

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

*Wagner, et al. v. Safeco Insurance Company of Illinois*  
Case No.: CI20-10735

**IMPORTANT NOTICE OF CLASS ACTION SETTLEMENT**

**The Court authorized this Notice.  
This is not a solicitation from a lawyer.  
You are not being sued.**

**PLEASE READ THIS NOTICE CAREFULLY**

If you had a total loss claim and did not receive reimbursement for sales tax, you may be a class member in a class action against Safeco Insurance Company of Illinois. A settlement has been reached in the case, *Wagner, et al. v. Safeco Ins. Co. of Illinois*, Case No. CI20-10735 (Neb. Dist. Ct., Douglas Cty.) (the "Action"), entitling eligible Settlement Class Members who make a claim to 7% of the actual cash value of the Adjusted Vehicle Value at the time of your total loss for state sales tax. This Notice explains: 1) the terms of the Settlement; 2) who is a member of the Class; 3) how to submit a claim for payment; 4) how to request exclusion from the Settlement; 5) how to object to the Settlement; and 6) how to get more information about the Settlement.

The insurance company included in the proposed settlement is Safeco Insurance Company of Illinois ("Safeco" or "Defendant").

You have been identified as someone who may be a "Settlement Class Member" from Safeco's claims data because you may be a Nebraska policyholder insured by Safeco who submitted a covered physical damage claim with respect to a covered vehicle during the period of December 21, 2015 through November 30, 2021 that resulted in a total loss claim payment which did not include reimbursement for sales tax. This settlement concerns both leased and owned vehicles.

IF YOU ARE A CLASS MEMBER, THIS LEGAL PROCEEDING MAY AFFECT YOUR RIGHTS.

HELP IS AVAILABLE TO ASSIST YOUR UNDERSTANDING OF THIS NOTICE. Call **1-888-226-2512** toll free for more information.

**What is a Class Action?**

A class action is a lawsuit in which one or more individuals bring claims on behalf of other persons or entities. These persons or entities are referred to as a "Class" or "Class Members." In a certified class action, the Court resolves certain issues, legal claims, and/or defenses for all Class Members in a single action, except for those persons or entities who ask in writing to be excluded from the Class.

**What is this Class Action About?**

Plaintiff alleges that Safeco breached its contracts (insurance policies) by failing to pay sales tax purportedly owed on first-party total-loss vehicle claims to Plaintiff and Class Members who are Nebraska insureds, who submitted physical damage claims for their leased or owned vehicles during the class period. Specifically, Plaintiff alleges that Safeco owed state-wide sales tax imputed for purposes of settlement as 7% of the actual cash value as previously adjusted of the total loss vehicle at the time of loss. Safeco maintains that it complied with the terms of the insurance policies and applicable law, denies that it acted wrongfully or unlawfully, and continues to deny all material allegations, including that it owed total loss claimant sales tax.

You are receiving this Notice because a Settlement of the case has been reached between the Plaintiff, acting on behalf of the Class, and Safeco. The Court has preliminarily approved the Settlement, including the preliminary approval of a Settlement Class.

The Court is conducting a SETTLEMENT FAIRNESS HEARING on April 15, 2022, to decide whether to grant final approval of the Proposed Settlement.

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## Settlement Terms

As a part of the settlement, Safeco has agreed to pay sales tax to each eligible Settlement Class Member who makes a valid claim:

- (a) 7% of the actual cash value of the Class Member's vehicle as determined by the Adjusted Vehicle Value of the insured vehicle as shown in the Defendant's data; or
- (b) where the Defendant's data does not include an Adjusted Vehicle Value, \$540.32, which is 7% of the average cash value shown in the Defendant's data.

**This settlement concerns both leased and owned vehicles.** The average claim payment to eligible Settlement Class Members is estimated to be \$540.32. This is only an average; individual payments will vary based on the value of your totaled vehicle.

The payment is the full amount sought in the case. In addition, Safeco has agreed to pay attorneys' fees, costs, and expenses of up to \$245,000.00, and up to \$5,000.00 as a service award to the Class Representative if approved by the court. These payments will be paid in full by Safeco and will not reduce the amount of money available to Settlement Class Members.

