

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

LESLEY DAVIS LYMAN, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

AUTO CLUB FAMILY INSURANCE CO.,

Defendant.

Case No. 22SL-AC10668-01

Division 43

**PLAINTIFF’S UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS
SETTLEMENT, CERTIFICATION OF SETTLEMENT CLASS, AND SCHEDULING A
FINAL APPROVAL HEARING**

Pursuant to Missouri Supreme Court Rule 52.08, Plaintiff Lesley Davis Lyman (“Plaintiff”), on behalf of herself and the proposed Settlement Class, respectfully moves for an order certifying the proposed class solely for purposes of settlement, and further ordering preliminary approval of the settlement in accordance with the terms and conditions set forth in the proposed preliminary approval order attached as Ex. A to the settlement agreement (“Settlement” or “SA”) filed with this Motion.¹

1. Defendant Auto Club Family Insurance Co. (“Defendant” or “Auto Club”) does not oppose this motion for approval of a settlement.² The Settlement was reached through extensive

¹ All capitalized terms used in this Motion that are not otherwise defined have the meanings ascribed to them in the Settlement.

² However, Auto Club does not join in, approve of, or admit Plaintiff’s allegations or averments of fact or law contained in this motion or in any accompanying memoranda or submissions. As Page 2 and Paragraphs 5 and 29 of the Settlement make clear, Auto Club denies every allegation of liability, wrongdoing and damages, is not objecting to settling the case to achieve final resolution of the issues on fair and just compromise terms, and believes it has substantial factual and legal defenses to all claims and class allegations asserted in this case that it will continue to pursue in the event the settlement is not approved.

arm's-length settlement negotiations. *See* Ex. A, Declaration of Erik D. Peterson; Ex. B, Declaration of Christopher E. Roberts.

2. For purposes of preliminarily approving the Settlement only, Plaintiff seeks certification of the following Settlement Class:

All persons who from June 5, 2012 until the date of preliminary approval: (1) were issued policies in Missouri by Defendant; (2) made a structural damage claim; (3) an Xactimate or other computerized estimate was used in determination of the payment; and (4) from which Nonmaterial Depreciation was withheld, or that would have resulted in an ACV Payment, but for the withholding of Nonmaterial Depreciation causing the loss to drop below the applicable deductible. The term "Nonmaterial Depreciation" means the application of depreciation to any portion of estimated replacement cost other than the estimated cost of materials (including sales tax). "Nonmaterial Depreciation" includes the application of either the "depreciate removal," "depreciate non-material" and/or "depreciate O&P" option settings within Xactimate software or similar depreciation option settings in any other software used to prepare an estimate on putative class members' claims. It also means labor that was manually or otherwise depreciated from a replacement cost estimate, including but not limited to "straight line" depreciation.

SA ¶ 2. A copy of the Settlement is attached as Exhibit 1 to the Declaration of Erik D. Peterson.

See Ex. A, Peterson Decl., Decl. Ex. 1.

The Settlement Class does not include: (a) policyholders who received one or more ACV Payments for a claim that exhausted the applicable limits of insurance; (b) policyholders whose claims were denied or abandoned without an ACV Payment for any reason other than that the ACV Payment was not made solely because the withholding of Nonmaterial Depreciation caused the loss to drop below the applicable deductible; (c) policyholders where no Xactimate or other computerized estimate was generated by Defendant or an independent adjusting firm retained by Defendant; (d) Defendant and its officers and directors; (e) Members of the judiciary and their staff to whom this Lawsuit is assigned and their immediate families; and (f) Class Counsel and their immediate families. SA ¶ 2.

3. For purposes of preliminarily approving the Settlement, Plaintiff requests that she be appointed class representative and that the undersigned counsel be appointed as class counsel.

4. A proposed settlement class is properly certified when it meets the requirements of Rule 52.08(a) and the requirements of Rule 52.08(b)(1), (2) or (3). Rule 52.08(a) requires that the class be sufficiently numerous (numerosity), that questions of law or fact are common to the class (commonality), that the claims or defenses of the class representative are typical of the claims or defenses of the class (typicality), and the class representative will adequately represent the interests of the class (adequacy). MO. S. CT. R. 52.08(a)(1)-(4). Plaintiff seeks to certify a Rule 52.08(b)(3) class for settlement purposes, which further requires that “questions of law or fact common to the members of the class predominate over any questions affecting only individual members” (predominance) and that a class action be “superior to other available methods for the fair and efficient adjudication of the controversy” (superiority). MO. S. CT. R. 52.08(b)(3). Here, all requirements necessary for preliminary approval of a settlement class are satisfied.

5. Numerosity under Rule 52.08(a)(1) is satisfied for the proposed Settlement Class because there are thousands of class members.

6. Commonality under Rule 52.08(a)(2) is satisfied for the proposed Settlement Class because there are questions of law or fact common to all members of the proposed class, including but not limited to the single, predominating question presented: whether Defendant can withhold Nonmaterial Depreciation under its property insurance policies. In addition to the Nonmaterial Depreciation withholdings themselves, Class Members’ entitlement to prejudgment interest also presents a common question.

7. Typicality under Rule 52.08(a)(3) is satisfied for the proposed Settlement Class because Plaintiff and the putative class members made claims under their standard-form insurance

policies, and Defendant withheld Nonmaterial Depreciation in making ACV Payments to them. Plaintiff's claims arose from the underpayment of her ACV claim, and her claims are identical in all material respects to the claims of the putative class.

8. Adequacy under Rule 52.08(a)(4) is satisfied for the proposed Settlement Class because: (1) Plaintiff has fairly and adequately represented and protected the interests of the putative class; (2) Plaintiff is a member of the proposed class; (3) Plaintiff's interests are perfectly aligned with the proposed class, as she seeks to maximize everyone's recovery of compensatory damages and prejudgment interest resulting from Defendant's allegedly improper withholding of Nonmaterial Depreciation from ACV Payments; and (4) Plaintiff retained counsel competent and experienced in class action and insurance litigation.

9. As required by Rule 52.08(b)(3), questions of law or fact common to members of the proposed Settlement Class predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. Predominance is satisfied because the predominating question in this lawsuit for purposes of settlement class certification remains whether Nonmaterial Depreciation can be withheld under Defendant's property insurance policies. Superiority is also satisfied because of the thousands of small value claims at issue, and the interests of the parties and judicial economy favor settlement.

10. Pursuant to Rule 52.08(e), "[a] class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs." *Id.* A class action settlement may be approved as fair, reasonable, and adequate based upon the following considerations: (1) the existence of fraud or collusion behind the settlement; (2) the complexity, expense, and likely

duration of further litigation; (3) the stage of the proceedings and the amount of discovery completed; (4) the probability of the plaintiff's success on the merits; (5) the range of possible recovery; and (6) the opinions of class counsel. *Bachman v. A.G. Edwards, Inc.*, 344 S.W.3d 260, 266 (Mo. App. 2011). Among these, "[t]he most important consideration in determining if a settlement is fair, reasonable, and adequate is the strength of the plaintiffs' case on the merits balanced against the offered settlement." *Id.*

11. As more fully set forth in the accompanying Memorandum of Law and supporting Declarations, the Settlement is appropriate for preliminary approval. In summary, the Settlement provides the following categories of relief:

Class Members With Still Withheld Nonmaterial Depreciation. For Class Members who have not received the estimated full Replacement Cost Value, as that term is defined in the applicable insurance policies, for their underlying insurance claim(s), such members shall be permitted to make a claim for reimbursement of 100% of the value of the Nonmaterial Depreciation withheld from his or her ACV payment that has not already been recovered by that Class Member, plus interest on the value of the Nonmaterial Depreciation to be paid pursuant to this settlement at a rate of 5% per annum from the date that the Class Member was sent his or her ACV payment to the date of final approval.

To the extent that a Class Member's underlying insurance claim with Defendant is not capable of ready determination from Defendant's data of the value of Nonmaterial Depreciation still outstanding, as opposed to material depreciation outstanding, the value of that Class Member's claim pursuant to this Settlement Agreement shall be 50% of the total Nonmaterial Depreciation potentially owed based on an analysis of the claim data reviewed by Class Counsel and Defendant's Counsel, unless Defendant performs an individual file review.; and

Class Members Without Still Withheld Nonmaterial Depreciation. For Class Members who have received the full Replacement Cost Value, as that term is defined in the applicable insurance policies, for their underlying insurance claims(s), such members shall be permitted to make a claim according to the below schedule:

Amount of released Nonmaterial Depreciation:	Settlement Payment:
\$1 - \$40,000	\$25
\$40,001 - \$80,000	\$50
Greater than \$80,000	\$75

SA ¶ 18.d.

12. As set forth further in the Settlement, upon the Effective Date, Class Members will release claims limited to the subject matter of this lawsuit (*i.e.*, the practice of withholding Nonmaterial Depreciation) and without giving up any claims or arguments unrelated to the subject matter of this lawsuit. All unrelated matters will continue to be adjusted and handled by Auto Club in its ordinary course of business.

13. As the requirements of Rule 52.08 are satisfied, the Court should preliminarily approve the Settlement.

WHEREFORE, for these reasons and those set forth in the accompanying Memorandum of Law and Declarations of Plaintiff's counsel, Plaintiff requests that the Court grant Plaintiff's Motion for Preliminary Approval of Class Settlement and certify the class for settlement purposes, direct that class notice be issued, and schedule a hearing date for final approval of the Settlement.

July 16, 2025

/s/Christopher E. Roberts

David T. Butsch #37539

Christopher E. Roberts #61895

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*Attorneys for Plaintiff and
Proposed Class Representative*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed and served via the Court's electronic filing system, which will send electronic notices of same to all counsel of record on this the 16th day of July, 2025.

/s/Christopher E. Roberts

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LESLEY DAVIS LYMAN, individually and
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AUTO CLUB FAMILY INSURANCE CO.,

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Case No. 22SL-AC10668-01

Division 43

**PLAINTIFF’S MEMORANDUM OF LAW IN SUPPORT OF UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT, CERTIFICATION OF
SETTLEMENT CLASS, AND SCHEDULING A FINAL APPROVAL HEARING**

I. INTRODUCTION

The settlement agreement reached between Plaintiff Lesley Davis Lyman (“Plaintiff”), on behalf of herself and the proposed Settlement Class, and Defendant Auto Club Family Insurance Co. (“Defendant” or “Auto Club”), is attached as Exhibit 1 (“Settlement” or “SA”) to the Declaration of Erik D. Peterson (the “Peterson Declaration”), filed with this Memorandum.¹

Plaintiff submits this unopposed² motion seeking the Court’s preliminary approval of this

¹ All capitalized terms used herein that are not otherwise defined have the meanings ascribed to them in the Settlement. The Peterson Declaration is attached as Ex. A to the Unopposed Motion for Preliminary Approval of Class Action Settlement. Also attached as Ex. B is the Declaration of Christopher E. Roberts.

² However, Auto Club does not join in, approve of, or admit Plaintiff’s allegations or averments of fact or law contained in the motion or in any accompanying memoranda or submissions. As Page 2 and Paragraphs 5 and 29 of the Settlement make clear, Auto Club denies every allegation of liability, wrongdoing and damages, is not objecting to settling the case to achieve final resolution of the issues on fair and just compromise terms, and believes it has substantial factual and legal defenses to all claims and class allegations asserted in this case that it will continue to pursue in the event the settlement is not approved.

Settlement under Missouri Supreme Court Rule 52.08 so that notice of the Settlement can be disseminated to the Class and the Final Approval Hearing scheduled. At the Final Approval Hearing, the Court will have additional submissions in support of the Settlement before it and any objections that may be filed, and will be asked to determine whether, in accordance with Rule 52.08, the Settlement is “fair, reasonable, and adequate.” *Ring v. Metro. St. Louis Sewer Dist.*, 41 S.W.3d 487, 492 (Mo. App. 2000).³

The proposed Settlement is made on behalf of a class of Missouri policyholders of Defendant. For Class Members who timely submit valid Claim Forms, and for whom there remains some Nonmaterial Depreciation still withheld from an actual cash value (“ACV”) claim payment (or who did not receive an ACV Payment because the withholding of Nonmaterial Depreciation caused the loss to drop below the applicable deductible), their proposed settlement payment will be equal to 100% of the Nonmaterial Depreciation that was withheld and not subsequently paid, plus simple interest of 5% from the date the Class Member was sent his or her ACV Payment through the date of final approval.⁴

Class Members who timely submit valid Claim Forms, and for whom all Nonmaterial Depreciation that was previously withheld from ACV Payments was subsequently paid in full, will receive a one-time interest payment based on a schedule with payments increasing dependent on the amount of Nonmaterial Depreciation withheld and eventually paid by Defendant.

The proposed Settlement was reached through extensive arm’s-length negotiations

³ Unless otherwise noted, all internal citations and footnotes are omitted, and all emphasis is added.

⁴ To the extent a Class Member’s underlying insurance claim is not capable of ready determination from Defendant’s data of the value of Nonmaterial Depreciation still outstanding, the proposed settlement payment will be equal to 50% of the Nonmaterial Depreciation potentially owed based on an analysis of the claim data reviewed by Class Counsel and Defendant’s Counsel, unless Defendant performs an individual file review.

between counsel with extensive labor depreciation class action experience, and will result in a significant recovery for the Settlement Class. The Settlement warrants the Court's preliminary approval, and Plaintiff requests that the Court enter the proposed Preliminary Approval Order attached as Exhibit A to the Settlement.

II. BACKGROUND AND PROCEDURAL HISTORY

A. Law Concerning Labor Depreciation

This action involves allegations that Defendant breached the terms of its standard-form property insurance policies with Plaintiff and other Class Members by wrongfully withholding Nonmaterial Depreciation when adjusting property loss claims in violation of the law. *See, e.g., Franklin v. Lexington Ins. Co.*, 652 S.W.3d 286, 303 (Mo. App. 2022) (reasoning that, “[i]n the absence of an express policy provision that allows for it, labor does not fall within that which can be depreciated when an insured is entitled to an ACV payment,” and thus holding that “labor may not be depreciated under an insurance policy that does not define ACV or depreciation to expressly include labor depreciation”). This Settlement resolves these issues for Plaintiff and the Class Members.

B. This Settlement

On June 5, 2022, class allegations were asserted against Auto Club in the Circuit Court of St. Louis County, Missouri. *See Am. Pet., Deering v. Auto Club Family Ins. Co.*, Case No. 22SL-AC10668. A Second Amended Petition was filed on July 31, 2023, which named Ms. Lyman as Plaintiff. *See Second Am. Pet., Lyman v. Auto Club Family Ins. Co.*, Case No. 22SL-AC10668. Plaintiff alleged that Auto Club improperly depreciated the estimated cost of labor and other nonmaterial costs necessary to complete repairs to insured property when it calculated and issued ACV Payments to Plaintiff and other Class Members for structural losses under its property

insurance policies. *See generally id.* Plaintiff asserted claims for breach of contract and declaratory relief on behalf of herself and a class of policyholders who received ACV Payments from Auto Club for loss or damage to structures located in Missouri. *Id.* at ¶¶ 45-68.

The parties engaged in discovery and reviewed claims data for the putative class to assess the value of the case. Peterson Decl., ¶ 14. Following the exchange of data, the parties engaged in a series of settlement negotiations. *Id.* at 15.

C. Settlement Negotiations

The parties engaged in settlement negotiations through multiple telephone conversations and emails between sophisticated counsel with significant labor depreciation class action experience. Peterson Decl., ¶ 15. Prior to participating in the negotiations and reaching the proposed Settlement, the parties engaged in discovery, including but not limited to production by Defendant of certain internal and third-party claims and estimating data and documents. *See id.* at ¶ 14. After production and extensive discussions about the claims data, the parties reached a settlement in principle for relief to the class of Missouri policyholders. *Id.* at ¶ 15. The settlement in principle did not include any agreements on attorneys' fees, litigation costs, or a service award. *See id.*

Consistent with the ethical standards for class action settlements, only after relief to the proposed class was agreed to, did the parties begin to negotiate the service award, attorneys' fees, and costs. *Id.* at ¶ 16. Following agreement on relief to the class and after obtaining further claim data reports and making damages modeling of the aggregate values to be made available to the putative class, the parties reached an agreement on the service award, attorneys' fees, and litigation costs and began drafting the settlement agreement. *See id.* The proposed amounts of attorneys' fees, costs, and service award were negotiated as "over and above" payments beyond the proposed

relief to the class—*i.e.*, the payment of attorneys’ fees, costs, and service award will not reduce the amounts awarded to the Settlement Class. *Id.* Because the attorneys’ fees, costs, and service award will be paid separately by Auto Club and will not reduce the recovery to the Settlement Class or be subsidized by the same, Auto Club was incentivized to negotiate and pay for as little fees and litigation expenses as possible. *Id.*

The Peterson Declaration, filed concurrently with this Memorandum, confirms the history of settlement negotiations for this lawsuit and the timing and structure of the parties’ settlement negotiations. *Id.* at ¶¶ 17-18. The Declaration also addresses the considerations that led to the compromise in exchange for the proposed release. *Id.* at ¶¶ 18-19.⁵

III. SUMMARY OF SETTLEMENT TERMS

A. The Class

The “Settlement Class” is defined as:

All persons who from June 5, 2012 until the date of preliminary approval: (1) were issued policies in Missouri by Defendant; (2) made a structural damage claim; (3) an Xactimate or other computerized estimate was used in determination of the payment; and (4) from which Nonmaterial Depreciation was withheld, or that would have resulted in an ACV Payment, but for the withholding of Nonmaterial Depreciation causing the loss to drop below the applicable deductible. The term “Nonmaterial Depreciation” means the application of depreciation to any portion of estimated replacement cost other than the estimated cost of materials (including sales tax). “Nonmaterial Depreciation” includes the application of either the “depreciate removal,” “depreciate non-material” and/or “depreciate O&P” option settings within Xactimate software or similar depreciation option settings in any other software used to prepare an estimate on putative class members’ claims. It also means labor that was manually or otherwise depreciated from a replacement cost estimate, including but not limited to “straight line” depreciation.

SA ¶ 2.

⁵ See also the Declaration of Christopher E. Roberts, filed concurrently herewith in further support of preliminary approval.

The Settlement Class does not include: (a) policyholders who received one or more ACV Payments for a claim that exhausted the applicable limits of insurance; (b) policyholders whose claims were denied or abandoned without an ACV Payment for any reason other than that the ACV payment was not made solely because the withholding of Nonmaterial Depreciation caused the loss to drop below the applicable deductible; (c) policyholders where no Xactimate or other computerized estimate was generated by Defendant or an independent adjusting firm retained by Defendant; (d) Defendant and its officers and directors; (e) Members of the judiciary and their staff to whom this Lawsuit is assigned and their immediate families; and (f) Class Counsel and their immediate families. SA ¶ 2.

B. Class Members' Recovery Under The Settlement

Under the proposed Settlement, Auto Club will pay the following amounts to two categories of Class Members:

Class Members With Still Withheld Nonmaterial Depreciation. For Class Members who have not received the estimated full Replacement Cost Value, as that term is defined in the applicable insurance policies, for their underlying insurance claim(s), such members shall be permitted to make a claim for reimbursement of 100% of the value of the Nonmaterial Depreciation withheld from his or her ACV payment that has not already been recovered by that Class Member, plus interest on the value of the Nonmaterial Depreciation to be paid pursuant to this settlement at a rate of 5% per annum from the date that the Class Member was sent his or her ACV payment to the date of final approval.

To the extent that a Class Member's underlying insurance claim with Defendant is not capable of ready determination from Defendant's data of the value of Nonmaterial Depreciation still outstanding, as opposed to material depreciation outstanding, the value of that Class Member's claim pursuant to this Settlement Agreement shall be 50% of the total Nonmaterial Depreciation potentially owed based on an analysis of the claim data reviewed by Class Counsel and Defendant's Counsel, unless Defendant performs an individual file review.; and

Class Members Without Still Withheld Nonmaterial Depreciation. For Class Members who have received the full Replacement Cost Value, as that term is defined in the applicable insurance policies, for their underlying insurance claims(s), such members shall be permitted to make a claim according to the below schedule:

Amount of released Nonmaterial Depreciation:	Settlement Payment:
\$1 - \$40,000	\$25
\$40,001 - \$80,000	\$50
Greater than \$80,000	\$75

SA ¶ 18.d. The attorneys' fees, costs, and service award as may be approved by this Court will not reduce any Class Member's individual payments. *See generally* SA ¶ 18.

C. Disputes And Neutral Evaluator

Any Class Member may dispute the amount of their Settlement Payment or denial of their claim by requesting in writing a final and binding resolution by the Neutral Evaluator. SA ¶ 19. All disputes received from Class Members will be provided to Auto Club's counsel and Plaintiff's counsel, and Auto Club and Plaintiff's counsel may evaluate the claim and supply any additional documentation to the Neutral Evaluator. *Id.* The Neutral Evaluator will then issue a decision based only on the written submissions, and the decision of the Neutral Evaluator shall be final and binding. *Id.* Auto Club will separately pay for the reasonable fees incurred by the Neutral Evaluator as provided in the Settlement. *See id.* In the forthcoming motion requesting final approval of this Settlement, Plaintiff will seek approval from the Court for Douglas W. King, Esq. to serve as Neutral Evaluator.

D. The Release Of Claims

Plaintiff and Class Members will provide Auto Club a release narrowly tailored to the subject matter of this dispute—*i.e.*, the practice of withholding Nonmaterial Depreciation from ACV Payments utilizing claims estimating software. All other unrelated disputes concerning an individual claim will continue to be handled in the ordinary course of Auto Club's business. *See* SA ¶ 22.

E. Attorneys' Fees, Costs, And Service Award

Plaintiff's counsel will seek as attorneys' fees, costs, and expenses an amount no greater than \$399,000, and Defendant has agreed not to oppose such request. SA ¶ 18.c. Class Members' recoveries will not be reduced or enhanced by the amounts of attorneys' fees or litigation costs and expenses paid. *See id.*

Additionally, Plaintiff will seek, and Defendant has agreed not to oppose, a service award in an amount no greater than \$5,000 for Ms. Lyman. SA ¶ 18.b. If approved, the service award will not reduce the Class Members' recoveries. *See id.*

F. The Class Notice And Settlement Administration

Defendant will separately pay for the Class Notices and the services of the Settlement Administrator. *See* SA ¶¶ 9, 18.a. All Class Members will be given direct-mailed notice of the terms of the proposed Settlement at least ninety days before the Final Approval Hearing. *See id.* at ¶¶ 7.f., 8.a.

