

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

LAURA HOLDEN,

Plaintiff,

v.

FARMERS INSURANCE COMPANY OF WASHINGTON, a domestic insurer; FARMERS INSURANCE EXCHANGE, a foreign insurer; and all affiliated Farmers Insurance Companies and/or entities,

Defendants.

NO. 05-2-08816-8 SEA

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

THIS NOTICE IS SENT TO YOU TO INFORM YOU THAT YOU MAY BE ELIGIBLE TO RECEIVE SETTLEMENT BENEFITS FROM THE PROPOSED SETTLEMENT OF A LAWSUIT AGAINST DEFENDANTS (HEREINAFTER REFERRED TO AS “FARMERS” OR “SETTLING DEFENDANTS”).

If the proposed settlement is approved by the Court, you may be entitled to receive a **money payment** if you timely complete and submit a claim form postmarked no later than 120 days from the date the Settlement Administrator mails the Notice to the Settlement Class. If a completed claim form is not postmarked by February 28, 2012 this will result in the dismissal of your individual claim and you will not be entitled to any recovery received in this action. You must complete a separate claim form for each claim you believe is included in the settlement. **FAILURE TO ACT WILL RESULT IN THE LOSS OF YOUR LEGAL RIGHTS.**

If you do not want to be part of the proposed settlement, **YOU MUST TAKE THE STEPS DESCRIBED IN THIS NOTICE BY DECEMBER 30, 2011** to exclude yourself (“opt-out”). If you choose to opt out, you will not receive settlement benefits and you will not be bound by the settlement. **IF YOU DO NOT EXCLUDE YOURSELF FROM THE SETTLEMENT, YOU WILL BE BOUND BY ALL TERMS OF THE PROPOSED SETTLEMENT IF IT IS APPROVED BY THE COURT.**

This is not a lawsuit against you. Your participation in this settlement will not affect your insurance policy or premium with the settling defendants, **you will not owe any attorneys’ fees**, and it will not cost you anything.

A. GENERAL INFORMATION ABOUT THE SETTLEMENT

1. ***Why did I receive this Notice?*** You have received this notice and the enclosed claim form because you have been identified by Farmers’ records as a potential class member in a lawsuit entitled *Laura Holden, Plaintiff, v. Farmers Insurance Company of Washington, Farmers Insurance Exchange, and all affiliated Farmers Insurance Companies and/or entities, Defendants*, Case No. 05-2-08816-8 SEA, which is pending in the King County Superior Court in the State of Washington. The proposed settlement class consists of:

“All persons who purchased a homeowners and/or renters insurance policy in the State of Washington from Farmers¹ where such policy defines ‘actual cash value’ as ‘the fair market value at the time of the loss’ and who (1) sustained a loss or damage to personal property (i.e., contents) between March 14, 2004 and October 1, 2008, (2) submitted a contents claim to Farmers for personal property damage or loss that was settled, at least in part, on an actual cash value basis as opposed to exclusively on a replacement cost basis, and (3) did not receive Washington State sales tax on the entire portion of the claim settled on an actual cash value basis.”

You are a potential class member eligible for settlement benefits if you had a homeowners and/or renters policy with Farmers and settled a contents claim for total loss or damage to personal property under that policy on an actual cash value basis as opposed to exclusively on a replacement cost basis and did not receive applicable sales tax on the damaged or destroyed contents, provided your loss or damage occurred on or after March 14, 2004 and before October 1, 2008. Only class members who complete and submit a claim form postmarked within 120 days from the date the Settlement Administrator mails the Notice to the Settlement Class are potentially eligible to receive benefits from the proposed settlement.

