

IN THE CIRCUIT COURT OF MILLER COUNTY, ARKANSAS

EVELYN J. CHIVERS, individually )  
and on behalf of all others similarly )  
situated, )

Plaintiffs, )

v. )

STATE FARM FIRE & CASUALTY )  
COMPANY, STATE FARM LLOYDS )  
and STATE FARM GENERAL )  
INSURANCE COMPANY, )

Defendants. )

Case No. CV-2010-251-3

Judge Kirk Johnson

CLASS ACTION

**FINAL ORDER AND JUDGMENT APPROVING SETTLEMENT, CERTIFYING  
CLASS FOR SETTLEMENT PURPOSES, AWARDED CLASS COUNSEL  
ATTORNEYS' FEES, AWARDED CLASS REPRESENTATIVE INCENTIVE FEE,  
AND DISMISSING ACTION WITH PREJUDICE**

On this 5<sup>th</sup> day of October, 2010, the Court considered the Joint Motion for Final Approval of Stipulation of Settlement ("Joint Motion for Final Approval"), Plaintiff's Brief in Support of the Joint Motion for Final Approval, Class Counsel's Application for Attorneys' Fees and Reimbursement of Costs Related to the Stipulation and Settlement and for Class Representative Incentive Fee ("Class Counsel's Application for Fees"), and Plaintiff's Submission of Evidence in Support of Joint Motion for Final Approval, Plaintiff's Brief in Support of Joint Motion for Final Approval, Class Counsel's Application for Fees ("Plaintiff's Submission of Evidence"), and State Farm's submissions in support of Final Approval.

The Joint Motion for Final Approval requests (a) certification of the class for settlement purposes only; (b) final approval of the Proposed Settlement preliminarily approved by this Court on May 17, 2010 and memorialized in the Stipulation of Settlement and Order Preliminarily Approving Class Settlement; and (c) dismissal with prejudice of Plaintiff's claims against Defendants State Farm (as that term is defined in paragraph 14 of the Stipulation of

Settlement). Class Counsel's Application for Fees requests that this Court award attorneys' fees and reimbursement of expenses to Class Counsel and a Class Representative fee. In connection with the Joint Motion for Final Approval and Class Counsel's Application for Fees, the Court considered, among other things, said pleadings, all exhibits and affidavits thereto, Plaintiff's Brief in Support of Joint Motion for Final Approval of Stipulation of Settlement, all exhibits and attachments thereto, Plaintiff's Submission of Evidence, all exhibits and attachments thereto, Plaintiff's Exhibits 1 - 9 which were admitted into evidence for all purposes at the Settlement Final Approval Hearing, State Farm's submissions in support of Joint Motion for Final Approval, all pleadings filed in this matter, and arguments of counsel.

WHEREAS, Plaintiff and State Farm have executed and filed a Stipulation of Settlement (the "Stipulation") with the Court on May 13, 2010; and

WHEREAS, the Stipulation is hereby incorporated by reference in this Order and all terms defined in the Stipulation will have the same meanings in this Order; and

WHEREAS, the Court, on May 17, 2010, entered the Order Preliminarily Approving Class Settlement ("Preliminary Approval Order"), preliminarily approving the Stipulation, preliminarily certifying, for settlement purposes only, this Action as a class action, and scheduling a hearing for October 5, 2010 at 9:00 a.m. ("Settlement Final Approval Hearing") (a) to determine whether the Proposed Settlement of the Action on the terms and conditions provided for in the Stipulation is fair, reasonable and adequate and should be finally approved by the Court; (b) to determine whether a final judgment should be entered herein; and (c) to consider Class Counsel's Application for Fees; and

WHEREAS, the Court ordered that the Individual Notice and Claim Form, in the forms attached to the Stipulation of Settlement as Exhibits "2" and "3", be mailed by the Administrator,

