

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

LEONARD CHAVEZ, and
DARLENE CHAVEZ, for themselves
and all others similarly situated,

Plaintiffs,

v.

No. D-202-CV-2011-06008

YOUNG AMERICA INSURANCE COMPANY, NATIONAL INSURANCE CENTER,
RODNEY D. YOUNG INSURANCE AGENCY, INC., F. GAYLON YOUNG INSURANCE
AGENCY, INC., RAUL HERNANDEZ, PATRICIA A. ADAMS, and JOHN DOE
ADJUSTERS and AGENTS of YOUNG AMERICA INSURANCE COMPANY, NATIONAL
INSURANCE CENTER, RODNEY D. YOUNG INSURANCE AGENCY, INC., and F.
GAYLON YOUNG INSURANCE AGENCY, INC.,

Defendants.

CONSOLIDATED WITH:

STATE OF NEW MEXICO
BERNALILLO COUNTY
SECOND JUDICIAL DISTRICT COURT

BURT WARLOCK, for himself
and all others similarly situated,

Plaintiff,

v.

D-202-CV-2012- 01260

LOYA INSURANCE COMPANY, a Texas Corporation, FRED LOYA INSURANCE
AGENCY, INC., a New Mexico Corporation, OMAR ARAUJO, and JOHN DOE ADJUSTERS
and AGENTS of LOYA INSURANCE COMPANY, and FRED LOYA INSURANCE
AGENCY, INC.,

Defendants.

FRED LOYA CLASS ACTION SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made as of the 29th day of August, 2014, by Defendants Loya Insurance Company, Fred Loya Insurance Agency, Inc. (together "Fred Loya"), and Omar Araujo (collectively "Defendants") and Plaintiffs as defined below. Under this Agreement, the plaintiff Burt Warlock ("Plaintiff"), individually and on behalf of all members of the Settlement Class, and Defendants, by and through the Parties' respective attorneys of record, agree to a settlement of all claims in, or related to the underlying subject matter of this Action.

I. DEFINITIONS AND RECITALS

A. Definitions.

1. "Action" means the litigation docketed and styled *Warlock v. Loya Ins. Co., et al*, No. D202-CV-2012-01260.
2. "Claimant" means a Settlement Class Member who files a Claim for a Settlement Payment.
3. "Claim Form" means the form to be included with the Notice and on the Settlement Website and completed by Settlement Class Members who wish to receive a Settlement Payment.
4. "Claims" means claims filed for Settlement Payments under this Agreement.
5. "Class," "Class Member(s)," "Settlement Class," and "Settlement Class Member(s)" mean, for settlement purposes only and for no other purpose: all persons insured under a Class Policy, which is defined as all Fred Loya policies issued in New Mexico from February 2, 2006 through January 31, 2011 where UM/UIM was rejected. Excluded from the

Settlement Class are any insureds who settled a UM/UIM claim and signed a final release prior to the Effective Date of this Settlement.

6. "Class Counsel" means, for the purposes of settlement only, a combination of the following: Franklin D. Azar and Keith Scranton of Franklin D. Azar & Associates, P.C., Marc Levy and Joshua R. Proctor of Levy, Wheeler, Waters, P.C., and Gordon H. Rowe III of The Rowe Law Firm, P.C.

7. "Class Representative" means, for the purposes of settlement only, Burt Warlock.

8. "Court" means Second Judicial District Court for Bernalillo County, New Mexico.

9. "Defendants" means Loya Insurance Company, Fred Loya Insurance Agency, Inc., and Omar Araujo.

10. "Defendant's Counsel" means Paul Karlsgodt and Casie Collignon of the law firm of Baker & Hostetler LLP, 1801 California Street, Suite 4400, Denver, Colorado 80202, and Randy Bartell of the law firm of Montgomery and Andrews, PA, 325 Paseo de Peralta, Santa Fe, New Mexico 87501.

11. "Effective Date" is the date upon which this Agreement becomes final and effective, as set forth in Section II.D.2.

12. "Final Fairness Hearing" means a hearing held by the Court approximately 75 days after mailing the Notice, at which the Court will decide whether to grant final approval of the proposed settlement and whether to enter Final Judgment.

13. “Final Judgment” means the order granting final approval to the proposed settlement and concluding the Action, a copy of which is attached as Exhibit F.

14. “Lien Consultant” means Fred Loya and/or the qualified third party designated and paid for by Fred Loya to consult with Fred Loya and the Settlement Administrator regarding third-party lien holder liability issues.

15. “Neutral Adjuster” means Brown Claims Management Group LLC, 9404 Interline Ave, Baton Rouge, Louisiana 70809, who will make binding, non-appealable decisions regarding disputes as to the adjustment of Claims as described in Section II.E.

16. “Notice” refers to the forms of notice to be approved by the Court, and to be disseminated in conformity with the Notice Plan.