If the mailing is returned to the Administrator, the Administrator will re-mail the Class Notice to the forwarding address. *Id.* at ¶ 8.a.iii. To the extent no forwarding address is provided, the Administrator will run the Class Member's name and address through a single commercial database (e.g., Accurant) chosen by the Administrator, and should the commercial database show a more current address, the Administrator shall re-mail the Class Notice to the more current address. *Id.* Notice will also be published on the internet on the settlement website created by the Administrator. *Id.* at ¶ 8.b. A reminder postcard notice will be issued before the expiration of the deadline to submit Claim Forms. *Id.* at ¶ 8.a.iv. Class Members may submit Claim Forms by mailing the completed form to the Administrator or uploading a copy to the settlement website. *Id.* at ¶ 12.

IV. THE SETTLEMENT CLASS IS CERTIFIABLE UNDER RULE 52.08.

The proposed Settlement comes prior to formal class certification and seeks to certify a class simultaneous with a settlement, commonly referred to as a “settlement class.” A class is properly certified when it meets the requirements of Rule 52.08(a) and the requirements of Rule 52.08(b)(1), (2) or (3). *See* MO. S. CT. R. 52.08. Rule 52.08(a) requires that the class be sufficiently numerous (numerosity), that questions of law or fact are common to the class (commonality), that the claims or defenses of the class representatives are typical of the claims or defenses of the class (typicality) and the class representatives will adequately represent the interest of the class (adequacy). MO. S. CT. R. 52.08(a)(1)-(4). In addition, the class must satisfy one of the requirements of Rule 52.08(b).

Here, Plaintiff seeks to certify a Rule 52.08(b)(3) class for settlement purposes. Rule 52.08(b)(3) requires that “questions of law or fact common to the members of the class predominate over any questions affecting only individual members” (predominance) and that a class action be “superior to other available methods for the fair and efficient adjudication of the controversy” (superiority). MO. S. CT. R. 52.08(b)(3). Generally, “a court should err in favor of certification of a class.” *Smith v. Leif Johnson Ford, Inc.*, 632 S.W.3d 798, 803, 808 (Mo. App. 2021).

The Missouri provisions governing class certification, Rule 52.08, are patterned after Federal Rule of Civil Procedure 23. *See, e.g., Mitchell v. Residential Funding Corp.*, 334 S.W.3d 477, 491 n.12 (Mo. App. 2010). “Because Rule 52.08 and Fed. R. Civ. P. 23 are identical, Missouri state courts may consider federal interpretations of Federal Rule 23 in interpreting Rule 52.08.” *Id.* (citing *Union Planters Bank, N.A. v. Kendrick*, 142 S.W.3d 729, 735 n.5 (Mo. banc 2004)). When analyzing a proposed settlement class under the federal corollary, the Court must first ensure

that the proposed class meets the requirements of Federal Rules 23(a) and 23(b)(3), with the exception that the Court need not consider, in analyzing a proposed settlement class, whether trial would present intractable management problems. *See generally* NEWBERG ON CLASS ACTIONS § 13:12 (5th ed.) (Dec. 2021 Update) (“NEWBERG”); Wright and Miller, 7B FEDERAL PRACTICE AND PROCEDURE § 1797.2 (3d ed.) (Apr. 2020 Update) (citing *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591 (1997)).

While the Supreme Court reiterated that a trial court must conduct a “rigorous analysis” to confirm that the requirements of Federal Rule 23 have been met, *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2551 (2011), the requisite “rigorous analysis” of the record and consideration of the merits must be focused on and limited to the question of whether Rule 23’s requirements have been established and, here, in the context of a proposed settlement class. *Postawko v. Mo. Dep’t of Corr.*, 910 F.3d 1030, 1037 (8th Cir. 2018). Permissible inquiry into the merits of plaintiff’s claims at the class certification stage is limited, and the court’s “primary task is not to determine the final disposition of a plaintiff’s claims, but instead to examine whether those claims are appropriate for class resolution.” *Id.* The court “‘must determine only’ if Rule 23’s requirements have been met.” *Id.*

Here, as demonstrated below, even under a “rigorous analysis,” Plaintiff has satisfied all the requirements of Rules 52.08(a) and 52.08(b)(3) for the proposed settlement class. This is because courts have certified labor depreciation litigation classes: “Courts in jurisdictions where labor depreciation has been found to be unlawful have *uniformly found that common issues predominate* in cases challenging insurers’ depreciation of labor costs” and have certified *litigation* classes. *Hicks v. State Farm Fire & Cas. Co.*, 2019 WL 846044 (E.D. Ky. Feb. 21, 2019), *aff’d*,

965 F.3d 452 (6th Cir. July 10, 2020), *reh'g en banc denied* (6th Cir. Aug. 26, 2020).⁶

Furthermore, several courts have certified *settlement* classes in the process of granting final approval of labor depreciation class settlements. *See generally* Peterson Decl. Ex. 2 (identifying all labor depreciation class settlements resulting in final certification and approval between June 1, 2017 and April 14, 2025 of which Plaintiff's counsel are aware).

A. The Settlement Meets The Requirements Of Rule 52.08(a).

I. Numerosity

Numerosity is satisfied when “the class is so numerous that joinder of all members is impracticable.” MO. S. CT. R. 52.08(a)(1). While there is no specific number of class members that makes a class sufficiently numerous, where there are likely more than 40 class members, numerosity is presumptively satisfied. NEWBERG § 3:12. In Missouri, the numerosity requirement has been satisfied with as few as eighteen class members. *Dale v. DaimlerChrysler Corp.*, 204 S.W.3d 151, 168 (Mo. App. 2006) (citing cases).

Here, based upon data review and extrapolation, the attorneys estimate that Class Notice will be issued for thousands of claims at issue, and multiple class members (*e.g.*, spouses) can share a single claim. Numerosity is easily satisfied. *See, e.g., Frank v. Enviro-Tech Servs.*, 577 S.W.3d 163, 167-69 (Mo. App. 2019) (finding numerosity satisfied where there were 82 potential class members); *Dale*, 204 S.W.3d at 166-68 (noting the existence of “hundreds and maybe even thousands” of potential claimants supports a finding of numerosity and recognizing that “[c]lass

⁶ *E.g., Mitchell v. State Farm Fire & Cas. Co.*, 954 F.3d 700 (5th Cir. 2020); *Stuart v. State Farm Fire & Cas. Co.*, 910 F.3d 371 (8th Cir. 2018); *Arnold v. State Farm Fire & Cas. Co.*, 2020 WL 6879271 (S.D. Ala. Nov. 23, 2020); *Green v. Am. Modern Home Ins. Co.*, No. 4:14-04074 (W.D. Ark. Aug. 24, 2016); *McCain v. Baldwin Mut. Ins. Co.*, No. 2010-901266 (Montgomery Cnty., Ala., Oct. 18, 2016), *rev'd due to inadequacy of representative*, 260 So.3d 801 (Ala. 2018); *Farmers Union Mut. Ins. Co. v. Robertson*, 370 S.W.3d 179 (Ark. 2010); *McLaughlin v. Fire Ins. Exch.*, No. 1316-CV11140 (Jackson Cnty., Mo. July 12, 2017).

certifications have been upheld where the class is composed of 100 or even less”).

2. Commonality

Commonality is satisfied when “there are questions of law or fact common to the class.” MO. S. CT. R. 52.08(a)(2). “[T]he commonality requirement is not usually a contentious one ... and is easily met in most cases.” NEWBERG § 13:18. The rule “does not require that all issues in the litigation be common, only that common questions exist.” *Elsea v. U.S. Eng’g Co.*, 463 S.W.3d 409, 419 (Mo. App. 2015). Commonality exists if “a single common issue [overrides] the litigation, despite the fact that the suit also entails numerous remaining individual issues.” *Id.* (quoting *Meyer ex rel. Coplin v. Fluor Corp.*, 220 S.W.3d 712, 716 (Mo. banc 2007)). In other words, what matters most in class certification “is not the raising of common questions, but the ability of a classwide proceeding to generate common answers apt to drive resolution of the litigation.” *Id.*

Here, the common factual issue is that Plaintiff and putative class members received ACV Payments from Defendant following property loss claims from which Nonmaterial Depreciation was improperly withheld. In addition to the Nonmaterial Depreciation withholdings themselves, whether Plaintiff and putative class members are entitled to prejudgment interest also presents a common issue. The commonality requirement of Rule 52.08(a)(2) is satisfied.

3. Typicality

Typicality is satisfied when “the claims or defenses of the representative parties are typical of the claims or defenses of the class.” MO. S. CT. R. 52.08(a)(3). Like the test for commonality, the test for typicality is not demanding. NEWBERG § 3:29. “The burden of satisfying the typicality prerequisite is fairly easily met so long as other class members have claims similar to the named plaintiff.” *Dale*, 204 S.W.3d at 169. Any “[f]actual variations in the individual claims will not

normally preclude class certification if the *claim arises from the same event or course of conduct as the class claims*, and gives rise to the same legal or remedial theory.” *Id.* (emphasis in original).

Here, all claims are premised upon the same legal theories. Plaintiff’s breach of contract claims arising from the underpayment of her ACV in violation of Defendant’s standard-form policies is identical to the claims of the putative class. *Hicks*, 2019 WL 846044, at *4; *Mitchell*, 327 F.R.D. at 561-62. The additional claims for prejudgment interest are likewise identical for both the putative class and Plaintiff. Through these claims, Plaintiff seeks monetary relief for herself and all putative class members. Accordingly, “as goes the claim of the named plaintiff, so go the claims of the class.” *Dale*, 204 S.W.3d at 169.

4. Adequacy

Adequacy is satisfied when “the representative parties will fairly and adequately protect the interests of the class.” MO. S. CT. R. 52.08(a)(4). The adequacy requirement applies to class counsel and the class representative. Adequacy is satisfied where “class counsel is competent and qualified to conduct the litigation” and the proposed class representative has “no interests antagonistic to the other proposed class members.” *Lucas Subway MidMo, Inc. v. Mandatory Poster Agency, Inc.*, 524 S.W.3d 116, 130 (Mo. App. 2017).

Here, Plaintiff is a member of the proposed class, and Plaintiff’s interests are perfectly aligned with the proposed class, as she seeks to maximize everyone’s recovery of compensatory damages and prejudgment interest resulting from Defendant’s allegedly improper withholding of labor costs as depreciation in the calculation of ACV. *See Dale*, 204 S.W.3d at 172-73; *Craft v. Philip Morris Cos.*, 190 S.W.3d 368, 379 (Mo. App. 2005) (finding proposed class representative adequate where “Plaintiff alleged that she asserted claims that are typical of the claims of the entire class, that she had no interests antagonistic to those of the class, and that she would fairly and

adequately represent and protect the class”).

Furthermore, Plaintiff retained experienced counsel. Plaintiff’s attorneys are putative or certified class counsel in most of the labor depreciation class actions pending throughout the United States and have decades of experience in insurance, class actions, and complex litigation. *See In re Tetracycline Cases*, 107 F.R.D. 719, 731 (W.D. Mo. 1985) (finding plaintiff’s counsel “capable of vigorously and ably representing the interests of the class” after considering counsel’s “experience, competence, resources and support personnel,” and thus having “little difficulty finding that this aspect of the adequacy requirement ... is satisfied”). The adequacy requirement is therefore satisfied.

B. The Requirements Of Rule 52.08(b)(3) Are Satisfied.

I. Predominance

Rule 52.08(b)(3) provides that a class may be certified if “the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members.” MO. S. CT. R. 52.08(b)(3). The predominance inquiry simply requires the court to determine whether the class seeks “to remedy a common legal grievance.” *Karen S. Little, L.L.C. v. Drury Inns, Inc.*, 306 S.W.3d 577, 580 (Mo. App. 2010) (quoting *Dale*, 204 S.W.3d 175). Predominance does not require that all questions of law or fact be common to the class, but that “common issues substantially predominate over individual ones.” *Id.* at 581. To determine whether a question is common or individual, the court looks at the “nature of the evidence required to show the allegations of the petition.” *Id.* A question is common, and therefore predominates, if the same evidence is necessary to answer the pertinent question of law or fact for each class member. *Id.*

Here, Plaintiff contends that the seminal disputed issue is the same one recently addressed by the Missouri Court of Appeals—*i.e.*, whether a property insurer may withhold Nonmaterial

Depreciation from ACV Payments when calculating ACV pursuant to the replacement cost less depreciation methodology under a policy that does not specifically allow for labor depreciation. *Franklin v. Lexington Ins. Co.*, 652 S.W.3d 286 (Mo. App. 2022). This same issue, which remains an open question at the Missouri Supreme Court level and is the subject of a split of authority nationwide, has repeatedly been identified by federal courts as “a common question well suited to class wide resolution.” *Stuart v. State Farm Fire & Cas. Co.*, 910 F.3d 371, 375 (8th Cir. 2018); *see also Hicks*, 965 F.3d at 459 (“Plaintiffs’ claims share a common legal question central to the validity of each of the putative class member’s claims: whether State Farm breached Plaintiffs’ standard-form contracts by deducting labor depreciation from their ACV payments.”); *Arnold v. State Farm Fire & Cas. Co.*, 2020 WL 6879271, at *5 (S.D. Ala. Nov. 23, 2020) (“[C]ommonality is easily satisfied” where the “overarching issue ... is whether State Farm breached its agreements with policyholders by improperly withholding labor depreciation”); *Mitchell v. State Farm Fire & Cas. Co.*, 327 F.R.D. 552, 561 (N.D. Miss. 2018) (“The proposed class members, all of whom purchased insurance coverage from State Farm, each have a claim concerning the issue of whether State Farm breached its policy by depreciating labor costs in calculating actual cash value payments.... [C]ommonality is met.”), *aff’d*, 954 F.3d 700 (5th Cir. 2020). Indeed, “[t]his common question, posed in the context of [Defendant’s] uniform claim handling practices, ‘will yield a common answer for the entire class that goes to the heart of whether [Defendant] will be found liable under the relevant laws.’” *Hicks*, 2019 WL 846044, at *4, *aff’d*, 965 F.3d at 458-59.

Further, while the central issue here has not been resolved by Missouri’s highest court, it is black-letter law that even conceded or otherwise resolved legal issues still satisfy the predominance inquiry such that a class action remains an appropriate means of adjudicating the case. *Hicks*, 965 F.3d at 458-59 (rejecting insurer’s argument that commonality cannot be satisfied

where the common liability question concerning labor depreciation was already answered in plaintiffs' favor); *In re Nassau Cnty. Strip Search Cases*, 461 F.3d 219, 228 (2d Cir. 2006) ("Even resolved questions continue to implicate the 'common nucleus of operative facts and issues' with which the predominance inquiry is concerned."); *Waste Mgmt. Holdings, Inc. v. Mowbray*, 208 F.3d 288, 299 (1st Cir. 2000) ("[T]he fact that an issue has been resolved on summary judgment does not remove it from the predominance calculus."); NEWBERG § 4:51 ("[T]he fact that an issue is conceded or otherwise resolved does not mean that it ceases to be an 'issue' for the purposes of predominance analysis."). "[R]esolved issues bear on the key question that the analysis seeks to answer: whether the class is a legally coherent unit of representation by which absent class members may fairly be bound." *In re Nassau*, 461 F.3d at 228.

Accordingly, courts repeatedly find that common issues predominate in cases challenging insurers' withholding of labor costs as depreciation under the terms of standard-form insurance policies. *Mitchell*, 954 F.3d at 711-12 (district court did not abuse its discretion in finding predominance where overarching issue was whether insurer breached its contracts by depreciating labor costs); *Stuart*, 910 F.3d at 375-78 ("It was not an abuse of discretion for the district court to conclude that plaintiffs' [labor depreciation] claims share a common, predominating question of law" that is "well suited to classwide resolution"); *Hicks*, 2019 WL 846044, at *5-6 ("Courts in jurisdictions where labor depreciation has been found to be unlawful have uniformly found that common issues predominate in cases challenging insurers' depreciation of labor costs."); *Arnold*, 2020 WL 6879271, at *8 ("[I]n jurisdictions where labor depreciation is unlawful, as is the case here, courts have uniformly found that common questions predominate in cases challenging insurers' depreciation of labor costs."); *Farmers Union Mut. Ins. Co. v. Robertson*, 370 S.W.3d 179, 187 (Ark. 2010) (finding "[t]he requirement that the common issue[s] predominate is ...

satisfied” because “whether Appellant was able to depreciate labor pursuant to the contractual terms of its policies would be the same and require the same proof”). The predominance requirement is satisfied.

2. *Superiority*

Rule 52.08(b)(3) provides that a class may be certified if a class action is “superior to other available methods for the fair and efficient adjudication of the controversy.” MO. S. CT. R. 52.08(b)(3).

The court considers the following factors when analyzing the superiority requirement:

- (A) the interest of members of the class in individually controlling the prosecution or defense of separate actions;
- (B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class;
- (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and,
- (D) the difficulties likely to be encountered in the management of a class action.

MO. S. CT. R. 52.08(b)(3)(A)-(D); *see generally* *Karen S. Little, L.L.C.*, 306 S.W.3d at 583. The ultimate question, however, is whether a class action is more efficient than other methods of adjudication. *Dale*, 204 S.W.3d at 182. Here, each of the Rule 52.08(b)(3) factors establish that a class action is the most efficient mechanism of adjudicating this dispute.

A class action is superior because it is in the interest of the members of the class to adjudicate this case on a class basis rather than by way of hundreds of individual actions. MO. S. CT. R. 52.08(b)(3)(A). To this end, the court considers “the inability of the poor or uninformed to enforce their rights, and the improbability that large numbers of class members would possess the initiative to litigate individually.” *Elesa*, 463 S.W.3d at 417 (quoting *Dale*, 204 S.W.3d at 182). The superiority requirement is satisfied as Missouri courts have repeatedly recognized that a class

action is a particularly appropriate way of resolving several relatively small claims. *See Hale v. Wal-Mart Stores, Inc.*, 231 S.W.3d 215, 229 (Mo. App. 2007) (“Class actions which aggregate small claims that could not otherwise be brought are exactly the type of claims that satisfy the superiority requirement.”); *Wright v. Country Club of St. Albans*, 269 S.W.3d 461, 467-68 (Mo. App. 2008) (finding “class action would be superior to other methods of adjudication in that, in the absence of class action, the potential expense of the litigation in relation to the relatively small recovery amount for each plaintiff would prevent most, if not all, injured parties from initiating a lawsuit.”).

The instant case presents classic small value claims, and Class Members have no interest in individually litigating this issue. As such, “the negative value nature of the claims in this case establishes superiority of the class action.” *Mitchell*, 327 F.R.D. at 564; *see also Arnold*, 2020 WL 6879271, at *10; *Hicks*, 2019 WL 846044, at *6 (finding superiority where spreadsheet data of supplemental payments made by State Farm as part of its Kentucky labor depreciation refund program demonstrated majority of policyholders were paid less than \$1,000, with a significant portion paid less than the filing fee for commencing an action in state court); *accord Hale*, 231 S.W.3d at 229 (finding class action superior because the case “involves small claims by tens of thousands of potential class members who individually would not have the means to finance the expenses of the litigation” and the claims “implicate[d] company-wide policies and data manipulation” so that “[w]ithout the aggregate pursuit of these claims, ... it would be economically infeasible for individual class members to access or develop this type of evidence”).

Accordingly, all the requirements under Rule 52.08 are satisfied. The next step is for the Court to analyze whether the proposed settlement warrants preliminary approval.

V. THE COURT SHOULD GRANT PRELIMINARY APPROVAL BECAUSE THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

“A strong public policy favors [settlement] agreements, and courts should approach them with a presumption in their favor.” *Petrovic v. Amoco Oil Co.*, 200 F.3d 1140, 1148 (8th Cir. 1999). The presumption in favor of settlements is particularly strong “in class actions and other complex cases where substantial judicial resources can be conserved by avoiding formal litigation.” *Cohn v. Nelson*, 375 F. Supp. 2d 844, 852 (E.D. Mo. 2005). In Missouri, any action brought as a class action may not be settled without approval of the Court and, unless excused for good cause shown, on notice as the Court may direct. MO. S. CT. R. 52.08(e).

Ultimately, the Court’s primary concern in determining whether to approve a settlement is to determine whether the settlement is “fair, reasonable and adequate.” *Bachman v. A.G. Edwards, Inc.*, 344 S.W.3d 260, 266 (Mo. App. 2011). To make this determination, the Court considers:

(1) the existence of fraud or collusion behind the settlement; (2) the complexity, expense, and likely duration of the litigation; (3) the stage of the proceedings and the amount of discovery completed; (4) the probability of the plaintiff’s success on the merits; (5) the range of potential recovery; and (6) the opinions of class counsel”

Id.

As set forth in detail below, consideration of the foregoing factors supports a finding that the settlement is “fair, reasonable and adequate” and warrants preliminary approval.

1. Lack Of Fraud Or Collusion

An initial presumption of fairness attaches to a proposed settlement when it is shown to be the result of arm’s length negotiations conducted by experienced plaintiff’s counsel as is the case here. *See, e.g., Ring*, 41 S.W.3d at 493 (finding no suggestion of fraud or collusion because record contained “no evidence to indicate the settlement negotiations were anything other than an arms length negotiation by competent attorneys on both sides”); *Burnett v. Nat’l Ass’n of Realtors*, 2024 WL 2842222, at *4 (W.D. Mo. 2024) (finding proposed settlements fair when the agreements were

“negotiated at arm’s-length by experienced counsel acting in good faith”).

The presumption in favor of settlement is warranted here as there is no indicia of fraud or collusion. Settlement negotiations occurred only after the parties engaged in discovery. The Settlement was the product of extensive arm’s length negotiations between sophisticated counsel with significant experience in the particular subject matter and in class actions in general. Finally, the negotiations were structured to follow the highest ethical standards—*e.g.*, class relief was negotiated and agreed upon before any negotiations concerning the attorneys’ fees, costs, and service award occurred.⁷ *See* Peterson Decl., ¶¶ 18.