Rust Consulting, by first-class mail, postage prepaid, on or before July 16, 2010 (the "Notice Mailing Date") to all potential Class Members whose names were ascertained by State Farm through a reasonable search of its electronic records at their last known address with address updating and verification where reasonably available, and that the website and a 1-800 number be implemented on or before the Notice Mailing Date; and

WHEREAS, the parties and the Administrator have satisfactorily demonstrated that such Class Notice was given in accordance with the terms of the Preliminary Approval Order; and

WHEREAS, in accordance with the Individual Notice, the Settlement Final Approval Hearing was duly held before this Court on October 5, 2010; and

WHEREAS, at the Settlement Final Approval Hearing, the Court considered (a) whether certification for settlement purposes only was appropriate under Rule 23; (b) the fairness, reasonableness and the adequacy of the Stipulation; and (c) the fairness and reasonableness of Class Counsel's application for attorneys' fees under applicable law; and

WHEREAS, at the Settlement Final Approval Hearing, the Court fulfilled its duty to independently evaluate the fairness, reasonableness, and adequacy of the Stipulation and Class Counsel's Application for Attorneys' Fees by considering not only the pleadings and arguments of Plaintiff, Class Counsel and State Farm, but also by rigorously and independently evaluating the Stipulation and Class Counsel's Application for Fees on behalf of the absent class members, and as such, the Court considered any argument that could reasonably be made against approval of the Stipulation and Class Counsel's Application for Attorneys' Fees, even if such argument was not actually presented to the Court by pleading or oral argument; and

WHEREAS, by performing this independent analysis of the Joint Motion for Final Approval and Class Counsel's Application for Fees, the Court has considered and protected the interests of all absent Class Members under Rule 23; and

WHEREAS, the Individual Notice and Detailed Notice described the Settlement Class and advised Class Members of the method by which a Class Member could request exclusion from the Settlement and pursue an independent legal remedy against State Farm; and

WHEREAS, all Class Members had the absolute right to opt out and pursue an individual lawsuit against State Farm; and

WHEREAS, any Class Member who failed to request exclusion under the terms of the Individual Notice and Detailed Notice voluntarily waived the right to pursue an independent remedy against State Farm; and

WHEREAS, the Individual Notice and Detailed Notice advised Class Members of the method by which a Class Member could properly file objections and request to be heard at the Settlement Final Approval Hearing; and

NOW, THEREFORE, the Court, having read and considered all submissions made in connection with the Joint Motion for Final Approval and Class Counsel's Application for Fees, and having reviewed and considered the files and records herein, and all other evidence submitted, finds and concludes as follows:

1. The definitions and terms set forth in the Stipulation are hereby adopted and incorporated into this Order.
2. The Complaint filed in this Action alleges that State Farm violated applicable law in resolving claims for Structural Loss of certain insureds by not properly paying and including in the adjustment of such homeowners insurance claims an amount to cover payments for

General Contractor's Overhead and Profit ("GCO&P"). State Farm has maintained throughout this Litigation that it has paid GCO&P when reasonable and appropriate to do so and has denied that it has engaged in any wrongful or unlawful conduct.

3. On or about October 4, 2010, Plaintiff and State Farm applied to the Court for final approval of the terms of the Proposed Settlement and for the entry of this Final Judgment. In support of that Application, Plaintiff submitted, among other things, evidence concerning the dissemination and adequacy of Class Notice, evidence regarding the names of potential Class Members who have submitted requests for exclusion from the Settlement Class, evidence regarding the negotiation of the Stipulation, evidence regarding the fairness, reasonableness, and adequacy of the substantive terms of the Stipulation, and evidence regarding the fairness, reasonableness and adequacy of Class Counsel's Application for Fees. In Support of the Joint Motion for Final Approval, Plaintiff submitted a Brief in Support of Joint Motion for Final Approval, setting forth extensive argument and authority along with various Exhibits attached thereto. Class Counsel's Application for Fees contained both extensive argument and authority and various exhibits attached thereto. State Farm has made submissions, as well.

