

NICKEY L. MARSH

CIVIL SUIT NO. 2002-787

VERSUS

FOURTH JUDICIAL DISTRICT COURT

USAGENCIES CASUALTY INSURANCE  
COMPANY

PARISH OF MOREHOUSE

**FINAL APPROVAL ORDER AND JUDGMENT**

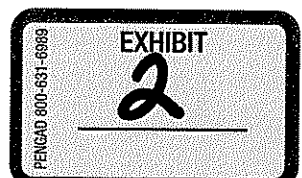
THIS COURT, after previously entering a PRELIMINARY APPROVAL ORDER with respect to a settlement of this class action, and after notice to the SETTLEMENT CLASS, held a hearing on \_\_\_\_\_ for the purpose of determining the following (terms written in all capitals letter shall have the meaning assigned to them in the SETTLEMENT AGREEMENT attached to the PRELIMINARY APPROVAL ORDER):

1. whether the proposed settlement, on the terms set forth in the SETTLEMENT AGREEMENT, is fair, reasonable, and adequate, and should be finally approved by the Court;
2. whether, pursuant to the terms of the proposed settlement, a judgment should be entered dismissing Defendant and the RELEASED PERSONS from all RELEASED CLAIMS; and
3. if the settlement is approved, whether the attorneys' fees and expenses to CLASS COUNSEL, and the incentive award to the CLASS REPRESENTATIVE set forth in the SETTLEMENT AGREEMENT, should be approved.

The Court, having heard all persons properly appearing and requesting to be heard; having considered the papers submitted in support of the proposed settlement and the oral presentations of counsel; having considered all applicable law; and having considered any objections made properly to the proposed settlement; finds that there is no just reason for delay of the entry of this FINAL APPROVAL ORDER AND JUDGMENT, and finds that it is now appropriate to give final approval and to grant judgment resolving this action.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

- (a) This FINAL ORDER AND JUDGMENT adopts and incorporates the SETTLEMENT AGREEMENT and the terms defined therein; provided,



however, that the PARTIES, without further approval from the Court, are hereby authorized to agree to and adopt such amendments to, and modifications and expansions of, the SETTLEMENT AGREEMENT and all exhibits and amendments thereto as (i) are consistent in all material respects with this FINAL APPROVAL ORDER AND JUDGMENT, and (ii) do not limit the rights of the SETTLEMENT CLASS members.

- (b) the Court finds that it has personal jurisdiction over all members of the SETTLEMENT CLASS and that the Court has subject matter jurisdiction to approve the SETTLEMENT AGREEMENT and all exhibits thereto;
- (c) This ACTION is hereby certified as a class action pursuant to Louisiana Code of Civil Procedure 592 for settlement purposes only. The SETTLEMENT CLASS is as follows:

All persons who, from August 24, 1996 to [date of the PRELIMINARY APPROVAL ORDER], (a) were issued a private passenger automobile insurance policy issued by USAgencies in the State of Louisiana, (b) made a first-party property damage claim for physical damage to the insured vehicle, (c) were informed by USAgencies that the vehicle had been declared a total loss, and (d) received payment for the totaled vehicle that was reduced by a "detail/prep" adjustment. Officers, directors and employees of USAgencies and members of the COURT and their immediate families are not part of the SETTLEMENT CLASS.

It is acknowledged by USAgencies that the members of the SETTLEMENT CLASS are among those persons whose claims were contained within that "pool of claims" previously identified in this proceeding (approximately 9,000 more or less) from which the "random sample" was drawn. The total number of person in this SETTLEMENT CLASS is approximately 3,021.

- (d) the Court gives final approval to the SETTLEMENT AGREEMENT as being fair, reasonable, and adequate as to the PARTIES, and consistent and in compliance with all requirements of due process and Louisiana law, as to, and in the best interests of, each of the PARTIES and the members of the SETTLEMENT CLASS, and the PARTIES and their counsel are directed to implement and consummate the SETTLEMENT AGREEMENT in accordance with its terms and provisions;