2. *The Complexity, Length, And Expense Of Further Litigation*

This factor requires the Court to compare the immediate benefits and risks of the proposed settlement against the mere possibility of future relief given the uncertainties of protracted and expensive litigation. “In this respect, ‘[i]t has been held proper to take the bird in the hand instead of a prospective flock in the bush.’” *Jenkins v. Trustmark Nat’l Bank*, 300 F.R.D. 291, 303 (S.D. Miss. 2014). Indeed, “[i]f the Court approves the Agreement, the present lawsuit will come to an end and Class Members will realize [] immediate [] benefits as a result. If the Court denies approval, however, protracted litigation would likely ensue.” *Schulte v. Fifth Third Bank*, 805 F. Supp. 2d 560, 586 (N.D. Ill. 2011) (granting final approval of class settlement).

Class actions have a well-deserved reputation for being inherently complex. *See Keli v. Lopez*, 862 F.3d 685, 698 (8th Cir. 2017) (recognizing class actions are complex in nature and “[c]lass actions, in general, place an enormous burden of costs and expense upon the parties”). Labor depreciation class actions are particularly complex and slow moving. For example, the labor

⁷ *See* NEWBERG § 13:2 (“Fees should not be negotiated between class counsel and defendant’s counsel until after a settlement of the class’s claims has been agreed upon.”).

depreciation lawsuit *Stuart, supra*, Arg. § IV, was filed on January 2, 2014, and remained pending in the Western District of Arkansas for over six years (and after an Eighth Circuit decision). Similarly, the *Hicks* litigation, *supra*, Arg. § IV, was filed on February 28, 2014, and remained pending in the Eastern District of Kentucky for over eight years.

The instant lawsuit thus could have continued for several additional years in trial and appellate courts absent settlement. While the Missouri Court of Appeals has ruled in favor of Plaintiff's position on labor depreciation as discussed above, the Eighth Circuit had previously reached a conflicting outcome, and Defendant potentially could obtain review by the Missouri Supreme Court. Experts in the areas of claims handling and data manipulation would have to be retained. Both sides retained experienced class action attorneys. Defendant's counsel has prevailed on the labor depreciation issue in other jurisdictions, and has prevailed on an interest-only claim in Missouri federal district court. Given the foregoing, and because the Settlement provides significant monetary relief for Class Members now, as opposed to potential relief in the future, the Court should find that this factor supports preliminary approval of the Settlement. *See Bachman*, 344 S.W.3d at 266 (observing the settlement would allow the class to avoid the time, complexity, and expense of continued litigation); *Ring*, 41 S.W.3d at 493 (finding the trial court properly considered "the delays and risks of protracted litigation and the benefits of certainty of settlement compared to the uncertainty of litigation" in approving proposed class settlement).

3. *The Stage Of The Proceedings And Amount Of Discovery Completed*

The Court's consideration of the stage of proceedings and the nature and extent of discovery in evaluating the fairness of a settlement is focused on whether the parties have obtained sufficient information to evaluate the merits of competing positions. *See Ring*, 41 S.W.3d at 489-90, 493 (noting the plaintiffs agreed to settle after motion to dismiss was resolved and, although

settlement was at an early stage, “class counsel had engaged in a substantial amount of discovery and was familiar with the issues and complexity of this case” after engaging in “previous litigation surrounding [the same] controversy”). While this proposed Settlement comes before formal certification, “[t]hat a case is settled early does not establish that the class was ill-represented or that the settlement was the product of collusion.” *Schulte*, 805 F. Supp. 2d at 588. As courts recognize:

Early dispute resolution is salutary, and we should not encourage the unnecessary expense, delay, and uncertainty caused by lengthy litigation when the parties are prepared to compromise. Nor should we hold ... that a prompt settlement necessarily suggests a failure to prosecute or defend the action with due diligence and reasonable prudence. To the contrary, an early resolution may demonstrate that the parties and their counsel are well prepared and well aware of the strength and weaknesses of their positions and of the interests to be served by an amicable end to the case.

Id. at 589.

This reasoning applies here. First, the stage of these proceedings should not be considered in a vacuum as Plaintiff’s counsel are well prepared and aware of the strengths and weaknesses of the parties’ respective positions, having successfully represented policyholders in numerous other labor depreciation putative and certified class actions throughout the United States. *See, e.g., id.* at 588 (granting final approval of class action settlement despite early stage of proceedings where class counsel conducted a great deal of independent research to evaluate plaintiffs’ claims); *Ring*, 41 S.W.3d at 493 (finding settlement fair, reasonable, and adequate despite early stage of proceedings where class counsel engaged in previous litigation surrounding same controversy and had familiarity of the issues and complexity of the case). Second, the parties engaged in class-wide discovery, including but not limited to Auto Club’s production of certain claims data and documents, prior to finalizing the proposed Settlement. Peterson Decl., ¶ 14.

In sum, Plaintiff’s counsel had all the information necessary to evaluate the merits of the

parties' legal positions and the probable course of future litigation such that they could effectively represent the proposed Class. Accordingly, this factor weighs in favor of preliminary approval.

4. The Probability Of Plaintiff's Success On The Merits

This factor analyzes whether there were risks that the class would not be certified or, if certified, potentially decertified. It also analyzes whether the class, if certified, would be able to establish liability or damages, and whether there were risks. The Court then weighs these risks against the amount and form of relief in the settlement. *See Ring*, 41 S.W.3d at 492-93; *Bachman*, 344 S.W.3d at 266.

Before considering the likelihood of establishing class-wide liability or damages, the first consideration is whether this Court would have granted class certification of a litigation class. While numerous labor depreciation litigation classes have been initially certified for contractual claims (as referenced, *supra*, Arg. § IV), no labor depreciation class action has ever gone to trial or faced the issue of decertification. Peterson Decl., ¶ 26. In addition, there has been a recent decision wherein one federal district court denied a motion for class certification of a litigation class against State Farm in a labor depreciation case despite prior rulings finding labor depreciation prohibited under the applicable policy language. *See, e.g., Cranfield v. State Farm Fire & Cas. Co.*, 2021 WL 3376283, at *1 (N.D. Ohio Aug. 2, 2021) (denying motion for litigation class certification despite Sixth Circuit decision finding labor depreciation to be impermissible under the applicable policy language). And, before the *Franklin* decision, the Eighth Circuit rejected class certification in a Missouri labor depreciation class action. *See In re State Farm Fire & Cas. Co.*, 872 F.3d 567, 577 (8th Cir. 2017). Thus, certification of a litigation class here was not a guarantee. Peterson Decl., ¶ 30.

Assuming *arguendo* that class certification could have been obtained and sustained over

any appeals or decertification motions, the next hurdle would be to establish class-wide liability and class-wide damages. *Id.* at ¶ 27. Labor depreciation class actions pending throughout the United States have led to decidedly mixed results concerning liability, with many class actions resulting in no recovery. *See Hicks v. State Farm Fire & Cas. Co.*, 751 F. App'x 703, 710 (6th Cir. 2018) (noting the “substantial weight of authority” is against successfully establishing liability in labor depreciation class actions); *see also GMAC Mortg. Corp. of Pa. v. Stapleton*, 236 Ill. App. 3d 486, 496 (1st Dist. 1992) (“GMACM’s position in this lawsuit is not without authority and, thus, the risk does exist that the class will recover nothing if the case proceeds to trial. Again, the terms of the settlement must be measured within this context.”).

Despite these hurdles, this lawsuit was settled after a Missouri appellate court held that labor costs may not be depreciated in the calculation of ACV pursuant to the replacement cost less depreciation methodology where the policy itself does not define ACV. *Franklin*, 652 S.W.3d at 303. As noted above, the *Franklin* decision conflicts with an earlier decision of the Eighth Circuit, and it remains unknown how the Missouri Supreme Court might rule if it were faced with the issue and the conflicting authority. With the *Franklin* decision in mind, Plaintiff’s counsel had a high level of confidence in establishing contractual liability for the claims at issue. Peterson Decl., ¶ 27. Defendant, however, has not conceded liability for any putative class member and Defendant’s counsel has prevailed on the issue in other jurisdictions. *Id.* The recovery of 50-100% of the value of the still withheld Nonmaterial Depreciation plus prejudgment interest reflects the strong value of these claims.⁸

⁸ Settlements in which class members may receive 100% of their claimed damages are both rare and exceptional. *See, e.g., Yarrington v. Solvay Pharm., Inc.*, 697 F. Supp. 2d 1057, 1062 (D. Minn. 2010) (“Settlement Class Members who file timely and otherwise valid claims will receive 100% of their claimed damages—a percentage almost unheard of in class-action litigation.”).

5. *The Range Of Possible Recovery*

The proposed Settlement is extremely favorable because: (1) Class Members submitting Claim Forms will receive 50-100% of their Nonmaterial Depreciation withholdings plus an additional amount to account for interest; (2) Class Members who had Nonmaterial Depreciation initially withheld from their ACV Payments, but who later recovered all outstanding Nonmaterial Depreciation through the claims process, are eligible to receive a one-time payment based on a schedule in lieu of interest for the period of withholding; and (3) the release is narrowly tailored to the subject matter of the lawsuit. *See Bachman*, 344 S.W.3d at 266 (finding proposed settlement fair when “the bottom range of possible recovery was no recovery”). In addition, Auto Club has agreed to pay a service award, attorneys’ fees, case expenses, settlement administration costs, and the reasonable costs of a Neutral Evaluator on top of Class Members’ recoveries. These terms are very favorable and support preliminary approval of the Settlement.

6. *The Opinions Of Class Counsel*

Counsel agrees that the settlement is fair, adequate, and reasonable. The opinion of competent counsel supports approval of the proposed Settlement. *See Ring*, 41 S.W.3d at 493-94 (finding trial court properly relied on the opinion of competent counsel who had experience in similar litigation and believed certain issues were risky because they were unsettled in the courts); 2 McLAUGHLIN ON CLASS ACTIONS § 6:16 (18th ed. Oct. 2021 Update) (“McLAUGHLIN”) (“The recommendation of experienced class counsel that a proposed settlement is in the best interest of the class is entitled to great weight.”).

As one commentator explains:

What counts in favor of the settlement is that experienced counsel—particularly counsel experienced in class action litigation—have reached it and are proposing it.... [T]hat is, if experienced counsel reached this settlement, the court may trust that the terms are reasonable in ways that it might not had the settlement been reached by lawyers with less experience in class action litigation.

NEWBERG § 13:59. Plaintiff's counsel, who are putative or certified class counsel in a large percentage of the pending labor depreciation class actions throughout the United States and have decades of experience in insurance, class action, and complex litigation, strongly recommend the Settlement. *See* Peterson Decl., ¶¶ 5-8; Roberts Decl., ¶ 9.

In short, the Settlement is fair, reasonable, and adequate, and should be preliminarily approved by the Court.

A. Plaintiff's Forthcoming Motion Requesting Attorneys' Fees, Costs, And Service Award Falls Within The Range Of Reasonableness Sufficient To Allow Preliminary Approval And Notice To The Class.

The Settlement provides that Plaintiff's counsel will seek as attorneys' fees, costs and litigation expenses an amount no greater than \$399,000, and Defendant has agreed not to oppose such request. Class Members' recoveries will *not* be reduced by the amounts of attorneys' fees, costs, and litigation expenses paid. Plaintiff will seek a service award in the amount of \$5,000, which if approved, will *not* reduce the Class Members' recoveries.

Under the Settlement Agreement, and pursuant to Rule 52.08(e), Class Members will receive notice that fees, costs, and litigation expenses will be sought, and will be provided information about how they can object, assuming the Court preliminarily approves the Settlement. Plaintiff's counsel will then file a motion for fees and expenses pursuant to both the Settlement and Rule 52.08(e). In turn, this Court will then award the attorneys' fees, costs, and service award, if any, it determines appropriate assuming the Settlement is finally approved.

Although attorneys' fees and costs are analyzed only at the final approval stage, Plaintiff's counsel will properly seek fees based upon a percentage of the amounts made available to the class on a "claims made" basis. At that time, Plaintiff's counsel will demonstrate that they are seeking a reasonable percentage of the amounts to be made available to the class. *See, e.g., Landmark &*

Funk, P.C. v. Skinder-Strauss Assocs., 639 F. App'x 880, 884 (3d Cir. 2016) (citing *Boeing v. Van Gemert*, 444 U.S. 472, 480-81 (1980)). The percentage methodology is the preferred methodology in federal and state courts for calculating fees. *See Ryan v. City of Chicago*, 274 Ill. App. 3d 913, 925 (1st Dist. 1995) (“Percentage analysis approach eliminates the need for additional major litigation and further taxing of scarce judicial resources which occurred here as a result of plaintiffs’ request for attorneys’ fees.”).

Assuming preliminary approval of the settlement is granted, Plaintiff’s counsel will show upon final approval that the attorneys’ fees sought here are fully consistent with comparable cases. Specifically, the requested fees are consistent with several final class action approval orders from state and federal courts in similar labor depreciation class action settlements. *See* Peterson Decl. Ex. 2 (identifying all “claims made” labor depreciation class settlements resulting in final approval between June 1, 2017, and April 14, 2025 of which Plaintiff’s counsel are aware with range of percentages for fees and costs awards between 17.08% to 47%).

Further, Plaintiff’s counsel will also show that the percentage to be sought here is generally below that approved by federal and state courts. In Missouri, attorney fees are commonly awarded for one-third of the recovery to the class. *See, e.g., Burnett*, 2024 WL 2842222, at *14 (finding “one-third of the common fund is an appropriate amount for class counsels’ fees in complex class actions” and recognizing “Missouri courts ‘have frequently awarded attorney fees between twenty-five and thirty-six percent of a common fund in other class actions’”); *Bachman*, 344 S.W.3d at 267 (acknowledging that, “in the class action context, a one-third contingent fee award is not unreasonable,” and one study found the “average attorney’s fees percentage is 31.71%, and the median is one-third”); *State ex rel. Byrd v. Chadwick*, 956 S.W.2d 369, 388 (Mo. App. 1997) (“A fee of 20-25%, such as is requested here, has been approved in many [class action] cases as a

‘benchmark’ for recovery.”); *In re U.S. Bancorp Litig.*, 291 F.3d 1035, 1038 (8th Cir. 2002) (finding no abuse of discretion in awarding 36% of \$3.5 million recovery to class counsel). Plaintiff’s counsel will demonstrate when submitting their anticipated motion concerning fees and litigation expenses (assuming preliminary approval) that their request will be closer toward the lower end, rather than the higher end of these benchmarks. *See generally Bachman*, 344 S.W.3d at 267 (leaving undisturbed the trial court’s award of \$21 million to class counsel for attorneys’ fees, representing a fee of one-third of the total settlement).

Here, pursuant to the parties’ agreement, Defendant has agreed not to oppose Plaintiff’s request for an amount no greater than \$399,000 in attorneys’ fees and litigation expenses. Plaintiff’s counsel estimates the aggregate value of the relief made available to the class for payment on a claims made basis is at least \$1,826,000, inclusive of the costs for settlement administration (estimated to be approximately \$37,000), plus the proposed service award (\$5,000) and attorneys’ fees and expenses (\$399,000). Thus, the attorneys’ fees sought are no more than 21.8% of the aggregate value of the proposed settlement amounts made available to the putative class (*i.e.*, \$399,000 / \$1,826,000).⁹ *See* Peterson Decl., ¶ 25. This is within the range of

⁹ Both the U.S. Supreme Court and Missouri state courts hold that “a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorneys’ fee from the fund as a whole.” *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *Gerken v. Sherman*, 351 S.W.3d 1, 13 (Mo. App. 2011) (same); *see also* MCLAUGHLIN § 6:24 (“Most Circuits to address the question hold that in a common fund case ... attorneys’ fees should be calculated as a percentage of the total funds made available through counsel’s efforts, whether claimed or not.” (citing cases)). Further, precedent supports applying the selected percentage to the total benefit to the class before separately deducting litigation costs and expenses from the fund. *See, e.g., In re Target Corp. Customer Data Sec. Breach Litig.*, 892 F.3d 968, 976 (8th Cir. 2018) (“[T]he district court acted within its discretion when it included notice and administrative expenses in its calculation of the total benefit to the class.”); *Gascho v. Glob. Fitness Holdings, LLC*, 822 F.3d 269, 282-85 (6th Cir. 2016) (holding percentage-of-fund approach properly focuses on the total benefit made available to class; “[w]hen conducting a percentage of the fund analysis, ... [a]ttorney’s fees are the numerator and the denominator is the dollar amount

reasonableness for fee awards in Missouri. *Burnett*, 2024 WL 2842222, at *14; *Bachman*, 344 S.W.3d at 267.

Because the attorneys' fees will not reduce any Class Member's recovery and the attorneys' fees are to be paid "*over and above* the settlement costs and benefits with no reduction of class benefits," agreements between Plaintiff's and defense counsel as to the amount of fees "are *encouraged*, particularly where the attorneys' fees are negotiated separately and only after all the terms have been agreed to between the parties." *Manners v. Am. Gen. Life Ins. Co.*, 1999 WL 33581944, at *28-30 (M.D. Tenn. Aug. 11, 1999); *Bailey v. AK Steel Corp.*, 2008 WL 553764, at *1 (S.D. Ohio Feb. 28, 2008) ("[C]ourts are especially amenable to awarding negotiated attorneys' fees and expenses in a reasonable amount where that amount is *in addition to and separate from* the defendant's settlement with the class."). Indeed, courts have held that these "over and above" fee requests are entitled to a "presumption of reasonableness." *DeHoyos v. Allstate Corp.*, 240 F.R.D. 269, 322-33 (W.D. Tex. 2007); *see also Cole v. Collier*, 2018 WL 2766028, at *13 (S.D. Tex. June 8, 2018) ("When the amount of fees is agreed upon, is separate and apart from the class settlement, and has been negotiated after the other terms have been agreed, the attorneys' fee is presumed to be reasonable."). In any event, at this stage of the proceedings, there is no basis to preclude preliminary approval because of the fee request to be made in the future, a request that will not impact individual recoveries.

Finally, the payment of a service award to the representative plaintiff is common in class action cases and serves to encourage the filing of class action suits. *See Byrd*, 956 S.W.2d at 387 n.10 (observing that class representatives typically receive incentive awards, which can range from

of the Total Benefit to the class (which includes the 'benefit to class members,' the attorney's fees and may include costs of administration)); MCLAUGHLIN § 6:24.

\$1,000 to \$55,000 each). The \$5,000 service award sought here for Plaintiff is consistent with the service awards approved in other labor depreciation class actions. *See, e.g., Jondro* Final Approval Order at ¶ 13 (awarding service awards in the amount of \$3,750 or \$7,500 to each representative plaintiff in labor depreciation class action); *Belle Meade* Final Approval Order at ¶ 42 (approving \$7,500 to class representative in labor depreciation class action).

Further, the proposed Class Representative, Lesley Davis Lyman, obtained a settlement valued at over a million dollars, exclusive of interest payments, attorneys' fees, and costs for the class. Her willingness to serve as Class Representative, to stay updated on the case, and to provide necessary information and records, was critical to the litigation. Since this Court will fully analyze the appropriateness and amount of the service award at the Final Approval Hearing in the future, the proposed service award in the Settlement does not provide grounds for delaying the grant of preliminary approval.

VI. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests the Court preliminarily approve the Settlement. In order to comply with the notice requirements, as well as to allow sufficient time after notice for class members to decide whether to opt out of the class or object to the settlement, Plaintiff further requests that the Court schedule a Final Approval Hearing no sooner than 120 days from the date of preliminary approval. *See* SA ¶¶ 7.f., 8.a.ii.

July 16, 2025

/s/Christopher E. Roberts

David T. Butsch #37539

Christopher E. Roberts #61895

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*Attorneys for Plaintiff and
Proposed Class Representative*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed and served via the Court's electronic filing system, which will send electronic notices of same to all counsel of record on this the 16th day of July, 2025.

/s/Christopher E. Roberts

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

LESLEY DAVIS LYMAN, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

AUTO CLUB FAMILY INSURANCE CO.,

Defendant.

Case No. 22SL-AC10668-01

**DECLARATION OF CHRISTOPHER E. ROBERTS IN SUPPORT OF PLAINTIFF’S
UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT,
CERTIFICATION OF SETTLEMENT CLASS, AND
SCHEDULING A FINAL APPROVAL HEARING**

I, Christopher E. Roberts, hereby declare as follows:

1. I am over the age of 18 years, and I am of sound mind and otherwise competent to make this Declaration. I have personal knowledge of the matters asserted herein.

2. I have appeared as counsel for Plaintiff and proposed class representative Lesley Davis Lyman (“Plaintiff”) in the above-captioned matter. I submit this Declaration in support of Plaintiff’s Unopposed Motion for Preliminary Approval of Class Settlement, Certification of Settlement Class, and Scheduling a Final Approval Hearing.

3. I am a partner with the firm of Butsch Roberts & Associates LLC. I am a member in good standing of the Missouri Bar, and I have never been the subject of any disciplinary proceedings. In addition to being admitted to Missouri, I am also licensed to practice in the States of Illinois and Kansas. Furthermore, I am admitted to practice before the United States Courts of Appeals for the Eighth Circuit, Ninth Circuit, and Tenth Circuit, as well as the United States District Courts for the Northern District of Illinois, Southern District of Illinois, Eastern District

of Missouri, Western District of Missouri, District of Kansas, Southern District of Texas, Northern District of Texas, Eastern District of Michigan, and District of Colorado.

4. I am a 2009 graduate of the University of Missouri-Kansas City School of Law, where I received my Juris Doctor degree. I was admitted to the Missouri Bar in 2009, the Illinois Bar in 2010, and the Kansas Bar in 2010.

5. I frequently speak to members of the Missouri Bar on class action practice and consumer law-related issues. I spoke most recently in 2022 at the Solo and Small Firm Conference sponsored by the Missouri Bar about class action practice and procedure.

6. In addition, I am a frequent contributor to the American Bar Association on class action-related issues. I am the author of a chapter in the 2018, 2020, 2021, 2022, and 2023 books published by the American Bar Association about class action law from each United States Circuit Court of Appeals. The chapter I authored in each publication focuses on class action jurisprudence in the Eighth Circuit. I have also written multiple articles on class action-related issues that have been published by the American Bar Association.

7. Butsch Roberts & Associates LLC is an AV rated law firm that began operating under my law partner, David T. Butsch, on November 1, 2008. The firm specializes in complex civil litigation, with an emphasis on consumer class litigation. The two members of the firm, David T. Butsch and me, have combined litigation experience of more than 40 years.

8. I have been appointed to serve as class counsel in numerous cases and have participated in several cases involving the issue of labor depreciation.