In exchange, the Plaintiff and Class Members who do not exclude themselves from the Settlement agree to give up any claim they have for payment of sales tax on their total loss claim. If you are a member of the Class, you can submit a claim to be paid sales tax. Alternatively, you may, if you wish, request to be excluded from the Settlement, which means you are not eligible for payment, and you maintain your right to sue Safeco individually. You may also object to the terms of the Settlement if you comply with the requirements set forth below.

### How Do I Know if I am a Member of the Class?

You may be a member of the class action (a "Class Member") against Safeco if you were a Nebraska policyholder and insured by Safeco and submitted a physical damage claim with respect to a covered leased or owned vehicle during the period December 21, 2015 through November 30, 2021 that resulted in a total loss claim payment that did not include sales tax. You received this Notice because Safeco's records indicate you may be a member of the Class.

### If I Am a Class Member, What Are My Options?

If you are a Class Member, you have four options.

#### **Option 1: Submit a Claim Form for Payment.**

You may submit a Claim Form for payment of sales tax if you did not previously receive sales tax from Safeco in connection with your total loss claim. If you received a Notice in the mail, the Notice included a pre-filled Claim Form. You can submit a claim by signing the Claim Form, carefully tearing at the perforation, and putting the Claim Form in the mail (the Claim Form is addressed and has necessary postage prepaid). If you do not have your Claim Form, you can call 1-888-226-2512 or visit [www.NEInsuranceClassAction.com](http://www.NEInsuranceClassAction.com) and request that the Settlement Administrator send you a Claim Form as described above (or a blank form that you will need to fill out).

You can submit an electronic claim by clicking the hyperlink in the emailed notice that will take you to the pre-filled online claim form.

You also can submit an Electronic Claim Form by visiting [www.NEInsuranceClassAction.com](http://www.NEInsuranceClassAction.com), clicking the MAKE A CLAIM button, and following the steps outlined for you. An email Notice of the Settlement also has been sent to Settlement Class Members for whom Safeco has email addresses. The email has a link to permit you to access the website to make a claim using a Claimant ID contained in the email and the Mailed Notice.

You can make a claim on [www.NEInsuranceClassAction.com](http://www.NEInsuranceClassAction.com) by clicking the MAKE A CLAIM button. You will need a Claimant ID (which was included in the Mailed Notice and Email Notices) or your last name and Policy number or claim number. If you do not know your Claimant ID, you can call 1-888-226-2512 and provide your last name and seek assistance in determining your Claimant ID. You can also fill out the information in an electronic blank form.

If you submit a Claim Form in the mail, it must be postmarked no later than May 16, 2022. If you submit an Electronic Claim, you must do so by 11:59 p.m. on May 16, 2022.

**Option 2: Exclude yourself from the Case.**

You have the right to not be part of the Settlement by excluding yourself for "opting out" of the Class. If you wish to exclude yourself, you must do so on or before as described below. You do not need to hire your own lawyer to request exclusion from the Class. If you exclude yourself from the Class, you give up your right to receive sales tax or any other benefits as part of this settlement, and you will not be bound by any judgments or orders of the Court, whether favorable or unfavorable. However, you will keep your right to sue Safeco separately in another lawsuit if you choose to pursue one.

To exclude yourself from this lawsuit and/or preserve your right to bring a separate case, you must make a request to be excluded in writing and, with sufficient postage, mail therequest to:

CLAIMS ADMINISTRATOR  
c/o Wagner v. Safeco Insurance Company of Illinois  
P.O. Box 25481  
Santa Ana, CA 92799

A request for exclusion must be postmarked by on or before March 16, 2022.

Your request for exclusion must contain the following:

1. The name of the lawsuit;
2. Your full name;
3. Your current address;
4. A clear statement that you wish to be excluded from the Class, such as: "I request exclusion from the Class"; and
5. Your signature.

The Settlement Administrator will file your request for exclusion with the Court. If you are signing on behalf of a Class Member as a legal representative (such as an estate, trust or incompetent person), please include your full name, contact information, and the basis for your authority. A request for exclusion must be exercised individually and not on behalf of a group.