4. Plaintiff offered into evidence at the Settlement Final Approval Hearing the following evidence in support of the Joint Motion for Final Approval and Class Counsels' Application for Fees:

<b>EXHIBIT #</b>	<b>DESCRIPTION</b>
1	AFFIDAVIT OF EVELYN CHIVERS
2	AFFIDAVIT OF MICHAEL ANGELOVICH
3	AFFIDAVIT OF JASON ROSELIUS
4	AFFIDAVIT OF JOHN GOODSON
5	AFFIDAVIT OF MICHAEL BURRAGE
6	AFFIDAVIT OF KIM SCHMIDT
7	ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT
8	STIPULATION OF SETTLEMENT
9	REPORT OF J. HERBERT BURKMAN AND KEVIN S. MARSHALL

The Court admitted Plaintiff's Exhibits 1 - 9 into evidence for all purposes.

5. As part of its Preliminary Approval Order, the Court certified for settlement purposes a Settlement Class defined as follows:

Each and every person who:

- (a) was insured under a Homeowners Insurance Policy that was issued by State Farm Fire and Casualty Company, State Farm Lloyds, or State Farm General Insurance Company that provided coverage for a building or other structure located in the State of Arkansas; and
- (b) during the Class Period suffered a Covered Loss;
- (c) excluding:
  - (i) claims that were the subject of any lawsuit filed during the Class Period alleging causes of action related to any Released Claims;
  - (ii) claims for which State Farm received an executed release during the Class Period; and
  - (iii) State Farm, all present or former officers and/or directors of State Farm, Neutral Evaluators, Class Counsel and their immediate family, any member of the Arkansas Judiciary and their immediate family, State Farm's counsel of record and their immediate family, and all Persons who make a timely election to be excluded from the Settlement Class.

6. The Court hereby affirms this definition of the Settlement Class for purposes of this Final Judgment and certifies this Action, for settlement purposes only, as a Class Action. In so doing, the Court finds, for settlement purposes only, that the Action meets all the requirements of Rule 23 of the Arkansas Rules of Civil Procedure, due process and all other applicable rules and law and can therefore be certified as a settlement class action.

7. Plaintiff and State Farm have entered into the Stipulation, which has been filed with the Court and is incorporated herein by reference. The Stipulation provides for the settlement of this Action with State Farm on behalf of the representative Plaintiff and the members of the Settlement Class, subject to final approval by the Court. The Stipulation provides that, in exchange for the releases described in the Stipulation and this Judgment, State Farm will provide (a) GCO&P settlement payments to all qualifying members of the Settlement Class who submit approved claims, (b) continuation of certain State Farm GCO&P claims practices and disclosures described in the Stipulation for a period of two years following the date of this Order, (c) an amount not to exceed \$40,000,000 in attorneys' fees, costs and expenses payable to Class Counsel, and (d) payment of all notice and administration costs.

8. On May 17, 2010, the Court held a Preliminary Approval Hearing to consider the preliminary approval of the Stipulation, approved the Class Notice and method of notification for potential Class Members, and directed that Class Notice of the Proposed Settlement and of the Settlement Final Approval Hearing be disseminated in accordance with the terms of the Stipulation and the Preliminary Approval Order.

9. On October 5, 2010, the parties provided evidence that the Individual Notice, Detailed Notice, and website, all of which informed members of the Settlement Class of the terms of the Proposed Settlement, of their opportunity to request exclusion from the Settlement Class, and of their opportunity to object to the terms of the Stipulation, were disseminated in accordance with the Preliminary Approval Order.

10. Specifically, the Court received and an affidavit from Kim Schmidt, setting forth the scope and results of the notice campaign.