17. “Notice Consultant” means Kinsella Media, LLC, 2120 L Street NW, Suite 860, Washington, DC 20037.

18. “Notice of Settlement Payment” means a notification sent to a Claimant, explaining (1) the amount of a Claimant’s Settlement Payment; (2) the possible existence of a third-party lien against that Settlement Payment and the timing for resolution of any liens; and (3) that the Claimant has 10 days to dispute the amount of their Settlement Payment with specificity (i.e., reasons, amount, supporting documentation).

19. “Notice Plan” means the plan for the dissemination of Notice of the Settlement Agreement’s terms and of certification of the Class. The Notice Plan is to be presented to the Court for its approval and distributed upon Court order. The Notice Plan shall include Notice by First Class Mail to Class Members, Claim Form, an Internet website (containing a more detailed form of Notice, Complaint, Settlement Agreement, the Preliminary

Approval Order, Medical/Employment Release Forms, and other Court documents), and the establishment of a toll-free telephone line providing answers to commonly asked questions. The Notice Plan shall also include the Notice of Settlement Payment to be mailed only to Class Members who submit valid Claims, as described more fully in Section II.B. and II.F., below.

20. "Objections" means the written objections to this Settlement Agreement described more fully in Section II.B.9., below.

21. "Parties" means Plaintiffs and Defendants.

22. "Plaintiffs" means the Class Representatives and the Settlement Class.

23. "Release" means the release described in Section II.H., below.

24. "Released Claims" means any cause of action that was or could have been asserted in the Action, any cause of action arising out of the facts alleged in the Action, any cause of action relating to offers of and/or rejections of UM/UIM coverage that were or could have been asserted by any New Mexico resident at any time prior to the date of execution of this Agreement, and any other causes of action and forms of relief described in the Release in Section II.H., below.

25. "Request for Exclusion" means a written request for exclusion from the Settlement Class described more fully in Section II.B. 6-8, below.

26. "Settlement Administrator" means Garden City Group, 1531 Utah Ave. S., Suite 600 Seattle, WA 98134. The agreed upon administrator shall be appointed by the Court to implement the Notice Plan and to assist in the administration of Claims.

27. "Settlement Agreement" or "Agreement" means this Settlement Agreement.

28. “Settlement Payment” means the amount to be paid by Fred Loya to each Claimant, or on behalf of each Claimant to a third party lien holder, who qualifies, as described in Section II.E., below.

29. “UM” means uninsured motorist benefits as defined in N.M. STAT. ANN. § 66-5-301 (West 2012), and “UIM” means underinsured motorist benefits as defined in N.M. STAT. ANN. § 66-5-301 (West 2012).

B. Recitals.

1. This Action was brought on behalf of individuals who bought automobile insurance from Fred Loya but rejected UM/UIM insurance coverage. The claims arise out of the New Mexico Supreme Court’s decision in *Jordan v. Allstate Ins. Co.*, holding that:

[i]f an insurer does not (1) offer the insured UM/UIM coverage equal to his or her liability limits, (2) inform the insured about premium costs corresponding to the available levels of coverage, (3) obtain a written rejection of UM/UIM coverage equal to the liability limits, and (4) incorporate that rejection into the policy in a way that affords the insured a fair opportunity to reconsider the decision to reject, the policy will be reformed to provide UM/UIM coverage equal to the liability limits.

245 P.3d 1214, 1221 (N.M. 2010).

2. Plaintiffs have alleged, among other things, that Fred Loya’s UM/UIM rejection forms did not meet the requirements established by *Jordan*, and therefore, all Class Members are entitled to have their policies reformed to include UM/UIM coverage equal to the liability limits. Fred Loya denies these allegations. Fred Loya does not admit liability to any Class Member and does not admit liability in any case for any of Plaintiffs’ allegations. Further, Fred Loya denies any wrongful conduct toward Plaintiffs or the Class, and asserts that the alleged wrongful actions were lawful in all respects.

3. Plaintiffs and Fred Loya agree that this Agreement and the settlement reflected herein is a compromise and settlement of disputed claims, and that neither the settlement, this Agreement, the Release, any consideration therefore, nor any actions taken to carry out the terms of this Agreement are intended to be nor may they be deemed or construed to be an admission or concession of liability or of the validity of any claim or of any point of law or fact, including but not limited to the propriety of class certification in the absence of a settlement, on the part of any party, and shall not be deemed or construed to be an admission or evidence for any purpose. The Agreement shall not be deemed or construed as an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by Fred Loya or any other Defendant.

4. The Parties and their attorneys have investigated the facts and issues raised by the Action, and have sufficient information to evaluate the Settlement Agreement.

5. Arm's-length settlement negotiations took place between counsel for the Class and counsel for Fred Loya during private mediation, and other meetings and telephone calls. This Agreement is the result of those arm's-length negotiations.

6. Class Counsel, in light of their knowledge of this case and their experience in the trial and settlement of other individual and class actions, consider the settlement to be fair, reasonable, and adequate, and in the best interests of all Class Members.

