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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

ENTERED
NOV 28 2005
IN REGISTER SD

CR 616

MARK STRAWN, On His Own Behalf, and
as Representative of a Class of Similarly
Situated Persons,

Plaintiff,

v.

FARMERS INSURANCE COMPANY OF
OREGON, a Stock Insurance Company;
MID-CENTURY INSURANCE
COMPANY, a foreign corporation; and
TRUCK INSURANCE EXCHANGE, a
foreign corporation, and FARMERS
INSURANCE GROUP INC, a foreign
corporation

Defendants.

Case No. 9908-09080

GENERAL JUDGMENT

FILED

NOV 15 2005

3:36 PM

CIRCUIT COURT
Multnomah County, Oregon

This action came for jury trial before the Honorable Jerome E. LaBarre on November 3, 2003, on plaintiff's Third Amended Complaint, which alleged a First Claim for Relief for breach of contract, a Second Claim for Relief for tortious bad faith (Count One) and for breach of the covenant of good faith and fair dealing (Count Two), a Fourth Claim for Relief for fraud, and for a court trial on plaintiff's Third Claim for Relief alleging a claim for declaratory relief. Plaintiff appeared personally and was represented by Richard S. Yugler and Robert B. Hopkins of Landye Bennett Blumstein, LLP, and defendants appeared through its representatives Douglas Heatherington and John McCoy and were represented by Michael D. Hoffman and Mark E. Olmsted of Hoffman, Hart & Wagner, LLP. A jury was selected, opening statements were made by counsel, the parties called witnesses who testified, and evidence was received by the court. Following closing arguments, and after the court provided instructions to the jury, the jury

1 returned its verdict and special interrogatory in open court on December 5, 2003, which, omitting
2 caption and instructions, found as follows:

3 1. Did defendants breach the insurance contract as claimed by plaintiff?

ANSWER: Yes.

4 2. Did the class members sustain damage as a result of defendants' breach of
5 contract?

ANSWER: Yes.

6 3. Did the defendants breach the implied covenant of good faith and fair dealing
7 in one or more of the ways claimed by plaintiff?

ANSWER: Yes.

8 4. Did the class members sustain damage as a result of defendants' breach of the
9 implied covenant of good faith and fair dealing?

ANSWER: Yes.

10 5. Did defendants commit fraud in one or more of the ways claimed by plaintiff?

ANSWER: Yes.

12 6. Did the class members sustain damage as a result of defendants' fraud?

ANSWER: Yes.

13 7. What is the amount of compensatory damages and prejudgment interest you
14 award to the class members?

ANSWER: \$757,051.33 (compensatory damages).

ANSWER: \$742,948.67 (prejudgment interest).

16 8. Should punitive damages be awarded against defendants as to the Third Claim
17 for fraud?

ANSWER: Yes.

18 9. What is the amount of punitive damages you assess against the defendants?

ANSWER: \$8,000,000.00.

19 10. Special Interrogatory. Was defendants' use of the 80th and later the 90th
20 percentiles for reduction of medical expenses, in conjunction with its review and
21 appeal process, arbitrary and unreasonable?

ANSWER: Yes.

22 Dated: December 5, 2003.

Signed: Kathleen A. Raisler, Presiding Juror.

23
24 Subsequently, on December 12, 2003, the court issued a declaration in open court in
25 favor of plaintiff and against defendants on plaintiff's Third Claim for Relief, which sought relief
26 under the Uniform Declaratory Judgment Act, as follows:

1 The plaintiff and class members are persons interested under a written insurance
2 agreement with defendants, whose rights and legal relations are affected by an
interpretation and construction of ORS 742.524(1)(a);

3 A case and controversy exists between the plaintiff and class members, and the
4 defendants, in that plaintiff and class members contend that defendants' practice
5 of refusing to pay that portion of any and all medical and hospital services in
6 excess of its determination of the 80th and 90th percentiles is in violation of the
7 requirements under ORS 742.524(1)(a) that a PIP insurer pay all reasonable
medical and hospital services, and defendants contend that its statistical cost
containment process in conjunction with its appeal and review process complies
with its statutory obligation to pay all reasonable expenses under
ORS 742.524(1)(a);

8 The defendants' use of the 80th and later the 90th percentiles for reduction of
9 medical expenses, in conjunction with its review and appeal process, was
10 arbitrary and unreasonable, that the defendants breached the insurance contract,
and breached the covenant of good faith and fair dealing as claimed by the
plaintiff; and

11 The defendants' statistical policy and practice of reducing charges in excess of its
12 determination of the 80th and 90th percentiles is and was in violation of ORS
742.524(1)(a).

13 On March 27, 2002, the court granted summary judgment for defendants on the Second
14 Amended Complaint directed against the Fourth Claim for Relief alleging breach of fiduciary
15 duty, and against plaintiff's Fifth Claim for Relief alleging negligent misrepresentation. On
16 November 18, 2003, the court granted Defendants' Motion for Directed Verdict on the Third
17 Amended Complaint directed against the Second Claim for Relief (Count One) alleging tortious
18 bad faith. On December 7, 2000, plaintiff gave notice of voluntary dismissal of defendant
19 Farmers Insurance Group, Inc.