9. I have read the Declaration of my co-counsel, Erik D. Peterson, that was filed contemporaneously with this Declaration. I agree with Mr. Peterson's analysis of the proposed settlement, affirm his factual recitations concerning the negotiations of the proposed settlement,

and recommend without hesitation that the Court grant preliminary approval of the settlement. I believe that the law and facts demonstrate that the settlement is fair, reasonable, and adequate and should be granted preliminary approval.

Under penalties as provided by law, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

FURTHER DECLARANT SAYETH NOT.

s/ Christopher E. Roberts
CHRISTOPHER E. ROBERTS
CRoberts@butschroberts.com

July 16, 2025

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

LESLEY DAVIS LYMAN, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

AUTO CLUB FAMILY INSURANCE CO.,

Defendant.

Case No. 22SL-AC10668-01

**DECLARATION OF ERIK D. PETERSON IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT,
CERTIFICATION OF SETTLEMENT CLASS, AND
SCHEDULING A FINAL APPROVAL HEARING**

I, Erik D. Peterson, hereby declare as follows:

1. I am over the age of 18 years, and I am of sound mind and otherwise competent to make this Declaration. I have personal knowledge of the matters asserted herein.

2. I am an attorney duly licensed to practice in the Commonwealth of Kentucky and the State of California, as well as multiple federal circuit courts of appeals and district courts. I have appeared as one of the attorneys for Plaintiff and proposed class representative Lesley Davis Lyman ("Plaintiff") in the above-captioned matter.

3. This Declaration is submitted in support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Settlement, Certification of Settlement Class, and Scheduling a Final Approval Hearing.

Biographical Information

4. I am the founder and owner of Erik Peterson Law Offices, PSC, located in Lexington, Kentucky. Following my graduation from the University of Kentucky College of Law,

I served as a law clerk to the Hon. Gregory F. Van Tatenhove in the United States District Court for the Eastern District of Kentucky. Since completing my clerkship over fifteen years ago, my practice has focused solely on class action and insurance litigation in trial and appellate courts around the country. Courts have described me as “an experienced class action litigator.” *Hicks v. State Farm Fire & Cas. Co.*, 2021 WL 8269349, at *4 (E.D. Ky. Nov. 8, 2021). In another class action lawsuit, the court observed that “[t]hroughout th[e] litigation – in both state and federal court – Class Counsel has demonstrated a mastery of the[] issues and prosecuted the case with tenacity.” *Jones v. Auto Club Prop.-Cas. Ins. Co.*, No. 15-CI-00956, slip op. at 6 (Jefferson Cir. Ct. Feb. 12, 2018).

5. As it relates specifically to labor depreciation class actions, I have been lead or co-lead counsel in more than sixty putative and certified class actions, both pending and resolved, in state or federal courts in Alabama, Arizona, Connecticut, Illinois, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Washington, and Wisconsin. These cases have been against a wide variety of property insurers, from small regional insurers to national insurers. I am counsel of record in all labor depreciation cases currently pending in the Fourth, Fifth, Sixth, and Eleventh Circuits. And, like my co-counsel here, I am counsel of record in the vast majority of labor depreciation class actions that have been filed nationwide. I have also consulted with groups of plaintiffs’ counsel in other labor depreciation class actions in which I do not represent the litigants.

6. I have argued labor depreciation class action appeals before the Nebraska Supreme Court and the United States Court of Appeals for the Sixth Circuit and have served as counsel in numerous cases setting important precedent related to labor depreciation and certification of labor depreciation class actions. *See, e.g., Hicks v. State Farm Fire & Cas. Co.*, 965 F.3d 452 (6th Cir.

July 10, 2020) (affirming class certification); *Hicks v. State Farm Fire & Cas. Co.*, 751 F. App'x 703 (6th Cir. 2018) (holding labor depreciation improper under Kentucky law); *Arnold v. State Farm Fire & Cas. Co.*, No. 2:17-cv-148 (S.D. Ala. Oct. 4, 2022) (*Arnold* Dkt. 206) (granting final approval of Alabama class action settlement); *Arnold v. State Farm Fire & Cas. Co.*, 268 F. Supp. 3d 1297 (S.D. Ala. 2017) (holding labor depreciation improper under Alabama law); *Cedarview Mart, LLC v. State Auto Prop. & Cas. Co.*, 2021 U.S. Dist. LEXIS 60871 (N.D. Miss. Mar. 30, 2021) (holding labor depreciation improper under Mississippi law); *Donofrio v. Auto-Owners (Mut.) Ins.*, 2020 U.S. Dist. LEXIS 53830 (S.D. Ohio Mar. 26, 2020) (holding labor depreciation improper under Ohio law).

7. For these reasons, I consider myself a national subject matter expert for plaintiffs' labor depreciation class actions. Only a handful of law firms pursue these cases on a national scale.

8. This Declaration summarizes the background of this lawsuit, particularly the settlement negotiations that led to the proposed settlement and the basis upon which Plaintiff's counsel recommends that the Court preliminarily approve the settlement. The following recitation is not all-inclusive but rather is intended to illustrate how settlement negotiations were structured, and the analysis that Plaintiff's counsel incorporated in agreeing to a settlement on behalf of the putative class. I believe these facts demonstrate that the settlement is fair, reasonable, and adequate, and should be preliminarily approved by the Court.

Brief History of the Litigation

9. This action and proposed settlement involve allegations that Defendant Auto Club Family Insurance Co. ("Defendant" or "Auto Club") breached the terms of its property insurance policies with Plaintiff and other class members by wrongfully depreciating labor costs and other non-material items when adjusting property loss claims.

10. On June 5, 2022, class allegations were asserted against Auto Club in the Circuit Court of St. Louis County, Missouri. A Second Amended Petition was filed on July 31, 2023, which named Ms. Lyman as Plaintiff.

11. Plaintiff alleged that Auto Club improperly depreciated the estimated cost of labor and other nonmaterial costs necessary to complete repairs to insured property when it calculated and issued actual cash value (“ACV”) payments to Plaintiff and other class members for structural damage losses under its property insurance policies. Plaintiff asserted claims for breach of contract and declaratory relief on behalf of herself and a putative class of Auto Club policyholders who received ACV Payments from Auto Club for loss or damage to structures located in Missouri.

12. The parties engaged in discovery and reviewed claims data for the putative class to assess the value of the case. Following the exchange of data, the parties engaged in a series of informal settlement discussions.

Settlement Negotiations

13. After multiple discussions between counsel, the parties agreed that they should devote their resources toward attempting to resolve the claims against Auto Club on a class-wide basis instead of engaging in time consuming and expensive litigation.

14. Prior to participating in the negotiations and reaching the proposed Settlement, the parties engaged in discovery, including the production of Auto Club’s internal and third-party claims and estimating data. The detailed analysis of this data positioned the parties to engage in meaningful settlement negotiations.

15. Through dozens of negotiations by telephone and email, and informed by their experience litigating similar labor depreciation class actions, the parties eventually reached an agreement in principle to settle all aspects of class relief.

16. Consistent with ethical standards for class action settlements, only after relief to the proposed class was agreed, did Plaintiff's counsel begin to negotiate the service award, attorneys' fees, and costs. Auto Club indicated it would not object to the amounts sought by Plaintiff and her counsel once those amounts were finally negotiated, since the amounts were subject to the Court-approval process. Because the service award, attorneys' fees, and costs will be paid separately by Auto Club and will not reduce the recovery to the class or be subsidized by the same, Auto Club was incentivized to negotiate and pay as little in fees and litigation expenses as possible.

17. Because of the timing of negotiations for fees and costs in comparison to the class relief, there are no "red flags" concerning the way the class action settlement negotiations were conducted. *See* NEWBERG ON CLASS ACTIONS § 13:54 (5th ed. Dec. 2021 Update) ("The concern is also greater when the value of the settlement fund and the fees were negotiated simultaneously, as that could indicate that some of the class's fund was traded off for greater fees.").

18. Because the Court does not approve any attorneys' fees and costs until the final fairness hearing, the foregoing recitation is not intended to set forth a complete justification for any amounts of attorneys' fees and costs. Rather, the foregoing recitation is set forth only to show that the class action settlement negotiations were conducted at arm's length by experienced counsel and were structured in accordance with the highest ethical standards to avoid conflicts of interest between putative class counsel and the putative class members.

19. Since reaching an agreement on all material terms associated with the Settlement,¹ the parties have worked diligently to formally consummate their agreement through a written Settlement Agreement, which has now been completed and executed, and is attached hereto as

¹ All capitalized terms used in this Declaration that are not otherwise defined have the meanings ascribed to them in the Settlement.

Exhibit 1.

The Settlement Terms

20. The proposed Settlement provides that Auto Club shall pay the following amounts to the following categories of claiming Class Members:

Class Members With Still Withheld Nonmaterial Depreciation. For Class Members who have not received the estimated full Replacement Cost Value, as that term is defined in the applicable insurance policies, for their underlying insurance claim(s), such members shall be permitted to make a claim for reimbursement of 100% of the value of the Nonmaterial Depreciation withheld from his or her ACV payment that has not already been recovered by that Class Member, plus interest on the value of the Nonmaterial Depreciation to be paid pursuant to this settlement at a rate of 5% per annum from the date that the Class Member was sent his or her ACV payment to the date of final approval.

To the extent that a Class Member's underlying insurance claim with Defendant is not capable of ready determination from Defendant's data of the value of Nonmaterial Depreciation still outstanding, as opposed to material depreciation outstanding, the value of that Class Member's claim pursuant to this Settlement Agreement shall be 50% of the total Nonmaterial Depreciation potentially owed based on an analysis of the claim data reviewed by Class Counsel and Defendant's Counsel, unless Defendant performs an individual file review.; and

Class Members Without Still Withheld Nonmaterial Depreciation. For Class Members who have received the full Replacement Cost Value, as that term is defined in the applicable insurance policies, for their underlying insurance claims(s), such members shall be permitted to make a claim according to the below schedule:

Amount of released Nonmaterial Depreciation:	Settlement Payment:
\$1 - \$40,000	\$25
\$40,001 - \$80,000	\$50
Greater than \$80,000	\$75

SA ¶ 18.d.²

² Auto Club's policies are either "actual cash value only" or "replacement cost value" policies. For the latter type of policies, policyholders who suffer a covered loss first receive an ACV Payment (calculated by subtracting depreciation from the RCV of the covered loss) and then can recover the depreciation (known as "depreciation holdback" or "replacement cost benefits") after the repair or replacement is completed. This second, "interest only" category include those who have recovered the withheld depreciation by making a secondary claim for replacement cost benefits, and the settlement payment is intended to compensate them for the lost time value of money.

21. In addition to the class relief, Auto Club has agreed to pay administration costs, reasonable fees of a Neutral Evaluator, a service award to the named Plaintiff, and reasonable attorneys' fees and expenses. Unlike in many settlements, the payment of fees, expenses, and a service award will not reduce the value of the putative class members' recoveries. Thus, these amounts are an additional benefit to the class.

22. The amounts of payments to be made available to Class Members will vary. Based upon analysis of claims and estimating data for Auto Club's Missouri property claims included in the Settlement, Plaintiff's counsel estimates that the aggregate amount to be made available to class members for payment on a claims-made basis is at least \$1,385,000, not including the settlement administration costs, attorneys' fees, litigation expenses, and class representative service award.

23. Based on my extensive experience in handling more than 60 labor depreciation cases, I strongly believe this is an excellent result for the putative class, particularly given the many risk factors discussed below.

Service Award and Class Counsel Fees and Expenses

24. After the proposed settlement terms for the putative class were agreed, the parties then negotiated proposed attorneys' fees/costs and a class representative service award.

25. Pursuant to the parties' agreement, Auto Club has agreed not to oppose Plaintiff's requests for an amount no greater than \$399,000 in attorneys' fees and litigation expenses, and an amount no greater than \$5,000 to Plaintiff as a service award. Plaintiff's counsel estimates the aggregate value of the relief made available to the class to be at least \$1,385,000, plus the costs of administration (estimated to be approximately \$37,000), attorneys' fees and expenses (\$399,000), and service award (\$5,000), for a total aggregate value of at least \$1,826,000. Thus, the attorneys'

fees to be sought are about 21.8% of the aggregate value.

Factors Supporting Approval of the Settlement

26. Both at the time suit was filed and when the settlement was being negotiated, the risk of the class recovering nothing was substantial. *Hicks v. State Farm Fire & Cas. Co.*, 751 F. App'x 703, 710 (6th Cir. 2018) (observing the “substantial weight of authority” is in favor of insurers in labor depreciation class actions). While labor depreciation litigation classes have been initially certified for contractual claims, no labor depreciation class action has ever gone to trial or faced the issue of decertification.

27. Assuming *arguendo* that class certification could have been obtained and sustained over any appeals or decertification motions, Plaintiff's next hurdle would be to establish class-wide liability and class-wide damages. After several state appellate courts have found that labor is not depreciable when ACV is calculated and paid, Plaintiff's counsel had a high level of confidence in establishing contractual liability for the claims at issue. *See, e.g., Franklin v. Lexington Ins. Co.*, 652 S.W.3d 286, 303 (Mo. Ct. App. 2022). Defendant, however, has not conceded this point. The *Franklin* decision conflicts with a prior decision of the U.S. Court of Appeals for the Eighth Circuit and the Missouri Supreme Court has not addressed the issue.

28. Defendant retained experienced litigators at Robinson+Cole, who have defended labor depreciation class actions and other complex insurance claims in many jurisdictions around the country and have prevailed in other jurisdictions. Absent settlement, defense counsel would have continued to put forward multiple, discrete grounds for avoiding both liability and class certification.

29. This settlement was not reached until Plaintiff's counsel had conducted extensive pre- and post-suit analysis and investigation; conducted discovery; thoroughly researched the law

and facts; assessed the risks of prevailing at both the trial court and appellate levels; and engaged in lengthy negotiation of all the foregoing disputes.

30. There were also several factors in the risk assessment process that had to be considered. These complexities and factors included the following considerations:

- a. Plaintiff's counsels' risk assessment had to consider the possibility of losing at the class certification, liability, or damages stages. For example, the Court may not have certified a class, or not certified as broad of a class, as sought by Plaintiff's counsel. This raises the major risk of class members, or categories of them, receiving no relief.
- b. Plaintiff's counsels' risk assessment also had to account for considerations associated with increasing common fund attorneys' fees and costs. Even if the class prevailed upon certification as well as the liability and damages stages at one or more trials, Plaintiff's counsel would likely have to incur substantial non-recoverable costs for e-discovery, non-testifying expert witnesses, jury consultant fees, etc. These costs would be set off against any recovery.
- c. Experience shows that as time goes by, more putative class members cannot be located to receive their award; die; or are otherwise denied participation in their recovery due to various factors. Further delays increase this unacceptable risk of non-recovery by absent class members.

31. Further, the negotiated recovery for the proposed class was *not* reduced based upon Auto Club's "ability to pay" because Auto Club is financially secure.

32. Based upon these factors and considerations, Plaintiff's counsel deems the amount of class recovery, and the terms hereof under the Settlement to warrant preliminary approval.

33. Attached hereto as **Exhibit 2** is a table of all labor depreciation class settlements resulting in final certification and approval between June 1, 2017 and April 14, 2025 of which Plaintiff's counsel is aware.

Under penalties as provided by law, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

FURTHER DECLARANT SAYETH NOT.

s/ Erik D. Peterson

ERIK D. PETERSON

erik@eplo.law

July 16, 2025

Exhibit 1

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

LESLEY DAVIS LYMAN, individually,	)	
and on behalf of all others similarly	)	
situated,	)	
	)	
Plaintiff,	)	
	)	
	)	Case No. 22SL-AC10668-01
v.	)	
	)	Div. 43
AUTO CLUB FAMILY INSURANCE	)	
CO.,	)	
	)	
Defendant.	)	

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (the “Settlement Agreement” or “Agreement”) is entered into by and among the named Plaintiff, Lesley Davis Lyman (hereinafter “Representative Plaintiff”), on behalf of herself and the stipulated class she represents as defined in detail below, and Auto Club Family Insurance Co. (“Defendant” or “Auto Club”) (collectively, the “Parties” and individually, a “Party”), by and through their respective counsel.

RECITALS

WHEREAS, Representative Plaintiff has been stipulated for purposes of this Settlement Agreement to be an adequate class representative in the litigation styled *Lyman v. Auto Club Family Insurance Co.*, Case No. 22SL-AC10668-01, in the Circuit Court of St. Louis County, State of Missouri (the “Lawsuit”);

WHEREAS, Representative Plaintiff brought the Lawsuit against Defendant on behalf of herself and a putative class of persons as defined herein (the “Settlement Class”) related to the depreciation of labor in calculating Actual Cash Value (“ACV”) payments for structural damage claims on homeowner’s insurance policies issued by Defendant;

WHEREAS, counsel for Representative Plaintiff and the Settlement Class (“Class Counsel”) has conducted a review of the facts relating to the claims against Defendant, has analyzed the legal issues in connection with such claims, and believes that this settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class and that this Settlement Agreement should be approved by the Court pursuant to Missouri Supreme Court Rule 52.08;

WHEREAS, Defendant disputes the claims made against it in the Lawsuit, denies any liability to Representative Plaintiff and the Settlement Class, and enters into this Settlement Agreement solely to avoid the costs and uncertainties of continued litigation of the Lawsuit;

WHEREAS, subject to the approval of the Court, the Parties now wish to terminate the Lawsuit with prejudice (with the Court retaining jurisdiction to enforce the settlement) and effect a compromise that each deems to be in the best interests of each respective Party;

WHEREAS, this Settlement Agreement was the result of arm’s-length negotiations among counsel for the parties; and,

WHEREAS neither this Settlement Agreement, nor any exhibits hereto or discussions or other documents related to this Settlement Agreement, shall constitute any evidence against or any admission by any Party in this or any other litigation or proceeding, including but not limited to the merits of the allegations made in the Lawsuit and the appropriateness of class certification, except that this Agreement may be used to seek approval of and enforce the terms of this Agreement.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the undersigned that the claims asserted in the Lawsuit shall be settled, compromised, and released in their entirety, subject to the approval of the Court, upon and subject to the following terms and conditions:

THE SETTLEMENT CLASS AND CLAIMS ADMINISTRATOR

1. The Settlement Class shall be certified for purposes of this Settlement only.
2. The Settlement Class shall be defined as follows:

All persons who from June 5, 2012 until the date of preliminary approval: (1) were issued policies in Missouri by Defendant; (2) made a structural damage claim; (3) an Xactimate or other computerized estimate was used in determination of the payment; and (4) from which Nonmaterial Depreciation was withheld, or that would have resulted in an ACV Payment, but for the withholding of Nonmaterial Depreciation causing the loss to drop below the applicable deductible. The term “Nonmaterial Depreciation” means the application of depreciation to any portion of estimated replacement cost other than the estimated cost of materials (including sales tax). “Nonmaterial Depreciation” includes the application of either the “depreciate removal,” “depreciate non-material” and/or “depreciate O&P” option settings within Xactimate software or similar depreciation option settings in any other software used to prepare an estimate on putative class members’ claims. It also means labor that was manually or otherwise depreciated from a replacement cost estimate, including but not limited to “straight line” depreciation.

The Settlement Class does not include: policyholders who received one or more ACV Payments for a claim that exhausted the applicable limits of insurance; policyholders whose claims were denied or abandoned without an ACV Payment for any reason other than that the ACV payment was not made solely because the withholding of Nonmaterial Depreciation caused the loss to drop below the applicable deductible; policyholders where no Xactimate or other computerized estimate was generated by Defendant or an independent adjusting firm retained by Defendant; Defendant and its officers and directors; Members of the judiciary and their staff to whom this Lawsuit is assigned and their immediate families; and Class Counsel and their immediate families.

3. Within fifteen (15) days of the entry of the Preliminary Approval Order, counsel for Defendant, with approval from Class Counsel, will provide to the Claims Administrator a list containing the names and last known addresses of the potential members of the Settlement Class (individually, a “Class Member”), along with the amount potentially available that may be claimed under this Settlement by such Class Member (based on the parties’ review of collected data and the terms hereof) and the claim number assigned to the Class Member’s claim, for each member.

4. Any certification of a preliminary or final Settlement Class pursuant to the terms of this Agreement shall not constitute, shall not be construed as, and shall not be admissible in any proceeding as an admission on the part of Defendant or any other person that the Lawsuit or any other action is appropriate for class treatment at trial pursuant to Missouri Supreme Court Rule 52.08 or any other class or representative action, statute, or rule. This Agreement shall not prejudice Defendant’s rights or any other person’s rights: (a) to oppose class certification in the Lawsuit in the event this Agreement is terminated or nullified for any reason, or in the event the Court disapproves or sets aside any material aspect of this Agreement; or (b) to oppose class certification in any other action or proceeding.

5. This Agreement, any negotiations or proceedings related hereto, the implementation hereof, and any papers submitted in support of the motions for approval hereof (collectively, the “Settlement Proceedings”) shall not be construed as, or deemed to be evidence of, any admission or concession by any of the Parties or any other person regarding liability, damages, or the appropriateness of class treatment, and shall not be offered or received in evidence in any action or proceeding for any purpose whatsoever; provided, however, that this Agreement and the Settlement Proceedings may be presented to the Court in connection with the

implementation or enforcement of this Agreement and to any other Court as necessary to enforce the terms of this Agreement.

6. The Claims Administrator responsible for implementing this Settlement Agreement if approved by the Court shall be a neutral third-party claims administrator selected by the Parties' mutual agreement and approved by the Court. There shall also be a Neutral Evaluator selected by the Parties' mutual agreement and approved by the Court to resolve any disputes as set forth in Paragraph 19 below. The reasonable fees and expenses charged by the Claims Administrator to administer this Settlement and by the Neutral Evaluator shall be paid by Defendant as described in more detail below.