7. Fred Loya, despite its belief that it is not liable for the claims asserted and that it has not engaged in any actionable activity with regard to Plaintiffs and Class Members and the subject matter of Plaintiffs' Complaint, has concluded that Fred Loya should enter into this Settlement Agreement and thereby put to rest this controversy to avoid the further expense,

inconvenience and burden of protracted litigation, and the distraction and diversion of Fred Loya's personnel, time, and resources.

8. This Settlement Agreement, which embodies all of the terms and conditions of the settlement between Fred Loya and the Class, is subject to the preliminary and final approval of the Court.

II. SETTLEMENT TERMS AND CONDITIONS

It is agreed by the undersigned, on behalf of the Defendants and on behalf of the Class, that the Action be settled and compromised as to the Defendants, subject to the approval of the Court, upon the following terms and conditions:

A. Preliminary Approval.

1. Plaintiffs and Class Counsel agree to recommend approval of this Settlement Agreement by the Court, and the Parties agree to undertake in good faith their best efforts, including all steps and efforts contemplated by this Settlement Agreement, and any other necessary or appropriate efforts, by order of the Court or otherwise, to carry out the terms of this Settlement Agreement, and to neither take nor instigate any activity contrary to or inconsistent with their commitment to seek prompt approval and implementation of the settlement.

2. Class Counsel shall file a motion for preliminary approval of the Settlement Agreement, seeking entry of the form of order attached as Exhibit E. Class Counsel shall also file a motion for approval of the forms of Notice (copies of which are attached as Exhibits A (mailed Notice) and B (detailed Notice to be available on the website)), Claim Form (Exhibit C), Medical/Employment Release Form (Exhibit D), and the Notice Plan (notice by mail, an Internet website, and the toll-free line, as described in this Settlement Agreement

Section II.B., below), and for the setting of deadlines for Objections and exclusion requests, and the scheduling of a Final Fairness Hearing approximately 75 days after mailing the Notice, at which the Court will decide whether to grant final approval of the proposed settlement and whether to enter Final Judgment. After the Notice Plan is implemented, Class Counsel shall file the motion for entry of the Final Judgment contemplated by the Agreement; a copy of the form of Final Judgment to be requested is attached as Exhibit F. The Parties and counsel shall in good faith act to implement the prompt adoption of this Settlement Agreement and to approve the supporting documents filed by the Class and shall undertake any and all efforts that in good faith are necessary and appropriate to ensure the Settlement Agreement's preliminary approval, the Notice Plan's approval and implementation, and the final approval of the Settlement Agreement, including efforts necessary to permit Class Counsel to take discovery from or of objectors, or to ensure such objectors post appropriate bonds.

B. Implementing the Notice Plan.

1. In the event that the Court preliminarily approves the Settlement Agreement and the Notice Plan, within 45 days or within such other period of time to which the Parties agree in writing and the Court approves, the mailing of the Court-approved Notice shall occur as specified in this Section II.B. No materials other than Court-approved materials shall be included in the mailing. The Notice shall refer all Class Members to a website, toll-free telephone line, and to a written clearinghouse address, all of which shall be set up and maintained by the Settlement Administrator. The mailed Notice will include a separate Claim Form for each Class Member.

2. Within 30 days of preliminary approval of the Settlement Agreement and Notice Plan, Fred Loya will complete a review of its electronic databases or other records to identify the last known addresses for each Class Member and provide such information to the Settlement Administrator. Within this same time, Fred Loya shall provide the Settlement Administrator with information from its electronic databases necessary to populate each Claim Form to be tailored to each Class Member.

3. The mailed Notice envelope shall be in a form to be prepared by the Notice Consultant. Prior to mailing Notice, the Settlement Administrator shall promptly run all addresses through the National Change of Address Database ("NCOA") and/or other private databases or filters that are reasonably likely to uncover additional updated address information, and consult with Class Counsel as is necessary to ensure the highest possible number of deliveries. If a Notice mailed to a Class Member is returned with a forwarding address provided by the Postal Service, the Settlement Administrator will promptly re-mail by first class mail the Notice to the address provided. If the NCOA Database indicates that the last known address of any Class Member is invalid or otherwise undeliverable and no Party has updated address information for such Class Member, neither Fred Loya nor the Settlement Administrator will have an obligation to take further steps to locate such Class Member. The Settlement Administrator shall consult with Class Counsel and Fred Loya's Counsel regarding any undeliverable or returned mailings to ensure a number of completed deliveries sufficient to comport with due process requirements.

