

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

BRETT WAGNER, individually and on behalf  
of all others similarly situated,

CASE NO. D01CI200010735

Plaintiff,

v.

SAFECO INSURANCE COMPANY OF  
ILLINOIS,

Defendant.

**PLAINTIFF'S UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT AND SUPPORTING MEMORANDUM**

Plaintiff Brett Wagner ("Plaintiff"), on behalf of himself and all others similarly situated, respectfully requests that the Court grant preliminary approval of the proposed class action settlement described in detail in the Class Action Settlement Agreement attached hereto as Exhibit A and exhibits attached thereto.

**I. CONCISE STATEMENT OF THE PRECISE RELIEF REQUESTED**

Plaintiff files this motion requesting that the Court preliminarily approve a class action settlement, certify a settlement class, and direct that Notice as proposed be sent to the Settlement Class. Plaintiff respectfully requests that the Court enter an order of Preliminary Approval including, in substantially the same form, the content of the proposed Order attached to the Agreement as Exhibit 1.

**II. STATEMENT OF THE BASIS FOR THE REQUEST**

The Parties reached a Settlement Agreement, wherein Defendant agree to provide to members of a Settlement Class who submit a valid and timely claim a payment of sales tax ("Claim

Payment”). The maximum Claim Payment paid to Eligible Class Members who submit timely and valid claims will be: (a) 7% of 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 actual cash value, \$540.32, which is 7% of the average cash value shown in the Defendant’s data. If an Eligible Class Member previously has been paid sales tax in an amount less than as provided above, he/she shall only be paid the difference between the maximum Claim Payment and that amount.

As part of this Settlement, no later than the next business day after the Preliminary Approval Order is entered, with respect to first-party Total Loss claims in Nebraska, the Defendant agrees to make payment of applicable Sales Tax based on the Adjusted Vehicle Value of the insured Total Loss vehicle at the time of loss (and not on the value of any replacement vehicle). The Defendant shall make such payment at the time of payment for the loss unless the applicable insurance policy or endorsement expressly provides otherwise in terms of the timing of payment of Sales Tax (in which case the Defendant has the option of determining the timing of payment of Sales Tax in accordance with such terms). The Defendant will not require the insured to provide proof that the insured purchased a replacement vehicle prior to the payment of such Sales Tax (unless the insured’s policy and/or applicable endorsements expressly provide that the payment of Sales Tax may be deferred by the Defendant until Sales Tax has been incurred with respect to a replacement vehicle) and will pay such Sales Tax whether or not the vehicle is owned or leased. The Defendant reserves the right to change its practices related to the payment of Total Loss claims as set forth in the Agreement.

Moreover, the Parties have agreed to a Notice plan including direct, individual Notice to all members of the proposed Settlement Class. Defendant further agrees to separately pay

attorneys' fees and all costs without reducing any claim payment to members of the Class. Thus, the terms of the Settlement are fair and reasonable, and the form of Notice comports with due process requirements. Plaintiff respectfully submits this Court should preliminarily approve the Settlement and direct Notice to be issued, thereby allowing Class Members to evaluate the terms of the Settlement and submit claims or request exclusion or submit to the Court any reason it does not believe the Settlement is fair or reasonable.

### **III. MEMORANDUM OF LEGAL AUTHORITY**

#### **a. Terms of the Settlement**

The settlement requires Defendant to do the following: (1) make payment, to all settlement class members for applicable sales tax; (2) to separately pay attorneys' fees and costs in an amount that shall not exceed \$245,000.00; (3) to separately pay a Service Award of \$5,000.00 for the named Plaintiff; and (4) to pay the costs of the Class Administration. *See, generally*, Exhibit A.