THE PRELIMINARY APPROVAL ORDER

7. As soon as practicable after the execution of this Settlement Agreement, the Parties shall present this Settlement Agreement to the Court and request that the Court enter a Preliminary Approval Order substantially in the form of **Exhibit A** hereto:

- a. Providing that the Lawsuit may be maintained as a class action for purposes of this Settlement only;
- b. Providing that the Settlement Agreement shall apply to the Settlement Class as defined in paragraph 2 above;
- c. Specifying the deadlines for Class Members to submit claims, opt out of this Agreement, or file and serve objections to this Agreement;
- d. Preliminarily approving the Settlement Agreement as fair, reasonable, and adequate;
- e. Finding that the mailing of the Class Notices, as described below, and substantially in the form attached hereto as **Exhibit B**, satisfies the requirements of due process and applicable law and procedure. The Class Notices shall apprise class members of the material terms of the Settlement Agreement; their right to make a claim for monetary benefits under the Settlement Agreement; that any claim for monetary benefits must be made no later than 30 days after the originally scheduled date for the Final Approval Hearing, which shall be approximately 90 days from the date of mailing of the Class Notices; their right to object to the proposed

Settlement; that any objection to the proposed Settlement including the reason or basis for such objection must be filed with the Court and served upon designated Class Counsel and counsel for Defendant no later than forty-five (45) days from the date of the Preliminary Approval Order; and that any persons who seek to opt out or exclude themselves from the Settlement Class must do so within forty-five (45) days from the date of the Preliminary Approval Order. The Class Notices shall further inform class members that a Final Approval Hearing to determine the fairness, reasonableness, and adequacy of the proposed Settlement will be held on the date fixed by the Court, provided that the Final Approval Hearing may be postponed, adjourned, or continued by order of the Court without further notice to the members of the Settlement Class; and,

- f. Directing that a Final Approval Hearing be held by the Court on such day and at such time as may be designated by the Court, approximately 90 days after the date of mailing of the Class Notices, for the purpose of determining whether the Settlement should be finally approved by the Court as fair, reasonable, and adequate.

NOTICE, OPT-OUT, AND CLAIM PROCEDURES

- 8. Notice shall occur by the following means:

- a. Mail, as set forth below:

- i. Within fifteen (15) days of the entry of the Preliminary Approval Order, counsel for Defendant, will provide to the Claims Administrator a final list containing the names and last known addresses of the Class Members, along with the amount potentially available to be claimed under this Settlement by each Class Member (based on the parties' review of collected data and the terms hereof) and the claim number assigned to the Class Member's underlying insurance claim. Defendant shall attest under oath in an affidavit that the information is the complete list of potential Settlement Class Members and describe the process undertaken to identify the Settlement Class Members. The affidavit shall be subject to the review and reasonable approval by Class Counsel.
- ii. Within thirty (30) days of entry of the Preliminary Approval Order described above, the Claims Administrator or its designee shall send to all class members the Class Notices and the Claim Forms, substantially in the form attached hereto as **Exhibits B and C** via first-class U.S. mail.
- iii. If a Class Notice and Claim Form sent to any potential Class Member is returned as undeliverable, the Claims Administrator will promptly log such return as undeliverable and provide copies of the

log to Defendants and Class Counsel as requested. If the mailing is returned to the Claims Administrator with a forwarding address, the Claims Administrator will forward the mailing to that address. For other returned mailings, the Claims Administrator will run the name and address one time through a single commercial database (e.g., Accurant) chosen by the Claims Administrator, and should the commercial database show a more current address, the Claims Administrator shall re-mail the returned Class Notice and Claim Form to the more current address. No further efforts to locate or to find a more current address for Class Members is required.

- iv. **Reminder Notice:** No later than 20 days before the Claim Deadline, the Claims Administrator shall email or mail by postcard a reminder in substantially the form attached as Exhibit D (the “Reminder Notice”) with information regarding the Claim Deadline, the Settlement Website address, and how to request a copy of the Claim Form. The Reminder Notice will be emailed to each Class Member who has not submitted a Claim Form and who has not timely and properly excluded themselves, and for whom the Defendant provides an email address that the Claims Administrator is able to use to successfully send an email reminder without receiving notification that the email could not be successfully transmitted. For those Class Members that are due to receive a Reminder Notice and for whom the Claims Administrator is not provided with an email address by Defendant or receives notification that an email could not be successfully transmitted the Claims Administrator will mail the Reminder Notice in the form of a postcard.
- b. **Publication on the Internet:** A website with the domain name lyman-v-acfic-settlement.com (or another name agreed upon by counsel for the Parties) shall be set up and maintained by the Claims Administrator from the time of preliminary approval of the Settlement until thirty (30) days after the issuance of all payments identified in this Agreement, and that website shall include information regarding the Settlement, the claims process, the ability to submit claims, the process for opting out of the Settlement, the Settlement Agreement, the Preliminary Approval Order, the Final Approval Order (once entered), and any other information that the Claims Administrator, the Parties by agreement, or the Court determine necessary for the fair and efficient administration of this settlement; and
- c. **Inbound telephone and e-mail:** An 800 number and e-mail address shall be set up by the Claims Administrator and identified in the notice for Class Members to inquire about claims and/or the Settlement. The calls and emails shall be received and addressed by the Claims Administrator. The number and email shall remain in operation until thirty (30) days after the issuance

of all payments identified in this Agreement.

9. The reasonable and necessary costs of the notice procedures described above shall be paid by Defendant as described in more detail below.

10. The Parties may request that the Claims Administrator provide Class Counsel and counsel for Defendant with material information regarding the claims process, including but not limited to, the number of claims made and the number of claims denied and approved.

11. Members of the Settlement Class shall have the right to be excluded from the Settlement Class, provided that any such person or entity complies with the following procedures:

- a. Within forty five (45) days after the date of the Preliminary Approval Order, any Class Member electing to opt out of the Settlement Class must deposit in the U.S. mail via first class delivery or send via an overnight delivery service an opt-out notice addressed to the Claims Administrator which includes: (1) his or her name, address, telephone number, and email address (if available); (2) the claim number assigned to his or her claims as identified on the Claims Notice received by the Class Member; and (3) that he or she desires to be excluded from the Settlement Class.
- b. Members of the Settlement Class who do not opt out in accordance with this Agreement during the opt out period will be deemed Class Members for all purposes under this Agreement and will be irrevocably bound by this Agreement.
- c. If persons with a collective total of claims representing more than 15% of the Total Settlement Value, as that term is defined herein, elect to opt out of this Agreement during the opt out period, Defendant shall have the unilateral right to terminate this Agreement by giving written notice thereof to Class Counsel and to the Court no later than fifteen (15) days after the opt out deadline. For purposes of determining the collective number of opt out claims: (1) a person with more than one claim number is deemed to have made one claim each as to each claim number, and (2) multiple persons with the same claim number, *i.e.*, persons who are joint owners of their insurance policy and made a joint claim against that policy, are deemed to have made one claim, collectively. In the event the Agreement is terminated pursuant to this paragraph, this Agreement and all Exhibits thereto shall become null and void, the Lawsuit shall be reinstated, and the parties shall jointly move that any order pursuant to this Agreement be vacated, including, without limitation, any order certifying or approving certification of any class. Without further order of the Court, the Parties may agree in writing to extend the 15-day termination deadline in this paragraph to permit further

analysis of the opt outs.

12. Each Class Member who wishes to make a claim for monetary benefits as defined below shall be required to file a Claim Form by mailing it via first-class U.S. mail to the Claims Administrator or uploading it to the settlement website within 30 days after the originally scheduled date for the final approval hearing, which shall be approximately 90 days after the notice is mailed. Class Members with multiple claims based on multiple claim numbers must submit a separate Claim Form for each claim. Each Claim Form must be signed, dated, and contain the Class Member's name, mailing address, telephone number, as completed on the Claim Form in substantially the same form as that attached as **Exhibit C**.

13. Any Class Member failing to file a proper Claim Form on or before the claim deadline shall be barred from receiving any distribution or benefits as a part of this Settlement Agreement but will in all other respects be bound by all the terms and provisions of this Settlement Agreement, including but not limited to the releases, waivers, and covenants described herein.

THE FINAL APPROVAL HEARING AND FINAL JUDGMENT AND ORDER

14. The Parties agree to petition the Court to hold a Final Approval Hearing and to enter a Final Judgment and Order Approving the Settlement (the "Final Approval Order") on a date to be scheduled by the Court. The Parties shall request the Final Approval Order be entered in a form consistent with that attached as **Exhibit E**, which shall:

- a. Find that the proposed Settlement Class satisfies the requirements of Missouri Supreme Court Rule 52.08 for purposes of this settlement only;
- b. Approve this Settlement Agreement without modification (except insofar as the Parties have agreed to such modification in writing) as fair, reasonable, and adequate to the Settlement Class and direct its consummation according to its terms;
- c. Find that the form and manner of notice implemented pursuant to this Settlement Agreement (i) constituted reasonable and the best practicable notice; (ii) constituted notice that was reasonably calculated, under the

circumstances, to apprise the class members of the pendency of the Lawsuit, the terms of the proposed Settlement Agreement, the right to object to or exclude themselves from the proposed Settlement Agreement, and the right to appear at the Final Approval Hearing; (iii) constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) met the requirements of due process, the Missouri Supreme Court Rules, and any other applicable laws;

- d. Find that all members of the Settlement Class (except those who have properly excluded themselves) shall be bound by this Settlement Agreement, including the release provisions and covenant not to sue;
- e. Direct that final judgment be entered approving the Settlement and dismissing with prejudice all claims in the Lawsuit in accordance with the Settlement Agreement (subject to the Court retaining jurisdiction to enforce the settlement);
- f. Incorporate the releases set forth herein, and forever bar any claims or liabilities related to the Lawsuit and any Released Claims against Defendant as defined herein;
- g. Award Class Counsel reasonable attorneys' fees and reimbursement of litigation expenses for prosecuting the Lawsuit on behalf of the Settlement Class;
- h. Award Representative Plaintiff a reasonable service payment, to the extent the Court concludes a service payment is warranted, for her services as representative on behalf of the Settlement Class; and,
- i. Retain jurisdiction in this Court of all matters relating to the interpretation, administration, implementation, and enforcement of this Settlement Agreement.

15. The "Effective Date" of this Settlement Agreement shall be the date of entry of the court's Final Approval Order, unless at least one or more Class Members file an objection to the Settlement Agreement that is not withdrawn prior to final approval, whereupon the Effective Date shall be the later of the following events: (a) if no appeal, review or writ are sought from the Final Approval Order, the thirty-first (31st) day after service of notice of entry of the Final Approval Order; or (b) if an appeal, review or writ is sought from the Final Approval Order, the day after the Final Approval Order is affirmed, or the appeal, review or writ is dismissed or denied, and the Final Approval Order is no longer subject to further judicial review.

16. Any objections to the Settlement Agreement must be in writing, and must: (i) include the objecting party's full name, address, telephone number and other information needed to confirm that the objecting party is a Class Member as defined above; (ii) advise of whether the objector intends to appear at the Final Approval Hearing; (iii) identify each specific objection, as well as its factual basis and any legal support for each objection; (iv) identify any witnesses the objector intends to call at the hearing with each witness's address and summary of the witness's testimony; and (v) include a detailed description of all evidence the objector will offer at the hearing with copies of the exhibits attached. All documents specified in this paragraph must be filed with the Court and served upon designated Class Counsel and counsel for Defendant no later than forty-five (45) days after the class notice is sent.

17. No person shall be entitled in any way to contest the approval of the terms and conditions of this Settlement Agreement or the Final Approval Order except by filing and serving written objections in accordance with the provisions of this Settlement Agreement. Any Class Member who fails to exclude himself or herself from the Settlement Class in accordance with this Agreement, or who fails to object in the manner prescribed, shall be deemed to have waived, and shall be foreclosed forever from raising objections or asserting any claims arising out of, related to, or based in whole or in part on any of the facts or matters alleged, or which could have been alleged, in the Lawsuit.

SETTLEMENT CLASS BENEFITS

18. After the Effective Date, Defendant will provide the following benefits to the Settlement Class:

- a. Within thirty (30) days of the Effective Date, or within thirty (30) days after the expiration of the ninety (90) day time period for Class Members to make a claim, as set out in this Agreement, whichever is later, Defendant shall fund an account (the "Settlement Account") in an amount equal to: (1) the amount necessary to pay the monetary claims made by Class Members, as

that amount is defined and calculated herein; (2) reasonable attorneys' fees and costs of suit awarded to Class Counsel by the Court; (3) the amount necessary to pay any incentive award for Representative Plaintiff as approved by the Court; and (4) the amount necessary to pay all reasonable costs associated with the administration of the Settlement not previously paid by Defendant.

- b. Representative Plaintiff will be paid from the Settlement Account a service payment awarded by the Court. Defendant has agreed not to object to a request for a service award up to \$5,000. If the Court awards less than this amount, or declines to make an award, the Settlement shall remain fully enforceable in all respects. Representative Plaintiff will not accept any award in excess of \$5,000.
- c. Class Counsel will be paid from the Settlement Account the reasonable attorneys' fees and costs of suit awarded to Class Counsel by the Court. Class counsel may apply for an award of reasonable attorneys' fees and costs incurred in prosecuting the Lawsuit in an amount not to exceed \$399,000. Defendant will not oppose Class Counsel's application for an award of reasonable attorneys' fees and reimbursement of costs so long as it complies with the limitations set forth in this paragraph. If the Court awards less than the amount(s) requested by Class Counsel or declines to make any award to Class Counsel, the Settlement shall remain fully enforceable in all respects. Class Counsel will not accept any award in excess of the amounts stated in this paragraph.
- d. Individual benefits for Class Members as follows:
 - i. For Class Members who have not received the estimated full Replacement Cost Value, as that term is defined in the applicable insurance policies, for their underlying insurance claim(s), such members shall be permitted to make a claim for reimbursement of 100% of the value of the Nonmaterial Depreciation withheld from his or her ACV payment that has not already been recovered by that Class Member, plus interest on the value of the Nonmaterial Depreciation to be paid pursuant to this settlement at a rate of 5% per annum from the date that the Class Member was sent his or her ACV payment to the date of final approval. To the extent that a Class Member's underlying insurance claim with Defendant is not capable of ready determination from Defendant's data of the value of Nonmaterial Depreciation still outstanding, as opposed to material depreciation outstanding, the value of that Class Member's claim pursuant to this Settlement Agreement shall be 50% of the total Nonmaterial Depreciation potentially owed based on an analysis of the claim data reviewed by Class Counsel and Defendant's Counsel, unless Defendant performs an individual file review as provided for in paragraph 18(d)(iv) below.

- ii. For Class Members who have received the full Replacement Cost Value, as that term is defined in the applicable insurance policies, for their underlying insurance claims(s), such members shall be permitted to make a claim according to the below schedule:

Amount of nonmaterial released depreciation:	Settlement Payment:
\$1 - \$40,000	\$25
\$40,001 - \$80,000	\$50
Greater than \$80,000	\$75

- iii. Within fifteen (15) days after the expiration of the ninety (90) day period for Class Members to make a claim, as set out in this Agreement, the Claims Administrator shall provide to Class Counsel and to Defendant's counsel a list containing the names and claim numbers for all individuals who submitted a claim to the Claims Administrator.
- iv. Defendant shall then have sixty (60) days from receipt of the list identified above in paragraph 18(d)(iii) to determine if any individual who submitted a claim to the Claims Administrator for payment of outstanding Nonmaterial Depreciation has, in fact, received additional or full Replacement Cost Value payment, and, therefore, should receive a different amount than originally calculated in the data provided to the Claims Administrator, or a \$25/\$50/\$75 payment, pursuant to the terms of this Settlement Agreement. Defendant shall notify Class Counsel and the Claims Administrator in writing of any decisions made by Defendant pursuant to this sub-paragraph. In the event of a dispute regarding this issue, the Claims Administrator shall make a final and binding decision.
- v. The entitlement to the settlement benefits for Class Members will be administered on a claims-made basis. No Class Member who fails to submit a timely claim form will be entitled to any payment.
- vi. In the event more than one timely claim is submitted by more than one person entitled to recovery on that claim, *i.e.*, if there were joint policyholders for a claim, the Claims Administrator shall make the check for the payment to be made under this Settlement Agreement jointly payable to all the claimants who are entitled to recovery.
- vii. The Claims Administrator shall be responsible for determining the appropriate person(s) to whom payment should be made under this Settlement Agreement. Defendant shall have no responsibility or liability regarding the determination of the appropriate person to

whom payment should be made, or regarding any allocation of that payment.

19. The Claims Administrator shall send to Class Members whose Claim Form was denied payment for any reason other than untimeliness a notice explaining why they were denied payment. Class Members may dispute the amount of the Claim Settlement Payment or denial of their claim by requesting in writing final and binding neutral resolution by the Neutral Evaluator, agreed to by the parties and approved by the Court, the cost of which shall be paid by Defendant. In order to dispute a Claim Settlement Payment or denial of a claim and invoke the neutral resolution process, a Class Member must return any uncashed Settlement Check to the Claims Administrator and explain in writing the reason for their dispute, as well as provide any supporting documentation, postmarked within thirty (30) days of the date of the Settlement Check or notice of denial of payment sent to that Class Member. The Neutral Evaluator will consider any additional information (if any) provided by Class Counsel and Defendant's Counsel within 14 days of receipt of the dispute and will issue a final and binding decision within 14 days thereafter. If the Settlement Check is not timely returned, or if the Settlement Check is negotiated prior to final and binding resolution by the Neutral Evaluator, then the dispute resolution process will be automatically terminated and the Class Member is not entitled to any further Claim Settlement Payment. Following a decision by the Neutral Evaluator, the Claims Administrator shall issue appropriate payment.

PAYMENT AND DISTRIBUTION

20. All money payments from the Settlement Account as set forth herein shall be made by the Claims Administrator by check and delivered by first class U.S. mail, postmarked no later than thirty (30) days after the funding of the Settlement Account by Defendant, or thirty (30) days after the Defendant makes its determinations as provided for in Paragraph 18(d)(iv) above, whichever is later.

21. In the event any such payment is returned by the U.S. Postal Service as undeliverable or is uncashed or not negotiated within six months of issuance, the payment shall be deemed voided, the amount retained in the Settlement Account, and returned to Defendant for handling in accordance with Defendant's standard procedures for escheatment of uncashed claim payments. Any such Class Member, however, shall be subject to all other provisions of this Agreement, including the releases contained herein.

THE RELEASES AND COVENANTS NOT TO SUE

22. On the Effective Date, Releasing Persons, including Plaintiff and each Class Member who has not been excluded from the Settlement Class, regardless of whether they have submitted a timely Claim Form, shall, by operation of the Final Judgment, be deemed to have fully, conclusively, irrevocably, forever, and finally released, relinquished, and discharged Defendant and all other Released Persons from any and all claims, unknown claims, rights, demands, actions, causes of action, allegations, suits, debts, sums of money, payments, obligations, reckonings, promises, damages, interest, penalties, attorneys' fees and costs, liens, and judgments, of any kind whatsoever that each Releasing Person has or may have had prior to the Effective Date and arising from a loss occurring during the period from June 5, 2012 to the date of the Final Approval Order, whether *ex contractu* or *ex delicto*, debts, liens, contracts, liabilities, agreements, attorneys' fees, costs, penalties, interest, expenses, or losses (including actual, consequential, statutory, extra-contractual, punitive, or/or exemplary damages), and whether arising under or based on contract, extra-contractual or tort theories, at law or in equity, or under federal, state, or local law, statute, ordinance, rule or regulation, whether asserted individually or in a representative capacity, whether past or present, mature or not yet mature, known or unknown, that the Plaintiff or any Class Members have or may have had against any of the Released Persons that relate to, concern, arise from, or pertain in any way to:

a. Nonmaterial Depreciation (including, but not limited to, calculation, deduction, determination, inclusion, modification, omission, and/or withholding of Nonmaterial Depreciation) in the adjustment and/or payment of any covered loss; or

b. the allegations and claims contained in the Second Amended Class Action Petition (“Complaint”) in the Lawsuit and/or which could have been alleged in the Complaint, concerning the alleged systematic practice of deducting Nonmaterial Depreciation through the use of estimating software (collectively, the “Released Claims”).

The term “Releasing Persons” include Representative Plaintiff, each Class Member who has not been excluded from the Settlement Class, and their respective current and former assigns, heirs, successors, executors, trustees, agents, personal representatives, subsidiaries, affiliates, officers, members, directors, and employees. The term “Released Persons” include Defendant and its current and former parents, owners, affiliates, subsidiaries, divisions, predecessors, successors, assigns, officers, members, directors, governors, employees, agents, principals, insurers, reinsurers, and legal representatives. The Released Claims do not include: (a) claims arising after the Effective Date; (b) Class Members’ rights and obligations under this Agreement; (c) the rights of potential Class Members who timely and properly submit a request for exclusion from the Settlement Class in accordance with this Agreement; and (d) any Class Member from recovering any replacement cost benefits that may still remain available under the terms of their policy (which shall be offset by any amounts received by the Class Member under this Agreement on the relevant claim).

Representative Plaintiff, on behalf of herself individually and on behalf of Class Members, explicitly acknowledges that unknown claims within the scope of Released Claims could possibly exist and that any present losses may have been underestimated in amount or severity. Representative Plaintiff or any Class Member may hereafter discover facts other than or different from those that they know or believe to be true with respect to the subject matter of the Released Claims, or the law applicable to such claims may change. Nonetheless, Representative Plaintiff and each Class Member expressly agree that they shall have irrevocably waived and fully, finally and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, contingent or non-contingent, claims with respect to all Released Claims, including unknown claims within the scope of the Released Claims.

23. The provisions of any state, federal, municipal, local, or territorial law or statute providing in substance that releases shall not extend to claims, demands, injuries, and/or damages that are unknown or unsuspected to exist at the time a settlement agreement is executed and/or approved by a court, are hereby expressly, knowingly, and voluntarily waived by and on behalf of Representative Plaintiff and all Class Members.

24. Other than the settlement costs and fees described herein and to be paid as described herein, Defendant shall forever be absolved and released from liability for any fees, costs, and expenses of the Class Members.

CONFIDENTIALITY

25. The following constitutes highly confidential and proprietary business information of Defendant (the "Proprietary Information"): (a) the names, addresses, policy numbers, and other data concerning individuals compiled by Defendant or the Claims Administrator in effectuating the Settlement; and (b) the claims files and all documents and electronic data related to such files for each Class Member, utilized by Defendant or the Claims Administrator or the Neutral

Evaluator in identifying the potential Class Members and effectuating Defendant's other obligations under the Settlement Agreement. Personal identifying information shall be provided by Defendant only to the Claims Administrator unless it is necessary to be provided to Class Counsel and/or the Neutral Evaluator in connection with an inquiry from a Class Member or a disputed claim. The confidentiality of all Proprietary Information shall be protected from disclosure by the Claims Administrator, Neutral Evaluator, Class Counsel and/or other attorneys for Representative Plaintiff in this Lawsuit to any persons other than those described herein, and shall not be used other than in this Lawsuit in connection with this Agreement. It is not a violation of this Agreement for either of the Parties to provide the Court with information concerning Representative Plaintiff's claims, any objector's individual claims, or the individual claims of any Settlement Class Member who makes contact with the Court, or to provide the Court with anonymous aggregate claims data values solely for the purposes of seeking preliminary or final approval of the Agreement or reasonable attorneys' fees, expenses, or service awards.

