Court. Class Counsel will also seek Service Awards to the Class Representatives in the amount of \$5,000 for each, which Defendants have agreed not to oppose, also subject to Court approval. The Service Awards are designed to reward the Class Representatives for securing the recovery awarded to members of the Settlement Class, and to acknowledge the time spent by the Plaintiffs participating in the case and mediation, and prosecuting the claims for the benefit of the Settlement Class.

If the Court grants Class Counsel's request, and in whatever amount the Court approves Class Counsel's Request, the attorneys' fees, costs, and Service Awards will be paid from the available settlement amount. If you submit a valid Claim Form for payment, you will not be personally responsible for any fees, costs or expenses incurred by Class Counsel relating to the prosecution of this case. Instead, such fees amounts will reduce the Maximum Settlement Amount, resulting in the Distributable Settlement Amount, from which your claim payment will be distributed.

## **8. What Claim(s) against Defendants are Class Members releasing?**

As a part of the Settlement, Class Members agree not to sue the Defendants by asserting any claim arising out of or relating to the settlement of total-loss claims in the Class Period. Unless you request exclusion from the Settlement Class, you give up the right to individually sue the Defendants and claim you were underpaid as part of your total loss payment, even if you do not submit a Claim for payment as part of this Settlement. You are not releasing any other claim against the Defendants. Full terms of the Released Claims and Released Parties can be found in the proposed Settlement Agreement and Release at [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com).

## **9. How do I find out more about this lawsuit?**

If you have any questions about the lawsuit or any matter raised in this Notice, please call toll-free at [1-888-888-8888](tel:1-888-888-8888) or go to [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com).

This [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com) website provides:

1. An electronic Claim Form submission and directions for how to submit;
2. The process for requesting a paper (non-electronic) pre-filled Claim Form or blank form;
3. The full terms of the Settlement;
4. Information and requirements for submitting a Claim Form, requesting exclusion, or filing an objection to the terms of the Settlement;
5. A copy of the Complaints filed by Plaintiffs and other important rulings and orders from the Court during the case prior to Settlement; and
6. Other general information about the class action.

You also may contact Class Counsel, whose contact information and websites are provided above.

PLEASE DO NOT TELEPHONE OR CONTACT THE COURT OR THE CLERK OF THE COURT REGARDING THIS NOTICE.

# **EXHIBIT 5**



IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI

HOLLY JOHNSON, SABRINA TIMMINS,           CASE NO: 24SL-CC00378  
ELAINE SCHERER, ELMIRA HOBBS,  
DANIEL ROGERS, TRINA  
HAWTHORNE, BRIAN MARBLE,  
MONTE BELL, JILL HODGE, TRAVIS  
JOHNSON, JOANGELA PULLEY, and  
TAMMI DOOLEY, individually and on  
behalf of all others similarly situated,

Plaintiffs,

vs.

AMERICAN FAMILY INSURANCE  
COMPANY; AMERICAN FAMILY  
MUTUAL INSURANCE COMPANY, S.I.;  
AMERICAN STANDARD INSURANCE  
COMPANY OF OHIO; PERMANENT  
GENERAL ASSURANCE  
CORPORATION; PERMANENT  
GENERAL ASSURANCE CORPORATION  
OF OHIO; THE GENERAL AUTOMOBILE  
INSURANCE COMPANY, INC.,

Defendants.

\_\_\_\_\_/

**FINAL ORDER APPROVING SETTLEMENT AND  
JUDGMENT OF DISMISSAL WITH PREJUDICE [PROPOSED]**

The Court preliminarily approved the class action Settlement in this case on [DATE]. Since that time, the Parties have completed the Notice process and now seek final approval of the Settlement Agreement (“Agreement”). Through a motion for final approval of class settlement and motion for fees and costs, the Parties seek, among other things, that the Court: (1) grant final certification of the Settlement Class; (2) approve the Agreement as fair, reasonable, and adequate; (3) rule that the Notice process was reasonable and the best practicable under the circumstances; and (4) grant the Named Plaintiffs’ unopposed request for attorneys’ fees, costs, and a class

representative service award. A hearing was held on the motion on [DATE]. For the reasons stated below, the motion is granted.

On [DATE], the matter of the Court's final approval of the Agreement submitted by the Motion for Order Preliminarily Approving Settlement, Approving Notice to Class Members, and Setting Date for Settlement Fairness Hearing, came before the Court for consideration. Appearing on behalf of the Named Plaintiffs and the Settlement Class was Martin L. Daesch, Ouder Law LLC, 110 E. Lockwood Ave, St. Louis, MO 63119 ("Class Counsel"). Appearing on behalf of Defendants was [INSERT NAME].