11. Based on the Court's review of the evidence admitted and argument of counsel, the Court finds and concludes that the Individual Notice and Detailed Notice as disseminated to members of the Settlement Class in accordance with provisions of the Preliminary Approval Order, provided the best notice practicable under the circumstances to all members of the Settlement Class. Accordingly, the Individual Notice and Detailed Notice as disseminated are finally approved as fair, reasonable and adequate. The Court finds and concludes that due and adequate notice of the pendency of this Action and of the Stipulation has been provided to members of the Settlement Class, and the Court further finds and concludes that the notice program described in the Preliminary Approval Order and completed by the parties complied fully with the requirements of Arkansas Rule of Civil Procedure 23, the requirements of due process under the Arkansas and United States Constitutions, and the requirements of any other applicable rules or law. The Court further finds that the notice campaign undertaken concisely and clearly states in plain, easily understood language:

- (a) the nature of the action;
- (b) the definition of the class certified;
- (c) the class claims, issues or defenses;
- (d) that a Class Member may object to the settlement;
- (e) that a Class Member may enter an appearance and participate at the Settlement Final Approval Hearing in person or through counsel if the member so desires;
- (f) that the Court will exclude from the class any member who requests exclusion, stating when and how members may elect to be excluded; and
- (g) the binding effect of the class judgment on Class Members.



12. Having admitted and reviewed the Affidavit of Kim Schmidt concerning the success of the notice campaign, the Court finds that it is unnecessary to afford a new opportunity to request exclusion to individual Class Members who had an earlier opportunity to request exclusion, but did not do so.

13. The Settlement Final Approval Hearing and the evidence before the Court clearly support a finding that the Stipulation was entered into in good faith between the Plaintiff and State Farm, and the Court does hereby so find.

14. The Court finds that the Stipulation is the result of a good faith arm's length negotiation by the parties hereto. In addition, the Court finds that approval of the Stipulation and the Proposed Settlement embodied therein will result in substantial savings in time and resources to the Court and the litigants and will further the interests of justice. Further, the Court finds that the Stipulation is fair, reasonable and adequate to members of the Settlement Class based on formal and informal discovery, due diligence, and the absence of material objections sufficient to deny approval.

15. The settlement of the Action on the terms and conditions set forth in the Stipulation is approved and confirmed in all respects as fair, reasonable, and adequate and in the best interest of the Settlement Class and Class Members, especially in light of the benefits to the Settlement Class and the costs and risks associated with the continued prosecution, trial and possible appeal of this complex litigation.

16. A review of the following factors supports a finding that the Settlement is fair and adequate:

- (a) the strength of the case for the plaintiffs on the merits, balanced against the amount offered in the settlement;

- (b) the defendant's overall financial condition and ability to pay;
- (c) the complexity, length and expense of further litigation; and
- (d) the amount of opposition to the settlement.

*Ballard v. Martin*, 349 Ark. 564, 574 (2002).

17. Although the Notice campaign was highly successful and resulted in notice being mailed to 178,618 potential Class Members, only one potential Settlement Class Member filed an objection to Class Counsels' Application for Fees and no objections were filed concerning the Proposed Settlement. The objection of David Webb states that he objects to Class Counsels' fee request, but provides no basis for his objection other than indicating he believes the fee request is excessive. Although indicating he objects to Class Counsels' fee request, Mr. Webb also opts out of the class at the end of his objection stating "And it is my intent that this letter also serves as my notice that I wish to be excluded from the settlement class..." Because Mr. Webb has opted out of the class, he has no right to object to Class Counsels' fees request. The relative lack of opposition by a well-noticed Settlement Class strongly supports the fairness, reasonableness and adequacy of the Stipulation and Class Counsels' Application for Fees.

18. The Court, in its evaluation of the fairness, reasonableness, and adequacy of the Stipulation and Class Counsel's Application for Fees, considered all objections that were filed or that could have been raised by any absent Class Member and specifically considered the issues addressed in Mr. Webb's objection, although it is moot because Mr. Webb opted out of the class. After considering all such objections and possible objections, the Court finds that the Stipulation is fair, reasonable, and adequate under the *Ballard* factors.