4. The mailed Notice forms shall be in a form to be prepared by the Notice Consultant. The mailed Notice to be mailed to each Class Member shall include the mailed form

of Notice (Exhibit A) and Claim Form (Exhibit C). Due to potential formatting and/or postal regulation requirements, the Settlement Administrator may have a need to modify these forms. If any modifications are made, the final forms to be mailed to each Class Member will be substantially similar to the exhibits attached hereto. Each Class Member will be instructed that a Claim for a Settlement Payment may be made by properly executing the Claim Form and the optional Medical/Employment Release Form, and by postmarking and mailing the Claim Form on or before the Claims deadline. By signing the Claim Form, each Claimant will be verifying that he or she is the Class Member to whom the mailed Notice and Claim Form were intended to be delivered or is authorized to act on that person's behalf.

5. Additional information shall be provided by the creation of an Internet website pursuant to the Notice Plan to be approved by the Court. The Settlement Administrator shall apply to register the World Wide Web address to be chosen by the Settlement Administrator and approved by the Parties.

6. Any Class Member shall have the right to exclude himself or herself from the Class by submitting a timely written Request for Exclusion mailed to the Settlement Administrator as outlined in the Notice. The Settlement Administrator shall deliver all requests for exclusion to Class and Fred Loy's Counsel upon receipt.

7. To be effective, a Request for Exclusion from the Settlement Class must include the Class Member's name and current address, a clear and unequivocal statement that the Class Member wishes to be excluded from the Settlement Class, and the signature of the Class Member or, in the case of a Class Member who is deceased or incapacitated, the signature of the legally authorized representative of such Class Member.

8. Upon receipt of any Requests for Exclusion, Class Counsel may contact any Class Members who have submitted a request to be excluded (or the Class Member's independently retained counsel, if any). The exclusion deadline shall be 60 days after the date the Notice is mailed, determined based on the postmark on the Request for Exclusion. No person who makes a valid request for exclusion will have standing to submit any objection to the terms of this Settlement and persons who validly request exclusion shall be prohibited from appealing any orders in this Action. All Class Members who do not validly request exclusion will be bound by the resolution of any and all issues arising in connection with the claims against the Defendants that have been brought in this Action. Any Class Member submitting a written request to be excluded may revoke such request if done in writing before 60 days after the date the Notice is mailed.

9. Any Class Member who has not properly requested exclusion shall have the right to object to the settlement by submitting a written Objection to the Settlement Administrator as outlined in the Notice. The Settlement Administrator shall deliver all Objections to Class Counsel, Fred Loya's Counsel, and the Court not later than seven (7) calendar days prior to the Final Fairness Hearing. The objection deadline shall be 60 days after the date the Notice is mailed, determined based on the postmark on the written Objection. Persons submitting Objections who wish to appear at the Fairness Hearing and present their Objections to the Court orally must mail a written statement of intent to appear at the Final Fairness Hearing to the Court, Class Counsel, and Fred Loya's Counsel no later than 60 days after the Notice is mailed. Only persons who submit both a written statement of intent to appear and an Objection will have the right to present their Objections orally at the Final Fairness

Hearing. Failure to appear in person at the fairness hearing will not prevent the Court from giving due consideration to any timely written Objection.

10. The Claims deadline shall be 120 days after the date the Notice is mailed, determined based on the postmark on the Claim Form.

11. For all Class Members who submit a valid Claim, the Settlement Administrator shall mail a Notice of Settlement Payment to those Claimants, notifying them of the anticipated amount of their Settlement Payment based on the adjustments made by Fred Loya, and any potential impact of any third party liens or claims against medical benefit payments to be made on behalf of a Claimant, as described in Section II.E., below. This Notice of Settlement Payment shall also give each Claimant 10 days to dispute the amount of their anticipated Settlement Payment, as described in Section II.E., below.

12. For all Class Members who submit an invalid Claim, the Settlement Administrator shall notify all such Claimants of their ineligibility in writing with a list of reasons why the Claim was deemed ineligible, which may include that the Claimant has not provided enough information in the Claim Form for Fred Loya to adjust the Claim. The Settlement Administrator shall notify all ineligible Claimants no later than 7 days from the receipt of the Settlement Payment amount from Fred Loya. This ineligibility determination shall also give each Claimant 10 days to dispute the amount of such determination, as described in Section II.E., below.

13. Additional communications with Class Members may be necessary to accomplish the goals of this Settlement Agreement. The Court shall be kept informed of any additional notices deemed necessary by the Parties and the Settlement Administrator, but the

Court need not give prior approval of any communication deemed by the consent of the Parties and the Settlement Administrator to be necessary to effectuate the terms of the settlement.