WHEREAS, Sabrina Timmins, Holly Johnson, Elaine Scherer, Elmira Hobbs, Daniel Rogers, Trina Hawthorne, Brian Marble, Monte Bell, Jill Hodge, and Tammi Dooley (the "Named Plaintiffs"), and Defendants, American Family Insurance Company, American Family Mutual Insurance Company, S.I., American Standard Insurance Company of Ohio, Permanent General Assurance, Permanent General Assurance Corporation of Ohio, and The General Automobile Insurance Company, Inc. (together, "Defendants"), have executed and filed the Agreement with the Court; and

WHEREAS, all capitalized terms used herein shall have the same meaning as set forth in the Agreement and are hereby incorporated by reference, and this Order incorporates by reference the definitions in the Agreement; and

WHEREAS, the Court, on [DATE] entered the Order Re: Preliminary Approval of Settlement and Approval of Notice of Pendency of Settlement of Class Action to Class Members ("Preliminary Approval Order"), preliminarily approving the Proposed Settlement and conditionally certifying this Action, for settlement purposes only, as a class action; and

WHEREAS, Sabrina Timmins, Holly Johnson, Elaine Scherer, Elmira Hobbs, Daniel Rogers, Trina Hawthorne, Brian Marble, Monte Bell, Jill Hodge, and Tammi Dooley were approved in the Preliminary Approval Order as the Class Representatives; and

WHEREAS, the Court, as part of its Preliminary Approval Order, directed that a plan for disseminating notice of the settlement (“Notice Plan”) be implemented, and scheduled a hearing to be held on [DATE], to determine whether the Proposed Settlement should be finally approved as fair, reasonable and adequate; and

WHEREAS, Defendants and Class Counsel have satisfactorily demonstrated to the Court that the Notice Plan was followed; and

WHEREAS, a Final Settlement Hearing was held on [DATE], at which all interested persons were given an opportunity to be heard, and all objections to the settlement, if any, were duly considered;

NOW, THEREFORE, the Court, having read and considered all submissions made in connection with the Proposed Settlement, and having reviewed and considered the files and records herein, finds and concludes as follows:

1. The Complaint filed in this Action alleges generally that Defendants improperly failed to pay Actual Cash Value (“ACV”) when adjusting total loss claims in Missouri, Wisconsin, Kansas, Georgia, Ohio, Illinois, Arizona, Virginia, and Mississippi due to their use of a “typical negotiation adjustment” when using the comparable methodology to calculate ACV.

2. As part of the Preliminary Approval Order, the Court certified the Settlement Classes, for settlement purposes only, defined as follows:

**The Wisconsin Class.** All Wisconsin citizens insured by American Family Insurance Company who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to a Wisconsin resident where, from April 13, 2016 through the date an order granting class certification is

entered, American Family Insurance Company determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction (“TND”) was applied to at least one comparable vehicle.

**The Kansas Class:** All Kansas citizens insured by American Family Insurance Company who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to a Kansas resident where, from April 13, 2017 through the date an order granting class certification is entered, American Family Insurance Company determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

**The Missouri Class.** All Missouri citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company or American Family Mutual Insurance Company, S.I. to a Missouri resident where, from April 13, 2012 through the date an order granting class certification is entered, American Family Insurance Company or American Family Mutual Insurance Company, S.I. determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

**The Georgia Class.** All Georgia citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Standard Insurance Company of Ohio to a Georgia resident where, from April 7, 2016, through the date an order granting class certification is entered, American Standard Insurance Company of Ohio determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

**The Ohio Class.** All Ohio citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to an Ohio resident where, from April 21, 2017, through the date an order granting class certification is entered, American Family Insurance Company determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

**The Illinois Class.** All Illinois citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to a Illinois resident where, from April 21, 2013, through the date an order granting class certification is entered, American Family Insurance Company determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

**The Arizona Class.** All Arizona citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to an Arizona resident where, from April 21, 2017 through the date an order granting class certification is entered, American Family Insurance

Company determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

**The Virginia Class.** All Virginia citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by The General to a Virginia resident where, from August 11, 2018 through the date an order granting class certification is entered, The General determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

**The Mississippi Class.** All Mississippi citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by Permanent General to a Mississippi resident where, from April 11, 2019 through the date an order granting class certification is entered, Permanent General determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

3. The Court hereby affirms this definition of the Settlement Classes for purposes of this Final Judgment.

4. For purposes of Settlement only, the Named Plaintiffs possess standing and the proposed Settlement Classes are adequately defined and ascertainable. The Settlement Classes are adequately defined because the class definitions are clear and precise, are based on objective criteria, and, because they only includes insureds who also suffered redressable harm, so it is not overbroad.

5. For purposes of settlement only, the Classes are sufficiently numerous, there are questions of law and fact common to the Settlement Classes (including whether the insurance policies were breached by failure to pay ACV) and the Named Plaintiffs' claims are typical of the Settlement Classes. In addition, both the Named Plaintiffs and Class Counsel are adequate representatives of the Settlement Classes and have fairly and adequately protected and will continue to protect the interests of the Settlement Classes. Thus, the requirements to certify a class prescribed by the Missouri Rules of Civil Procedure are satisfied as to the Settlement Classes for

purposes of a settlement class, although Defendants do not concede that these requirements would have been satisfied for purposes of a litigation class.

6. For purposes of settlement only, the Settlement Classes are certifiable under the Missouri Rules of Civil Procedure because common issues predominate over individual issues and class treatment is superior to other alternatives for adjudicating the claims at issue.

7. The Named Plaintiffs and Defendants have entered into the Agreement which has been filed with the Court. The Agreement provides for the Settlement of this Action with Defendants on behalf of the Named Plaintiffs and the Settlement Class Members, subject to approval by the Court of its terms. The Court scheduled a hearing to consider the approval of the Settlement and directed that the Class Notice be disseminated in accordance with the terms of the Preliminary Approval Order.

