

## MEMORANDUM

Date: May 24, 2007

To: Members of the NAIC

From: Gail M. Sciacchetano, Deputy General Counsel  
Kara Binderup, Staff Attorney

Re: ***Reynolds v. Hartford***  
Case No. CV 01-1529 BR

### **Executive Summary**

The lawsuit alleges that The Hartford Financial Services Group violated the Fair Credit Reporting Act (FCRA) by not providing appropriate notice to consumers who bought auto or homeowners insurance, and who did not receive a lower premium than they would otherwise have paid, at least in part due to information in a consumer credit report.

This case was originally filed in the U.S. District Court for the District of Oregon on Oct. 16, 2001.

The settlement provides relief as follows:

A payout of \$250 for each member of Settlement Subclass A. Subclass A includes all members of the Settlement Class who initially purchased policies from October 16, 1999 through the New Notice Date (several dates in 2002 and 2003, depending on state). The \$250 payment will be reduced, on a pro rata basis, by the amounts approved by the court to pay attorneys' fees, costs, expenses and any incentive award.

Subclass B includes all persons who are members of the Settlement Class and who purchased policies on or after the New Notice Date (several dates in 2002 and 2003, depending on state). For members of Subclass B, Hartford will agree to an injunction requiring it to use a form of FCRA notice nationwide that complies with requirements set forth in the Ninth Circuit Opinion.

The fairness hearing took place and the settlement was granted final approval on February 26, 2007. Claim forms were mailed to qualifying policyholders on April 30 and are due by June 28, 2007 to qualify for payment. It is estimated there are more than 400,000 policyholders nationwide. Many of the policies were purchased through AARP.

### **Domiciliary or other Regulator Involvement**

No regulatory activities are challenged. The issue is the proper provision of notice of adverse action as required under FCRA.

### **Contact Information**

Settlement information can be obtained by going to the settlement website at:  
[www.hartfordclaims.com](http://www.hartfordclaims.com)

### **History of the Case**

The complaint, filed Oct. 16, 2001, alleged that:

Hartford violated the adverse action notice provisions of section 1681m (a) of FCRA. The complaint also alleged that Hartford acted willfully in violating FCRA. The plaintiff asserted claims individually and on behalf of a putative class of similarly situated individuals who had purchased automobile or homeowners insurance from Hartford on or after January 1, 1997. The complaint requested statutory and punitive damages as well as reasonable attorneys' fees and costs.

Hartford filed a motion for summary judgment on February 14, 2003. On July 31, 2003, the District Court ruled in favor of Hartford, finding that setting initial premiums for new customers is not an "adverse action" under FCRA. The court also ruled that Hartford may not be held liable for its affiliates' failure to send adverse action notices. The plaintiffs appealed to the Ninth Circuit, which reversed the lower court's ruling on January 25, 2006. The court held that Hartford violated FCRA but remanded the action to the District Court for a determination of willfulness.

Hartford filed a petition for a writ of certiorari with the United States Supreme Court on July 19, 2006. The petition challenged the Ninth Circuit Opinion and sought entry of judgment as a matter of law in Hartford's favor. This petition was dismissed April 27, 2007, by agreement of the parties. In related cases, the United States Supreme Court accepted the petition of SAFECO and GEICO on the same Ninth Circuit Opinion and heard arguments in January of 2007 (Docket Nos. 06-0084 and 06-0100). The Supreme Court has not yet ruled on SAFECO/GEICO.

### **Terms of the Settlement Proposed in the agreement approved Feb. 26, 2007**

The Settlement Class consists of all persons in the U.S. who initially purchased personal lines automobile insurance or homeowners insurance from the Hartford Companies during the period of Oct. 16, 1999 through July 17, 2003, and who did not qualify for a lower policy premium based in whole or in part on information contained in the person's consumer credit report.

Settlement Subclass A consists of all persons who are members of the Settlement Class who purchased policies on or after October 16, 1999 and before the New Notice Date. Hartford estimates there are in excess of 360,000 members of Subclass A.

Settlement Subclass B consists of all persons who are members of the Settlement Class who purchased policies on or after the New Notice Date, as below.

The New Notice Date means:

- a. May 1, 2002, for residents of AL, AR, AZ, CO, CT, DE, FL, IA, ID, IL, IN, KS, KY, LA, MT, NV, NY, OK, PA, SC, UT and VA;

- b. June 4, 2002, for residents of GA, MD, MA (homeowners insurance only), ME, MI, MN, MO, MS, NJ and NM;
- c. July 2, 2002, for residents of NC, ND, OH, OR, RI, SD, TN, TX, VT, WA, WI, WV and WY; and
- d. Feb. 4, 2003, for residents of NH.

Benefits to Class Members:

- Subclass A members will receive \$250 per member; however, this payment will be reduced (to no less than \$150), on a pro rata basis, by the amounts approved by the Court to pay attorneys' fees, costs, expenses of Plaintiff's Counsel and the incentive award to the named plaintiff. Plaintiff's Counsel will receive 30% of the gross total settlement amount (the product of the multiplication of the number of members of Subclass A who submit valid claims times \$250). Plaintiff's counsel will also receive \$118,052.73 for expenses. The named plaintiff will receive \$10,000 as an incentive award.
- As to Subclass B members, Hartford will agree to a 24-month injunction, beginning from July 25, 2006, requiring it to use a form of FCRA notice nationwide that complies with the requirements of the Ninth Circuit Opinion. In the event the Ninth Circuit's opinion is withdrawn, reversed, vacated or overruled, Hartford may conform its notices to the changed requirements of the law.

Should you need further information, please do not hesitate to contact Gail Sciacchetano at 816-783-8019, or Kara Binderup at 816-783-8023.