26. No persons other than Defendant's counsel and clerical/administrative personnel employed by Defendant, Class Counsel and clerical/administrative personnel employed by Class Counsel, the Claims 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. Any person to whom Proprietary Information is disclosed or who has access to Proprietary Information shall maintain it as confidential and shall not publicly disclose or release it to any person not authorized by Defendant, this Agreement, or the Court. Provided that nothing in this Agreement shall be construed to restrict or limit Defendant's use or disclosure of its own Proprietary Information.

27. Within thirty (30) days after the termination of the settlement administration, Class

Counsel and/or other attorneys for Representative Plaintiff in this Lawsuit shall destroy or return to counsel for Defendant all Proprietary Information, and all confidential documents, data or information, including any claims files, and all copies thereof in their possession, custody, or control and any other confidential documents (exclusive of documents filed with the Court) provided by Defendant or the Claims Administrator to Class Counsel or anyone they employed or retained in this Lawsuit, either in discovery or in connection with this Agreement. Upon request, Class Counsel shall deliver a letter to counsel for Defendant confirming their undertaking and compliance with this paragraph. Further, the Parties agree that Proprietary Information shall not be used by Class Counsel or anyone employed with, retained by, or otherwise associated with Class Counsel in any other litigation, current or future, unless independently obtained through discovery in such other litigation.

28. Other than the Class Notices and publication provided for herein, the Parties agree that neither of them shall publicize the terms of the Settlement Agreement, nor publish a press release, nor publish a release or notice on the Internet or any other media outlet, concerning the terms of the Proposed Settlement and/or Final Settlement, except that counsel for the Parties may post on their firm websites information regarding the settlement that is otherwise publicly available so long as the posting does not specifically identify “AAA,” Auto Club Family Insurance Company or any affiliate, subsidiary, insurer, or reinsurer. If any print or electronic media outlet contacts any Party or its counsel seeking information or a statement regarding this Agreement, in the absence of a response agreed upon by all Parties, no information will be provided in response to such inquiries except to the extent such information appears as part of the public record.

NO ADMISSION OF LIABILITY

29. Defendant is entering into this Settlement Agreement and agreeing to the form and content of the related documents solely to compromise and settle the claims raised in the Lawsuit and to avoid the expense and uncertainty of continued litigation of the Lawsuit, and neither this Settlement Agreement nor any of the related documents should be construed as an admission of liability or any type of wrongdoing or misconduct of any kind. Defendant expressly denies any wrongdoing, misconduct, or liability in the Lawsuit. Neither this Settlement Agreement, nor the Exhibits hereto, nor any of the related documents, nor any of the communication or negotiations relating to this Settlement Agreement, may be offered or received in evidence or submitted to any court or tribunal for any purpose other than effectuating the approval of the Settlement Agreement and the termination of the Lawsuit or to otherwise enforce or administer the terms of this Settlement Agreement.

MISCELLANEOUS PROVISIONS

30. The parties agree to undertake their reasonable best efforts, including all steps and efforts contemplated by this Settlement Agreement and any other steps and efforts that may be necessary or appropriate, by court order or otherwise, to carry out the terms and objectives of this Settlement Agreement.

31. If the Court disapproves or sets aside this Settlement Agreement or any material part hereof for any reason, or holds that it will not enter or give effect to the Final Judgment and Order, or holds that the entry of the Final Judgment and Order or any material part should be overturned or modified in any material way, then (a) if all Parties do not agree jointly to appeal such ruling, or (b) if such ruling is appealed by any person or Party and if the Final Judgment and Order or its equivalent in all material respects is not in effect after the termination of all proceedings arising out of such appeal, then:

- a. this Settlement Agreement shall become null and void;
- b. any amounts in the Settlement Account shall be returned to Defendant;
- c. the Lawsuit shall be reinstated; and
- d. any orders entered pursuant to this Settlement Agreement shall be vacated, including, without limitation, any order certifying or approving certification of any class.

32. This Settlement Agreement does not obligate any party to appeal from or to seek further review in the event the Court disapproves or sets aside the Settlement Agreement or any material part or otherwise refuses to enter the Final Judgment and Order. Appeals from such a ruling may be taken only in good faith and must be prosecuted expeditiously.

33. Except as expressly provided in this Settlement Agreement, no provision of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not a Party, a Class Member, a Releasing Person, or a Released Person.

34. No member of the Settlement Class, Representative Plaintiff, or Class Counsel may assign or otherwise convey any right to enforce any provision of this Settlement Agreement.

35. Notwithstanding any other provision of this Agreement, persons who previously released, adjudicated, dismissed with prejudice, or assigned any or all rights and/or claims related to or arising out of any claims asserted, or that could have been asserted, in this Lawsuit, are not entitled to receive any benefit under this Agreement.

36. Class Counsel are authorized by the Class Members to enter into any modifications or amendments to this Agreement on behalf of the Settlement Class which they deem appropriate. Any amendments that materially affect the rights of Class Members shall require approval of the Court.

37. Unless the Court requires otherwise, in the event of unanticipated delays or difficulties, the Parties hereto may agree in writing, without further Order of the Court, to brief

extensions of time to carry out any of the provisions of this Agreement.

38. The headings used in this Settlement Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement.

39. None of the parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

40. This Settlement Agreement constitutes the full and entire agreement among the Parties with regard to the subject hereof, and supersedes all prior representations, promises, or warranties, oral or otherwise, made by any party. No party shall be liable or bound to any other party for any prior representation promise or warranty, oral or otherwise, except for those that are expressly set forth in this Settlement Agreement. This Settlement Agreement shall not be modified in any respect except by a writing executed by and among the Parties.

41. This Settlement Agreement shall be interpreted in accordance with the laws of the State of Missouri without regard to principles of conflicts of law.

42. This Settlement Agreement may be executed in separate counterparts and signatures exchanged in PDF or other electronic format or using DocuSign shall be valid for all purposes in the same manner as an original signature.

43. Any communication made in connection with this Settlement Agreement shall be deemed to have been made when sent by electronic mail (with receipt confirmed), overnight delivery, or registered or certified mail postage prepaid.

44. The recitals of this Settlement Agreement are hereby incorporated in this Settlement Agreement as if fully set forth in the terms of the Settlement Agreement.

IN WITNESS WHEREOF, this Agreement is made and entered into by the Parties and their counsel as indicated by the signatures below:

7/3/2025 | 1:44 PM PDT

Dated: July __, 2025

Signed by:

D00E1DC0EE8E479...
Counsel for and authorized representative of Plaintiff
Lesley Davis Lyman and the Settlement Class

7/1/2025

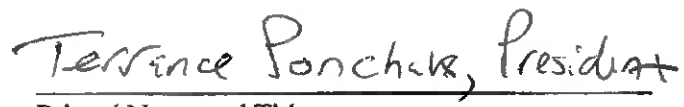
Dated: July __, 2025

DocuSigned by:

C04D801A5AE243A...
Lesley Davis Lyman

Dated: July 14, 2025


Auto Club Family Insurance Company


Printed Name and Title

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

LESLEY LYMAN, individually, and on	)	
behalf of all others similarly situated,	)	
	)	
Plaintiff,	)	
	)	
	)	Case No. 22SL-AC10668-01
v.	)	
	)	Div. 43
AUTO CLUB FAMILY INSURANCE	)	
CO.,	)	
	)	
Defendant.	)	

**PRELIMINARY ORDER APPROVING CLASS ACTION SETTLEMENT,
CERTIFYING THE CLASS FOR SETTLEMENT PURPOSES, APPOINTING CLASS
REPRESENTATIVE, AND APPOINTING CLASS COUNSEL**

Plaintiff in the above-captioned action (the “Lawsuit”) has moved pursuant to Missouri Supreme Court Rule 52.08 for an order, among other things,

- a) preliminarily approving the proposed settlement of the Lawsuit in accordance with the parties’ Settlement Agreement, as filed with the Court (the “Settlement Agreement”);
- b) certifying a Settlement Class for purposes of this settlement only;
- c) appointing Butsch Roberts & Associates LLC, Snodgrass Law LLC, McWherter Scott Bobbitt PLC, Erik Peterson Law Offices PSC, and Winters Law Group, LLC as class counsel;
- d) appointing RG/2 Claims Administration LLC as the Claims Administrator;
- e) appointing Douglas W. King, Esq. as the Neutral Evaluator;

f) directing that notice be given to Class Members consistent with the Settlement Agreement, Rule 52.08 and other applicable law; and

g) setting a hearing date and briefing schedule for final settlement approval, Class Counsel's fee and expense application, and determination of an appropriate incentive award for the representative plaintiff;

WHEREAS, Defendant does not object to Plaintiff's motion;

WHEREAS, the Court has considered the Settlement Agreement and accompanying documents and exhibits; and

WHEREAS, all parties have consented to the entry of this Preliminary Approval Order Approving Class Action Settlement ("Preliminary Approval Order");

IT IS HEREBY ORDERED THAT:

1. The capitalized terms used in this Preliminary Approval Order have the same meaning as those defined in the Settlement Agreement, unless otherwise stated.

2. Pursuant to Missouri Supreme Court Rule 52.08 this action is hereby certified, for settlement purposes only, on behalf of the following settlement class, as set forth in the Settlement Agreement ("Settlement Class"):

All persons who from June 5, 2012 until the date of preliminary approval: (1) were issued policies in Missouri by Defendant; (2) made a structural damage claim; (3) an Xactimate or other computerized estimate was used in determination of the payment; and, (4) from which Nonmaterial Depreciation was withheld, or that would have resulted in an ACV Payment, but for the withholding of Nonmaterial Depreciation causing the loss to drop below the applicable deductible. The term "Nonmaterial Depreciation" means the application of depreciation to any portion of estimated replacement cost other than the estimated cost of materials (including sales tax). "Nonmaterial Depreciation" includes the application of either the "depreciate removal," "depreciate non-material" and/or "depreciate O&P" option settings within Xactimate software or similar depreciation option settings in any other software used to prepare an estimate on putative class members' claims. It also means labor that was manually or otherwise depreciated from a replacement cost estimate, including but not limited to "straight line" depreciation.

The Settlement Class does not include: policyholders who received one or more ACV Payments for a claim that exhausted the applicable limits of insurance; policyholders whose claims were denied or abandoned without an ACV Payment for any reason other than that the ACV payment was not made solely because the withholding of Nonmaterial Depreciation caused the loss to drop below the applicable deductible; policyholders where no Xactimate or other computerized estimate was generated by Defendant or any independent adjusting firm retained by Defendant; Defendant and its officers and directors; Members of the judiciary and their staff to whom this Lawsuit is assigned and their immediate families; and Class Counsel and their immediate families.

3. Plaintiff Lesley Lyman is approved and appointed as the class representative for the Settlement Class. The law firms of Butsch Roberts & Associates LLC, Snodgrass Law LLC, McWherter Scott Bobbitt PLC, Erik Peterson Law Offices PSC, and Winters Law Group, LLC are appointed as Class Counsel. RG/2 Claims Administration LLC is appointed as the Claims Administrator. Douglas W. King, Esq. is appointed as the Neutral Evaluator.

4. If the Settlement Agreement does not receive final approval or is reversed on appeal, the parties shall proceed as though the Settlement Agreement had never been entered into, and without prejudice to either the Defendant or Plaintiff and the Settlement Class.

5. For settlement purposes only, with respect to the Settlement Class, the Court preliminarily finds that the prerequisites for a class action pursuant to Missouri Supreme Court Rule 52.08 have been met, in that: (a) the Settlement Class is so numerous that joinder of all individual Settlement Class Members in a single proceeding is impracticable; (b) questions of law and fact common to all Settlement Class Members predominate over any potential individual questions; (c) the claims of the Representative Plaintiff are typical of the claims of the Settlement Class; (d) Representative Plaintiff and proposed Class Counsel will fairly and adequately represent the interests of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

6. The Court has reviewed the Settlement Agreement, and the terms of the Settlement

Agreement are preliminarily approved as falling within the range of reasonableness so as to warrant notice to the Settlement Class, subject to further consideration at a Final Approval Hearing. The Court preliminarily finds that the Settlement Agreement is the product of informed, arm's-length negotiation by counsel and is presumptively fair, just, reasonable, valid, and adequate, subject to any objections that may be raised at the Final Approval Hearing.

7. The Final Approval Hearing shall be held before the Court on _____, 2025 at _____ A.M. / P.M. at the Circuit Court of St. Louis County located at 105 South Central Avenue, Clayton, Missouri 63105, or to be held remotely at the Court's instructions: (a) to determine whether the proposed Settlement on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate and should be finally approved by the Court, and whether a Final Approval Order should be entered; (b) to consider any applications for attorney's fees, expenses and Representative Plaintiff service award; (c) to consider entry of the Final Approval Order; and (d) to consider such other matters as may properly come before the Court in connection with the certification and settlement of this Lawsuit. If the Final Approval Hearing is held remotely, instructions for how Settlement Class Members may attend the hearing will be posted on the Settlement website and the Court's website. The Final Approval Hearing may be rescheduled or adjourned by the Court, in which case notice of the new date and time will be provided on the Settlement website and the Court's docket.

8. The Claims Administrator for this Settlement shall be RG/2 Claims Administration LLC. All fees and expenses of the Claims Administrator shall be paid by Defendant pursuant to the terms of the Settlement Agreement.

9. Within 30 days of the entry of this Preliminary Approval Order, the Claims Administrator shall mail by First Class U.S. Mail to each Settlement Class member the applicable Class Action Notice and Claim Form attached to the Settlement Agreement as Exhibits B and C,

respectively. The Claims Administrator shall also provide notice of the proposed Settlement by publishing the Settlement Agreement, the Class Action Notice, and the Claim Form on the Internet—as described more fully in the Settlement Agreement. The Claims Administrator shall also establish an in-bound 800 number and an e-mail address as provided for in more detail in the Settlement Agreement, to allow class members to place inbound calls and send emails to ask about their claims and the settlement. No later than 30 days before the Claim Deadline, the Claims Administrator shall send by email or postcard the Reminder Notice in the form attached to the Settlement Agreement as Exhibit D.

10. The Court approves the form of the Class Action Notice and Claim Form submitted by the Parties with the Motion for Preliminary Approval.

11. The Court finds that dissemination of Class Action Notice to the Settlement Class in the manner set forth in the Settlement Agreement is the best notice practicable under the circumstances, is reasonably calculated to apprise interested parties of the pendency of this action, affords such parties an opportunity to present their objections or to exclude themselves from the Settlement, and complies in all respects with the requirements of Missouri Supreme Court Rule 52.08 and all the requirements of due process. The Court orders the Settlement Administrator to conduct the Notice Program following entry of this Order in accordance with the terms of the Settlement Agreement.

12. Any member of the Settlement Class who timely requests to be excluded from the Settlement Class in compliance with the requirements of the Class Action Notice and the Settlement Agreement shall be excluded from the Settlement Class and will not be entitled to any benefit under the Settlement Agreement. Any request to be excluded from the Settlement Class must be signed by the Settlement Class Member, include the information provided for in the Settlement Agreement, and be mailed to the Settlement Administrator, postmarked no later than forty-five (45) days from the date of this Order.

13. Any member of the Settlement Class who does not timely mail an opt out request

to the Claims Administrator, in compliance with the Settlement Agreement, will be bound by the terms of the Settlement Agreement if finally approved following the Final Approval Hearing, including the terms of the Final Approval Order and Judgment to be entered and the releases provided for in the Settlement Agreement.

14. Any member of the Settlement Class who has not requested exclusion may file a timely objection to the Settlement Agreement and appear at the Final Approval Hearing personally or by counsel, provided that an appearance is served and filed in compliance with the Settlement Agreement, to show cause, if any, (a) why the Settlement Agreement should not be approved as fair, reasonable, and adequate; or (b) why an order should not be entered dismissing with prejudice and releasing all the Released Claims against the Released Entities. Any objection must be filed with the Clerk of Court with copies provided to Class Counsel and Defendant's Counsel, postmarked or sent by overnight delivery no later than forty-five (45) days from the date of this Order.

15. Settlement Class Members who qualify for and wish to submit a Claim Form under the Settlement shall do so in accordance with the requirements and procedures of the Settlement Agreement and the Claim Form. The Claim Form Deadline is 30 days after the initial scheduled Final Approval Hearing. All Settlement Class Members who fail to submit a Claim Form in accordance with the requirements and procedures of the Settlement Agreement and Claim Form shall be forever barred from receiving any such benefit but will in all other respects be subject to and bound by the provisions of the Settlement Agreement and the releases contained therein.

16. For notification purposes pursuant to the Settlement Agreement, the mailing address for Class Counsel and for counsel for Defendant shall be as follows:

Contact for Class Counsel

David T. Butsch
Christopher E. Roberts

Butsch Roberts & Associates LLC
7777 Bonhomme Avenue, Suite 1300
Clayton, MO 63105

Contact for Counsel for the Defendant

Wystan M. Ackerman
Robinson & Cole LLP
One State Street
Hartford CT 06103

17. Class members who timely object in compliance with the Class Action Notice and the Settlement Agreement will remain class members and will be bound by the Settlement Agreement if finally approved following the Final Approval Hearing. Any person who fails to timely object in compliance with the Settlement Agreement and provided herein shall be deemed to have waived his or her objections and shall forever be barred from making any such objections in this Lawsuit or in any other action or proceeding.

18. No later than seven (7) days before the original date set for the Final Approval Hearing, the Representative Plaintiff and Class Counsel shall file a motion for Final Approval of the Settlement and motion for attorney's fees, expenses and Representative Plaintiff service awards, including any responses to objections.

19. The Settlement is not a concession or admission and shall not be used against the Defendant or any of the Released Parties as an admission or indication with respect to any claim of any fault or omission by the Defendant or any of the Released Parties. Whether or not the Settlement Agreement is finally approved, neither the Settlement Agreement, nor any document, statement, proceeding or conduct related to the Settlement Agreement, nor any reports or accounts thereof, shall in any event be deemed or construed to be an admission or evidence of any violation of any statute or law, of any liability or wrongdoing by the Defendant or any of the Released Parties or of the truth of any of the claims or allegations made; and evidence of the Settlement shall not be discoverable or used directly or indirectly by the Class or any third party, in any way for any

purpose, except that the provisions of the Settlement Agreement may be used by the Parties to enforce its terms, whether in this action or in any other action or proceeding.

20. Counsel for the parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Settlement which are not materially inconsistent with either this Order or the terms of the Settlement Agreement.

21. The Lawsuit is stayed pending the final determination of whether the Settlement Agreement should be approved, except those proceedings necessary to carry out or enforce the terms of the Settlement Agreement. Any Settlement Class Member is hereby enjoined from litigating any Released Claim in any court pending final approval of the Settlement.

SO ORDERED this ____ day of _____, 2025

HON. MONDONNA L. GHASEDI
JUDGE

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

LESLEY DAVIS LYMAN, individually,	)	
and on behalf of all others similarly	)	
situated,	)	
	)	
Plaintiff,	)	
	)	
	)	Case No. 22SL-AC10668-01
v.	)	
	)	Div. 43
AUTO CLUB FAMILY INSURANCE	)	
CO.,	)	
	)	
Defendant.	)	

CLASS ACTION NOTICE

**YOU ARE NOT BEING SUED. A COURT AUTHORIZED THE ISSUANCE OF
THIS NOTICE OF CLASS ACTION SETTLEMENT.**

**A class action settlement involving
insurance claims may provide payments to those who qualify.**

- There is a class action lawsuit pending in the Circuit Court of St. Louis County, State of Missouri about whether Auto Club Family Insurance Co. ("Auto Club") properly deducted certain types of depreciation when adjusting some structural damage insurance claims in Missouri.
- You may be eligible for a payment if you qualify and timely submit a valid claim form.
- Your legal rights are affected whether you act, or don't act. Please read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
SUBMIT A CLAIM FORM	The only way to get a payment if you qualify.
ASK TO BE EXCLUDED	You get no payment. This is the only option that allows you to individually sue Auto Club over the claims resolved by this settlement.
OBJECT	Write to the Court about why you don't agree with the settlement.
GO TO A HEARING	Ask to speak in Court about the settlement.
DO NOTHING	You get no payment. You give up rights.

- These rights and options - and **the deadlines to exercise** them - are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the settlement. If it does, and if any appeals are resolved in favor of the settlement, then money will be

QUESTIONS? CALL 1-*-***-**** TOLL FREE, OR VISIT www._____.com**

distributed to those who qualify. Please be patient.

BASIC INFORMATION

1. Why was this notice issued?

A Court authorized this notice because you have a right to know about a proposed settlement of this class action, including the right to claim money, and about all of your options regarding this settlement, before the Court decides whether to give "Final Approval" to the Settlement. If the Court approves the parties' agreement ("Settlement Agreement"), and if any appeals are resolved in favor of the settlement, then payments will be made to those who qualify and who timely submit a valid claim. This notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who may be eligible for them, and how to get them.

Judge Mondonna L. Ghasedi in the Circuit Court of St. Louis County, State of Missouri is overseeing this class action. The case is known as *Lyman v. Auto Club Family Insurance Co.*, Case No. 122SL-AC10668-01. The people who sued are called the "Plaintiffs," and the company they sued is called the "Defendant."

2. What is this lawsuit about?

The lawsuit claims that Auto Club improperly deducted depreciation attributable to costs of labor and other nonmaterial items when adjusting some structural damage insurance claims in Missouri. Auto Club has denied all allegations that it acted wrongfully or unlawfully.

3. Why is this a class action?

In a class action, one or more people called "Class Representatives" (in this case Lesley Davis Lyman) sue on behalf of people who have similar claims. All these people are a "Class" or "Class Members." One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

4. Why is there a settlement?

The Court did not decide in favor of the Plaintiff or Auto Club, and has not found that Auto Club did anything wrong. Instead, both sides agreed to settle. That way, it avoids the cost of a trial and potentially an appeal, while providing the opportunity for compensation to people who qualify under the terms of the settlement. The Class Representative and her attorneys think the settlement is best for all Class Members. The settlement does not mean that Auto Club did anything wrong. No trial has occurred, and no merits determinations have been made.

WHO IS ELIGIBLE FOR BENEFITS FROM THE SETTLEMENT?