#### **b. Certification of the Settlement Class for Settlement Purposes Is Warranted**

In deciding whether to grant preliminary approval, some courts have also made a preliminary inquiry into whether the requirements of Fed. R. Civ. P. 23 for certification of a class for settlement purposes are satisfied. *See Blankenship v. OPPD, 195 Neb. 170, 237 N.W.2d 86 (1976)* (addressing that the policy underlying the Nebraska class action statute appears to be the same as that underlying FRCP 23). Each of those requirements are satisfied here for settlement purposes, for the Settlement Class, is defined as:

All Nebraska insureds, under a policy issued by Safeco covering a vehicle with private-passenger auto physical damage coverage for comprehensive or collision loss, who, during the Class Period, submitted a first-party property damage claim determined by Safeco to constitute a covered, total loss and where Safeco's total loss claim payment(s) did not include sales tax. (the "Settlement Class

Members).

There are thousands of class members (numerosity), all class members make the same claim – that the ACV of insured vehicles includes sales tax – pursuant to the same policy language (commonality), Plaintiff’s claims are the same as class members’ claims and Plaintiff is not subject to any unique affirmative defenses (typicality), and Plaintiff and Class Counsel have zealously litigated the claim, secured full relief, and have no interests antagonistic to the class (adequacy). Pursuant to the terms of the Settlement, there are no individual issues precluding class treatment (predominance), and class treatment is the best method of adjudication, as seen in the fact that every class member received virtually full relief without the need for numerous (and duplicative) individual cases (superiority). Thus, certification of the Settlement Class is warranted.

**c. The Proposed Notice Is the Best Practicable Notice and Comports with Due Process Requirements**

While N.R. §25-319, the governing statute on class actions in Nebraska, remains silent as to the requirement of notice while outlining the elements of a class action suit, the courts have held that notice is required to not offend due process protections as guaranteed by the Nebraska Constitution. *Hoiengs v. County of Adams*, 245 Neb. 877, 906-07 (Neb. 1994). Nebraska courts have recognized that while Nebraska lacks a rule addressing notice requirements in class actions it still adheres to the general rule which dispenses with notice in representative actions. *Gant v. City of Lincoln*, 193 Neb. 108, 112 (Neb. 1975).

Here, the Parties agree to send direct, individual Notice by mail and email to members of the Settlement Class. Agreement at III. Moreover, the Notice provides included a clear explanation of the terms of the Settlement, the amount sought in attorneys’ fees and service award (and that such fees and costs did not reduce the payment amount to class members), informs class members

of their right to object to seek exclusion and the method by which to do so, and provides an opportunity to be heard at a Fairness Hearing to be scheduled after the Notice period and before final approval. *See, generally*, Agreement (and Notice exhibits attached thereto).

The Notice provided to Settlement Class Members exceeds any requirement under Nebraska Law and should be found to be more than adequate.

**d. The Terms of the Settlement are Fair and Reasonable**

Nebraska courts consider four factors in making a determination that a settlement is fair, reasonable, and adequate: (1) the merits of the plaintiff's case weighed against the terms of the settlement; (2) the defendant's financial condition; (3) the complexity and expense of further litigation; and (4) the amount of opposition to the settlement. *In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 931 (8th Cir. 2005). A court may also consider procedural fairness to ensure the settlement is "not the product of fraud or collusion." *Id.* at 934. The experience and opinion of counsel on both sides may be considered, as well as whether a settlement resulted from arm's length negotiations, and whether a skilled mediator was involved. *See DeBoer v. Mellon Mortgage Co.*, 64 F.3d 1171, 1178 (8th Cir. 1995). A court may also consider the settlement's timing, including whether discovery proceeded to the point where all parties were fully aware of the merits. *See City P'ship Co. v. Atlantic Acquisition Ltd. P'ship*, 100 F.3d 1041, 1043 (1st Cir. 1996).

