

SETTLEMENT ADMINISTRATOR
C/O RUST CONSULTING INC - 6291
PO BOX 44
MINNEAPOLIS MN 55440-0044

IMPORTANT LEGAL MATERIALS



FEDERAL DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON

NOTICE OF CLASS ACTION AND CLASS ACTION SETTLEMENT

in

Brett Durant v. State Farm Mutual Automobile Ins. Co.,
Case No. 2:15-cv-01710-RAJ

**THIS NOTICE AFFECTS YOUR RIGHTS.
PLEASE READ IT CAREFULLY.**

A Court authorized this notice. This is not a solicitation from a lawyer.

To: State Farm insureds in the state of Washington who, from April 9, 2008 to June 15, 2018, had a Personal Injury Protection (PIP) claim for medical or hospital benefits denied, terminated or limited by State Farm Mutual Automobile Insurance Company (State Farm) on the grounds that they had reached Maximum Medical Improvement (MMI), using an Explanation of Review form referencing Reason Codes SF546, SF536 or SF537.

Why am I receiving this Notice?

You are receiving this Notice because State Farm’s records indicate that you may have had a Personal Injury Protection (PIP) claim for medical or hospital benefits under a State Farm Washington personal automobile policy denied, terminated or limited on the grounds that you had reached “maximum medical improvement” (MMI), using an Explanation of Review form referencing Reason Codes SF546, SF536, or SF537, from April 9, 2008 to June 15, 2018.

A settlement has been preliminarily approved by the United States District Court for the Western District of Washington in a class action lawsuit (Case No. 2:15-cv-01710-RAJ) alleging that State Farm improperly terminated, limited or denied PIP benefits based on MMI. State Farm denies the allegations. Both sides have agreed to settle the lawsuit (the “Settlement”).

This Notice explains the lawsuit, the terms of the Settlement, and your rights and options with respect to the Settlement.

Who is a Member of the Settlement Class?

The Court has preliminarily approved a Settlement Class including State Farm insureds in the state of Washington who, from April 9, 2008 to June 15, 2018, had a Personal Injury Protection (PIP) claim for medical or hospital benefits denied, terminated or limited by State Farm Mutual Automobile Insurance Company (State Farm) on the grounds that they had reached “maximum medical improvement” (MMI), using an Explanation of Review form referencing Reason Codes SF546, SF536 or SF537.

What are my rights and options?

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| Option 1: Do Nothing. | Stay in this lawsuit. Give up the right to sue State Farm separately. Receive a settlement payment. By doing nothing, you will remain a part of this lawsuit and, if the Court gives final approval to the Settlement, you will receive a check representing your share of the settlement amount paid by State Farm. But you give up any rights to sue State Farm separately about the legal claims in this suit. |
| Option 2: Ask to be Excluded from the Settlement. | Get out of this lawsuit. Receive no benefits. Keep the right to sue State Farm separately. If you ask to be excluded and the Court gives final approval to the proposed Settlement, you will not get a share of the settlement amount paid by State Farm. But you keep the right to sue State Farm separately about the legal claims in this suit. If you wish to be excluded from the Settlement, you must send a letter requesting exclusion according to the instructions in this Notice postmarked no later than May 6, 2019. |
| Option 3: Object to the Settlement | Stay in this lawsuit and object to the Settlement. Give up the right to sue State Farm separately. You can make an objection to all or any part of the Settlement. If you wish to make an objection, you must follow the instructions in this Notice and mail your objection no later than May 6, 2019. If the Court gives final approval to the Settlement over your objection, you will be a part of it and receive a share of the settlement amount paid by State Farm. |

What is this lawsuit about?

The lawsuit alleges that State Farm had a policy and practice of denying, terminating or limiting PIP benefits based on a “maximum medical improvement” (MMI) standard, that violated Washington state insurance regulation WAC 284-30-395. The lawsuit alleges that, by employing the MMI standard, State Farm acted in bad faith, breached the terms of its auto insurance policy, violated the Consumer Protection Act of Washington, and violated the Insurance Fair Conduct Act (IFCA). The lawsuit seeks damages on behalf of the named class representative plaintiff, Brett Durant (Class Representative), and on behalf of the class as a whole.

State Farm denies the claims made in the lawsuit.

State Farm denies that its prior use of the MMI standard was wrongful or breached any obligation owed under the insurance policy. State Farm contends that its actions in denying, limiting or terminating PIP benefits based upon the MMI standard in its auto insurance policy form, which the Washington Insurance Commissioner approved, were reasonable and appropriate at the time.

The Washington Supreme Court decision.