8. In accordance with the terms of the Settlement and the Preliminary Approval Order, the parties implemented the Notice Plan approved by the Court. Defendants' counsel and Class Counsel have confirmed to the Court that the Parties complied with the Notice Plan.

9. The Court hereby finds that the Notice Plan and the Class Notice constituted the best notice practicable under the circumstances, and constituted valid, due and sufficient notice to members of the Settlement Class.es

10. The Named Plaintiffs and Defendants have applied to the Court for final approval of the terms of the Proposed Settlement and for the entry of this Final Judgment. Pursuant to the Class Notice, a hearing was held before this Court, on [DATE], to determine whether the Proposed Settlement of the Action should be finally approved as fair, reasonable, and adequate, and whether the Final Judgment approving the Settlement and dismissing all claims in the Action on the merits, with prejudice and without leave to amend should be entered.

11. The Court hereby finds that approval of the Agreement and the Settlement embodied therein will result in substantial savings of time and money to the Court and the litigants and will further the interests of justice.

12. The Court hereby finds that the Proposed Settlement is the result of good faith arm's length negotiations by the Parties thereto, and is fair, reasonable, and adequate.

NOW, THEREFORE, GOOD CAUSE APPEARING THEREFOR, IT IS ORDERED, ADJUDGED AND DECREED THAT:

13. The Court possesses jurisdiction over the subject matter of this Action, the Named Plaintiffs, the Settlement Class Members, Defendants, the Releasing Parties and the Released Persons.

14. [ ] Settlement Class Members have filed requests for exclusion. All remaining Settlement Class Members are therefore bound by this Final Judgment and by the Agreement and the Settlement embodied therein, including the Releases.

15. All provisions and terms of the Settlement are hereby found to be fair, reasonable and adequate as to the Settlement Class Members and the Named Plaintiffs, and all provisions and terms of the Settlement are hereby finally approved in all respects.

16. The Parties are hereby directed to consummate the Settlement in accordance with its terms.

17. The Class Claims in this Action are dismissed in their entirety, on the merits, with prejudice and without leave to amend, and the Releasing Parties and each Settlement Class Member, including Plaintiff are hereby held to have fully released, waived, relinquished, and discharged all the Released Persons from all the Released Claims, to the fullest extent possibly

allowed by the law, and shall be enjoined from continuing, instituting or prosecuting any legal proceeding against the Releasees relating in any way whatsoever to the Released Claims.

- a. The term “Settlement Class Member”, as used in this order, shall mean any member of any Settlement Class. Any person who submits a valid and timely written request to be excluded from the Settlement Classes shall not be a Settlement Class Member.
- b. The term “Releasing Parties”, as used in this order, shall mean (i) the Named Plaintiffs and the Settlement Class Members, their present and former spouse(s), their present and former lessors, their present and former lienholders, any present and former co-owners of the subject total loss vehicles; and (ii) all of the foregoing’s predecessors-in-interest, successors-in-interest, assigns, personal representatives, attorneys, officers, stockholders, employees, agents, partners, insurers, reinsurers, underwriters, beneficiaries, directors, Legally Authorized Representatives (in their capacity as a Legally Authorized Representative), including executors and administrators; and/or past, present and future parent, subsidiary and affiliated corporations, and any other person or entity who could or might assert any claim under or through any of the foregoing.
- c. The term “Released Persons”, as used in this order shall mean the Defendants and any of their present, former and future direct and indirect parent companies, subsidiaries, affiliates, agents, divisions, predecessors, successors, and members; and (ii) all of the aforementioned’s respective present, former, and future agents, assigns, attorneys, directors, employees,



officers, contractors, members, shareholders, and policyholders or legal representatives thereof.

- d. The term “Released Claims”, as used in this Order shall mean a general release through the date that the Court enters the Preliminary Approval Order of any claims, causes of action, Unknown Claims, rights, demands, allegations, actions, suits or causes of action of whatever kind or nature, debts, liens, liabilities, agreements, contracts, interests, costs, expenses, attorneys’ fees, losses or damages (whether actionable, actual, consequential, statutory, punitive, or treble), whether arising in law or equity, known or unknown, arising out of or relating to Plaintiff and the Settlement Class Members’ automotive property damage claims to any Released Persons, including (i) the allegations that were or could have been asserted by the Plaintiff or the Settlement Class Members in any of the Lawsuits (including any iteration of the complaints in those Lawsuits) or the Consolidated Action; (ii) the Released Persons’ handling, valuation, or adjustment of the aforementioned automotive property damage claims and/or coverage, including claims for bad faith; (iii) the total loss payments, including but not limited to breach of any written or oral agreement or insurance contract or any similar act; waiver; estoppel; any tortious injury, including any intentional or negligent acts; agent negligence; failure to procure coverage or misconduct; punitive damages; treble damages; statutory damages, regulatory claims; claims for violation of any state Consumer Protection Act or any similar act; claims for violation of any state

insurance code or regulatory provisions; misrepresentation; and/or any claim for attorneys' fees and expenses; arising on or before the date hereof, which the Releasing Parties had or have alleged by the Plaintiffs in any Lawsuit or Consolidated Action, for themselves or on behalf of the Settlement Class, that relate in any way whatsoever to any Lawsuit or Consolidated Action's claims related to total loss payment. The Released Claims do not include any claims arising out of bodily injuries to the Plaintiff and/or Settlement Class Members.