19. The Settlement Class is not required under the Stipulation to submit records or documents that they do not possess. The Settlement Class is not burdened or discouraged from

filing their claims because they are required to provide documents in their possession along with their Claims Forms. Additionally, the manner in which documents in State Farm's possession are used to evaluate and process claims is fair and reasonable based upon the terms of the Stipulation and evidence presented at the Settlement Final Approval Hearing. The claim process as set forth in the Stipulation is fair, reasonable and adequate to both Class Members and State Farm.

20. Class Counsel's requests for \$ 40,000,000.00 in attorneys fees and expenses and a Class Representative fee of \$ 5,000.00 to Class Representative, Evelyn Chivers, to be paid by State Farm, are fair, reasonable and adequate under the Court's analysis of the *Chrisco* factors applied to a percentage of the common fund or common benefit approach. *Chrisco v. Sun Indus., Inc.*, 304 Ark. 227, 800 S.W.2d 717 (1990).

21. Under applicable law, the Court has the discretion to award fees based on a percentage of the common fund or common benefit made available to the Settlement Class after considering the following *Chrisco* factors. "(1) the experience and ability of the attorney; (2) the time and labor required to perform the legal service properly; (3) the amount involved in the case and the results obtained; (4) the novelty and difficulty of the issues involved; (5) the fee customarily charged in the locality for similar legal services; (6) whether the fee is fixed or contingent; (7) the time limitations imposed upon the client or by the circumstances; and (8) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer." *Chrisco v. Sun Indus., Inc.*, 304 Ark. 227, 800 S.W.2d 717 (1990).

22. The Court adopts Class Counsels' analysis of the *Chrisco* factors as set forth in Class Counsels' Application for Fees to support the Court's award of attorneys' fees and expenses to Class Counsel.

23. Arkansas law regarding attorneys' fees in a class action against a private entity, such as State Farm, does not require or mandate that the Court determine and award attorneys' fees based on a lodestar analysis when the defendant has agreed to pay attorneys' fees as part of a common fund or common benefit settlement. Further, Arkansas law allows the Court to consider the total value of the common fund or common benefit made available to the Class for purposes of calculating attorneys' fees. The Court is not required to consider only the benefit claimed by Class Members when evaluating a class action settlement against a private entity, such as State Farm, who has agreed to pay attorneys' fees in addition to the other benefits discussed herein.

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

1. The Court possesses jurisdiction over the subject matter of this Action, the Plaintiff, State Farm, members of the Settlement Class, and the Released Persons.
2. The Court certifies the Settlement Class, for Settlement purposes only, under Arkansas Rule of Civil Procedure 23 and all other applicable rules and law.
3. Timely requests for exclusion were submitted by 66 potential members of the Settlement Class and those potential Class Members (identified in Exhibit "1" hereto) are excluded from the Settlement Class. All other potential members of the Settlement Class are adjudged to be members of the Settlement Class and are bound by this Final Judgment and by

the Stipulation and the Proposed Settlement embodied therein, including the releases provided for in the Stipulation and this Final Judgment.

4. All provisions and terms of the Stipulation are hereby finally approved in all respects. The parties to the Stipulation are hereby directed to consummate the Stipulation in accordance with its terms.

5. This Action is dismissed in its entirety on the merits, with prejudice and without leave to amend, and all members of the Settlement Class are forever barred and permanently enjoined from starting, continuing, or participating in, litigating or receiving any benefits or other relief from any other lawsuit, arbitration, or administrative or regulatory proceeding or order based on or relating to the claims, facts or circumstances alleged in this Action and/or the Released Claims against the Released Persons. Accordingly, the Court permanently enjoins Plaintiff and any Class Member from bringing a new class action or attempting to amend an existing action to assert any class claims that have been released pursuant to the Stipulation.