2. ***What is the Lawsuit About?*** The representative plaintiff brought a lawsuit against Farmers in 2005 alleging that when any Farmers’ insured settles a total loss contents claim for personal property on an “actual cash value” basis, as opposed to a replacement cost basis, Farmers should be required to pay applicable Washington sales tax. Farmers did not pay applicable Washington sales tax to plaintiff on her total loss “actual cash value” claim pursuant to existing case law, statutes and regulations. While Farmers disputes that class certification of the putative class alleged in plaintiff’s complaint is appropriate or viable (specifically, that plaintiff cannot establish the existence of an ascertainable class and/or a well-defined community of interest), Farmers has concluded that the proposed settlement is in its best interest because of the uncertainty, expense, risk, and delays of additional litigation.
3. ***How Can I tell if I am a Class Member?*** You are a class member for each claim you may have if you meet the following requirements (you must meet all three requirements):
 - a. You were issued a homeowners and/or renters insurance policy in the State of Washington by Farmers and your insurance policy language defines “actual cash value” as “the fair market value at the time of the loss;” **and**
 - b. You sustained a total loss to your personal property (i.e., contents) between March 14, 2004 and October 1, 2008; **and**
 - c. You submitted a claim for total loss of personal property that was settled or resolved, at least in part, on an “actual cash value” basis, as opposed to exclusively on a replacement cost basis, and you did not receive Washington State sales tax on the entire portion of the total loss claim settled on an “actual cash value” basis.

B. SETTLEMENT BENEFITS

1. ***What do I get if I am a Class Member and the Settlement is Approved?*** Class members who complete and submit a valid claim form postmarked within 120 days from the date the Settlement Administrator mails the Notice to the Settlement Class may be entitled to payment of sales tax calculated based on the tax rate in effect on the date of the loss in the city in which each resided at the time of the loss. You will also receive an interest payment of twelve percent per annum on the unpaid sales tax calculated from the date the loss payment was originally made. Sales tax based on this calculation will be paid only on the previously agreed values of the class members’ personal property considered total losses as to which no subsequent replacement cost claim was made. To the extent settlement checks sent to class members are uncashed within 90 days after mailing, the checks will be considered stale and the class member shall forfeit the right to receipt of the funds and will not be entitled to any further compensation. As such, it is important that you cash your settlement check as soon as possible after receiving it. In order to receive this money payment, **YOU MUST SUBMIT A VALID CLAIM FORM FOR EACH CLAIM YOU HAVE.** Settlement benefits will be paid to members of the class only if the Court approves the settlement on behalf of the class as a whole. A claim form is included with this notice.

¹ “Farmers” means Farmers Insurance Company of Washington, Farmers Insurance Exchange and/or their past and present divisions, parent entities, affiliates and subsidiaries which issued homeowners and/or renters insurance in the State of Washington during the Class Period defined above. (Collectively “Farmers”).

Each claim form must be postmarked within 120 days from the date the Settlement Administrator mails the Notice to the Settlement Class to be considered timely. If you are a class member, and if you submit a valid, timely, and properly completed claim form, you will be mailed a check reflecting your settlement payment.

C. RIGHTS AND DUTIES OF CLASS MEMBERS

1. *What Rights, Duties and Options Do I Have as a Class Member?* If you are a class member, you have the following rights, duties and options:

a. **Participate and Receive Benefits:** If you wish to participate in the settlement, you must complete and return the enclosed claim form to the address listed on that form for each claim you may have. If the settlement is approved by the Court, and if you have properly and timely completed and submitted a qualifying claim form postmarked within 120 days from the date the Settlement Administrator mails the Notice to the Settlement Class, you will automatically be sent your money payment.

If you remain a member of the settlement class (i.e., you do not opt-out), then your interests will be represented by Class Counsel without separate cost to you. You will be bound by all orders and judgments entered by the Court, whether favorable or unfavorable to the class, and you will have the right to support or oppose the settlement at the final approval hearing. If you already have a lawsuit against defendants about these claims, you cannot continue it if you remain in the settlement.

b. **Object to the Settlement:** If you disagree with any portion of the settlement, you may remain a class member and formally object to the settlement. **You may not both exclude yourself from the settlement and object to any term of the settlement.** If you decide to remain a member of the settlement and formally object, you will be bound by all orders of the Court relating to the settlement and will not be permitted to later exclude yourself from the settlement even if the Court disagrees with your objection. Instructions for lodging a formal objection are set forth below on this Notice.