C. Final Judgment.

If the Court approves this Settlement Agreement, then Class Counsel shall seek entry of a Final Judgment from the Court, in the form attached hereto as Exhibit F. The Final Judgment will:

1. determine that the Defendants and all Class Members have submitted to the jurisdiction of the Court only for purposes of the proposed Settlement, that the Court has personal jurisdiction over the Parties and all Class Members, and that the Court has subject matter jurisdiction to approve the Settlement Agreement;

2. find that the Notice Plan (i) is reasonable and constitutes the best practicable notice under the circumstances; (ii) is reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action, the terms of the proposed Settlement Agreement, the right to object to or exclude themselves from the proposed Settlement Agreement, and to appear at the Final Fairness Hearing; (iii) constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) meets the requirements of due process, New Mexico Rule of Civil Procedure, Rule 1-023, and any other applicable rules;

3. approve finally this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class in compliance with New Mexico Rule of Civil Procedure, Rule 1-023, and directing its consummation pursuant to its terms;

4. direct that the claims of the Class are dismissed with prejudice, with each party to bear its own costs, except the costs that Fred Loya has agreed to pay to Class Counsel as described in Section II.G., below;

5. reserve exclusive jurisdiction over the Settlement Agreement, including the administration, implementation, and interpretation of the Agreement;

6. determine that there is no just reason for delay and direct that the judgment of dismissal shall be final and appealable under New Mexico Rule of Civil Procedure, Rule 1-058, and the New Mexico Rules of Appellate Procedure; and

7. incorporate the Release and forever discharge the Defendants from any claims or liabilities relating to the Action or any Released Claims and find that Class Members that have not properly excluded themselves from the Settlement Agreement are bound by the Final Judgment under New Mexico Rule of Civil Procedure, Rule 1-023.

D. Finality.

1. If the total number of exclusions of Class Members is more than 96 Claims, Fred Loya may, in its sole and absolute discretion, void this settlement by notifying Class Counsel in writing within 7 days after the exclusion deadline or such other period of time as mutually agreed by counsel for Fred Loya and Class Counsel, and approved by the Court.

2. The Effective Date of this Settlement Agreement is the later of (1) the date on which the time to appeal the Final Judgment has expired with no appeal having been taken; or (2) if an appeal is sought from the Final Judgment, the day after the judgment is affirmed or the appeal is dismissed or denied, and the judgment is no longer subject to further appellate review.

3. In the event that Fred Loya voids the settlement pursuant to Section II.D.1, above, or if the Court either refuses to approve this Settlement Agreement or any material part of it, or approves the Agreement with a material change, or the Final Judgment described in Section II.C is not entered, or the Court's approval of this Settlement Agreement or the Final Judgment is set aside, in whole or in part on appeal, then this Settlement Agreement in its entirety shall become null and void, unless the Parties promptly agree in writing to proceed with the settlement consistent with the opinion issued by the Court under which the Settlement Agreement would otherwise become null and void. An appeal by an objector from any order approving the payment of fees and costs who seeks to reduce amounts to be paid to Class Counsel, as defined in Section II.H., below, shall not affect the finality of approval of the Settlement Agreement.

E. Adjustment and Administration of Settlement Payments.

1. For each valid, properly completed Claim postmarked and mailed on or before the Claims deadline by a Claimant who is verified as a Class Member, Fred Loya, either directly or through the Settlement Administrator, agrees to adjust the Claims and pay the Settlement Payments as follows:

a. No later than 7 days after the Claims deadline, the Settlement Administrator will forward all Claim Forms and other Claim information submitted by a Claimant to Fred Loya's claims department to be adjusted expeditiously as they would be in the ordinary course of Fred Loya's business, except as otherwise stated in this Section E.

b. At all times relevant to this Settlement Agreement, all Claimants' insurance policies will be treated as including UM/UIM insurance benefits equal to the applicable liability limits in the insured's insurance policy during the applicable period. No

Claim will be denied as a result of not having been previously reported. All other defenses identified in the insurance contract or available by law to payment of UM/UM benefits shall be enforceable as if the Claim had been presented in the ordinary course of business.

c. Each Claimant with a valid Claim will be entitled to 150% of the UM/UM benefits due to the Claimant as a result of actual losses covered under a New Mexico insurance policy issued by Fred Loya. The amount for each Claim will be calculated by determining how much the Claimant is due under the terms of the policy after reformation to include UM/UM coverage, taking into account the applicable \$25,000/\$50,000 policy limits for UMBI and \$10,000 for UMPD, and multiplying that amount by 150%. It is the Parties' intent that with respect to the 150% calculation in this paragraph, the first 100% be paid in settlement of Claimants' claims for additional insurance benefits and that the additional amount, 50%, be paid in settlement of other claimed damages.

d. As part of Fred Loya's adjustment responsibilities, it will consider all of the information submitted by Claimants with the Claim Form and any information in Fred Loya's regularly maintained records. If Fred Loya deems it necessary, it may communicate with Claimants directly to obtain all materials routinely received or relied on by claim processors in adjusting claims in the ordinary course of business, which may also include contacting third parties pursuant to valid Releases signed by Claimants, or ordering an independent medical examination, paid for by Fred Loya. If Fred Loya deems it necessary, it may also communicate with Claimants directly to try to reach a resolution of any issues arising during the adjustment of Settlement Claims. At all points during this process, Fred Loya will have Class Counsel's contact information available to provide to any Claimant requesting counsel.

