MEMORANDUM

Date: February 10, 2009

To: Members of the NAIC

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

Re: ***Steinberg v. Nationwide Mutual Insurance Company***
Case No. 05-CV-03340

Executive Summary

This class action lawsuit alleged that Nationwide breached auto insurance contracts when it adjusted claim payments to reflect "betterment", or the increased value of new parts to replace used parts in the course of repair.

This case was filed in the U.S. District Court for the Eastern District of New York on July 15, 2005.

The settlement class consists of Nationwide auto policyholders with collision or comprehensive coverage who suffered a loss to an automobile resulting in an adjustment for betterment on the claim payment between January 1, 1993 and November 25, 2008.

The settlement provides relief as follows:

- Class members shall be awarded fifty percent (50%) of the betterment charge appearing on the final repair estimate on a collision or comprehensive automobile insurance claim.
- Nationwide will be required to make disclosures regarding betterment on policies submitted to state regulators for approval.

The settlement was preliminarily approved on November 25, 2008, and the fairness hearing is set for April 10, 2009.

Domiciliary or Other Regulator Involvement

State Insurance Departments should be aware of additional disclosures required for Nationwide under the settlement at the time of form and rate filing. See "Terms of the Settlement" below.

Contact Information

For more settlement information, please refer to the following website:

http://steinbergclassactionsettlement.com/

History of the Case

This class action was originally filed in the Supreme Court of New York on October 13, 1999. That action became known as Steinberg I. The defendant removed to the Eastern District of New York, which granted the plaintiff's motion for class certification on April 6, 2000. On Dec. 30, 2004, the United States Court of Appeals for the Second Circuit ruled that the District Court lacked subject matter jurisdiction over Steinberg I. The plaintiff filed another action, Steinberg II, in the Eastern District on July 15, 2005, and subject matter jurisdiction was upheld on March 7, 2006.

The plaintiff, individually and on behalf of all others similarly situated, alleged breach of contract by Nationwide. The plaintiff alleged that Nationwide improperly reduced his auto insurance claim payment to reflect the purported difference in value between the used auto part that failed and the new part that was used to replace it. This concept is known as "betterment", and the plaintiff alleged that betterment charges are not defined in, nor are they authorized by the insurance contract.

The Defendant continues to deny all material allegations of wrongdoing and maintains that Steinberg II does not meet the requirements for a class action. The parties reached a settlement agreement, which was filed on November 12, 2008.

Terms of the Settlement Proposed in the Agreement Filed November 12, 2008

Class members will be entitled to fifty percent (50%) of the betterment charge appearing on the final repair estimate on a collision or comprehensive automobile insurance claim. The settlement class includes all persons who were insured under the collision and/or comprehensive coverage of an automobile policy that was issued by any of the settling Nationwide entities, and who suffered a loss to an automobile in the United States resulting in a payment that included an adjustment for betterment during the class period. The class period is January 1, 1993 to November 25, 2008.

In addition, for a period of five years from the date of the Final Approval Order, Nationwide will be required, upon the usual and customary course of seeking approval and/or re-approval of automobile insurance policy forms submitted for review and approval to a state insurance department, to incorporate language in those forms:

1. Explicitly providing that betterment may be considered in the determination of actual cash value with regard to first-party collision and comprehensive claims;

2. Stipulating that if the repair or replacement of a vehicle results in betterment, no coverage will be provided for such betterment; and

3. Defining “betterment” as an increase in value of a vehicle or any of its parts as a result of replacing certain parts damaged in a loss.

The Class Counsel in this case will request an award of attorneys’ fees, costs, and expenses payable to Class Counsel in a total amount not to exceed $2,750,000.

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