18. As of the Effective Date, by operation of the entry of the Final Judgment, each Settlement Class Member shall be deemed to have fully released, waived, relinquished and discharged, to the fullest extent permitted by law, all Released Claims that the Releasing Parties may have against all the Released Persons.

19. It is hereby determined that the Notice Plan and the Class Notice constituted the best notice practicable under the circumstances to all members of the Settlement Classes and is therefore finally approved as reasonable. Due and adequate notice of the pendency of this Action and of the Settlement has been provided to all the Settlement Class Members, and this Court hereby finds that the Class Notice complied fully with the requirements of due process, the Missouri Rules of Civil Procedure and all other applicable laws.

20. The Agreement, the Settlement and this Final Judgment are not to be deemed admissions of liability or fault by Defendants, or a finding of the validity of any claims in the Action or of any wrongdoing or violation of law by Defendants. The Agreement and Settlement are not a concession by the Parties and, to the extent permitted by law, neither this Final Judgment nor the Settlement, nor any of its terms or provisions, nor any of the negotiations or proceedings

connected with it, shall be utilized or offered as evidence or received in evidence in any pending or future civil, criminal, or administrative action or proceeding, for any purpose including to establish any liability or admission by any of the Released Persons, except in any proceedings brought to enforce the Agreement or the Final Judgment or otherwise with the written consent of Defendants at its sole discretion. Nor may this Agreement be construed in any fashion as precedent for any matter similar to the instant one, or used as evidence of any kind, by any person or entity, in any action or proceeding against the Released Persons, as this Agreement has been entered into based on the particular facts of this matter alone. However, Defendants may use the Agreement or the exhibits thereto, and the Settlement, and/or any related document, in any action that may be brought against it in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion relating to the Released Claims set out in the Agreement.

21. Class Counsel agree that any representation, encouragement, solicitation or other assistance, including, but not limited to, referral to other counsel, of any opt-out or any other person seeking to litigate with any of the Released Persons over any of the Released Claims or to represent any form of opt-out class, could place Class Counsel in an untenable conflict of interest with the Class. Accordingly, Class Counsel and their respective firms agree (only to the extent that it is otherwise not violative of any applicable rules governing the practice of law) not to represent, encourage, solicit or otherwise assist, in any way whatsoever (including, but not limited to referrals to other counsel) any opt out or any form of opt-out class, except that referring such person to the Notice or suggesting to any such person the option of obtaining separate counsel, without specifically identifying options for such counsel, shall be permitted.

22. Neither Defendants nor Class Counsel shall be responsible in any way for any attorneys' lien submitted by any prior counsel for any of the Settlement Class Members, nor shall any attorneys' lien be created by any of the efforts by the Parties to effectuate any of the terms of this Agreement.

23. The Court has considered the request for a Class Representative Award, and hereby approves and awards the Named Plaintiffs, Sabrina Timmins, Holly Johnson, Elaine Scherer, Elmira Hobbs, Daniel Rogers, Trina Hawthorne, Brian Marble, Monte Bell, Jill Hodge, and Tammi Dooley, the amount of \$5,000.00 each, to be paid by Defendants in accordance with the terms of the Settlement Agreement.

24. The Court has considered Class Counsel's request for an Attorneys' Fees award for the prosecution of this action, and hereby makes an Attorneys' Fees and costs award in the amount of \$5,460,000.00, to be paid by Defendants in accordance with the terms of the Settlement Agreement.

25. Nothing in terms of the Settlement Agreement or this Order shall create any payment obligations beyond those specified in the Settlement Agreement. Defendants' payment obligations shall be deemed satisfied upon the tender and mailing of a check payable for at least 90 days, backed by sufficient funds. In the event that a check is uncashed after 90 days, no amounts shall be deemed to escheat to any person or government entity.

26. This Final Judgment is a final order in the Action within the meaning and for the purposes of the Missouri Rules of Civil Procedure as to all claims among Defendants on the one hand, and the Named Plaintiff, Class Representatives and all Settlement Class Members, on the other, and there is no just reason to delay enforcement or appeal.

27. The Clerk of this Court is directed to enter a judgment of dismissal and close this case.

28. Without in any way affecting the finality of this Final Judgment, this Court shall retain continuing jurisdiction over this Action for purposes of:

- A. Enforcing this Final Judgment, the Agreement and the Settlement;
- B. Hearing and determining any application by any Party to the Settlement for a settlement bar order; and
- C. Any other matters related or ancillary to any of the foregoing.

IT IS SO ORDERED.

DATED: \_\_\_\_\_, 2024

\_\_\_\_\_  
Circuit Court Judge

# **EXHIBIT 6**

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY  
STATE OF MISSOURI

HOLLY JOHNSON, SABRINA TIMMINS, ELAINE SCHERER, ELMIRA HOBBS, DANIEL ROGERS, TRINA HAWTHORNE, BRIAN MARBLE, MONTE BELL, JILL HODGE, TRAVIS JOHNSON, JOANGELA PULLEY, and TAMMI DOOLEY, individually and on behalf of all others similarly situated,

CASE NO: 24SL-CC00378

Plaintiffs,

vs.