As will be set forth in greater detail in the Motion for Final Approval – and as demonstrated by the attached Agreement – all of the factors used by courts to evaluate the fairness and adequacy of a settlement favor approval here. There was no fraud or collusion in the settlement, which was entered into after arms-length negotiations and with the assistance of an experienced and well-

respected mediator Howard Tescher. The litigation is complex and expensive and confirmed as such during discovery when Plaintiff elicited extensive data demonstrating the contours of the Settlement Class and Defendant’s practices and procedures. The likelihood of success is uncertain and yet Plaintiff and his counsel were able to secure the full damages sought, which represented 100% of the amount owed to each class member. Plaintiff and his counsel believe this to be an excellent result for the class. For all these reasons, Plaintiff respectfully submits that it is unquestionable that there are no obvious deficiencies to the Settlement Agreement precluding preliminary approval – indeed, the Settlement provides Class Members who submit a claim with virtually the full damages sought in the Complaint.

For the convenience of the Court, Plaintiff submits the following proposed schedule, which is also reflected in the Proposed Order submitted for the Court’s consideration:

**PROPOSED SCHEDULE**

#	Action	Deadline
1	Website Notice Posted by Settlement Administrator	Thirty (30) days after entry of the Preliminary Approval Order (“PAO”)
2	Deadline for Settlement Administrator to mail out direct mail notice (“Notice Date”)	Thirty (30) days after entry of the Preliminary Approval Order
3	Deadline for Settlement Class Members to opt-out of the Agreement	Thirty (30) days prior to the Final Approval Hearing
4	Deadline for submission of Notice of Intent to object to agreement	Thirty (30) days prior to the Final Approval Hearing
5	Deadline for Settlement Class Members to file claims.	Thirty (30) days after Fairness Hearing
6	Deadline for Class Counsel to file their Motion for Final Approval of the	Fifteen (15) days prior to final Fairness Hearing

	Settlement, application for attorneys' fees, costs and expenses, and for a service award for Plaintiff.	
7	Deadline for Settlement Administrator to file proof of completion of Notice, along with complete and accurate Opt-Out list	Ten (10) days before Final Hearing
8	Fairness Hearing	_____ at __:__.m. (at least 105 days after entry of Preliminary Approval Order ("PAO"))

**CONCLUSION**

Plaintiff respectfully requests that the Court grant final approval of the proposed Settlement, and enter an order of preliminary approval including, in substantially the same form, the content of the proposed Order attached as Exhibit 1 to the Agreement.

Dated October 20, 2021

Respectfully submitted,

By: /s/ Shane C. Mecham  
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*Counsel for Plaintiff*



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 20<sup>th</sup> day of October, 2021, I electronically filed the foregoing with the Clerk of the Court which will send notice of electronic filing to all counsel of record.

/s/ Shane C. Mecham

Shane C. Mecham

NE #26529

# **EXHIBIT A**

**CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

*Wagner, et al. v. Safeco Insurance Company of Illinois*

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## **EXHIBITS**

1. Proposed Preliminary Approval Order
2. Long-Form Notice (Settlement Website)
3. Short-Form Notice (Postcard, including detachable Claim Form)
4. Short-Form Notices (E-mail)

This Class Action Settlement Agreement and Release (“Agreement”) is made and entered into between Plaintiff Brett Wagner (“Plaintiff” or “Settlement Class Representative”), on behalf of himself and the Settlement Class defined below, on the one hand, and Safeco Insurance Company of Illinois (“Safeco” or “Defendant”), on the other hand. Plaintiff and Safeco are referred to collectively as the “Parties.”

This Agreement effects a full and final settlement and dismissal with prejudice of all of the Released Claims against all Released Persons relating to the following matter: *Wagner v. Safeco Ins. Co. of Illinois*, Case No. CI20-10735 (Neb. Dist. Ct., Douglas Cty.) (the “Action”).