c. **Exclude Yourself from the Settlement Class:** If you do not wish to participate in the proposed settlement, you have the right to exclude yourself (i.e., “opt-out”) from the settlement class. If you exclude yourself, you will not receive any benefits available under the proposed settlement and you will not be bound by any orders or judgments entered in this case. **You are not required to exclude yourself from the settlement to refuse any money payment to which you may be entitled under the settlement. You may refuse any money payment and remain in the settlement simply by not timely submitting a claim form.** Instructions for excluding yourself are set forth below on this Notice.

d. **Release:** If the Court finally approves the settlement, the Court will enter a judgment dismissing defendants with prejudice and releasing and forever discharging them from all manner of claims made by all class members who have not timely excluded themselves from the class, whether or not they object to the settlement. The “Release of Claims” set forth below describes the legal claims you give up if you stay in the settlement. You must carefully read this Release of Claims so you understand what you give up in exchange for getting settlement benefits. The Release of Claims provides as follows:

If this Agreement and the Final Judgment become final, as of that date, each member of the Settlement Class who has not timely and properly opted out of the Settlement Class, and his, her or its heirs, successors, trustees, executors, administrators, principals, beneficiaries and assigns, agrees to release Farmers and its current and former officers and directors, or any assignee, successor, predecessor, direct or indirect subsidiary, direct or indirect parent company, divisions, affiliates, attorneys, employees and agents from any and all claims, suits, demands, rights, liabilities, damages, losses, attorneys’ fees, interest, expenses, costs and causes of action, accrued or unaccrued, which now exist or heretofore existed and which are associated with this Settlement, including specifically any and all claims for payment of Washington sales tax on contents claims submitted under Farmers homeowners and/or renters policies within the Class Period, any and all claims for extra-contractual damages in connection with Farmers’ investigation, handling, adjustment, litigation or settlement of their contents claims, and any and all claims for attorneys’ fees, litigation costs, expenses or interest incurred by them or on their behalf.

e. **How do I Exclude Myself from the Settlement?** To exclude yourself as a class member, you must execute and return to Class Counsel a Request for Exclusion stating,

“I request to be excluded from the settlement class. I understand that this exclusion means that I will not receive any benefits available under the proposed settlement and that I will not be bound by court orders applicable to the class.”

A Request for Exclusion form is attached below. Your request for exclusion must contain your name, address, insurance policy number(s) (if known), and claim number(s) (if known) and must be signed and dated by you. Your Request for Exclusion must be filed in an individual capacity, not by any representative (unless, upon receipt of proper notification and documentation, you are the personal representative of a deceased Class Member). Your request for exclusion must be mailed to Class Counsel at the address below, and must be postmarked no later than December 30, 2011. **Failure to comply with any of these requirements may result in your opt-out notice being declared invalid.** Mail your request for exclusion to:

Brad J. Moore
Holden v. Farmers Insurance Company of Washington
Plaintiffs' Class Counsel
Stritmatter Kessler Whelan Coluccio
200 Second Avenue West
Seattle, WA 98119

If you exclude yourself from the settlement class, you will not be bound by any final judgment, and you will not be entitled to receive a money distribution or other benefits of the settlement. **IF YOU DO NOTHING, YOU WILL BE BOUND BY ANY FINAL JUDGMENT APPROVING THE PROPOSED SETTLEMENT AND WILL RECEIVE NO SETTLEMENT PAYMENT.**

D. CLASS REPRESENTATIVES, CLASS COUNSEL, & ATTORNEYS' FEES

1. Who Represents the Class?

- a. **The Class Representative:** Laura Holden, a Washington Farmers insured, represents the class.
- b. **Class Counsel:** The following attorneys represent the class for the purposes of settlement of this lawsuit:

Brad J. Moore
Stritmatter Kessler Whelan Coluccio
200 Second Ave. W.
Seattle, WA 98119

You will not be separately charged for the services of these or any other counsel representing the class in this lawsuit. You have the right to retain your own attorney in this matter, but if you do, you will be responsible for paying your own attorneys' fees and expenses. It is not necessary for you to retain your own counsel to participate in the settlement or exclude yourself from the settlement.