To see if you are eligible for benefits from this settlement, you first have to determine if you are a Class Member.

5. How do I know if I am a part of the settlement?

The Class includes persons who, between June 5, 2012, and [date of preliminary approval order], filed an insurance claim for structural damage to property located in the State of Missouri that occurred on or after June 5, 2012, on a Missouri homeowner's insurance policy issued by Auto Club, that resulted in a payment by Auto Club that included a deduction for Nonmaterial Depreciation. "Nonmaterial Depreciation" means the application of depreciation to any portion of estimated replacement cost other than the estimated cost of materials (including sales tax). You have been mailed this Notice because Auto Club's records suggest that you may be a Class Member.

For a complete legal definition of the class, please see the Settlement Agreement, which is

QUESTIONS? CALL 1-*-***-**** TOLL FREE, OR VISIT www._____.com**

available at www.lyman-v-acfic-settlement.com.com.

6. Are there exceptions to being included?

Excluded from the Class are: policyholders who received one or more actual cash value (ACV) payments for a claim that exhausted the applicable limits of insurance; policyholders whose claims were denied or abandoned without an ACV payment for any reason other than that the ACV payment was not made solely because the withholding of Nonmaterial Depreciation caused the loss to drop below the applicable deductible; policyholders where no Xactimate or other computerized estimate was generated by Defendant or an independent adjusting firm retained by Defendant; Defendant and its officers and directors; members of the judiciary and their staff to whom this Lawsuit is assigned and their immediate families; and Class Counsel and their immediate families.

7. I'm still not sure I'm included.

If you are not sure whether you are included in the Class, you may consult the website at www.lyman-v-acfic-settlement.com, call the toll free number 1-***-***-**** or email the settlement administrator at XXXXX with questions

THE SETTLEMENT BENEFITS— WHAT YOU GET IF YOU QUALIFY

8. How much will settlement payments be?

Class Members who complete a claim form and timely mail it to the proper address will be eligible for a specific payment. **For persons who have not already recovered the full amount of Nonmaterial Depreciation this amount is 100% of the value of the Nonmaterial Depreciation withheld from his or her ACV payment that has not already been recovered by you, plus interest on the value of the nonmaterial depreciation to be paid pursuant to this settlement at a rate of 5% per annum from the date that the Class Member was sent his or her ACV payment to the date of final approval.** The exact amount of the settlement payment depends on several things, including (a) the amount of estimated Nonmaterial Depreciation that was deducted and (b) the amount of estimated Nonmaterial Depreciation that was paid in a later payment by Auto Club (if any).

For individuals that subsequently received compensation for all initially withheld Nonmaterial Depreciation, they are entitled to receive a payment of \$25 if the amount is between \$1 and \$40,000, \$50 if the amount is between \$40,001 and \$80,000, and \$75 if the amount is greater than \$80,000.

For details on the payment terms, please see the Settlement Agreement, which is available at www.lyman-v-acfic-settlement.com.

HOW TO GET A PAYMENT— SUBMITTING A CLAIM FORM

9. How can I get a payment?

To ask for a payment, you must complete a claim form truthfully, accurately, and completely, to the best of your ability. **You must mail the completed claim form to the following address, postmarked no later than _____, or submitted on the settlement website at www.lyman-v-acfic-settlement.com:**

_____ [insert address] _____

QUESTIONS? CALL 1-***-***-**** TOLL FREE, OR VISIT www.lyman-v-acfic-settlement.com

A copy of the claim form should accompany this Notice. You may obtain an additional blank claim form at www.lyman-v-acfic-settlement.com, or by calling the Settlement Administrator at 1-***-***-**** or via email at XXXXX.

10. When will I get my payment?

If the Court grants "Final Approval" of the settlement, and if any appeals are resolved in favor of the settlement, then payments will be mailed to eligible Class Members within 30 days after the claims administration process is completed. This process can take time, so please be patient.

11. What am I giving up as a part of this Class Action Settlement?

Unless you exclude yourself, you are staying in the Class regardless of whether you receive a payment or not. As a member of the Class, you can't individually sue Defendant or other affiliated persons and entities over the claims settled in this case. It also means that all of the Court's orders will apply to you and legally bind you. Below are the definitions of "Released Claims" and "Released Persons" from the Settlement Agreement. More details are in the Settlement Agreement, which is available at [www.\[\]_.com](http://www.[]_.com).

"Released Claims" are all claims, unknown claims, rights, demands, actions, causes of action, allegations, suits, debts, sums of money, payments, obligations, reckonings, promises, damages, interest, penalties, attorneys' fees and costs, liens, and judgments, of any kind whatsoever that each Releasing Person has or may have had prior to the Effective Date and arising from a loss occurring during the period from June 5, 2012 to the date of the Final Approval Order, whether *ex contractu* or *ex delicto*, debts, liens, contracts, liabilities, agreements, attorneys' fees, costs, penalties, interest, expenses, or losses (including actual, consequential, statutory, extra-contractual, punitive, or/or exemplary damages), and whether arising under or based on contract, extra-contractual or tort theories, at law or in equity, or under federal, state, or local law, statute, ordinance, rule or regulation, whether asserted individually or in a representative capacity, whether past or present, mature or not yet mature, known or unknown, that the Plaintiff or any Class Members have or may have had against any of the Released Persons that relate to, concern, arise from, or pertain in any way to: Nonmaterial Depreciation (including, but not limited to, calculation, deduction, determination, inclusion, modification, omission, and/or withholding of Nonmaterial Depreciation) in the adjustment and/or payment of any Covered Loss; or the allegations and claims contained in the Second Amended Class Action Petition ("Complaint") in the Lawsuit, and/or which could have been alleged in the Complaint, concerning the alleged systematic practice of deducting Nonmaterial Depreciation through the use of estimating software.

The Released Claims do not include: (a) claims arising after the Effective Date; (b) Class Members' rights and obligations under this Agreement; (c) the rights of potential Class Members who timely and properly submit a request for exclusion from the Settlement Class in accordance with the Settlement Agreement; and (d) any Class Member may recover any replacement cost benefits that may still remain available under the terms of their policy (which shall be offset by any amounts received by the Class Member under this Agreement on the relevant claim).

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want a payment from this settlement, and you want to keep any right you may have to individually sue about the issues in this case, then you must take steps to get out of the settlement. This is called excluding yourself from the Class—or is sometimes referred to as "opting out" of the Class.

12. How do I exclude myself from the settlement?

To exclude yourself from the settlement, you must send a letter by mail saying that you want to be excluded from the *Lyman v. Auto Club Family Insurance Co.* You must include your full name, address, and your signature. You must also include a clear statement that you wish to be excluded from the settlement class. You must mail your request for exclusion postmarked by __[insert date]__ to:

_____[insert address]_____

13. If I don't exclude myself, can I sue Auto Club for the same thing later?

No. Unless you exclude yourself, you give up any right you may have to individually sue Auto Club for the claims that this settlement resolves. You must exclude yourself from this settlement if you want to individually sue Auto Club over the claims resolved by this settlement. Remember, the exclusion deadline is [insert date], 2025.

14. If I exclude myself, can I get a payment from this settlement?

No. If you exclude yourself from the settlement, you are not entitled to any payment from the settlement.

15. Do I have a lawyer in this case?

The Court appointed the law firms of Butsch Roberts & Associates LLC, Snodgrass Law LLC, McWherter Scott Bobbitt PLC, Erik Peterson Law Offices PSC, and Winters Law Group, LLC to represent you and other Class Members as "Class Counsel." You do not have to pay Class Counsel. If you want to be represented by your own lawyer, and potentially have that lawyer appear in court for you in this case, you may hire one at your own expense.

16. How will the lawyers be paid?

Class Counsel will ask the Court for no more than \$399,000 in attorney's fees and reimbursement of expenses. Class Counsel will also ask that the Class Representative receive up to \$5,000 for representing the Class. Auto Club has agreed not to oppose the request for fees, expenses and the Class Representative award up to these amounts. The Court may award less than these amounts. **The award of these amounts will not decrease or increase your recovery.**

OBJECTING TO THE SETTLEMENT

You can tell the Court if you don't agree with the settlement or some part of it.

17. How do I tell the Court if I don't agree with the settlement?

If you want to tell the Court that you object to the settlement, you must: (1) file a written objection in the case with the Clerk of the Circuit Court of St. Louis County, State of Missouri and (2) send a copy of your written objection to both Class Counsel as well as counsel for Defendant as noted below. You must include the name of the case (*Lesley Lyman*

QUESTIONS? CALL 1-***-***-**** TOLL FREE, OR VISIT www._____.com

v. *Auto Club Family Insurance Co.*), case number (Case No. 22SL-AC10668-01), your full name, address, telephone number, your signature, any other information necessary to confirm that you are a Settlement Class Member, the specific reasons why you object to the settlement, and a statement as to whether you intend to appear at the Settlement Final Approval Hearing in person or through counsel. If you do intend to appear at the Settlement Final Approval Hearing to object to the settlement, you must also provide with your written objection a detailed statement of the specific legal and factual basis for each objection, a list of any witnesses you will call at the hearing with each witness’s address and summary of the witness’s testimony, a detailed description of all evidence you will offer at the hearing with copies of the exhibits attached, and documentary proof of your membership in the Settlement Class. You or your lawyer may appear at the Settlement Final Approval Hearing if you have filed a written objection as provided above. (See the section on the “Court’s Settlement Final Approval Hearing” below). If you have a lawyer file an objection for you, he or she must follow all Missouri court rules and you must list the attorney’s name, address, bar number, and telephone number in the written objection filed with the Court.

File the objection with the Clerk of the Court at the address below by [insert date]. Note: You may send it by mail, but it must be received and filed by the Clerk by [insert date].	And mail a copy of the objection to Class Counsel and to Counsel for Defendant at the following addresses so that it is postmarked by [insert date]:
Court	Counsel
Clerk of the Circuit Court St. Louis County Courthouse 105 South Central Avenue Clayton, MO 63105	Class Counsel: David T. Butsch Christopher E. Roberts Butsch Roberts & Associates LLC 7777 Bonhomme Avenue, Suite 1300 Clayton, MO 63105 Counsel for Defendant: Wystan M. Ackerman Robinson & Cole LLP One State Street Hartford CT 06103

18. What's the difference between objecting to the settlement and excluding yourself from the settlement?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you are a Class Member and you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class or the settlement. If you exclude yourself in the manner outlined in this Notice, you have no basis to object to the settlement because the case no longer affects you. If you object to the settlement, and the Court approves the settlement anyway, you will still be legally bound by the settlement.

THE COURT'S SETTLEMENT FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to finally approve the settlement. You may attend and you may ask to speak, but you don't have to.

19. When and where will the Court decide whether to approve the settlement?

The Court has scheduled a Settlement Final Approval Hearing at [insert time] a.m., on [insert date], at the Circuit Court of St. Louis County, 105 South Central Avenue, Clayton, Missouri 63105. The hearing may be held remotely, in which case notice and information regarding how to attend the hearing remotely will be posted on the settlement website at [website address]. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them at that time. The Court may listen to people who have asked to speak about their objection. The Court may also decide how much to award Class Counsel for fees and expenses for representing the Class and whether and how much to award the Class Representative for representing the Class. At or after the hearing, the Court will decide whether to approve the settlement. It is not known how long this decision will take.

Note: The date and time of the Final Approval Hearing are subject to change without further notice to the Settlement Class. The Court may also decide to hold the hearing via video conference or by telephone. You should check the Settlement Website www.xxxxxxx.com to confirm the date and time of the Final Approval Hearing has not changed.

20. Do I have to attend the hearing?

No, you are not required to attend the hearing, and Class Counsel will answer any questions that the Court may have for the Class Members as a whole. If you wish to attend the hearing, however, you may attend at your own expense. You may also pay your own lawyer to attend, but it's not necessary to do so, unless you choose to have a lawyer appear on your behalf to object to the settlement.

21. May I speak at the hearing?

If you submitted a proper written objection to the settlement in the manner outlined in this Notice, you or your lawyer acting on your behalf may have an opportunity to speak at the Settlement Final Approval Hearing, subject to the Judge's decision. You cannot speak at the Hearing if you exclude yourself from the settlement.

IF YOU DO NOTHING

22. What happens if I do nothing at all?

If you are a Class Member and you do nothing, you will not receive any payment from the settlement and you will be unable to individually sue for the claims resolved in this case.

GETTING MORE INFORMATION

23. How do I get more information about the settlement?

This notice summarizes the proposed settlement. More details are in the Settlement Agreement, a copy of which is located on the website. If you have questions, visit www._____.com. Do not contact the Court or Auto Club or your insurance agent.

CLAIM FORM

Name: [Prepopulated]
Address: [Prepopulated]
Date of Loss: [Prepopulated]
Claim Number: [Prepopulated]
Policy Number: [Prepopulated]

The records of Auto Club Family Insurance Co. (Auto Club) indicate that you may be a member of the Settlement Class in the case captioned *Lesley Lyman v. Auto Club Family Insurance Co.* Case No. 22SL-AC10668-01, in the Circuit Court of St. Louis County, State of Missouri (the “Lawsuit”).

Please read the accompanying Class Action Notice before you complete this Claim Form. To participate in this Settlement, your Claim Form must be completed to the best of your ability, and then mailed and postmarked by [DATE] or submitted on the settlement website at lyman-v-acfic-settlement.com.

If you have any questions, please visit www.lyman-v-acfic-settlement.com, e-mail XXXXXX or call: 1-XXX-XXX-XXXX.

Please do not contact your insurance agent or Auto Club about this matter, as they will not have information about this Settlement and will not be able to assist you with this Claim Form.

This Claim Form applies only to the loss listed above. If you filed more than one first party property insurance claim for structural damage that occurred on or after June 5, 2012, then you may receive separate Claim Form(s) for those losses, and you must complete and mail those Claim Form(s) to be eligible for payment on those losses.

SIGN AND DATE YOUR CLAIM FORM

By submitting this Claim Form, I state that I believe in good faith that I am a member of the Settlement Class as defined in the Class Action Notice and Settlement Agreement; that I have read and understood the contents of the Class Action Notice; that I did not file a request to exclude myself from (or “opt out” of) the Settlement Class; and that I believe that I am entitled to participate in the proposed settlement described in the Class Action Notice. I agree and understand that, if the proposed settlement is approved by the Court and becomes effective, all claims, demands, and causes of action against Auto Club Family Insurance Co. and other affiliated persons and entities will be released as set forth in the Settlement Agreement. I affirm under penalty of perjury that the information stated about me and my insurance claim on this Claim form is true and correct to the best of my knowledge and belief.

Signature

Print Name

Date

Submit your claim by **[DATE] on the settlement website at** lyman-v-acfic-settlement.com

MAIL YOUR CLAIM FORM:

Claim Forms must be postmarked by [DATE] and mailed to:

Lyman Settlement Claims

P.O. Box XXXX

City, State, Zip

Please be patient. If you qualify for payment under the Settlement, you will receive a letter together with a settlement check. If you do not qualify for payment, you will receive a letter of explanation.

EXHIBIT D

IMPORTANT NOTICE – You were previously mailed a Notice explaining that you may be a member of a class action settlement regarding the depreciation of estimated labor costs on certain property insurance claims made with Auto Club Family Insurance Company. Our records show you have not submitted a Claim Form or request for exclusion.

To participate in the settlement and ask for a payment, you **MUST** complete a Claim Form and submit it at www._____.com or mail it to the following address by **[DATE]**:

This is only a reminder. For more information regarding the settlement, or to request that another copy of the Notice and Claim Form be sent to you, please visit www._____.com, or call _____. Please do not call your insurance company or your insurance agent to discuss this lawsuit or whether to file a Claim Form.

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

LESLEY DAVIS LYMAN, individually,	)	
and on behalf of all others similarly	)	
situated,	)	
	)	
Plaintiff,	)	
	)	
	)	Case No. 22SL-AC10668-01
v.	)	
	)	Div. 43
AUTO CLUB FAMILY INSURANCE	)	
CO.,	)	
	)	
Defendant.	)	

[PROPOSED] FINAL ORDER AND JUDGMENT

Plaintiff Lesley Davis Lyman (“Plaintiff”), individually and on behalf of the Settlement Class and Defendant Auto Club Family Insurance Co. (“Defendant” or “Auto Club”) agreed to settle this Action pursuant to the terms and conditions set forth in the Class Action Settlement Agreement (“Agreement”).¹ On [REDACTED], 2025, the Court granted preliminary approval of the proposed class action settlement set forth in the Agreement and provisionally certified the Settlement Class for settlement purposes only, and on [REDACTED], 2025, the Court held a duly noticed final approval hearing.

Before the Court is Plaintiff’s Motion for Final Approval of Class Settlement, pursuant to Missouri Rule of Civil Procedure 52.08. The Court, having read and considered the Agreement and the Motion for Final Approval, having received evidence in advance of and at the hearing, and having heard argument by counsel, finds and holds as follows:

¹ All capitalized terms used herein that are not otherwise defined have the meanings ascribed to them in the Agreement.

FINDINGS OF FACT

1. In the operative Class Action Complaint (referred to in the Agreement as the “Complaint”), Plaintiff alleges a breach of contract claim on behalf of herself and insureds of Auto Club with structural loss claims in Missouri, on the basis that Defendant deducted Nonmaterial Depreciation from actual cash value payments when adjusting claims for structural losses under property insurance policies in Missouri.

2. Defendant has denied, and still denies, any liability, wrongdoing, and damages with respect to the matters alleged in the Complaint.

3. After litigation between the Parties and arms-length negotiations between Class Counsel and Defendant’s counsel, Plaintiff and Defendant reached a settlement that provides substantial benefits to the Settlement Class, in return for a release and dismissal of claims against Auto Club.² The Settlement was reached after the Parties had engaged in extensive and lengthy negotiations, and in accordance with the highest ethical standards for class action settlement negotiations, settlement relief to the class members was agreed to before negotiations concerning any potential award of attorneys’ fees, litigation expenses, or service award. During the settlement negotiations, Class Counsel was well positioned to evaluate the benefits of the Settlement, taking into account the expense, risk, and uncertainty of protracted litigation with respect to numerous difficult questions of law and fact.

4. Plaintiff and Defendant executed the Agreement and exhibits thereto on [REDACTED].

² As defined in the Settlement Agreement, “Released Persons” include Defendant and its current and former parents, owners, affiliates, subsidiaries, divisions, predecessors, successors, assigns, officers, members, directors, governors, employees, agents, principals, insurers, reinsurers, and legal representatives.

5. The Agreement is hereby incorporated by reference in this Final Order and Judgment, and the definitions and terms set forth in the Agreement are hereby adopted and incorporated into and will have the same meanings in this Final Order and Judgment.

6. On [REDACTED], 2025, Plaintiff filed with the Court the Agreement along with an Unopposed Motion for Preliminary Approval of Class Settlement, Certification of the Settlement Class, and Scheduling a Final Approval Hearing.

7. On [REDACTED], 2025, the Court entered the Preliminary Approval Order, preliminarily approving the Agreement, preliminarily certifying the Settlement Class for settlement purposes only, and scheduling a hearing for [REDACTED], 2025 at [REDACTED] a.m./p.m. to consider final approval of the Proposed Settlement and other actions described in the Preliminary Approval Order (“Final Approval Hearing”). The Settlement Class was given sufficient notice of the Final Approval Hearing as described below and Settlement Class Members had the opportunity to attend and be heard, if they so desired.

8. As part of its Preliminary Approval Order, the Court certified for settlement purposes a class (“Settlement Class”) defined as:

All persons who from June 5, 2012 until the date of preliminary approval: (1) were issued policies in Missouri by Defendant; (2) made a structural damage claim; (3) an Xactimate or other computerized estimate was used in determination of the payment; and (4) from which Nonmaterial Depreciation was withheld, or that would have resulted in an ACV Payment, but for the withholding of Nonmaterial Depreciation causing the loss to drop below the applicable deductible. The term “Nonmaterial Depreciation” means the application of depreciation to any portion of estimated replacement cost other than the estimated cost of materials (including sales tax). “Nonmaterial Depreciation” includes the application of either the “depreciate removal,” “depreciate non-material” and/or “depreciate O&P” option settings within Xactimate software or similar depreciation option settings in any other software used to prepare an estimate on putative class members’ claims. It also means labor that was manually or otherwise depreciated from a replacement cost estimate, including but not limited to “straight line” depreciation.

The Settlement Class does not include: policyholders who received one or more ACV Payments for a claim that exhausted the applicable limits of insurance; policyholders whose claims were denied or abandoned without an ACV Payment for any reason other

than that the ACV payment was not made solely because the withholding of Nonmaterial Depreciation caused the loss to drop below the applicable deductible; policyholders where no Xactimate or other computerized estimate was generated by Defendant or an independent adjusting firm retained by Defendant; Defendant and its officers and directors; Members of the judiciary and their staff to whom this Lawsuit is assigned and their immediate families; and Class Counsel and their immediate families.

9. On [REDACTED], 2025, Plaintiff applied to the Court for final approval of the terms of the Proposed Settlement and for the entry of this Final Order and Judgment. In support, Plaintiff submitted extensive argument and authority showing, *inter alia*: the dissemination and adequacy of the Class Notice, Claim Form, and Reminder Notice; the establishment of an automated toll-free number and Settlement Website; the names of potential Class Members who, per the terms of the Agreement, submitted a timely and proper request for exclusion from the Settlement Class; the negotiation of the Agreement; the fairness, reasonableness, and adequacy of the Agreement; and the fairness and reasonableness of Class Counsel's application for fees and the service award set forth in the Memoranda.

10. At the Final Approval Hearing, Plaintiff offered the following evidence in support of its motion concerning attorneys' fees, costs, and a service award:

<u>Exhibit No.</u>	<u>Description</u>
1	Declaration of [REDACTED]
2	Declaration of [REDACTED]
3	Declaration of [REDACTED]

The Court admitted Plaintiff's foregoing exhibits into evidence for all purposes.

11. Plaintiff and the Administrator have satisfactorily demonstrated that the Class Notice, Claim Form, and Reminder Notice were sent, and an automated toll-free number and

Settlement Website were established in accordance with the Agreement and Preliminary Approval Order.

12. The Settlement provides substantial monetary benefits to Class Members who timely submit completed Claim Forms. In addition, Defendant has agreed to fund the costs of notice and settlement administration. The claims procedure established under the Agreement is uniform and fair and provides Class Members with an extended and ample opportunity to receive settlement payments as described in the Agreement.