6. The Court finds that Class Counsel and the Class Representative adequately, appropriately and fairly represented and protected the interests of the Settlement Class for the purposes of entering into and implementing the Proposed Settlement. Accordingly, Plaintiff, Evelyn Chivers, is appointed as the representative for the Settlement Class, and the following Class Counsel are appointed as counsel for the Settlement Class:

John Goodson  
Matt Keil  
**KEIL & GOODSON**  
406 Walnut Street  
Texarkana, Arkansas 71854

Jason Roselius  
Derrick Morton  
Chad Ihrig  
**NELSON, ROSELIUS, TERRY &  
MORTON**  
P. O. Box 138800  
Oklahoma City, Oklahoma 73113

Michael B. Angelovich  
Brad Seidel  
**NIX, PATTERSON & ROACH, LLP**  
2900 St. Michael Drive  
Fifth Floor  
Texarkana, Texas 75503

Reggie Whitten  
Michael Burrage  
Simone Gosnell Fulmer  
**WHITTEN BURRAGE**  
One Leadership Square, Suite 1350  
211 N. Robinson Avenue  
Oklahoma City, Oklahoma 73102

7. The Court finds that all requirements for certification of a settlement class under Rule 23 of the Arkansas Rules of Civil Procedure have been met.

8. Upon the entry of this Final Judgment, each Class Member shall be conclusively deemed to have fully released and discharged, to the fullest extent permitted by law, any and all of the Released Persons from all of the Released Claims.

9. "Released Claims" means and includes any and all known and Unknown Claims, rights, demands, actions, causes of action, allegations, or suits of whatever kind or nature, whether *ex contractu* or *ex delicto*, debts, liens, contracts, liabilities, agreements, interest, attorneys' fees, costs, expenses or losses (including actual, consequential, statutory, and/or punitive or exemplary damages) arising from or in any way related to any acts which have been alleged or which could have been alleged in the Action by the Plaintiff, on behalf of herself or on behalf of the Settlement Class, to the full extent of *res judicata* protections, and whether arising under or based on contract, extra-contractual or tort, common law or equity, or federal, state or local law, statute, ordinance, rule or regulation, and/or arising from or in any way related to any omission, inclusion, determination, and/or calculation of General Contractor's Overhead and Profit in the adjustment and/or payment of any Covered Loss by State Farm, and/or any alleged

conspiracy in connection therewith, provided, however, that the Released Claims do not include any claim for enforcement of the Stipulation and/or the Final Judgment.

10. "Unknown Claim" means any claim arising out of newly discovered facts and/or facts found hereafter to be other than or different from the facts now believed to be true. The Released Claims defined in paragraph 9 above, include all Unknown Claims arising from or in any way related to any acts which have been alleged or which could have been alleged in the Action by the Plaintiff, on behalf of herself or on behalf of the Settlement Class, to the full extent of *res judicata* protections, and/or arising from or in any way related to any omission, inclusion, determination, and/or calculation of General Contractor's Overhead and Profit in the adjustment and/or payment of any Covered Loss by State Farm, and/or any alleged conspiracy in connection therewith. Each Class Member is deemed to have expressly waived and released any and all Unknown Claims that he, she, or it has or might have arising from or in any way related to any acts which have been alleged or which could have been alleged in the Action by the Plaintiff, on behalf of herself or on behalf of the Settlement Class, to the full extent of *res judicata* protections, and/or arising from or in any way related to any omission, inclusion, determination, and/or calculation of General Contractor's Overhead and Profit in the adjustment and/or payment of any Covered Loss by State Farm, and/or any alleged conspiracy in connection therewith.

11. "Released Persons" means (a) State Farm Fire and Casualty Company (b) State Farm Lloyds, (c) State Farm General Insurance Company, (d) all of the past and present divisions, parent entities, affiliates, and subsidiaries, of the entities listed in sub-parts 11(a), 11(b), and 11(c), and (e) all officers, directors, agents, attorneys, employees, stockholders, successors, assigns, and legal representatives of the entities and/or persons listed in subparagraphs 11(a)-11(d).

12. The following constitutes highly confidential and proprietary business information of State Farm (the "Proprietary Information"): (a) the names, addresses, policy numbers, and other data concerning Potential Class Members compiled by State Farm and/or the Administrator in effectuating the Proposed Settlement; and (b) the electronic data processing and other record keeping procedures and materials to be utilized by State Farm and/or the Administrator in identifying the Potential Class Members and effectuating State Farm's other obligations under the Stipulation and/or the Proposed Settlement. The confidentiality of all Proprietary Information shall be protected from disclosure by Class Counsel and/or other attorneys for Plaintiff in this Action.