### **RECITALS**

WHEREAS, on December 21, 2020, Plaintiff Jeffrey Jenson filed a Class Action Complaint against Defendant Safeco in the District Court of Douglas County, Nebraska, Case No. CI20-10735;

WHEREAS, on February 24, 2021, the Plaintiff filed an Amended Class Action Complaint against Defendant Safeco adding in Plaintiff Brett Wagner (the “Amended Complaint”);

WHEREAS, Plaintiffs alleged in their Amended Complaint that the Defendant does not include payment of sales tax in making payment for the actual cash value of first-party insured total loss auto claims;

WHEREAS, Defendant Safeco, pursuant to Rule 6-1112(b)(6) of the Nebraska Rules of Pleading in Civil Cases, filed a Motion to Dismiss the Amended Complaint, which challenged the legal basis of the Plaintiffs’ claims;

WHEREAS, on March 8, 2021, Plaintiff Jenson filed a Notice of Voluntary Dismissal as to his claims;

WHEREAS, on May 10, 2021, the Court entered an Order Denying the Defendant's Motion to Dismiss the Amended Complaint;

WHEREAS, the Defendant provided information concerning its general practices and procedures for handling sales tax in making payment of first-party total-loss claims;

WHEREAS, on August 13, 2021, the Parties engaged in a lengthy mediation conference before mediator Howard Tescher in an arm's length, good-faith effort to amicably resolve the Action, which ultimately led to the instant Settlement Agreement and resolution of the Action;

WHEREAS, the Defendant continues to deny all material allegations of the Action;

WHEREAS, Plaintiff and Class Counsel, while believing that the claims asserted in the Action are meritorious, have considered the risks associated with the continued prosecution of this complex and time-consuming litigation, the risk associated with currently pending appeals on the same or similar issues in other cases, the relief secured in this Agreement, as well as the likelihood of success on summary judgment or in any appeal of this Action, and believe that, in consideration of all the circumstances, the Proposed Settlement embodied in this Agreement is fair, reasonable, adequate, and in the best interests of the Settlement Class Members; and

WHEREAS, the Defendant, while denying wrongdoing of any kind and without admitting liability, nevertheless agrees to effectuate a full and final settlement of the claims asserted in the Action on the terms set forth below in an effort to avoid the burdens, risks, and extensive costs associated with this litigation;

NOW, THEREFORE, IT IS HEREBY AGREED by and among the Parties, through their respective counsel, that the Action be settled and compromised by the Plaintiff, the Settlement Class, and the Defendant on the following terms and conditions, subject to the approval of the Court after hearing:

## I. DEFINITIONS

The following terms shall be defined as set forth below:

- A. “Adjusted Vehicle Value” means the value of the total-loss vehicle (at the time immediately preceding the loss) as determined by the Defendant, taking into account the condition of the total-loss vehicle.
- B. “Attorneys’ Fee Award” means the Court-determined award of attorneys’ fees, costs, and expenses to Class Counsel.
- C. “Automobile Insurance Policy” means a Nebraska policy of automobile insurance issued by the Defendant in effect during the Class Period and providing first-party private-passenger automobile physical damage coverage.
- D. “Claim Form” means the Court-approved claim form, without material alteration from the claim form contained in **Exhibit 2** and the version to be posted on a website in the form of **Exhibit 3**, that a Settlement Class Member may submit to be considered for payment under the Final Settlement.
- E. “Claim Payment” means the payment to be issued by the Defendant to Settlement Class Members who submit valid and timely claims, as calculated in accordance with the terms of this Agreement.
- F. “Claims Submission Deadline” means the date by which completed Claim Forms must be postmarked to be considered timely (*i.e.*, on the thirtieth (30<sup>th</sup>) day following the Order on Final Approval of Settlement).
- G. “Class Counsel” means the attorneys approved and appointed by the Court to represent the Settlement Class Members.
- H. “Class Period” means December 21, 2015, to the date of preliminary approval of the Proposed Settlement.
- I. “Court” means the District Court of Douglas County, Nebraska, where the Action is pending.
- J. “Covered Total Loss Claim” means any first-party property damage claim determined by Defendant to constitute a Total Loss to an automobile that (a) occurred within the Class Period, and (b) resulted in a Total Loss Payment.
- K. “Effective Date” means the thirtieth (30<sup>th</sup>) day after entry of the “Final Order and Judgment” as defined herein.
- L. “Eligible Class Member” means a Settlement Class Member who timely submits a completed Claim Form.