e. Once Fred Loya has received all information necessary to adjust each Settlement Claim, it will have 30 days to notify the Settlement Administrator of its determination of the amount of each Settlement Payment.

f. Within 7 days of the Settlement Administrator's receipt of a Settlement Payment amount from Fred Loya, the Settlement Administrator will mail the Claimant a Notice of Settlement Payment, explaining (1) the amount of a Claimant's Settlement Payment; (2) the possible existence of a third party lien against that Settlement Payment and the timing for resolution of any liens; and (3) that the Claimant has 10 days from the date on the postmark of the Notice of Settlement Payment to submit a written dispute of the amount of their Settlement Payment with specificity, determined based on the postmark on the written dispute. A valid dispute of a Settlement Payment must include (1) the specific amount disputed, (2) the precise reasons for the dispute; and (3) supporting documentation or a relevant release that would allow Fred Loya to obtain any supporting documentation directly.

g. If the Settlement Administrator receives a timely and valid dispute as described in Section II.E.1.f above, the dispute and all accompanying information will be promptly resubmitted to Fred Loya for further consideration and/or adjustment. Fred Loya will then have 45 days to reach a resolution with the Claimant. During this dispute resolution period, Fred Loya and Claimant may consult with their respective Counsel. If an agreement is reached, within 7 days, the Settlement Administrator shall mail any such Claimant a revised Notice of Settlement Payment, finally resolving the Claim.

h. If Fred Loya and the Claimant with a Settlement Payment dispute cannot reach a resolution within the 45-day period, within 7 days, Fred Loya, either directly or

through the Settlement Administrator shall submit the dispute along with all information regarding the disputed Settlement Payment to the Neutral Adjuster, to make a binding, non-appealable decision. Within 15 days of receipt of all information regarding each disputed Settlement Payment from Fred Loya or the Settlement Administrator, the Neutral Adjuster shall make its final determination of the amount of the Settlement Payment, as described in the Neutral Adjuster's affidavit, a copy of which is attached as Exhibit G, and notify the Settlement Administrator of its decision. At the Neutral Adjuster's sole discretion, it may notify the Settlement Administrator that it requires more time to resolve a dispute. The notification must include the specific reasons for and the amount of the additional time needed. Within 7 days of the Neutral Adjuster's determination, the Settlement Administrator shall mail any such Claimant a revised Notice of Settlement Payment. In such cases, Fred Loya will be responsible for any costs associated with both the Neutral Adjuster and adjustments.

2. During the same time that Fred Loya is adjusting Claims, Fred Loya shall also ascertain the existence and extent of any third-party liens or claims against Settlement Payments to be paid to Claimants. Fred Loya may consult with a Lien Consultant regarding any third-party medical benefit investigations made pursuant to this Agreement at its own expense, and shall either pay or direct the Settlement Administrator to make payments to any third parties in accordance with the terms of the lien, or any other negotiated arrangement with the third party lien holder. Fred Loya and/or the Lien Consultant shall obtain releases or modified liens in exchange for compliance with the terms of the liens or other arrangements.

3. No Claimant shall receive any Settlement Payment for medical benefits until all of the details regarding the existence and extent of the lien have been determined. If the

lien is equal to or greater than the Settlement Payment for medical benefits, then the Claimant will not receive any Settlement Payment for medical benefits. If the lien is less than the Settlement Payment, then the lien shall be paid first, with any remaining money to be paid to the Claimant. This Settlement Administration shall stay open until every Claim involving a third-party lien has been fully and finally resolved or paid.

4. Once all disputes, if any, have been resolved, and all liens have been verified and resolved, Fred Loya or the Settlement Administrator shall have 30 days to mail all Settlement Payments to Claimants subject to any lien payment obligations, and the timely presentment of these checks shall be a condition precedent to the right of any Class Member to receive the Settlement Payment. No interest shall accrue or be due on payments to Class Members.

5. The deadlines in this Agreement may be modified by mutual agreement of the Parties or by the Court at any time to accommodate the purposes of this Settlement Agreement.

F. Settlement Administration

1. Unless otherwise mutually agreed, the Parties shall seek appointment of Garden City Group as Settlement Administrator to disseminate Notice and to administer the relief provided by this Settlement Agreement. The Settlement Administrator shall maintain the records of its activities in computerized database form and shall provide periodic and special reports and access to information to the Court and the Parties.

2. The Settlement Administrator shall prepare and mail the Notice materials to the last known address of Class Members as described in this Agreement; pick-up and process

all mail from the post office box designated to receive Claims and related mailings; respond to administrative inquiries from the Court regarding administration of the Settlement Agreement; respond to inquiries from Class Members involving their individual Claims, their eligibility for a Settlement Payment, and the terms and conditions of the Settlement Agreement; prepare a listing of any rejected Claims, objectors, and Class Members who request to be excluded from the Class; if agreed upon by Fred Loya and Class Counsel, timely distribute the Settlement Payments to eligible Class Members, or third-party lien holders, who properly and timely file a valid Claim in accordance with the terms of the Settlement Agreement and Notice; and process all correspondence as deemed necessary by Class Counsel or Fred Loya. These duties shall be performed in the normal and customary fashion.