13. No persons other than State Farm's counsel and clerical/administrative personnel employed by State Farm, Class Counsel and clerical/administrative personnel employed by Class Counsel, the Administrator, and such other persons as the Court may order, after hearing on notice to all counsel of record, shall be allowed access to any Proprietary Information.

14. The Stipulation, Proposed Settlement, and this Final Judgment are not deemed admissions of liability or fault by State Farm, or a finding of the validity of any claims in the Action or of any wrongdoing or violation of law by State Farm. The Stipulation and Proposed Settlement are not a concession by the parties and, to the extent permitted by law, neither this Final Judgment nor the Stipulation or any other documents, exhibits or materials submitted in furtherance of the settlement, shall be offered or received in evidence in any action or proceeding in any court, administrative panel or proceeding, or other tribunal, as an admission or concession of liability or wrongdoing of any nature on the part of State Farm, as an admission or concession that this action may properly be maintained as a litigation class against State Farm, or for any other purpose related to State Farm.



15. Neither the Stipulation, nor the negotiations of the Class Settlement, nor the Class Settlement procedures, nor any act, statement or document related in any way to the Class Settlement negotiations or settlement procedures, nor any pleadings, or other document or action related in any way to the Stipulation shall be (a) offered into evidence in the Action or in any other case or proceeding in support of or in opposition to a motion to certify a contested class against State Farm or (b) otherwise used in any case or proceeding whatsoever in support of or in opposition to a motion to certify a contested class against State Farm.

16. Pursuant to Class Counsel's Application for Attorneys' Fees and Reimbursement of Costs Related to the Stipulation, the Court jointly awards Class Counsel the sum of \$ 40,000,000.00 in attorneys' fees and costs. In addition, the Court awards the Class Representative an incentive fee of \$ 5,000.00. The Court hereby finds that these amounts are fair and reasonable and fully supported by this Court's analysis of the *Chrisco* factors. The Court adopts Class Counsel's analysis of the *Chrisco* factors contained in Class Counsel's Application for Fees, and finds that this analysis of the *Chrisco* factors supports the award of attorneys' fees and costs. State Farm shall pay such fees to Class Counsel pursuant to the terms of the Stipulation.

17. The Court appoints the following Neutral Evaluator(s): John Stroud, Jr. to carry out the duties and responsibilities set forth in the Stipulation from the listing of mutually acceptable Neutral Evaluator(s) submitted by the Parties. The Neutral Evaluator(s) shall be discharged upon the Court's approval of the Final Report of Distribution. Neither Plaintiff, nor State Farm, nor the parties' counsel shall be liable for any act or omission of the Neutral Evaluator(s).

18. Any Class Member who receives a check in connection with a claim submitted under the Stipulation and does not cash that check within 120 days of its date is deemed to have withdrawn that claim and State Farm has no obligation to pay that claim.

19. In accordance with Ark. Stat. § 16-61-205, and pursuant to the Stipulation, all damages recoverable by any Class Member against any unnamed Person shall be reduced to the extent of the pro rata share of State Farm's liability therefore, if any, if State Farm is found to be a joint tortfeasor with any unnamed Person. Plaintiff and the Settlement Class have agreed pursuant to the Stipulation that they will not seek to recover from any unnamed Person any damages resulting from any acts and/or omissions of State Farm. Accordingly, each Class Member shall reduce any judgment against or settlement payment from any unnamed Person by the amount, percentage or share of such judgment or settlement payment attributable to any act and/or omission of State Farm, so as to bar, discharge and release under applicable law any claims for contribution and/or indemnity against State Farm arising from or related to the claims that are the subject of this Action and/or the Released Claims. In the event that any Class Member obtains a judgment against or settlement payment from one or more unnamed Person(s) and any of those unnamed Person(s) obtains a judgment against State Farm for contribution or indemnity in connection with such judgment or settlement payment, then such Class Member will be required to reduce or remit any judgment against or settlement payment from the unnamed Person by the amount of the judgment said unnamed Person obtained against State Farm. Nothing in the parties' Stipulation or this Order is intended to release any unnamed Person from liability.