AMERICAN FAMILY INSURANCE COMPANY; AMERICAN FAMILY MUTUAL INSURANCE COMPANY, S.I.; AMERICAN STANDARD INSURANCE COMPANY OF OHIO; PERMANENT GENERAL ASSURANCE CORPORATION; PERMANENT GENERAL ASSURANCE CORPORATION OF OHIO; THE GENERAL AUTOMOBILE INSURANCE COMPANY, INC.,

Defendants.

\_\_\_\_\_ /

**PRELIMINARY APPROVAL ORDER [Proposed]**

WHEREAS, Plaintiffs Sabrina Timmins (“Timmins”), Holly Johnson (“Johnson”), Elaine Scherer (“Scherer”), Elmira Hobbs (“Hobbs”), Daniel Rogers (“Rogers”), Trina Hawthorne (“Hawthorne”), Brian Marble (“Marble”), Monte Bell (“Bell”), Jill Hodge (“Hodge”), and Tammi Dooley (“Dooley”) (together, “Plaintiffs”) assert claims against Defendants American Family Insurance Company (“AmFam”), American Family Mutual Insurance Company, S.I. (“AmFam Mutual”), American Standard Insurance Company of Ohio (“American Standard”), Permanent General Assurance Corporation (“Permanent General”), Permanent General Assurance

Corporation of Ohio (“Permanent General of Ohio”), and The General Automobile Insurance Company, Inc. (“The General”) (together, “Defendants”) breach of contract and related claims based on Plaintiffs’ allegations that Defendants systematically underpay insureds on auto insurance claims by basing total loss auto claims payments on valuation reports produced by Audatex in which a typical negotiation deduction (“TND”) has been applied to the advertised list price of at least one comparable vehicle.

WHEREAS, the Parties stipulate to Settlement Classes, pending preliminary and final approval by the Circuit Court of St. Louis County, Missouri, defined *infra* paragraph 4:

WHEREAS, the Plaintiffs, as members and representatives of the Settlement Classes, and Defendants have entered into a “Settlement Agreement and Release” (the “Agreement”), which memorializes the Parties’ negotiated and agreed-upon settlement as between them and proposed Settlement Classes, subject to the approval of the Court (“the Settlement”).

WHEREAS, the Parties have filed a *Joint Motion for Preliminary Approval of Class Action Settlement* with the Court.

NOW THEREFORE, upon careful consideration of the *Joint Motion for Preliminary Approval of Class Action Settlement*, and after reviewing the Agreement and making an independent judicial investigation into the allegations and defenses of the parties, and for good cause shown, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. Under Missouri Supreme Court Rule 52.08, the Agreement and the Settlement are approved preliminarily as fair, reasonable and adequate to the Settlement Classes as defined in the Agreement, subject to further consideration at the Final Approval Hearing described in Paragraph 13 of this Order.

2. The definitions in the Agreement are incorporated by reference into this Order (with



capitalized terms in the Agreement).

3. Plaintiffs and Defendants have executed the Agreement to settle and resolve the Litigation as between them and the proposed Settlement Classes, subject to approval of the Court.

4. Upon review of the *Joint Motion for Preliminary Approval of Proposed Class Action Settlement*, this Court preliminarily certifies, under Missouri Supreme Court Rule 52.08, the following class of persons as settlement classes (together, the “Settlement Classes”):

**The Wisconsin Class.** All Wisconsin citizens insured by American Family Insurance Company who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to a Wisconsin resident where, from April 13, 2016 through the date an order granting class certification is entered, American Family Insurance Company determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction (“TND”) was applied to at least one comparable vehicle.

**The Kansas Class:** All Kansas citizens insured by American Family Insurance Company who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to a Kansas resident where, from April 13, 2017 through the date an order granting class certification is entered, American Family Insurance Company determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

**The Missouri Class.** All Missouri citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company or American Family Mutual Insurance Company, S.I. to a Missouri resident where, from April 13, 2012 through the date an order granting class certification is entered, American Family Insurance Company or American Family Mutual Insurance Company, S.I. determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

**The Georgia Class.** All Georgia citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Standard Insurance Company of Ohio to a Georgia resident where, from April 7, 2016, through the date an order granting class certification is entered, American Standard Insurance Company of Ohio determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

**The Ohio Class.** All Ohio citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to an Ohio resident where, from April 21, 2017, through the date an order granting class certification is entered, American Family Insurance Company determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

**The Illinois Class.** All Illinois citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to a Illinois resident where, from April 21, 2013, through the date an order granting class certification is entered, American Family Insurance Company determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

**The Arizona Class.** All Arizona citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by American Family Insurance Company to an Arizona resident where, from April 21, 2017 through the date an order granting class certification is entered, American Family Insurance Company determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

**The Virginia Class.** All Virginia citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by The General to a

Virginia resident where, from August 11, 2018 through the date an order granting class certification is entered, The General determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

**The Mississippi Class.** All Mississippi citizens insured by Defendants who made a first-party claim on a policy of automobile insurance issued by Permanent General to a Mississippi resident where, from April 11, 2019 through the date an order granting class certification is entered, Permanent General determined that the vehicle was a total loss and based its claim payment on an appraisal report from Audatex where a typical negotiation deduction was applied to at least one comparable vehicle.

