

You Are Receiving This Class Action Notice Because Your Vehicle Was Deemed A Total Loss By American Family Insurance Company, and You May Be Eligible To Receive Compensation For Underpayment Of Your Insurance Claim.

This Notice was authorized by King County Superior Court. This is not a solicitation from a lawyer.

- Subject to court approval, the settlement will provide up to \$2,238,335 (less legal fees and costs) to pay claims from those who properly submit Claim Forms by April 21, 2023.
- The settlement affects the rights of American Family Insurance Company (“AmFam”) insureds whose vehicles were deemed to be a total loss and where the actual cash value of their vehicles was calculated in part by the application of a “typical negotiation” or condition deductions.

| Your legal rights and options in this settlement | |
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| Participate in the Settlement | If you wish to receive money from the settlement, you must file a Claim Form by April 21, 2023 . The yellow Claim Form is enclosed with this Notice. The Claim Form is also available online at www.WATotalLossSettlement.com . |
| Exclude Yourself From the Settlement | If you do not want to receive money from the settlement, but you want to keep your rights to sue defendants separately, you must send a letter requesting exclusion postmarked no later than February 6, 2023 . |
| Object to the Settlement | If you wish to object to the settlement, you must file a written objection with the Court, and mail copies to Class Counsel and Defendants’ Counsel stating your objections. Your letter to the Court must be received no later than February 22, 2023 . |
| Participate in a Hearing | You may appear in Court and be heard at the time of the Final Approval Hearing. If you submit a timely objection to the settlement, you must also indicate in the objection that you wish to appear in Court and be heard at the time of the Final Approval Hearing. |
| Do nothing | If you do nothing with respect to this Notice, you will not receive any money but you will still be bound by the terms of the settlement , including the release of claims described below. |

1. Why did I get this Letter?

You have received this letter (called a “Notice”), and the enclosed **yellow Claim Form(s)**, because AmFam’s records show that your vehicle was declared a total loss arising out of an accident between July 28, 2015 and March 7, 2020, and because you meet certain other requirements set forth in Section 5, below.

The class action suit has been pending in Superior Court since July 28, 2021. It has now been resolved for up to \$2,238,335. If the settlement is approved, you may be eligible for benefits that will be provided as part of the proposed settlement. This Notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. If you wish to receive money from or comment upon (or object to) the settlement, you must do so following the procedures described below. If you do nothing, you will be bound by the terms of the settlement and any final judgment.

This case, *Yermakovych v. American Family Insurance Company*, Case No. 21-2-09966-8, is in King County Superior Court. The person who brought this class action lawsuit, called the “Plaintiff,” has sued AmFam on behalf of certain of its policyholders with “total loss” claims.

2. What is this lawsuit about?

In the lawsuit, Plaintiff claims that, in settling claims using Autosource valuation reports, AmFam improperly took deductions for “typical negotiation” and “condition” when calculating the actual cash value of a vehicle declared a total loss. Plaintiff alleges that these deductions were not factually supported, nor reasonable, nor allowed by Washington Administrative Code § 284-30-391 or the AmFam insurance contract. Plaintiff alleges that the use of the “typical negotiation” discount resulted in the underpayment of total-loss claims to AmFam insureds who received total-loss payments based upon the Autosource valuations. AmFam denies that it did anything wrong. In particular, it contends that it was appropriate to use historical sales data to account for the difference between a vehicle’s advertised price and actual negotiated sale price, and denies the “typical negotiation” or condition deductions violated Washington Law. The Court has not decided who is right.

3. Why is this a class action?

In a class action, a person called the Class Representative sues on behalf of people who have similar claims. All of these people are part of a “Class.” One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. King County Superior Court Judge Matthew Williams is presiding over this class action.

4. Why is there a settlement?

Prior to further proceedings, both sides agreed to a settlement, which, if approved, brings the litigation to an end. That way, Plaintiff and AmFam avoid the cost, delay, and uncertainty of moving forward in litigation to trial and possible appeals, and the Class Members will get payments. The Class Representative and his attorneys think the settlement is best for the Class Members.

You are eligible to receive money from this settlement, if you submit a valid Claim Form.

5. How do I know if I am part of the settlement Class?

You are a member of the Class if you are an AmFam insured under a Washington policy who was paid because a vehicle you owned (that is, not a leased, rented, or borrowed vehicle) was declared a total loss under one of your AmFam First Party Coverages (Comprehensive, Collision, and UIM) and received a total-loss valuation from AmFam based upon an “Autosource” estimate that took a “typical negotiation” discount.

You are not a part of the Class if you (a) are not an AmFam insured with Washington first party personal lines policies issued in Washington State, who received compensation for the total loss of your vehicle under your First Party Coverages (Comprehensive, Collision, or Underinsured Motorist (UIM)) and received a total-loss valuation from AmFam based upon an Autosource estimate which took a deduction/adjustment for the “typical negotiation” amount; or (b) you or someone acting on your behalf (e.g., attorney, expert, public adjuster) provide written documentation disputing AmFam’s valuation or providing an alternative valuation of your vehicle (for example, blue book, advertisement of a similar vehicle, public adjuster or other expert opinion) and AmFam increased what it paid based upon the additional information you submitted.

6. How much will my payment be?

Each Class Member’s payment will depend on how much may have been deducted from the claimant’s Autosource valuation through the “typical negotiation” and condition deductions.

Each Class Member is entitled to submit a claim. For Class Members who answer the three questions, sign their Claim Form, and qualify for a payment, they will receive a payment based upon the amount of “typical negotiation” and condition deductions reduced by the pro rata share of costs and fees authorized by the Court. The gross settlement payment is anticipated to be approximately 65% of the amount of the deductions.