20. Within 30 days after the Effective Date as defined in the Stipulation, Class Counsel and/or other attorneys for Plaintiff in this Action shall return to State Farm all

Proprietary Information, and all confidential documents, data or information, and all copies thereof in their possession, custody, or control and any other confidential documents (exclusive of documents filed with the Court) provided by State Farm to Class Counsel or anyone they employed or retained in this Action, *Chivers*, or other GCO&P class litigation against State Farm, either in discovery or in connection with this Stipulation. Within 45 days after the Effective Date, Class Counsel shall deliver a letter to State Farm certifying their compliance with this paragraph. In the event that any Proprietary Information or confidential documents have already been destroyed, Class Counsel will include in that letter the name and address of the person(s) who destroyed the Proprietary Information and/or documents. Further, neither Class Counsel nor any one employed with, retained by, or otherwise associated with Class Counsel shall use any of this Proprietary Information or confidential information in any other litigation, current or future, unless independently obtained through discovery or other procedures in such other litigation.

21. As soon as reasonably possible after the completion of all payments to Class Members eligible for payment pursuant to the Stipulation, the parties shall file with the Court a final report, together with a proposed order approving such report and discharging the Neutral Evaluator(s), indicating that distribution in accordance with the terms of the Stipulation and the Court's prior Orders have been completed.

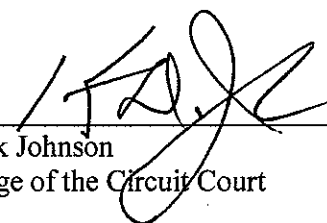
22. Without in any way affecting the finality of this Final Judgment, this Court shall retain continuing jurisdiction over this Action for purposes of:

- A. Enforcing the Stipulation and the Proposed Settlement;
- B. Hearing and determining any application by any party to the Stipulation for a settlement bar order; and

C. Any other matters related or ancillary to any of the foregoing.

IT IS SO ORDERED THIS 5<sup>th</sup> DAY OF October, 2010.

Dated: 10-5-10

  
Kirk Johnson  
Judge of the Circuit Court

MARY PAINE  
CIRCUIT CLERK  
BY  DEPUTY

2010 OCT -5 A 10:04

FILED

**Rule 54(b) Certificate**

With respect to the issues determined by the above judgment, the Court finds:

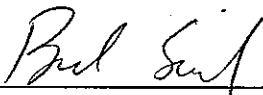
1. Nothing in this Final Order and Judgment is duplicative of any other issue in this Action. There is therefore no possibility of piecemeal appeals.
2. There is a strong likelihood of injustice should there be any delay in the disbursement of payments to qualifying Settlement Class Members as provided for in the Settlement. Such disbursement cannot occur until a final judgment is issued.
3. There is a strong likelihood of injustice should there be any delay in the resolution, and resulting judicial peace, brought about by this Settlement. Such resolution, and resulting judicial peace, cannot be realized until a final judgment is issued.

Upon the basis of the foregoing factual findings, the Court hereby certifies, in accordance with Rule 54(b)(1), Ark. R. Civ. P., that it has determined that there is no just reason for delay of the entry of a final judgment and that the Court has and does hereby direct the judgment shall be a final judgment for all purposes.

Certified this 5<sup>th</sup> day of October, 2010.

  
Kirk Johnson  
Judge of the Circuit Court

APPROVED AS TO FORM:

  
John Goodson  
Matt Keil  
KEIL & GOODSON  
406 Walnut Street  
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Michael B. Angelovich  
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Jason Roselius  
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Reggie Whitten  
Michael Burrage  
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