- (e) the SETTLEMENT AGREEMENT and this FINAL APPROVAL ORDER AND JUDGMENT are binding on, and shall have res judicata and preclusive effect in, all pending and future lawsuits or other proceedings encompassed by the RELEASED CLAIMS referred to in the SETTLEMENT AGREEMENT which are maintained by or on behalf of PLAINTIFF and all other members of the SETTLEMENT CLASS, as well as their heirs, executors and administrators, successors, and assigns;
- (g) the NOTICE PLAN and notice methodology implemented pursuant to the SETTLEMENT AGREEMENT (i) constitute the best practicable notice; (ii) constitute notice that is reasonably calculated, under the circumstances, to apprise members of the SETTLEMENT CLASS of the pendency of the ACTION, their right to object or exclude themselves from the proposed settlement and to appear at the FINAL APPROVAL HEARING, and their right to seek monetary and other relief; (iii) are reasonable and constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) meet all applicable requirements of due process and Louisiana law;
- (h) CLASS COUNSEL and the PLAINTIFF adequately represented the SETTLEMENT CLASS for the purpose of entering into and implementing the AGREEMENT;
- (i) the ACTION (including all individual and class claims presented thereby) is hereby dismissed on the merits and with prejudice and without fees or costs except as provided herein;
- (j) PLAINTIFF and the SETTLEMENT CLASS have conclusively compromised, settled, discharged, dismissed, and released any and all RELEASED CLAIMS against RELEASED PERSONS ;
- (k) the payment of the attorneys' fee award to CLASS COUNSEL in the amount of \$2,600,000.00, common benefit costs in the amount of \$260,000.00, and the incentive award to PLAINTIFF in the amount of \$25,000.00 are hereby approved,

and defendant is ordered to pay same within five (5) business days after the EFFECTIVE DATE as provided in the SETTLEMENT AGREEMENT;

- (l) without affecting the finality of this FINAL APPROVAL ORDER AND JUDGMENT for purposes of appeal, the COURT reserves jurisdiction over USAgencies, the PLAINTIFF, and the SETTLEMENT CLASS as to all matters relating to the administration, consummation, enforcement, and interpretation of the terms of the settlement and this FINAL APPROVAL ORDER AND JUDGMENT, and for any other necessary purposes;
- (m) upon the EFFECTIVE DATE, PLAINTIFF, and all members of the SETTLEMENT CLASS who have not been excluded from the SETTLEMENT CLASS, whether or not they return a CLAIM FORM within the time and in the manner provided for, and regardless of whether they received actual notice of the ACTION or the proposed settlement, shall be barred from asserting any RELEASED CLAIMS against the RELEASED PERSONS, and any such members of the SETTLEMENT CLASS shall be deemed to have released any and all RELEASED CLAIMS as against the RELEASED PERSONS;
- (n) the SETTLEMENT AGREEMENT and any proceedings taken pursuant thereto, are not, and should not in any event be offered or received as evidence of, a presumption, concession, or an admission of liability or of any misrepresentation or omission in any statement or written document approved or made by USAgencies; provided, however, that reference may be made to the SETTLEMENT AGREEMENT in such proceedings as may be necessary to effectuate its provisions;
- (o) all members of the SETTLEMENT CLASS who have not been excluded from the SETTLEMENT CLASS are barred and enjoined from (i) filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on, relating to, or arising out of the claims and causes of action, or the facts and circumstances relating thereto, in this ACTION and/or the

RELEASED CLAIMS and (ii) organizing members of the SETTLEMENT CLASS who have not been excluded from the class into a separate class for purposes of pursuing as a purported class action any lawsuit or administrative, regulatory, arbitration, or other proceeding (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action) based on, relating to, or arising out of the claims and causes of action, or the facts and circumstances relating thereto, in the ACTION and/or the RELEASED CLAIMS;

- (p) any SETTLEMENT CLASS member has not filed a timely objection in accordance with the provisions of the SETTLEMENT AGREEMENT forever waives the right to object and is barred from appealing the approval of the settlement to any Court.
- (q) a complete list of all SETTLEMENT CLASS members who have timely requested exclusion from the SETTLEMENT CLASS is attached as an exhibit, and these persons shall neither share in nor be bound by this FINAL APPROVAL ORDER AND JUDGMENT; and,
- (r) Within five (5) business days of the EFFECTIVE DATE, USAgencies will prepare checks as appropriate, in the amount of \$1,600.00 or such lessor amount as provided in the SETTLEMENT AGREEMENT to each participating SETTLEMENT CLASS member and provide those checks to CLASS COUNSEL. Within ten (10) business days of the EFFECTIVE DATE, CLASS COUNSEL shall mail Those checks to the respective PARTICIPATING SETTLEMENT CLASS members.
- (s) USAgencies is hereby enjoined, for a period of six years from the date of this Order, from including a "DETAIL/PREP" entry on its Total Loss Evaluation Form used to determine the ACTUAL CASH VALUE to be paid on first party total loss claims in Louisiana.
- (t) In the event that the settlement does not become effective in accordance with the

terms of the SETTLEMENT AGREEMENT, then the SETTLEMENT AGREEMENT, this FINAL APPROVAL ORDER AND JUDGMENT, and other terms herein including the certification of the SETTLEMENT CLASS shall be rendered null and void and be vacated.

THUS DONE AND SIGNED in Bastrop, Morehouse Parish, Louisiana, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
DISTRICT JUDGE