3. Assuming that Notice and Claims materials are disseminated in accordance with this Agreement, untimely Claims shall not be honored for any reason.

4. Cashing the settlement check is a condition precedent to any Class Member's right to receive settlement benefits. All settlement checks shall be void 60 days after issuance and shall bear the language: "This check must be cashed within 60 days, after which time it is void." If a check becomes void, the Class Member shall have until nine months after the Effective Date to request re-issuance. The Class Member will be given written notice of the nine-month deadline for requesting re-issuance. If no request for re-issuance is made within this period, the Class Member will have failed to meet a condition precedent to recovery of settlement benefits, the Class Member's right to receive monetary relief shall be extinguished, and any funds to which that Class Member would otherwise have been entitled shall remain the property of Fred Loya. For any checks that are issued or reissued for any reason more than 365

days from the Effective Date, requests for re-issuance need not be honored after the checks become void.

5. If all Claims have been paid, including those subject to third-party liens, at the conclusion of one year from the Effective Date, settlement administration shall terminate. If all Claims have not been paid, then settlement administration shall terminate 30 days after the last Claim has been paid. Upon termination of settlement administration, all bank accounts used to hold funds to pay Claims under this Settlement Agreement may be closed and the funds returned to Fred Loya. The Settlement Administrator shall have no further obligation to perform any functions to administer the settlement. All documents relating to the settlement in the possession of the Settlement Administrator at that time shall be returned to Fred Loya, where they will be kept until they are destroyed pursuant to Fred Loya's document retention policies. In lieu of maintaining original documents, Fred Loya shall have the option of scanning the documents, maintaining scanned copies in electronic form, and destroying the originals.

G. Payments for Notices, Claims Administration, and Fees and Costs.

1. All costs of implementing the Settlement Agreement and providing Notice to the Class, including the expenses of the Settlement Administrator, Notice Consultant, any Lien Consultant, and Neutral Adjuster, shall be paid by Fred Loya.

2. None of the payments, expenses, or costs contemplated in this Agreement are to be paid by any Defendant other than Fred Loya.

3. Class Counsel shall apply to the Court for an award of attorneys' fees and reimbursement of expenses, which award shall be contingent on approval of the settlement by the Court. Application by Class Counsel for an award of attorneys' fees and reimbursement of

expenses shall not be in excess of \$450,000.00. No interest shall be paid if all fees and expenses approved by the Court are paid within 14 days from the Effective Date.

4. Class Counsel shall apply to the Court for incentive payment to the Class Representative in recognition of his efforts on behalf of the Class, which payments shall also be contingent on approval of the Settlement by the Court. Application by Class Counsel for the incentive payment shall not be in excess of \$10,000.00 for the Class Representative. No interest shall be paid if the incentive payment approved by the Court is paid within 14 days from the Effective Date.

5. Fred Loya will not oppose the motion for approval of attorneys' fees, expenses, and incentive payments, up to the amounts stated herein, provided it is made in conformity with this section. The attorneys' fees, reimbursement of expenses, and incentive payments, as awarded by the Court, shall be paid by Fred Loya or Settlement Administrator within 14 days of the Effective Date. Except as otherwise set forth in this Section, the Parties shall each bear their own expenses and costs.

H. Release.

1. Class Members (including their past, present or future agents, legal representatives, trustees, parents, estates, heirs, executors and administrators) who have not timely excluded themselves from the Action, whether or not they object to the Settlement Agreement, agree that they Release and forever discharge Fred Loya and Fred Loya's parents, current or former subsidiaries, predecessors, insurers, officers, officials, shareholders, employees, adjusters (including, but not limited to, the other Defendants as defined herein), successors, assigns, directors, attorneys, affiliates, agents and independent insurance agents or

brokers (including, but not limited to, the other Defendants as defined herein) and their employees, from all manner of claims, rights, demands, charges, complaints, actions, suits, causes of action, whether class, individual, or otherwise in nature, damages whenever incurred, obligations or liabilities of any nature whatsoever, including interest, costs, expenses, penalties, and attorneys' fees, known or unknown, suspected or unsuspected, in law or equity, that they ever had, now have, or hereafter can, shall, or may have, relating in any way to any conduct occurring before the Effective Date of this Settlement Agreement similar or identical to the conduct of Fred Loya as alleged by Plaintiffs in the Action or similar conduct relating to UM and/or UIM benefits offered, accepted or rejected, paid or denied, to Class Members by Fred Loya prior to the Effective Date. This Release includes, but is not limited to, all claims that were raised or that could have been raised, individually or on behalf of others similarly situated, in the Action. This Release includes any claim to damages, reformation of an insurance policy, a return of premium, refund, or rescission, arising out of the Action, or out of any state regulatory or department of insurance investigation, directive, decree, claim, cause of action, action, or order for relief sought on behalf of or for the benefit of Class Members that relates to the facts alleged in the Action, circumstances and occurrences underlying the allegations as set forth in Plaintiff's Complaint, whether such allegations were or could have been based on common law or equity, or on any statute, rule, regulation, order or law, whether federal, state, or local, or on any grounds whatsoever, from the first date alleged in the Complaint to the date of preliminary court approval. This Release includes any claim for penalties arising from late payment, non-payment, or underpayment of benefits for UM/UIM claims. No claims other than Released Claims shall be released.