20 On and after June 21, 2004, the court requested that class members and their assigns who
21 may be entitled to individual monetary recovery submit a statement in a Claims Form requesting
22 affirmative relief. The class members, who have been found to be members of the class, and
23 their assigns, set forth in Exhibit A, which is attached hereto and incorporated by reference
24 herein, submitted statements in claims forms requesting individual monetary recovery, and have
25 agreed to be bound by the judgment entered herein. The class members set forth in Exhibit B,
26 which is attached hereto and incorporated by reference herein, failed to submit statements in

1 claim forms.

2 On December 22, 2004, the court entered an order granting plaintiff statutory attorney
3 fees of \$2,670,000.00 and litigation expenses of \$187,416.00 to be included the common fund
4 and in the judgment entered against defendants pursuant to ORS 742.061, and costs and
5 disbursements of \$9,743.00 as part of the monetary award for the class and class representative.

6 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as
7 follows:

8 1. The class members and assigns set forth in Exhibit A are entitled to an amount of
9 individual monetary recovery in the specific amounts set forth in Exhibit A, plus accruing
10 interest thereon as detailed in items 7 and 8 of the Money Award;

11 2. The claims of class members set forth in Exhibit B for individual monetary recovery
12 are hereby dismissed without prejudice to the right to maintain an individual, but not a class
13 action, for such claim;

14 3. On plaintiff's Third Amended Complaint for plaintiff's First Claim for Relief alleging
15 breach of contract, Second Claim for Relief (Count Two) alleging breach of the covenant of
16 good faith and fair dealing, and Fourth Claim for Relief alleging fraud, the plaintiff, Mark
17 Strawn, in his capacity as representative of a class of similarly situated persons, and individual
18 class members entitled to individual monetary recovery identified in Exhibit A, incorporated by
19 reference herein, shall have, take, and recover a judgment against defendants Farmers Insurance
20 Company of Oregon, a stock insurance company, Mid-Century Insurance Company, a foreign
21 corporation, and Truck Insurance Exchange, an interinsurance or reciprocal exchange, jointly
22 and severally, in the sum of Six Hundred Seven Thousand Seven Hundred Thirty-Four and
23 40/100 Dollars (\$607,734.40) for compensatory damages, and the sum of Two Hundred Ninety
24 Thousand Five Hundred Eight-Nine and 40/100 Dollars (\$290,589.40) for interest through
25 December 5, 2003, and on plaintiff's Fourth Claim for Relief alleging fraud the further sum of
26 \$8,000,000.00 as punitive damages;

1 4. Plaintiff Mark Strawn in his capacity as representative of a class of similarly situated
2 persons identified in Exhibit A, shall have, take, and recover judgment for plaintiff's statutory
3 attorney fees in the amount of \$2,670,000.00 and litigation expenses of \$187,416.00, on the
4 plaintiff's First Claim for Relief alleging breach of contract, and Second Claim for Relief (Count
5 Two) alleging breach of the covenant of good faith and fair dealing, and in the amount of
6 \$9,743.00 for costs and disbursements on such claims, and on plaintiff's Fourth Claim for Relief
7 alleging fraud, against defendants Farmers Insurance Company of Oregon, a stock insurance
8 company, Mid-Century Insurance Company, a foreign corporation, and Truck Insurance
9 Exchange, a foreign corporation, jointly and severally;

10 5. On plaintiff's Third Amended Complaint for plaintiff's Third Claim for Relief
11 alleging declaratory relief, the court hereby declares that:

12 The plaintiff and class members are persons interested under a written insurance
13 agreement with defendants, whose rights and legal relations are affected by an
14 interpretation and construction of ORS 742.524(1)(a);

15 A case and controversy exists between the plaintiff and class members, and the
16 defendants, in that plaintiff and class members contend that defendants' practice
17 of refusing to pay that portion of any and all medical and hospital services in
18 excess of its determination of the 80th and 90th percentiles is in violation of the
19 requirements under ORS 742.524(1)(a) that a PIP insurer pay all reasonable
20 medical and hospital services, and defendants contend that its statistical cost
21 containment process in conjunction with its appeal and review process complies
22 with its statutory obligation to pay all reasonable expenses under ORS
23 742.524(1)(a);

24 The defendants' use of the 80th and later the 90th percentiles for reduction of
25 medical expenses, in conjunction with its review and appeal process, was
26 arbitrary and unreasonable, that the defendants breached the insurance contract,
and breached the covenant of good faith and fair dealing as claimed by the
plaintiff; and

The defendants' statistical policy and practice of reducing charges in excess of its
determination of the 80th and 90th percentiles is and was in violation of ORS
742.524(1)(a).