**IF YOUR REQUEST TO EXCLUDE YOURSELF FROM THE CLASS IS NOT POSTMARKED BY DEADLINE OF MARCH 16, 2022, YOU WILL REMAIN PART OF THE CLASS AND WILL BE BOUND BY THE ORDERS OF THE COURT IN THIS LAWSUIT AND BY THE TERMS OF THE SETTLEMENT IF IT IS APPROVED BY THE COURT, EVEN IF YOU DO NOT SUBMIT A CLAIM FOR PAYMENT. IF YOU DO NOT WISH TO BE BOUND BY THE DECISIONS OR SETTLEMENT IN THIS CASE, YOU MUST REQUEST EXCLUSION FROM THE CLASS ACTION.**

**Option 3: Object to the Terms of the Settlement.**

The full terms of the Settlement can be found at [www.NEInsuranceClassAction.com](http://www.NEInsuranceClassAction.com). If you think the terms of the Settlement are not fair, reasonable, or adequate to the Class Members, you can file a Notice of Intent to object to the terms of the Settlement. If you object to the terms of the Settlement, you cannot request exclusion from the Settlement. If you object to the terms of the Settlement and your objection is overruled, you will be bound by the terms of the Settlement and all rulings and orders from the Court.

To properly object to the terms of the Settlement, you must file your objection with the Court and send, with sufficient postage, a Notice of Intent to object to the terms of the settlement and to appear at the Fairness Hearing (described below) to the following:

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CLAIMS ADMINISTRATOR  
c/o Wagner v. Safeco Insurance Company of Illinois  
P.O. Box 25481  
Santa Ana, CA 92799

The Notice of Intent must include the following:

1. The name of the case and case number;
2. Your name, address, telephone number, and signature;
3. The specific reasons why you object to the terms of the Proposed Settlement;
4. The name, address, bar number, and telephone number of any attorney who represents you related to your intention to object to the terms of the Settlement;
5. State whether you and/or your attorney intend to appear at the Fairness Hearing and whether you and/or your attorney will request permission to address the Court at the Fairness Hearing.

If you and/or your attorney intend to request permission to address the Court at the Fairness Hearing, your Notice of Intent must also include the following:

1. A detailed statement of the legal and factual basis for each of your objections;
2. A list of any witness you may seek to call at the Fairness Hearing (subject to applicable rules of procedure and evidence and the discretion of the Court), with the address of each witness and a summary of his or her proposed testimony;
3. A list of any legal authority you may present at the Fairness Hearing; and
4. Documentary proof of membership in the Settlement Class.

Notices of Intent to object must be received by March 16, 2022. Any Notice of Intent that is not received by the deadline set forth above or which does not comport with the requirements listed above may waive the right to be heard at the Fairness Hearing. If you file a Notice of Intent, you waive the right to request exclusion from the Class and will be bound by any decisions and orders from the Court and by the terms of the Settlement if it is approved by the Court. If you do not want to be bound by the decisions and rulings by the Court and the terms of the settlement, you must file a request for exclusion, not a Notice of Intent.

**Option 4: Do Nothing Now. Stay in the Case.**

You have the right to do nothing. If you do nothing, you will be bound by the terms of the Settlement and will release any claim against Safeco for sales tax or title and tag fees, even if you do not submit a Claim for payment. In other words, if you do nothing, you will give up your right to sue Safeco and receive nothing in return.

**Who Is Representing the Class?**

The Court has preliminarily appointed Brett Wagner (the "Named Plaintiff") to be the representative of the Class. The Court has also preliminarily appointed the following lawyers as Class Counsel for those Class Members:

**NORMAND PLLC**  
Amy L. Judkins, Esq.  
3165 McCrory Place, Suite 175  
Orlando, FL 32803  
Tel: (407) 603-6031  
Fax: (888) 974-2175  
E-mail: [amy.judkins@normandpllc.com](mailto:amy.judkins@normandpllc.com)

LEVY CRAIG LAW FIRM

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Shane C. Mecham, Esq.  
4520 Main Street, Suite 1600  
Kansas City, Missouri 64111  
Tel: (816) 474-8181  
Fax: (816) 382-6606  
E-mail: [smecham@levycraig.com](mailto:smecham@levycraig.com)

These lawyers are experienced in handling class action lawsuits, including actions on behalf of insured policyholders. More information about Class Counsel is available on their websites above.