I. Additional Terms.

1. The Final Judgment order shall provide for dismissal, with prejudice, of the Action.

2. Fred Loya will inform all of its claims employees and agents that sell Fred Loya insurance in New Mexico that Class policies have been reformed to include UM/UIM (both UMBI and UMPD) benefits up to policy limits, even if the insured did not purchase or rejected UM/UIM coverage.

3. Neither the Plaintiffs nor Class Counsel shall submit for publication any press release, or initiate any public statement intended to be disseminated through the press, television, radio, internet, or other media about this Settlement Agreement without the written prior approval of Fred Loya's Counsel. In response to a request from the press or other media for comment about the Settlement Agreement, Plaintiffs and Class Counsel shall decline to comment and direct the person seeking comment to Fred Loya's Counsel for any information about the Settlement. Plaintiffs or Class Counsel may make any public statements about the Settlement or its effect that are required by statute, regulation, or court mandate. This section is not to be construed as a waiver by any party of any claim for defamation, libel, slander, or other cause of action rising independently of this Agreement.

4. In the event that the Settlement does not become final in accordance with these terms, then this Settlement Agreement shall be of no force or effect and, in any event, the Parties agree that this Settlement Agreement, including its exhibits, whether or not it shall become final, and any and all negotiations, documents and discussion associated with it shall be without prejudice to the rights of any party, shall not be deemed or construed to be an admission

or evidence of any violation of any statute or law or of any liability or wrongdoing by Fred Loya or Plaintiffs, or of the truth of any of the claims or allegations contained in the Complaint or any other pleading, and evidence thereof shall not be discoverable or used directly, or indirectly, in any way.

5. This Settlement Agreement and the exhibits to this Agreement contain an entire, complete, and integrated statement of each and every term and provision agreed to by and among the Parties, and it is not subject to any condition not provided for herein. This Settlement Agreement shall not be modified in any respect except by a writing executed by all the Parties.

6. None of the Parties 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.

7. All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of the State of New Mexico without regard to its choice of law or conflict of laws principles.

8. The Parties irrevocably submit to the exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement and exhibits, but for no other purpose.

9. Class Counsel additionally agrees to not represent Class Members who have excluded themselves from this Settlement Agreement on a class action or individual basis seeking relief against Fred Loya based on alleged conduct similar to that alleged in the Action.

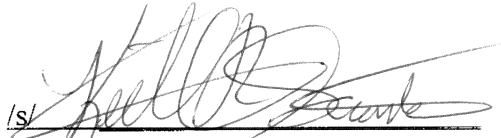
This provision is not intended to violate any professional or ethical considerations, and shall be construed to be consistent with such considerations.

10. All counsel and any other person executing this Agreement warrant and represent that they have the full authority to do so.

11. This Agreement may be executed in counterparts. Facsimile signatures shall be considered as valid signatures as of this date, although the original signature pages shall thereafter be appended to this Agreement.

12. The Parties and their counsel express no opinion concerning the tax consequences of this proposed settlement to individual Class Members and make no representations, warranties, or other assurances regarding such tax consequences. No opinion, representations, warranties, or other assurances shall be deemed to have been made by the parties or their counsel with respect to such tax consequences by virtue of this Agreement or by effectuating this settlement, and the parties and their counsel shall not be held liable for any such tax consequences that may occur. The long form of the Notice posted on the website will direct Class Members to consult their own tax advisors regarding any tax consequences of the proposed settlement, including any payments or benefits provided hereunder, and any tax reporting obligations they may have with respect thereto. Each Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Class Member.

IN WITNESS WHEREOF the Parties and their counsel have caused this Settlement Agreement to be duly executed as of this 29th day of August, 2014.


/s/

Franklin D. Azar
Keith Scranton
Franklin D. Azar & Associates, P.C.
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Aurora, CO 80014

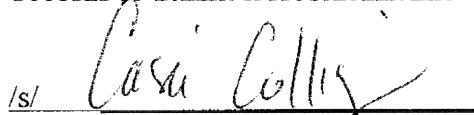
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*AUTHORIZED SIGNATURE ON FILE AT THE
OFFICES OF BAKER & HOSTETLER LLP*


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