24 6. Plaintiff's Second Amended Complaint for plaintiff's Fourth Claim for Relief alleging
25 breach of fiduciary duty, the Fifth Claim for Relief alleging negligent misrepresentation, and the
26 Third Amended Complaint for the Second Claim for Relief (Count One) alleging tortious bad

1 faith are dismissed with prejudice, and all claims against Farmers Insurance Group, Inc. are
2 dismissed from this action with prejudice.

3 MONEY AWARD

4 1. Name and address of judgment creditors: Mark Strawn, As representative of a class of
5 similarly situated persons whose names and
6 addresses are identified in Exhibit A, which is
incorporated by reference herein

7 2. Name, address and phone number of Richard S. Yugler
8 creditor's attorney: Landye Bennett Blumstein LLP
9 1300 SW 5th Avenue, 35th Floor
Portland, OR 97201
Tel: 503-224-4100

10 3. Name of each Judgment Debtor, address, Farmers Insurance Company of Oregon
11 date of birth, social security number and 13333 SW 68th Pkwy.
12 driver's license number and state of issuance Tigard, OR 97223
13 for judgment debtor: DOB: N/A
Federal Tax ID #: 95-2655893
Driver License #: NA
State of Issuance: NA

and

14 Mid-Century Insurance Company
15 4680 Wilshire Blvd.
16 Los Angeles, CA 90010
17 DOB: N/A
18 SSN: (Federal Tax ID No.): 95-6016640
Driver License #: N/A
State of Issuance: N/A

and

19 Truck Insurance Exchange
20 4680 Wilshire Boulevard
21 Los Angeles, CA 90010
22 DOB: N/A
23 SSN: (Federal Tax ID No.): 95-2575892
Driver License #: N/A
State of Issuance: N/A

24 4. Name of judgment debtor's attorney: Michael D. Hoffman
25 Hoffman, Hart & Wagner, LLP
26 1000 SW Broadway, 20th Floor
Portland, OR 97205
Tel: 503-222-4499

1 5. Name of any person or public body known
2 by judgment debtor, other than judgment
3 creditor's attorney, entitled to any portion of
4 payment on the judgment:

State of Oregon, Department of Justice,
Criminal Injuries Compensation Account,
pursuant to ORS 18.540, solely as to punitive
damages, and without prejudice to plaintiff's
objection on any grounds.

4 6. Amount of the money award:

\$898,323.80 for compensatory damages and
pre-verdict interest; and

\$8,000,000.00 for punitive damages

7 7. Interest owed to the date of the judgment,
8 either as a specific amount or as accrual
9 information, including the rate or rates of
10 interest, the balance or balances upon which
11 interest accrues, the date or dates from which
12 interest at each rate on each balance runs and
13 whether interest is simple or compounded:

Nine percent (9%) per annum on the money
award (#6) commencing on December 5, 2003,
through the date of entry of judgment.

11 8. Post-judgment interest accrual information,
12 including the rate or rates of interest, the
13 balance or balances upon which interest
14 accrues, the date or dates from which interest
15 at each rate on each balance runs and whether
16 interest is simple or compounded:

Commencing on date of entry of judgment
until paid, nine percent (9%) per annum on the
amount of the money award (#6), interest owed
(#7), costs and disbursements (#11), litigation
expenses, and attorney's fees (#10).

14 9. For monetary obligations that accrue on a
15 periodic basis, any accrued arrearages, required
16 further payments per period and accrual dates:

N/A

17 10. Attorney's fees and litigation expenses:

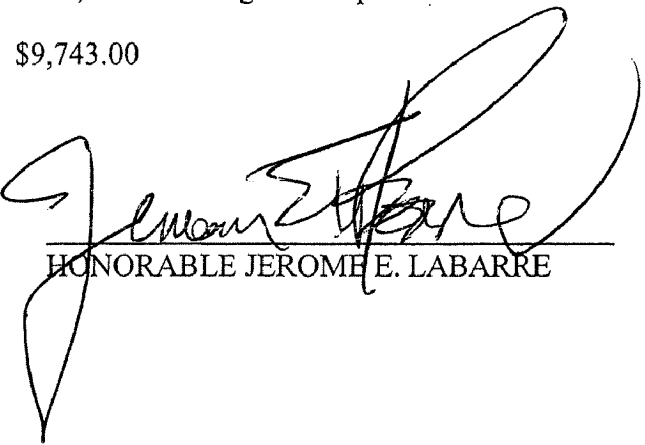
\$2,670,000.00 – attorney fees

\$187,416.00 – litigation expenses

19 11. Costs and disbursements

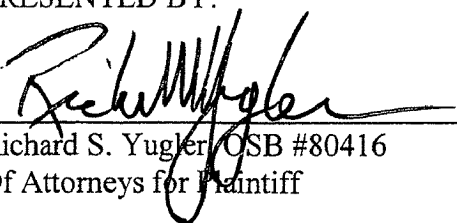
\$9,743.00

20 DATED: November 10, 2005.



HONORABLE JEROME E. LABARRE

23 PRESENTED BY:



24 Richard S. Yugler, OSB #80416
25 Of Attorneys for Plaintiff
26