The Court finds as to the Settlement Classes that:

- a. Each Settlement Class is so numerous that joinder of all members is impracticable.
- b. There are questions of law or fact common to each Settlement Class that predominate over questions affecting only individual members of the Settlement Classes.
- c. Plaintiffs' claims are typical of those of the members of the Settlement Classes.
- d. Plaintiffs and Class Counsel will fairly and adequately represent and protect the interests of the members of the proposed Settlement Classes.
- e. Certification of the Settlement Classes as proposed is a superior and appropriate method for the fair and efficient adjudication of the controversies between the Settlement Classes and Defendants.
- f. Defendants will pay Settlement Class Members who submit a valid claim a

portion of the Settlement Amount proportional to the amount of the TNDs applied by Defendants in relation to the Settlement Class Member's total loss claim.

5. For this preliminary approval, and for all matters relating to the Settlement and the Litigation, the Court appoints Plaintiffs as Class Representatives of the Settlement Class and Edelsberg Law, P.A., Shamis & Gentile, P.A., Normand PLLC, and Jacobson Phillips PLLC as Counsel for the Settlement Classes ("Class Counsel") until further order of the Court.

6. By this Order, the Court exercises subject-matter and personal jurisdiction over the Settlement Classes to evaluate the final certification of the Settlement Classes and the fairness and adequacy of the Settlement.

7. The Mail Notice, Email Notice, Mail Reminder, Email Reminder, Long-Form Notice, and Claim Form, as set forth in **Exhibits 1–4, 7–8**, to the Agreement, are approved.

8. The Mail Notice in a form substantially the same as that set forth in **Exhibit 2** to the Agreement shall be mailed by the Settlement Administrator via U.S. Mail. Such mailing shall be made within the timeframe provided by the Agreement. The Email Notice in a form substantially the same as that set forth in **Exhibit 3** to the Agreement shall be emailed by the Settlement Administrator within the timeframe provided by the Agreement. The Long-Form Notice in a form substantially the same as that set forth in **Exhibit 4** to the Agreement shall be posted on the Settlement Website and emailed to Settlement Class Members upon their request. At a date and time selected by the Settlement Administrator, the Claims Administrator shall send separate Reminder Notices (by U.S. mail and email) in a form substantially the same as that set forth in **Exhibits 7 and 8**. Before initiating Class Notice, the Claims Administrator will create an informational website providing information and documents concerning the Settlement, and enable Settlement Class Members to submit a Claim online. The Electronic Claim Form in a form substantially the same

as that set forth in **Exhibit 1** to the Agreement, which will be pre-filled, shall be made available on the Settlement Website for Settlement Class Members to submit the claim online.

9. The Agreement contemplates a notice methodology that protects the interests of the Parties and the Settlement Classes and provides the best notice practicable under the circumstances and is reasonably calculated to apprise the Settlement Class Members of the pendency of the Litigation and proposed Settlement, the Agreement, and their right to opt out and exclude themselves from or object to the proposed Settlement. In addition, the Court finds the notice methodology is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice of the proposed Settlement and meets all requirements of law, including, but not limited to, Missouri Supreme Court Rule 52.08 and the Due Process Clause of the Fourteenth Amendment of the United States Constitution and the Missouri Constitution.

10. Prior to the Final Approval Hearing, Class Counsel shall cause the Settlement Administrator to serve and file a sworn statement of a person with knowledge, evidencing compliance with this Order concerning the mailing and emailing of the Class Notice.

11. Any person falling within the definition of the Settlement Classes may, upon request, be excluded or “opt-out” from their Settlement Class. In the event a Settlement Class member wishes to be excluded from the Settlement and not to be bound by this Agreement, that person must sign and mail a notice of intention to opt-out of the Settlement to the Settlement Administrator. The notice must be postmarked on or before the last day of the deadline to request exclusion from the Settlement set forth in the Agreement. Any member of the Settlement Classes who timely and properly requests exclusion in compliance with these requirements will thereafter be excluded from the Settlement Class, not become a Settlement Class Member, will not have any rights under the Settlement, will not be entitled to receive a Settlement Class Payment, and will not be bound

by the Agreement or the Final Approval Order. Any members of the Settlement Classes who fail to submit a valid and timely opt-out request shall be bound by all terms of the Agreement and the Final Approval Order, regardless of whether they have requested to be opted-out from the Settlement. If the Insured submits the request for exclusion, they shall be deemed to have opted out of the Settlement with respect to that policy, and the Insured shall not be entitled to a payment under the Settlement.

12. Any Settlement Class Member who wishes to object to the Settlement, Class Counsel's application for Class Counsel Fees or Service Awards for the Plaintiffs, or to appear at the Final Approval Hearing and show cause, if any, why the Settlement should not be approved as fair, reasonable, and adequate to the Settlement Classes, or why a final judgment should not be entered thereon, may do so. A valid objection must include:

- a) the name of the Action;
- b) the objector's full name, address and telephone number;
- c) all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
- d) the number of times the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;
- e) the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;
- f) the number of times in which objector's counsel and/or counsel's law firm have

objected to a class action settlement within the five years preceding the date that objector filed the objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding five years;

g) any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity;

h) the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing;

i) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection;

j) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

k) the objector's signature (an attorney's signature is not sufficient).