13. All potential Class Members were provided an opportunity to request exclusion as provided in the Agreement. The Court finds that the individual interests of those Class Members who timely sought exclusion from the Settlement Class are preserved and that no Class Member was precluded from being excluded from the Settlement Class if he or she so desired. Those Class Members who timely and properly excluded themselves from the Settlement Class are identified in the attached **Exhibit _**.

14. Class Members who did not timely file and serve a written objection in accordance with the procedure set forth in the Agreement and mandated in the Preliminary Approval Order, are deemed to have waived any such objection through any appeal, collateral attack, or otherwise.

15. At the Final Approval Hearing, the Court considered, among other matters described herein: (a) whether certification of the Settlement Class for settlement purposes only was appropriate under Missouri Supreme Court Rule 52.08; (b) the fairness, reasonableness and the adequacy of the Agreement; and (c) the fairness and reasonableness of Class Counsel's requested attorneys' fees and litigation costs and requested service award for Plaintiff. The Court independently evaluated not only the pleadings, evidence, and arguments of Class Counsel and Defendant's Counsel, but also rigorously and independently evaluated the Agreement and the

Motion, and as such, the Court considered any arguments that could reasonably be made against approval of the Proposed Settlement, even if such argument was not actually presented to the Court by objection, pleading, or oral argument.

16. On the basis of the matters presented in this Action and the provisions of the Agreement, the Court is of the opinion that the Proposed Settlement is a fair, reasonable, and adequate compromise of the claims against Auto Club, pursuant to Missouri Supreme Court Rule 52.08. In considering a number of factors, the Court finds that:

- (a) The liability issues in this Action and the suitability of this Action for certification of a litigation class have been vigorously contested, particularly with respect to litigation manageability requirements;
- (b) This Settlement has the benefit of providing substantial benefits to Class Members now, without further litigation, under circumstances where the liability issues are still vigorously contested among the Parties;
- (c) The Settlement is clearly a byproduct of adversary litigation between the Parties and arms-length negotiation, and not a result of any collusion on the part of Class Counsel and Defendant; and
- (d) Class Counsel's request for an award of attorneys' fees and reimbursement of expenses is reasonable, fair, and in all respects consistent with the terms of the Agreement.

Therefore, on the basis of the foregoing findings of fact and any oral findings of fact articulated at the Final Approval Hearing referenced herein, the Court hereby makes the following:

CONCLUSIONS OF LAW

17. The Court has personal jurisdiction over Plaintiff, Defendant, and Class Members, venue is proper, and the Court has subject matter jurisdiction, including without limitation, jurisdiction to approve the Agreement, to grant final certification of the Settlement Class, to settle and release all claims arising out of the Action, and to enter this Final Order and Judgment and dismiss this Action on the merits and with prejudice.

18. The Court concludes that the Settlement Class meets all the requirements of Missouri Supreme Court Rule 52.08, the Due Process Clause, and all other applicable rules and law, and the Settlement Class this Court previously preliminarily certified in its Preliminary Approval Order is hereby finally certified as a settlement class action. In connection with the class certification ruling, the Court specifically finds as follows: the Class Members are ascertainable and too numerous to be joined; questions of law and fact are common to all Class Members; Plaintiff's claims are typical of those of the Settlement Class; Plaintiff and Class Counsel have fairly and adequately represented and protected the interests of the Settlement Class for the purposes of entering into and implementing the Proposed Settlement; and Class Counsel meets the standard for appointment.

19. Based on the Court's review of the evidence admitted and argument of counsel, the Court finds and concludes that the Class Notice, Claim Form, and Reminder Notice were sent to potential Class Members in accordance with the provisions of the Preliminary Approval Order, and together with the automated toll-free number and the Settlement Website: (i) constituted, under the circumstances, the most effective and practicable notice of the pendency of the Action, this Agreement, and the Final Approval Hearing to all Class Members who could be identified through reasonable effort; and (ii) meets the requirements of Missouri Supreme Court Rule 52.08, the Due Process Clause, and any other applicable rules or law.

20. The Final Approval Hearing and evidence before the Court clearly support a finding that the Settlement was entered into in good faith after arm's length negotiations between Plaintiff and Defendant, and the Court finds the Settlement was entered into in good faith and at arm's length.

21. The Court finds that approval of the Settlement 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 Agreement is fair, reasonable, and adequate as to, and in the best interests of, members of the Settlement Class based on discovery, due diligence, and the absence of material objections sufficient to deny approval.

22. A review of the following factors further supports a finding that the Settlement is fair, reasonable, and adequate:

- a. The absence of any fraud or collusion behind the Settlement;
- b. The complexity, expense, and likely duration of the litigation;
- c. The stage of the proceedings;
- d. The probability of Plaintiff's success on the merits;
- e. The range of possible recovery; and
- f. The opinions of Class Counsel, Plaintiff, and absent class members.

23. The notice campaign was highly successful and resulted in notice being sent to over [REDACTED] potential Class Members; only [REDACTED] persons requested exclusion from the Settlement Class and [REDACTED] Class Members filed objections to the Agreement. The relative lack of exclusion requests and opposition by a well-noticed Settlement Class strongly supports the fairness, reasonableness, and adequacy of the Settlement.

24. The Court, in evaluating the fairness, reasonableness, and adequacy of the Settlement, considered all objections that were filed or that could have been raised by any Class Member. After considering all possible objections, the Court finds that the Settlement is fair, reasonable, and adequate.

25. The claim process as set forth in the Settlement is fair, reasonable, and adequate to Class Members. Any Class Member who did not timely request exclusion from the Settlement Class in accordance with the Agreement is forever barred from asserting a Released Claim against a Released Person in any other action or proceeding.

26. Class Counsel's request for \$399,000 in attorneys' fees and expenses and the Representative Plaintiff's service award of \$5,000, to be paid by Defendant, are fair, reasonable, and adequate.

IT IS ORDERED, ADJUDGED AND DECREED THAT:

27. The objections to the Agreement, if any, are hereby overruled.

28. Final certification of the Settlement Class is confirmed for the purpose of the Settlement, in accordance with the Agreement and pursuant to Missouri Supreme Court Rule 52.08.

29. Timely requests for exclusion were submitted by [REDACTED] potential members of the Settlement Class and those potential Class Members (identified in Exhibit [REDACTED] hereto) are excluded from the Settlement Class. All other potential members of the Settlement Class are adjudged to be Settlement Class Members and are bound by this Final Order and Judgment and by the Agreement, including the releases provided for in the Agreement and this Final Order and Judgment.

30. Plaintiff's Motion for Final Approval is hereby **GRANTED** and all provisions and terms of the Agreement are hereby finally approved in all respects. The Parties to the Agreement are directed to consummate the Agreement in accordance with its terms, as may be modified by subsequent orders of this Court.

31. This Final Order and Judgment shall be immediately entered as to all claims in the Action between Plaintiff and Class Members and Auto Club, and Final Judgment is entered approving and adopting all terms and conditions of the Settlement and the Agreement, fully and finally terminating all claims of Plaintiff and the Settlement Class in this Action against Auto Club, on the merits, with prejudice, and without leave to amend. The Court expressly determines that there is no just reason for delay in entering the Final Order and Judgment.

32. Pursuant to Missouri Supreme Court Rule 52.08, Plaintiff Lesley Davis Lyman is appointed as the Representative Plaintiff for the Settlement Class, and the following counsel are appointed as counsel for the Settlement Class (“Class Counsel”):

Erik D. Peterson
ERIK PETERSON LAW OFFICES, PSC
110 W. Vine St.
Suite 300
Lexington, KY 40507
Telephone: 800-614-1957
erik@eplo.law

James Brandon McWherter
MCWHERTER SCOTT BOBBITT PLC
109 Westpark Drive, Suite 260
Brentwood, TN 37027
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T. Joseph Snodgrass
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Douglas J. Winters
The Winters Law Group, LLC
7700 Bonhomme Avenue, Suite 575
St. Louis, MO 63105
(314) 499-5200
dwinters@winterslg.com

33. Upon the entry of this Final Order and Judgment, Plaintiff, all Class Members who did not timely and properly exclude themselves from the Settlement Class, and all of their heirs,

trustees, executors, administrators, principals, beneficiaries, representatives, agents, assigns, and successors, and anyone claiming through them or acting or purporting to act for them or on their behalf, will be bound by this Final Order and Judgment and shall be conclusively deemed to have fully released, acquitted and forever discharged, to the fullest extent permitted by law, any and all of the Released Persons from all of the Released Claims, all as defined herein and in the Agreement, and shall be conclusively bound by this Final Order and Judgment under the doctrines of res judicata, collateral estoppel, and claim and issue preclusion, and agree not to sue any Released Person with respect to any Released Claims. Plaintiff and all Class Members who did not timely and properly exclude themselves from the Settlement Class shall be deemed to agree and acknowledge that the foregoing releases were bargained for and are a material part of the Agreement. The Agreement shall be the exclusive remedy for all Class Members with regards to Released Claims.

34. In order to protect the continuing jurisdiction of the Court and to protect and effectuate this Final Order and Judgment, the Court permanently and forever bars and enjoins the Plaintiff and all Class Members, and anyone acting or purporting to act on their behalf, from instituting, maintaining, prosecuting, suing, asserting or cooperating in any action or proceeding, whether new or existing, against any of the Released Persons for any of the Released Claims. Any person in contempt of the injunction under this paragraph may be subject to sanctions, including payment of reasonable attorneys' fees incurred to seek enforcement of the injunction.

35. This Order and Judgment, the Agreement, the negotiations leading to the Settlement, administration of the Settlement, and any pleadings, motions, or other documents specifically related to the Agreement shall not be: (a) construed as an admission or concession by Auto Club of the truth of any of the allegations in the Action, or of any liability, fault, or

wrongdoing of any kind on the part of Auto Club; (b) the subject of discovery or offered into evidence in this Action or any other action or proceeding for any purpose other than to enforce the Agreement (or for the purposes set forth in the following paragraph); and (c) used in any way as precedent for any purportedly similar matter.

36. Nothing in the foregoing paragraph, however, shall prohibit the offering or receipt of the Agreement into evidence for purposes of enforcing the Settlement or 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.

37. Proprietary Information of Auto Club shall be protected from disclosure and handled in accordance with the terms of the Agreement, and Class Counsel and any other attorneys for Plaintiff in this Action shall destroy or return to Defendant's Counsel all Proprietary Information, in their possession, custody, or control as set forth in the Agreement. Notwithstanding the above requirement to destroy or return all Proprietary Information, counsel may retain a complete set of documents necessary to securely store the client's file pursuant to Missouri Rule of Professional Conduct 4-1.22.

38. Class Counsel's motion concerning attorneys' fees, litigation costs, and a service award is hereby **GRANTED**. The Court awards Class Counsel the total sum of \$ [REDACTED] in attorneys' fees and costs. In addition, the Court awards Plaintiff a service award of \$ [REDACTED]. The Court hereby finds that these amounts are fair and reasonable. The Claims Administrator shall pay such fees and expenses to Class Counsel and the service award to Plaintiff from the Settlement Account pursuant to the terms of the Agreement. Auto Club shall not be responsible for and shall not be liable with respect to the allocation among Class Counsel or any other person who may assert a claim thereto, of attorneys' fees and expenses awarded by the Court. Upon payment of the

attorney's fees and costs awarded by the Court, Class Counsel shall be deemed to have released and forever discharged the Released Persons from any and all claims for attorney's fees and costs or other claims Class Counsel may have against the Released Persons relating to this Action.

39. Claim Settlement Payments to Class Members who timely file a completed Claim Form shall be made in the amounts, within the time period, and in the manner described in the Agreement. Any uncashed or undistributable Claim Settlement Payments shall be handled as provided for in the Agreement.

40. The Court appoints Douglas W. King, Esq. as the Neutral Evaluator to carry out the duties and responsibilities set forth in the Agreement. Plaintiff, Class Counsel, Auto Club, and Defendant's Counsel shall not be liable for any act or omission of the Neutral Evaluator.

41. Without further order of the Court, the Parties may agree to reasonably necessary extensions of time to implement any of the provisions of the Agreement.

42. The Action is dismissed in its entirety on the merits, with prejudice, without leave to amend, and without fees or costs to any party, except as otherwise provided herein.

43. Without in any way affecting the finality of this Final Order and Judgment, this Court shall retain continuing jurisdiction over this Action for purposes of enforcing the Agreement and any related or ancillary matters thereto.

IT IS SO ORDERED, this [REDACTED] day of [REDACTED], 2025.

[REDACTED]
HON. MONDONNA L. GHASEDI
CIRCUIT JUDGE

Exhibit 2

TABLE OF LABOR DEPRECIATION “CLAIMS MADE” CLASS SETTLEMENTS

Case Name & Case No.	Venue	Estimated Amount of Total Monetary Benefit To Be Made Available To Class¹	Percentage of Fees & Costs Awarded²	Amount of Fees & Costs Awarded	Date of Final Approval Order
<i>Foringer v. Erie Ins. Co., No. 00746, and Grzymkowski v. Erie Ins. Co., No. 02167</i>	Court of Common Pleas of Philadelphia Cnty.	\$7,142,000.00	24.5%	\$1,750,000.00	Apr. 14, 2025
<i>McLaughlin v. Fire Ins. Exch., No. 1316-CV11140</i>	Mo. Cir. Ct., Jackson Cnty.	\$12,000,000.00	47%	\$5,660,825.14	Sept. 19, 2024
<i>Belle Meade Owners Ass’n, Inc. v. Cincinnati Ins. Co., No. 22-cv-00123</i>	E.D. Tenn.	\$4,857,500.00	24.7%	\$1,200,000.00	May 13, 2024

¹ The “total monetary benefit” is inclusive of the value of the amount of unrecovered nonmaterial depreciation and interest, attorneys’ fees and expenses, service awards, and settlement administrative costs.

² The percentage of attorneys’ fees awarded in these cases were based on the “total benefit” made available to the class as discussed, *supra*, n.1.

Case Name & Case No.	Venue	Estimated Amount of Total Monetary Benefit To Be Made Available To Class¹	Percentage of Fees & Costs Awarded²	Amount of Fees & Costs Awarded	Date of Final Approval Order
<i>Walker v. Auto-Owners (Mut.) Ins. Co., No. 2023-LA-0000143</i>	Ill. Cir. Ct., Tenth Judicial Cir., Peoria Cnty.	\$7,125,000.00	23.1%	\$1,649,000.00	Jan. 10, 2024
<i>Gentes Trust # 1 v. Frontier-Mt. Carroll Mut. Ins., No. 2022-LA-000269</i>	Ill. Cir. Ct., Third Judicial Cir., Madison Cnty.	\$965,000.00	25.9%	\$250,000.00	Oct. 26, 2023
<i>Danshir, LLC v. Greater N.Y. Mut. Ins. Co., No. 21-cv-01158</i>	N.D. Ill.	\$2,060,195.33 (exclusive of settlement administration)	27.1%	\$557,500.00	Oct. 26, 2023
<i>Sproull v. State Farm Fire & Cas. Co., No. 16-L-1341</i>	Ill. Cir. Ct., Third Judicial Cir., Madison Cnty.	\$50,250,000.00	19.7%	\$9,900,000.00	Sept. 28, 2023
<i>Mitchell, et al. v. Allstate Vehicle & Prop. Ins. Co., et al., No. 2:21-cv-347-TFM-B</i>	S.D. Ala.	\$19,195,000.00	20.6%	\$3,950,000.00	Aug. 8, 2023

Case Name & Case No.	Venue	Estimated Amount of Total Monetary Benefit To Be Made Available To Class¹	Percentage of Fees & Costs Awarded²	Amount of Fees & Costs Awarded	Date of Final Approval Order
<i>Condos. At Northpointe Ass'n, et al. v. State Farm Fire & Cas. Co., No. 1:16-cv-01273</i>	N.D. Ohio	\$14,004,000.00	28.6%	\$4,004,000.00	July 25, 2023
<i>Perry v. Allstate Indem. Co., et al., No. 1:16-cv-01522</i>	N.D. Ohio	\$23,200,000.00	22%	\$5,000,000.00	July 25, 2023
<i>Hester, et al. v. Allstate Vehicle & Prop. Ins. Co., et al., No. 20L0462</i>	Ill. Cir. Ct., Twentieth Judicial Cir., St. Clair Cnty.	\$13,290,000.00	22.4%	\$2,990,000.00	June 12, 2023
<i>Fox v. Am. Family Ins. Co., No. 1:20-cv-01991</i>	N.D. Ohio	\$2,621,186.00	25.9%	\$679,567.00	Jan. 12, 2023
<i>Cedarview Mart, LLC v. State Auto Prop. & Cas. Co., No. 3:20-cv-00107</i>	N.D. Miss.	\$5,042,797.00	22%	\$1,129,722.00	Nov. 7, 2022

Case Name & Case No.	Venue	Estimated Amount of Total Monetary Benefit To Be Made Available To Class¹	Percentage of Fees & Costs Awarded²	Amount of Fees & Costs Awarded	Date of Final Approval Order
<i>Staunton Lodge No. 177, A.F. & A.M v. Pekin Ins. Co., No. 2020-L- 001297</i>	Ill. Cir. Ct., Third Judicial Cir, Madison Cnty.	\$6,916,100.00	21.7%	\$1,500,000.00	Oct. 6, 2022
<i>Arnold v. State Farm Fire & Cas. Co., No. 2:17-cv-148</i>	S.D. Ala.	\$38,810,000.00	22%	\$8,595,000.00	Oct. 4, 2022
<i>Stevener v. Erie Ins. Co., No. 20-cv- 603</i>	N.D. Ohio	\$5,974,285.00	19.3%	\$1,155,000.00	Aug. 19, 2022
<i>Donofrio v. Auto-Owners (Mut.) Ins. Co., No. 19- cv-58</i>	S.D. Ohio	\$8,880,000.00	19.5%	\$1,740,000.00	July 22, 2022
<i>Republic Roofing & Restoration, LLC v. Nat'l Sec. Fire & Cas. Co., No. 19-cv-02518</i>	W.D. Tenn.	\$2,686,954.37	22%	\$602,103.00	May 26, 2022

Case Name & Case No.	Venue	Estimated Amount of Total Monetary Benefit To Be Made Available To Class¹	Percentage of Fees & Costs Awarded²	Amount of Fees & Costs Awarded	Date of Final Approval Order
<i>Huey v. Allstate Vehicle & Prop. Ins. Co., No. 19- cv-00153</i>	N.D. Miss.	\$1,481,208.00	23%	\$336,000.00	May 26, 2022
<i>Shields v. Metropolitan Prop. & Cas. Ins. Co., No. 19-cv-00222</i>	N.D. Miss.	\$8,495,308.00	22%	\$1,895,876.00	May 25, 2022
<i>Helping Hands Home Improvement, LLC v. Selective Ins. Co. of South Carolina, et al., No. 20- cv-00092</i>	M.D. Tenn.	\$4,207,073.00	23.8%	\$999,000.00	May 9, 2022
<i>Hicks v. State Farm Fire & Cas. Co., No. 14-cv-00053</i>	E.D. Ky.	\$7,760,000.00	24.5%	\$1,900,000.00	Apr. 28, 2022
<i>Hawker v. Pekin Ins. Co., No. 21- cv-002169</i>	Ohio Ct. of Common Pleas, Franklin Cty.	\$3,417,000.00	24.1%	\$833,100.00	Feb. 25, 2022

Case Name & Case No.	Venue	Estimated Amount of Total Monetary Benefit To Be Made Available To Class¹	Percentage of Fees & Costs Awarded²	Amount of Fees & Costs Awarded	Date of Final Approval Order
<i>Schulte v. Liberty Ins. Corp.</i> , No. 3:19-cv-00026	S.D. Ohio	\$20,078,000.00	17.08%	\$3,431,259.79	May 20, 2021
<i>Arakoni v. Memberselect Ins. Co.</i> , No. 1:20-cv-000092	N.D. Ohio	\$230,000.00	23.9%	\$55,000.00	Mar. 3, 2021
<i>Mitchell v. State Farm Fire & Cas. Co.</i> , No. 17-00170	N.D. Miss.	\$11,559,000.00	18.9%	\$2,190,000.00	Feb. 25, 2021
<i>Holmes v. LM Ins. Corp.</i> , No. 19-00466 and <i>Northside Church of Christ v. Ohio Security Ins. Co.</i> , No. 20-00184	M.D. Tenn.	\$10,144,000.00	18.3%	\$1,863,665.88	Feb. 5, 2021
<i>Koester v. USAA Gen. Indem. Co.</i> , No. 19-02283	W.D. Tenn.	\$4,163,000.00	18.7%	\$780,000.00	Sept. 4, 2020

Case Name & Case No.	Venue	Estimated Amount of Total Monetary Benefit To Be Made Available To Class¹	Percentage of Fees & Costs Awarded²	Amount of Fees & Costs Awarded	Date of Final Approval Order
<i>Stuart v. State Farm Fire & Cas. Co., No. 4:14-cv-4001</i>	W.D. Ark.	\$11,757,954.06	27.7%	\$3,257,954.06	June 2, 2020
<i>Baker v. Farmers Group, Inc., No. CV--17- 03901-PHX- JJT</i>	D. Ariz.	\$672,500.00	18.5%	\$120,500.00	Sept. 25, 2019
<i>Braden, et al. v. Foremost Ins. Co. Grand Rapids, No. 4:15-cv- 04114-SOH</i>	W.D. Ark.	\$3,827,000.00	22.2%	\$850,000.00	Oct. 9, 2018
<i>Larey v. Allstate Prop. & Cas. Ins. Co., No. 4:14-cv- 04008-SOH</i>	W.D. Ark.	\$1,662,500.00	24.8%	\$412,500.00	Feb. 9, 2018
<i>Goodner v. Shelter Mut. Ins. Co., Case No. 4:14-cv- 04013-SOH</i>	W.D. Ark.	\$25,529,071.00	23.8%	\$6,086,160.63	June 6, 2017

Case Name & Case No.	Venue	Estimated Amount of Total Monetary Benefit To Be Made Available To Class¹	Percentage of Fees & Costs Awarded²	Amount of Fees & Costs Awarded	Date of Final Approval Order
<i>Green v. American Modern Home Ins. Co., et. al,</i> Case No. 4:14-cv- 04074-SOH	W.D. Ark.	\$3,281,795.00 (exclusive of settlement administrative costs to be paid separately by defendant)	24.9%	\$820,448.66	June 1, 2017