2. **What are the Attorneys' Fees, Costs, and Incentive Award to Class Representative?** Farmers has agreed to pay \$500,000.00 to Class Counsel, as provided in the settlement agreement. ***You do not have to pay any attorneys' fees or expenses, and whatever amount is agreed to will not reduce the settlement payments made by Farmers to you or other class members.***

Separate and apart from the amounts paid to her as a Class Member, Farmers has agreed to pay \$5,000.00 to plaintiff Laura Holden as an incentive award.

E. FINAL APPROVAL OF SETTLEMENT AND OBJECTIONS

1. **When will the Court Decide Whether to Approve the Settlement?** The Court will hold a **FINAL APPROVAL FAIRNESS HEARING ON FRIDAY, JANUARY 20, 2012 AT 9:00 A.M. P.D.T.** in the King County Superior Court at the King County Courthouse, 401 Fourth Avenue North, Room 2D, Kent, Washington to determine whether the proposed settlement is fair, reasonable, and adequate. The date of this hearing is subject to change; you may contact Class Counsel for additional information. You are not required to attend the hearing either to participate in the settlement or to exclude yourself from the settlement. Note that if you exclude yourself from the settlement, you may not lodge any objection to the settlement either in writing or at the final approval hearing. If you are satisfied with the settlement as described in this notice, you need not submit any comment or attend the hearing. ***You only need submit the attached claim form by mail, postmarked within 120 days from the date the Settlement Administrator mails the Notice to the Settlement Class.***

If you remain in the settlement class and timely file a written objection to any term or the entire settlement, you may ask for permission to present argument at the final approval hearing, either individually, or through counsel paid for at your own expense. However, you do not have to come to the Court to present your objection. As long as you have properly filed your written objection, the Court will review it.

- 2 ***How Do I Object to the Settlement?*** If you determine that you are dissatisfied with the settlement or any term thereof, but wish to remain a class member and not exclude yourself, you are permitted, but not required, to submit a formal objection for the Court to consider in determining whether it will finally approve the settlement. To do so, you must file a statement explaining your objection with the Court, and serve a copy on Farmers' counsel and Class Counsel at the addresses below. Your objection must be ***received*** by the Court and counsel ***no later than January 13, 2012***.

File the objection with the Court:

King County Superior Court
c/o The Honorable John Erlick
401 Fourth Avenue North, Room 2D
Kent, WA 98032

Serve/mail a copy on:

Class Counsel:

Brad J. Moore
Stritmatter Kessler Whelan Coluccio
200 Second Avenue West
Seattle, WA 98119-4204

Farmers' Counsel:

Jeffrey Rosenfeld
R. Omar Riojas
DLA Piper LLP (US)
701 Fifth Avenue, Suite 7000
Seattle, WA 98104-7044

Any documents or other material you want the Court to consider in support of your objection must be included with your objection. You must serve and/or mail by First-Class mail Class Counsel and Farmers' counsel with copies of all papers you file in Court. Unless the Court orders otherwise, any member of the class who fails to serve a written objection as described above will ***not*** be entitled to object to the approval of the settlement, to object to the judgment to be entered, or to be heard at the final approval hearing. Any member of the settlement class who fails to object in the manner described above will be deemed to have waived such an objection and be forever barred from raising such objections in this or any other action or proceeding.

If you wish, you also may seek to present argument to the Court concerning your objection at the final approval hearing. You are not required to present oral argument even if you elect to file an objection. To present oral argument, you must file a notice of appearance and intent to present argument along with your objection, which also must be filed with the Court and served on Farmers' and Class Counsel at the above addresses no later than January 13, 2011.

3. ***I Have Other Questions: What Should I Do?*** The pleadings and other papers filed in this lawsuit are available for inspection, and/or copying through the Clerk of the King County Superior Court located at 401 Fourth Avenue North, Kent, Washington. You may also contact Class Counsel at the address above if you have any questions.

This notice is not intended to, and should not be construed as, an expression of any opinion by the Court with respect to the truth of the allegations in the lawsuit, the merits of the claims or defenses asserted, or of the proposed settlement. This notice is simply to advise you of the pendency of the lawsuit, the terms of the proposed settlement, and your rights in connection with the proposed settlement and claims process.

PLEASE DO NOT CALL THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT. THEY WILL BE UNABLE TO HELP YOU.

Dated this 31st day of October, 2011.

The Honorable John P. Erlick