MEMORANDUM

Date: April 4, 2007

To: Members of the NAIC

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

Re: ***Perez v. Asurion Corp.***
Case 06-20734-CIV-SEITZ/MCALILEY

Executive Summary

The lawsuit alleges that Asurion misrepresented the terms of its Wireless Phone Protection Programs, which are repair and replacement programs offered to customers whose wireless phones are lost, stolen or damaged. The lawsuit further alleges that Asurion fulfilled some claims by providing customers with refurbished replacement equipment worth less than the deductible amount and/or with a "defective/lower valued" phone.

This case was originally filed in the U.S. District Court for the Southern District of Florida on August 16, 2005.

The settlement provides relief as follows:
Asurion will disclose that claims may be fulfilled with refurbished equipment and that the deductible is non-refundable. Asurion will improve claims administration procedures to ensure the value of the replacement phone is not less than the amount of the deductible. The monetary payout of the settlement is $1.5 million in settlement phone cards. The face value of the phone card will be $5; however, if there are fewer than 300,000 settlement participants, they may receive significantly more than $5, evenly distributed, from the $1.5 million payout.

The settlement was preliminarily approved on Jan. 23, 2007, and the final fairness hearing is scheduled for May 11, 2007.

Domiciliary or other Regulator Involvement

No regulatory activities are challenged. However, regulators should be aware of this specialized insurance, brokered through cellular phone companies but issued by wireless insurance agents.

Contact Information
Copies of the complaint and settlement information can be obtained on the website:
www.cellphoneinsurancesettlement.com
The toll-free number for the claims administrator is 1-866-403-5439.

History of the Case

This class action, filed August 16, 2005, alleged that Asurion collected millions of dollars in monthly premiums from customers only to demand unreasonable deductibles to provide customers with refurbished and/or cellular phones of a lesser value after a loss. The plaintiffs later amended the complaint to narrow the class to include only those claims that arose after a previous settlement Asurion reached in the *Greiff* case, filed Feb. 20, 2004. *See* Greiff v. Verizon Wireless, Pa. Ct. Common Pls. Allegheny Cty. No. GD 01-14629 (2004).

On June 20, 2006, Asurion filed a motion for summary judgment seeking to dismiss all claims. On June 26, 2006, the plaintiffs filed a motion for class certification seeking to certify a nationwide class. Both of these issues are pending before the court. On January 18, 2007, the parties jointly moved for class certification for settlement purposes only.

Terms of the Settlement Proposed

There are two classes for purposes of the settlement agreement. The National Class consists of subscribers who, between the dates of February 20, 2004 and the date of preliminary approval: made monthly premium payments; submitted a claim for loss under the protection programs; and received a replacement phone that was refurbished. The parties believe there are approximately 10 to 13 million members of the National Class.
The Subclass members are those subscribers above who received a refurbished replacement phone where the equipment cost paid by Asurion was less than the applicable deductible. The parties believe there are approximately 15,000 subclass members.
As part of the settlement, Asurion will provide to insureds a statement that claims may be fulfilled with new and/or refurbished equipment and that each replacement phone is subject to a non-refundable deductible per loss. Prior to collecting the deductible, Asurion will also specifically advise a claimant if it is providing a replacement phone that costs less than the deductible.

Each National Class member who submits a valid proof of claim will receive a settlement phone card with a face value of $5. Asurion will supply a minimum of $1.5 million worth of phone cards to be distributed evenly among the settlement participants. If there are fewer than 300,000 settlement participants, they may receive significantly more than $5, evenly distributed, from the $1.5 million payout. Subclass members will receive these benefits as well as vouchers entitling each Subclass member to obtain a replacement phone (valued between $75 and $100) directly from Asurion.

Each named plaintiff will receive $5,000 for incentive awards. The attorneys' fees and costs paid by Asurion will be up to $1.6 million, subject to court approval.

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