- M. “Fairness Hearing” means the fairness hearing conducted by the Court to consider final approval of this Agreement.
- N. “Final Order and Judgment” means a Final Order from the Court approving this Agreement, disposing of all claims asserted in the Action, and settling and releasing all claims consistent with the terms of this Agreement.
- O. “Final Settlement” means the settlement approved by the Court in the Final Order and Judgment as fair, reasonable, and adequate consistent with the terms of this Agreement.
- P. “Legally Authorized Representative” means: a legally-appointed administrator/administratrix, personal representative, or executor/executrix of a deceased Settlement Class Member’s estate; a legally-appointed guardian, conservator, or next friend of an incapacitated Settlement Class Member; or any other legally-appointed Person or entity responsible for handling the affairs of a Settlement Class Member. For purposes of completing a Claim Form, a surviving spouse of a deceased class member will be considered a Legally Authorized Representative for purposes of this Agreement if no Estate has been opened, and no other Person has legal authority for handling the affairs of the deceased Settlement Class Member. A Person who purports to possess a claim by assignment or transfer, other than as described in this Paragraph, shall not be considered a “Legally Authorized Representative.”
- Q. “Long-Form Notice” means the notice without material change from **Exhibit 4**.
- R. “Short-Form Notice” means the Court-approved short-form notice, postcard and email. The postcard without material alteration from **Exhibit 5**, to be mailed via first-class mail to potential Settlement Class Members. There will also be 5 email notices that will hyperlink directly to an online prefilled claim form similar to the postcard notice. See **Exhibits 6-10**.
- S. “Notice Date” means the date that the initial mailing of the Short-Form Notice to potential Settlement Class Members is completed.
- T. “Opt-Out List” means the list of valid and timely requests for exclusion from the Settlement Class compiled by the Settlement Administrator.
- U. “Person” means any natural person, individual, corporation, association, partnership, trust, or any other type of legal entity.
- V. “Preliminary Approval Order” means an order entered by the Court preliminarily approving the Proposed Settlement in the form of, or in all

material respects substantially in the form of, the Proposed Preliminary Approval Order.

W. “Proposed Preliminary Approval Order” means the proposed order attached hereto as **Exhibit 1**.

X. “Proposed Settlement” means the settlement described in this Agreement, before final approval by the Court.

Y. “Released Claims” means:

1. For Settlement Class Members:

any and all claims, actions, demands, lawsuits, rights, liabilities, declarations, damages, losses, attorneys’ fees, interest, expenses, costs and causes of action, whether accrued or unaccrued, known or unknown, fixed or contingent, including without limitation contractual or extra-contractual claims or damages (inclusive of statutory and common law bad faith claims), claims or damages at law or in equity, or penalties and punitive claims or damages of any kind or description which now exist or heretofore existed, by or on behalf of any Settlement Class Member against the Released Persons, arising out of or relating to any claim covered by this Settlement concerning calculation or payment of amounts for Sales Tax that may be paid or owed for first-party Total Loss claims during the Class Period.

2. For the Plaintiff:

any and all claims, actions, demands, lawsuits, rights, liabilities, declarations, damages, losses, attorneys’ fees, interest, expenses, costs and causes of action, whether accrued or unaccrued, known or unknown, fixed or contingent, including without limitation contractual or extra-contractual claims or damages (inclusive of statutory and common law bad faith claims), claims or damages at law or in equity, or penalties and punitive claims or damages of any kind or description which now exist or heretofore existed, by or on behalf of the Plaintiff against the Released Persons, including without limitation those which have been or could have been asserted in the Action or otherwise arising out of or relating to Plaintiff’s Total Loss claim(s).

Z. “Released Persons” means: Safeco and its predecessors, successors, parent companies, agents, subsidiaries, divisions, affiliates, and assigns; present and former officers, directors, employees, insurers, attorneys, and assigns; and/or anyone acting or purporting to act for it or on its behalf.