The Parties must file any briefs in response to any objection on or before 10 days prior to the date of the Final Approval Hearing. Class Counsel and/or Defendants may conduct limited discovery on any objector consistent with the Missouri Rules of Civil Procedure. Any Settlement Class Member who does not make his or her objections in the manner and by the Objection Deadline shall be deemed to have waived any objection(s), and shall be forever barred from raising such objections in this or any other action or proceeding, absent further order of the Court.

13. A hearing (the "Final Approval Hearing") shall be held before the undersigned at \_\_\_\_\_ .m. on \_\_\_\_\_, 2024, at Courtroom \_\_\_\_, \_\_\_\_\_, Missouri. At

the Final Approval Hearing, the Court will consider: (a) the fairness, reasonableness, and adequacy of the Settlement; (b) the entry of any final order or judgment with respect to the Settlement Classes; (c) the application for incentive awards for the services rendered by Plaintiffs as the Class Representatives of the Settlement Classes; (d) the application for attorneys' fees and for reimbursement of expenses by Class Counsel; and (e) other related matters. The Final Approval Hearing may be postponed, adjourned or continued by the Court without further notice to the Settlement Class.

14. All other events contemplated under the Agreement to occur after entry of this Order and before the Final Approval Hearing shall be governed by the Agreement and the Class Mail Notice, to the extent not inconsistent with this Order. Class Counsel and Defendants' Counsel shall take such further actions as required by the Agreement.

15. The Parties shall be authorized to make nonmaterial changes to the Class Notice if Class Counsel and Defendants' Counsel agree.

16. All claims against and motions in the Litigation, other than such as may be necessary to carry out the terms and conditions of the Agreement or the responsibilities related or incidental thereto, are stayed and suspended until further order of this Court.

17. The "Released Claims" of the Plaintiffs as against the "Released Persons," all as defined in the Agreement, other than such as may be necessary to carry out the terms and conditions of the Agreement or the responsibilities related or incidental thereto, are stayed and suspended until further order of this Court.

18. If Final Approval of the Settlement does not occur, or if the Settlement is rescinded or terminated, the Settlement and all proceedings had in connection therewith shall be null and void and without prejudice to the rights of the Parties before the Settlement was executed and



made, and all Orders issued for the Settlement shall be vacated.

19. Neither the Agreement, nor any act performed or document executed pursuant to or in furtherance of the Agreement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by the Plaintiffs or Settlement Class members, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency, or other tribunal.

20. The Parties expressly reserve all rights and defenses to all claims and causes of action and waive no such rights or defenses if the Agreement is not approved or fails to become effective for any reason.

**IT IS SO ORDERED**

Date: \_\_\_\_\_

\_\_\_\_\_  
Circuit Court Judge

# **EXHIBIT 7**

## Second Postcard

This is a reminder notice that you may have a claim in a class action settlement against American Family Insurance Company, American Family Mutual Insurance Company, S.I., American Standard Insurance Company of Ohio, Permanent General Assurance, Permanent General Assurance Corporation of Ohio, and The General Automobile Insurance Company, Inc. (collectively, "Defendants"). The Parties in the case have agreed to settle the case.

**Why am I getting this Notice?** You have been identified as a potential "Settlement Class Member" from Defendants' claims data because you were insured by one of the Defendants and submitted a total loss claim on an insured vehicle during the class period(s) that resulted in a total loss claim payment which was based on an appraisal report from Audatex where a typical negotiation deduction ("TND") was applied to at least one comparable vehicle.

You should already have received a postcard notice and an email notice about this class action settlement.

**What is this lawsuit about?** The Settlement resolves a lawsuit claiming that Defendants breached their auto insurance policies by applying allegedly improper TNDs in the valuation reports that were used to pay total loss claims.

**Settlement Terms.** Defendants will pay Settlement Class Members who make a claim an amount equal to their Proportional Share multiplied by the Distributable Settlement Amount. The Distributable Settlement Amount shall equal the Maximum Settlement Amount (\$21,840,000.00) less the amounts of: (a) attorneys' fees and costs; (b) any class representative service award; and (c) all costs of settlement notice and administration. Each Settlement Class Member's Proportional Share of the Distributable Settlement Amount shall be calculated by dividing the amount of the Settlement Class Member's TND by the sum of all class members' TNDs. Class Counsel will be seeking attorneys' fees and costs of up to \$5,460,000.00 to be paid from the available settlement amount, plus costs up to \$75,000.00, and Service Awards of \$5,000.00 to each of the eight Class Representatives, with all amounts to be approved by the Court.

**How do I receive payment?** If you have not yet submitted a claim form, to make a claim you must complete and mail the attached Claim Form (postage is prepaid) or submit a Claim Form online at [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com). Claim Forms must be postmarked or submitted online by **[DUE DATE]**.

**What are my options?** You can make a claim, exclude yourself ("opt out"), object to the Settlement, or do nothing. The deadline to opt out or object is **[DATE]**. If you do not opt out, and the Court approves the Settlement, you will release your claims against American Family Companies. The Court will hold a hearing on **[DATE]** to decide whether to approve the Settlement. You may attend.