On March 9, 2017, the Court ruled that this lawsuit may be maintained as a class action for damages. On July 10, 2017, the Court asked the Washington Supreme Court to decide whether the MMI standard was consistent with the terms “reasonable” or “necessary” as used in WAC 284-30-395, and whether an insurer violates WAC 284-30-395 if it terminates, limits or denies PIP medical or hospital benefits based on MMI. On June 7, 2018, the Washington Supreme Court issued its decision, which can be found at <https://www.courts.wa.gov/opinions/pdf/947716.pdf> and at www.durantvstatefarm.com. Subsequent to the Washington Supreme Court decision, the Settlement was reached, which the Court has preliminarily approved.

Do Settlement Class members have a lawyer in this case?

The Court has decided that attorney Tyler K. Firkins of the law firm of Van Siclen, Stocks & Firkins, and David Nauheim of the Nauheim Law Office are qualified to represent all Settlement Class members in this case and are Settlement Class Counsel. For more information about Mr. Firkins and Mr. Nauheim and this case, visit www.durantvstatefarm.com.

How will Settlement Class Counsel be paid?

The Court will ultimately decide how Settlement Class Counsel are paid. However, Settlement Class Counsel will ask the Court to award them 25% of the common fund obtained for the Settlement Class. This is called a contingent fee.

Should I get my own lawyer?

You do not need to hire your own lawyer because Settlement Class Counsel has been working for you and continues to represent the Settlement Class. You are allowed to get your own lawyer if you wish. But, if you want your own lawyer, you will have to pay that lawyer.

What happens if I do nothing at all?

If you do nothing, you stay in the Settlement Class. If you stay in and the Court gives final approval to the Settlement, then you will receive a check for your share of the settlement amount paid by State Farm as described more fully below. You will not be able to start or continue any lawsuit against State Farm regarding the legal claims in this suit, and you will be legally bound by the results of this class action.

What happens if I ask to be excluded?

If you ask to be excluded from the Settlement Class, you will not receive any money or benefits from the Settlement. You will not be bound by the results of this suit. You will be able to start or continue your own separate lawsuit against State Farm regarding the legal claims in this suit, assuming your case is not already time barred.

If you start your own lawsuit against State Farm after you exclude yourself, you will have to hire and pay your own lawyer for that lawsuit. If you are considering excluding yourself so you can start or continue your own lawsuit against State Farm, you should talk to your own lawyer soon, because your claims are subject to a statute of limitations.

How do I ask the Court to exclude me from the Settlement Class?

To ask to be excluded, you must send an "Exclusion Request" in the form of a letter sent by mail that complies with all of the following requirements:

- Your letter must state that you want to be excluded from Durant v. State Farm.
- You must include your name, mailing address, and email address and sign the letter.
- Your letter must be mailed to: Durant v. State Farm - 6291, P.O. Box 44, Minneapolis, MN 55440-0044
- YOUR LETTER MUST BE POSTMARKED BY MAY 6, 2019.

What do I do if I want to stay in the Settlement Class?

You do not need to do anything to stay in the Settlement Class. You will automatically remain a Settlement Class member if you do not ask to be excluded, and you will receive a settlement payment if the Court gives final approval to the Settlement.

What are the terms of the Settlement?

If the Court gives final approval to the Settlement, State Farm will pay Eighteen Million Five Hundred Thousand Dollars (\$18,500,000.00) into a settlement common fund (the Gross Settlement Amount). Settlement Class Counsel will ask that their attorneys' fees and litigation costs, as well as the cost to administer the settlement and an incentive award to the Class Representative, be paid out of the Gross Settlement Amount. State Farm has agreed to not object to a request from Settlement Class Counsel for attorneys' fees of 25% of the Gross Settlement Amount, or \$4,625,000, and up to \$250,000 in documented litigation expenses; and a \$10,000 incentive award to Brett Durant as class representative. Also subtracted from the Gross Settlement Amount will be the administrative expenses of giving this notice and paying class members.

The remaining settlement fund (the Net Settlement Amount) will be divided among the Settlement Class members who do not opt-out of the Settlement, using a formula that calculates the percentage of denied PIP expenses (plus accrued interest at 12% per annum) for each class member from the total amount of PIP expenses denied, plus interest. This calculation will assign each Settlement Class member a fraction to be multiplied against the total Net Settlement Amount. After the Settlement and judgment in the class action lawsuit becomes final, Settlement Class members will be mailed a check for their share of the Net Settlement Amount as determined by this formula. In exchange for paying the Gross Settlement Amount, State Farm will receive a release of any and all claims that had been or could have been asserted in the lawsuit or that relate to the denial, termination or limitation of PIP benefits based on MMI on behalf of all Settlement Class members, signed by the class representative, and approved by the Court, and a dismissal with prejudice of any and all claims alleged in the lawsuit.

How do I object to the Settlement?