Not everyone who receives this Notice will be eligible for payment. You can only receive a payment if you submit a valid Claim Form according to the requirements set forth in Section 7, below.

7. How can I receive a payment?

To qualify for payment, you must be an eligible Class Member (see Section 5, above) and submit a valid Claim Form. The Claim Form (the single **yellow** page) is enclosed with this Notice. An electronic copy of the Claim Form is also available at www.WATotalLossSettlement.com. Read the instructions carefully, fill out the Claim Form by April 21, 2023, sign it, and submit it by mail postmarked by April 21, 2023 or by filling it out and submitting it at www.WATotalLossSettlement.com.

8. When would I get my payment?

The Court will hold a hearing on March 10, 2023, to decide whether to approve the settlement. If the Court approves the settlement, and there are no appeals, we estimate that initial checks will be mailed in May, 2023. If you qualify for a payment, you will receive it after all appeals have been concluded and the settlement is approved with no further appeals possible.

We will provide regular updates of the status of the settlement to all people who submit Claim Forms at www.WATotalLossSettlement.com. Please be patient.

9. What am I giving up to get a payment or stay in the Class?

Unless you opt out of the Class, you are in the Class, which means that you cannot sue, continue to sue, or be part of any other lawsuit against AmFam about the factual and legal issues in this case. It also means that all of the Court’s orders in this case will apply to you and legally bind you.

10. Do I have a lawyer in this case?

The following attorneys represent you, Plaintiff, and the other Class Members:

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| <p>Duncan C. Turner Mark A. Trivett Badgley Mullins Turner, PLLC 19929 Ballinger Way NE, Suite 200 Shoreline, WA 98155 info@badgleymullins.com (206) 621-6566</p> | <p>Daniel R. Whitmore Law Offices of Daniel R. Whitmore, PS 6840 Fort Dent Way Tukwila, WA 98188</p> |
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These lawyers are working together on your behalf and can be reached via the above emails and telephone numbers.

These lawyers are called “Plaintiffs’ Counsel” or “Class Counsel.” You owe nothing if you participate in the settlement; their fees are to be determined separately by the Court and paid by AmFam, with a pro rata deduction in settlement payments. If you want to be represented by your own lawyer, you may hire one at your own expense.

11. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys’ fees and expenses of up to \$559,583.75 and out-of-pocket costs of up to \$10,000, according to the terms of the Stipulation of Settlement. Class Counsel have worked continuously on this case but have not received any money for that work. The attorneys’ fees and costs, as awarded by the Court, shall be paid from the common fund available for distribution to eligible Class Members in this settlement. In addition, Class Counsel will apply to the Court for a service award of up to \$5,000 for Mr. Yermakovych. This service award is being requested in recognition of the time, effort, and risk incurred by the Class Representative in securing this settlement for you and the other Class Members.

12. If I want to, how can I tell the Court that I like or don't like the settlement?

If you're a Class Member, you can—but need not—comment on the settlement. You can give reasons why you think the Court should or should not approve it. The Court will consider your views. To comment or object, you must send a letter with your comment to the two lawyers listed below, postmarked by February 22, 2023. Be sure to include your name, address, telephone number, your signature, and the reasons for your comment on (or objection to) the settlement. Mail the comment to both lawyers listed below:

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| <u>Class Counsel</u> Duncan C. Turner Badgley Mullins Turner, PLLC 19929 Ballinger Way NE Suite 200 Shoreline, WA 98155 | <u>Counsel for AmFam</u> Christopher M. Assise Sidley Austin LLP One South Dearborn Street Chicago, IL 60603 |
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Any objections which are not timely served on both counsels will not be considered by the Court.

13. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Settlement Hearing at 1:30 p.m. on March 10, 2023 at Courtroom 3A, Maleng Regional Justice Center, 401 4th Ave N, Kent, WA 98032. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Williams will listen to anyone at the hearing who asked to speak, and if objections were timely served, will consider them. The Court will also decide how much to pay Class Counsel. The Final Settlement Hearing may be postponed without further notice to the Class.

14. Do I have to come to the hearing?

No. Class Counsel will answer any questions Judge Williams may have. But, you are welcome to come at your own expense. If you send a comment (including an objection), you don't have to come to Court to talk about it. As long as you file your objection with the Clerk of the Court no later than fourteen days before the Final Approval Hearing, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

15. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Settlement Hearing. To do so, you must send a letter to both lawyers listed in Section 12, above, stating that it is your "Notice of Intention to Appear at the Final Settlement Hearing in *Yermakovych v. American Family Insurance Company*." You must include your name, address, telephone number, and signature. If you wish to object to the settlement, you must also provide a detailed statement of the specific legal and factual basis for each and every objection and a detailed description of any and all evidence you may offer at the Final Settlement Hearing, including photocopies of any and all exhibits which you may introduce at the Final Approval hearing. Your Notice of Intention to Appear must be postmarked by February 22, 2023.

16. What happens if I do nothing at all?

If you do nothing, you will get no money from this settlement. If you are a Class Member, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against AmFam about the legal issues in this case ever again. The only method of obtaining compensation is timely submission of a valid Claim Form.

17. Are there more details about the settlement?

This Notice summarizes the proposed settlement. More details are available in the Settlement Agreement. You can view and print a copy of the Settlement Agreement and other information about the lawsuit by visiting www.WATotalLossSettlement.com, where you will find answers to common questions about the settlement, and other information to help you determine whether you are eligible for a payment. The website will also have instructions for filling out your Claim Form online.

Please do not call the Court, the Court Clerk's office, or AmFam to inquire about this settlement. They will be unable to help you.