AA. “Sales Tax” means the sales tax calculated to be 7% of the Adjusted Vehicle Value as shown in Safeco’s data: (Adjusted Vehicle Value x .07= Payout). Where Safeco’s data does not include an actual cash value estimated by CCC

for the Class Member, the Class Member shall receive \$540.32, which the Parties determined to be 7% of the average cash value shown in Safeco's data.

- BB. "Service Award" means the potential award to Plaintiff, if any, as determined by the Court for his service as named class representative in the Action.
- CC. "Settlement Administrator" means a third-party settlement administrator selected pursuant to the procedure set forth below in Section II.2.
- DD. The "Settlement Class" is comprised of all Persons who are within the following group:

All Nebraska insureds, under a policy issued by Safeco covering a vehicle with private-passenger auto physical damage coverage for comprehensive or collision loss, who, during the Class Period, submitted a first-party property damage claim determined by Safeco to constitute a covered, total loss and where Safeco's total loss claim payment(s) did not include sales tax.

Excluded from the Settlement Class are: (1) any in-house or outside counsel for Safeco and the immediate family members of such persons; (2) employees of Safeco; (3) any members of the judiciary assigned to the Action and their staff; (4) the Parties' counsel in the Action; and (5) any persons with total loss claims which have already been fully paid or adjudicated whether by direct payment of sales tax, appraisal, arbitration, settlement, release, judgment, or other means.

- EE. "Settlement Class Member" means any Person encompassed by the definition of the Settlement Class and not excluded from the Settlement Class as set forth above.
- FF. "Total Loss" means an insured vehicle that sustained damage, was the subject of a first-party property claim submitted to the Defendant, and for which the Defendant issued a Total Loss Payment to its insured.
- GG. "Total Loss Payment" means the payment(s) made by the Defendant on a first-party property damage total-loss claim based on the Adjusted Vehicle Value, minus any applicable deductible or other applicable deductions.
- HH. "Website Claim Form" means the version of the Claim Form that shall be posted on the website contemplated in this Agreement as contained in **Exhibit 2**.

## II. PRELIMINARY CERTIFICATION OF THE SETTLEMENT CLASS

1. Solely for the purpose of implementing this Agreement and effectuating the Proposed Settlement, the Defendant stipulates to entry of a preliminary approval order (in the form of the Proposed Preliminary Approval Order attached as **Exhibit 1** or including the substance of the Proposed Preliminary Approval Order attached as **Exhibit 1**), preliminarily certifying the Settlement Class, appointing the Plaintiff as representative of the Settlement Class, and appointing the following as Class Counsel for the Settlement Class:

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2. Class Counsel will select a third-party Settlement Administrator that shall be supervised by the Parties' Counsel and Defense Counsel. Before the Settlement Administrator is retained, Safeco shall have the right to review its proposed budget and fees for the engagement to ensure that they are reasonable in light of the number of Class Members. In the event the Parties dispute the planned budget or fees, such dispute shall be submitted to the Mediator (Howard Tescher) for his binding resolution of the issue.
3. Plaintiffs shall submit this fully executed Agreement to the Court, and request entry of the Proposed Preliminary Approval Order, without material alteration from **Exhibit 1**, or an Order that includes the substance of the Proposed Preliminary Approval Order, and specifically that:
  - (a) preliminarily approves this Agreement;
  - (b) finds that the Court possesses personal jurisdiction over all Settlement Class Members and possesses subject matter jurisdiction to preliminarily approve this Agreement;
  - (c) preliminarily certifies the Settlement Class, approves the Plaintiff as class representative of the Settlement Class, and appoints Class Counsel as counsel for the Settlement Class;