**How do I get more information?** Go to [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com) or call toll-free **[1-800-XXX-XXXX]** to get more detailed information, FAQs, an online claim form, court filings, and the Settlement Agreement.

**THIS IS A REMINDER NOTICE: IF YOU ALREADY SUBMITTED A CLAIM FORM YOU CAN IGNORE THIS REMINDER AND DO NOT NEED TO DO ANYTHING ELSE TO MAKE A CLAIM.**





Second Postcard

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

postage  
prepaid  
mark

Johnson v. American Family  
Settlement Claims Administrator  
P.O. Box \_\_\_\_

# **EXHIBIT 8**

JOHNSON SECOND EMAIL

**Subject Line: Reminder Notice: Claim Payment Pursuant to Class Action Settlement**

**Records show you suffered a total loss while insured with by American Family or American Standard or Permanent General and you may be entitled to payment from the class action settlement in the case:**

*Johnson, et al. v. American Family Insurance Company, et al.,*  
Case No. 24SL-CC00378 (St. Louis Cnty. Cir. Ct.)

**Claim your potential cash payment from the Settlement by [Date].**

**How to Make a Claim.** Click [here](#), or go to [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com) and enter your Claimant ID Number [[insert Claimant ID Number](#)].

**Why am I getting this Reminder Notice?** You have been identified as a potential “Settlement Class Member” from Defendants’ claims data because you were insured by American Family Insurance Company, American Family Mutual Insurance Company, S.I., Permanent General Assurance Corporation, Permanent General Assurance Corporation of Ohio, The General Automobile Insurance Company, Inc., or American Standard Insurance Company of Ohio and submitted a total loss claim on an insured vehicle during the class period(s) that resulted in a total loss claim payment which was based on an appraisal report from Audatex where a typical negotiation deduction (“TND”) was applied to at least one comparable vehicle.

You should already have received a postcard notice and an email notice about this class action settlement.

**What is this lawsuit about?** The Settlement resolves a lawsuit claiming that Defendants breached their auto insurance policies by applying TNDs in valuation reports used to calculate insurance payments to customers who submitted Wisconsin, Kansas, Missouri, Georgia, Ohio, Illinois, Virginia, Mississippi, or Arizona first-party total loss auto claims. The Court has not yet resolved the merits of these claims. Defendants deny these claims. Detailed information about the certified Classes can be found on the website below.

The lawsuit that is part of this settlement is *Johnson, et al. v. American Family Insurance Company, et al.*, Case No. 24SL-CC00378 (St. Louis Cnty. Cir. Ct.). More details and the full terms of the Proposed Settlement are available at [www.AmericanFamilyTotalLossSettlement.com](http://www.AmericanFamilyTotalLossSettlement.com).

**THIS IS A REMINDER EMAIL NOTICE: IF YOU ALREADY SUBMITTED A CLAIM FORM BY MAIL OR ONLINE YOU CAN IGNORE THIS REMINDER AND DO NOT NEED TO DO ANYTHING ELSE TO MAKE A CLAIM.**

**Signature:**

**Email:** [illhunter1975@gmail.com](mailto:illhunter1975@gmail.com)

**Signature:**

**Email:** [tammidooley36@gmail.com](mailto:tammidooley36@gmail.com)














# SETTLEMENT AGREEMENT


Final Audit Report

2024-03-11


|                 |  |
|-----------------|--|
| Created:        | 2024-03-11                                   |
| By:             | Stephanie Babani (sbabani@shamisgentile.com) |
| Status:         | Signed                                       |
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2024-03-11 - 9:58:28 PM GMT
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2024-03-11 - 10:22:49 PM GMT
-  Signer montedon24@gmail.com entered name at signing as Monte Bell  
2024-03-11 - 10:25:44 PM GMT
-  Document e-signed by Monte Bell (montedon24@gmail.com)  
Signature Date: 2024-03-11 - 10:25:46 PM GMT - Time Source: server
-  Document emailed to happymarble@yahoo.com for signature  
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-  Signer happymarble@yahoo.com entered name at signing as Brian Marble  
2024-03-11 - 11:33:40 PM GMT
-  Document e-signed by Brian Marble (happymarble@yahoo.com)  
Signature Date: 2024-03-11 - 11:33:42 PM GMT - Time Source: server
-  Document emailed to Adam Schwartzbaum (adam@edelsberglaw.com) for signature  
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-  Email viewed by Adam Schwartzbaum (adam@edelsberglaw.com)  
2024-03-11 - 11:34:06 PM GMT

 Document e-signed by Adam Schwartzbaum (adam@edelsberglaw.com)

Signature Date: 2024-03-11 - 11:34:31 PM GMT - Time Source: server

 Agreement completed.

2024-03-11 - 11:34:31 PM GMT











# SETTLEMENT AGREEMENT


Final Audit Report

2024-03-12

|                 |  |
|-----------------|--|
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| By:             | Stephanie Babani (sbabani@shamisgentile.com) |
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2024-03-12 - 2:08:05 PM GMT
-  Signer tammidooley36@gmail.com entered name at signing as Tammi M Dooley  
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-  Document e-signed by Tammi M Dooley (tammidooley36@gmail.com)  
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