Only members of the Settlement Class who do not request exclusion from the Settlement may object to the Settlement. Members can object to: (1) the proposed settlement allocation and distribution; (2) Settlement Class Counsel's request for an award of attorney's fees and reimbursement of litigation expenses; (3) Settlement Class Counsel's request for an incentive award for the Class Representative; or (4) anything else about the proposed Settlement.

If you wish to make an objection, you must mail your objection on or before May 6, 2019 to:

United States District Court for the Western District of Washington
Attn Clerk of the Court;
Comment on Durant v. State Farm Settlement,
700 Stewart St.,
Seattle, WA 98101-9906.

Copies of any objections must also be sent to the following lawyers:

Tyler K. Firkins
Van Sicen, Stocks & Firkins
721 45th St NE
Auburn, WA 98002
Tele: 253-859-8899
Fax: 866-947-4646

Frank Falzetta
Sheppard Mullin Richter & Hampton
333 S. Hope St., 43rd Floor
Los Angeles, CA 90071-1422
Tele: 213-620-1780
Fax: 213-620-1398

CO-COUNSEL FOR PLAINTIFF AND THE
SETTLEMENT CLASS

COUNSEL FOR DEFENDANT

You must include in your objection the name, address and telephone number of the person objecting and, if represented by a lawyer, his or her name, address and telephone number, and the title of the case, *Brett Durant v. State Farm Mut. Auto. Ins. Co.*, No. 2:15-cv-01710 RAJ. You must also specify, in writing, all of your objections and the basis for those objections, and state whether you would like the Court's permission to speak at the Final Approval Hearing regarding the Settlement, discussed below. Your objection must be signed by you or your lawyer, if you have one.

If you fail to timely mail a written objection, you will be prohibited from objecting to the approval of the Settlement and will be foreclosed from seeking review of the Settlement or the terms of the Settlement by appeal or other means.

YOUR OBJECTION, MUST BE POSTMARKED ON OR BEFORE MAY 6, 2019 TO BE CONSIDERED BY THE COURT. UNTIMELY OBJECTIONS MAY NOT BE CONSIDERED BY THE COURT.

When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing regarding the Settlement in Courtroom 13106 at the United States District Court for the Western District of Washington, 700 Stewart St., Seattle, WA 98101 on June 10, 2019 at 1:30 p.m. The Final Approval Hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.durantvstatefarm.com for updates. At the Final Approval Hearing, the Court will consider whether the settlement is fair, adequate and reasonable. If there are objections, the Court will consider them at the hearing.

After the Final Approval Hearing, the Court will decide whether to give final approval to the Settlement, Settlement Class Counsel's request for attorneys' fees and expenses, the Class Representative's incentive award, and whether to enter Final Judgment. We do not know how long these decisions will take.

Do I have to come to the Final Approval Hearing?

No, you do not have to attend the Final Approval Hearing. Settlement Class Counsel will answer any questions the Court may have. If you send a written objection, you do not have to attend the hearing for the Court to consider it. As long as you mailed or filed your written objection as instructed in this Notice, the Court will consider it. You may also pay your own lawyer to attend.

You may attend the Final Approval Hearing at your own expense. You may speak at the hearing only if you have submitted your objection as instructed in this Notice and have stated in your objection that you wish to be heard at the Final Approval Hearing.

How can I get more information?

This Notice is only a summary of the proposed Settlement. Any questions you have concerning the matters contained in this notice (and any corrections or changes to your name or address) should NOT be made to the Court.

Additionally, you should not attempt to contact State Farm personnel or your State Farm agent because these people are not authorized to discuss this case with you and you are already represented by Settlement Class Counsel in the class action lawsuit. Please do not call your State Farm agent about this case.

Instead, you may obtain additional information by visiting the website, www.durantvstatefarm.com, where you will find the Court's Order Certifying the Class, the Complaint the Plaintiff submitted, State Farm's Answer to the Complaint, this Notice, the proposed Settlement Agreement, the Court's Preliminary Order Approving Settlement and Ordering Notice to Class Members.

You may also call 1-866-458-3188 to listen to a recorded message about the Settlement, and leave a voicemail for Settlement Class Counsel. Any voicemail message left will be returned by Settlement Class Counsel.

You may also contact Settlement Class Counsel directly to request a copy of the Settlement Agreement and related documents or discuss any questions that you have regarding this Notice by calling 253-859-8899, or writing:

Tyler K. Firkins
Van Siclen, Stocks & Firkins
721 45th St NE
Auburn, WA 98002

PLEASE DO NOT CONTACT STATE FARM, YOUR STATE FARM AGENT, COUNSEL FOR STATE FARM OR THE COURT REGARDING THIS NOTICE

The above Notice was approved by Order of the Court dated February 5, 2019