Class Counsel agrees not to seek fees of more than \$245,000.00. Under those conditions, Safeco agrees not to oppose such requests, subject to approval by the Court. All such fees shall be paid entirely by Safeco. Payment of attorneys' fees and costs has no impact and does not affect or reduce in any way the amount of money that will be paid to Class Members. If the Court grants Class Counsel's request, and in whatever amount the Court approves Class Counsel's Request, the attorneys' fees and costs will be paid separately by Safeco. If you submit a valid claim for payment, you will receive your full payment and that amount will not be reduced to pay Class Counsel fees and/or costs. You will not be personally responsible for any fees, costs or expenses incurred by Class Counsel relating to the prosecution of this case.

Class Counsel also will seek a Service Award to the Named Plaintiff in the amount of \$5,000.00 subject to court approval. The Service Award is designed to reward the Named Plaintiff for securing the recovery awarded to members of the Class, which is the full amount of damages the Named Plaintiff alleged is owed to Class Members, and to acknowledge the time spent by the Named Plaintiff in providing discovery, participating in the case and mediation, and prosecuting the claim for the benefit of the Class. Safeco has agreed to pay a Service Award to the Named Plaintiff of up to \$5,000.00 if approved by the Court. Payment of the Service Award has no impact and does not affect in any way the amount of money that will be paid to Settlement Class Members. If the Court grants the request for a Service Award, and in whatever amount the Court approves the request, the Service Award(s) will be paid separately by Safeco and will not affect or reduce in any way the amount of money paid to Class Members. If you submit a valid claim for payment, you will receive your full payment (including prejudgment interest), and that amount will not be reduced to pay the Service Award.

### **What Claims Against Safeco Are Class Members Releasing?**

As a part of the Settlement, Class Members agree to release Safeco and not to sue Safeco for any claims for payment of sales tax in connection with their total loss claim(s). Unless you request exclusion from the Class, you give up the right to individually sue Safeco and claim you are owed sales tax as part of your total-loss payment, even if you do not submit a Claim for payment as part of this Settlement. "Released Claims" means and includes any and all known and unknown claims, rights, actions, suits or causes of action of whatever kind or nature, whether ex contractu or ex delicto, statutory, common law or equitable, including but not limited to breach of contract, bad faith or extracontractual claims, and claims for punitive or exemplary damages, or prejudgment or post-judgment interest, arising from or relating in any way to Safeco's failure to pay sufficient sales tax to Plaintiff and all Settlement Class Members with respect to any Covered Total Loss Claim during the Class Period under an Automobile Insurance Policy relating to a leased or owned vehicle. Released Claim does not include any claim for enforcement of the contemplated Settlement Agreement and/or Final Order and Judgment.

### **How Do I Find Out More About This Lawsuit?**

If you have any questions about the lawsuit or any matter raised in this notice, please call toll-free at 1-888-226-2512 or go to [www.NEInsuranceClassAction.com](http://www.NEInsuranceClassAction.com).

1-888-226-2512 or

go

This [www.NEInsuranceClassAction.com](http://www.NEInsuranceClassAction.com) website provides:

1. A "MAKE A CLAIM" button to make a claim using your Claimant ID, or using your last name and policy number or claim number;
2. The process for requesting a paper (non-electronic) pre-filled Claim Form;
3. A form that you may use (but are not required to use) to exclude yourself from the class action;
4. The full terms of the Settlement;

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5. Information and requirements for submitting a claim, requesting exclusion, or filing a Notice of Intent to object to the terms of the Settlement;
6. A copy of the Complaint filed by Plaintiff and other important rulings and orders from the Court during the case prior to Settlement; and
7. Other general information about the class action.
8. The website may be updated from time to time to reflect changes or additional orders,

You also may contact Class Counsel, whose contact information and websites are provided above.

Complete copies of the documents filed in this lawsuit that are not under seal may be examined and copied at any time at the District Court of Douglas County, 1701 Farnam St., Omaha, Nebraska.

PLEASE DO NOT TELEPHONE OR CONTACT THE COURT OR THE CLERK OF THE COURT REGARDING THIS NOTICE.

IT IS SO ORDERED, HON. JEFFREY LUX, JUDGE, IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

DATED: November 30, 2021