- (d) finds that the Proposed Settlement is sufficiently fair, reasonable, and adequate to warrant providing notice to the Settlement Class;
- (e) approves the notice plan;
- (f) approves the Claim Form to be distributed to and/or used by Settlement Class Members, and sets a Claims Submission Deadline by which the Claim Forms must be submitted in order to be deemed timely (*i.e.*, on the thirtieth (30<sup>th</sup>) day after the Notice Date);
- (g) approves the settlement website as described herein, which may be amended during the course of the settlement as appropriate and agreed to by the Parties, and which shall be maintained for at least 180 days after the Claims Submission Deadline;
- (h) appoints a mutually-agreed third party as the Settlement Administrator;
- (i) directs the Settlement Administrator to maintain a toll-free IVR telephone system containing recorded answers to frequently asked questions or a live operator, during normal business hours, utilizing a script to which the Parties will agree;
- (j) determines that the notice provided to potential Settlement Class Members (i) is the best practicable notice under the circumstances, (ii) is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action and their right to object to or exclude themselves from the Proposed Settlement. and (iii) constitutes due, adequate, and sufficient notice to all Persons entitled to receive notice;
- (k) schedules the Fairness Hearing to consider the fairness, reasonableness, and adequacy of the Proposed Settlement and whether it should be finally approved by the Court on a date not sooner than 105 days after entry of the preliminary approval order;
- (l) requires the Settlement Administrator to file proof of completion of notice at least ten (10) days prior to the Fairness Hearing, along with the Opt-Out List, which shall be a list of all Persons who timely and properly requested exclusion from the Settlement Class, and an affidavit attesting to the accuracy of the Opt-Out List;
- (m) requires each Settlement Class Member who wishes to exclude himself or herself from the Settlement Class to submit an appropriate, timely request for exclusion, postmarked no later than thirty (30) days after the mailed Notice Date;

- (n) orders that any Settlement Class Member who does not submit a timely, written request for exclusion from the Settlement Class will be bound by all proceedings, orders, and judgments in the Action;
  - (o) requires each Settlement Class Member who does not submit a timely request for exclusion from the Settlement Class and wishes to object to the fairness, reasonableness, or adequacy of this Agreement or to intervene in the Action, to follow the procedures set forth in this Agreement, including those requirements applicable to any attorney representing the Settlement Class Member;
  - (p) stays all proceedings in the Action until further order of the Court, except that the Parties may conduct proceedings necessary to implement the Proposed Settlement or effectuate the terms of this Agreement; and
  - (q) implements or orders any other provisions or directives or procedures not contemplated by the Parties, if necessary to comply with governing law and/or binding precedent and if such provisions do not materially alter the substantive terms of this Agreement.
4. Plaintiff will draft the Motion requesting entry of the Proposed Preliminary Approval Order, which the Defendant will review and confirm lack of opposition upon agreement to the form of a mutually-acceptable Motion.
  5. This Settlement is contingent upon approval by the Court. If the Settlement does not receive final and non-appealable Court approval, Safeco shall not be obligated to make any payments or provide any other monetary or non-monetary relief to Plaintiff or the Settlement Class Members, any attorneys' fees or expenses to Class Counsel, or any Service Award to the Plaintiff. If the Settlement does not receive final and non-appealable Court approval, the Parties shall be restored to the *status quo ante* in the Action.

### **III. CLASS NOTICE**

6. The Defendant will pay all costs of effectuating and implementing the class notice set forth herein, separate and apart from payments made to Settlement Class Members.
7. Settlement Class Notice shall include all of the following:
  - (a) Long-form Notice, which will be posted on the Settlement Website and sent to Settlement Class members upon request;
  - (b) Short form notice, which will be sent in two ways:
    - (1) via postcard, pre-paid postage, with a detachable claim form that is pre-filled with the claimant's information and served by direct mail to

- the policy or last known address of the insured, including skip trace remaining for any undelivered mail (“Mailed Notice”);
- (c) (2) via email, to the extent such email addresses are kept by Safeco (“Email Notice”). Email Notice shall be sent to each Settlement Class member on five (5) occasions and on dates suggested by the Settlement Administrator and shall include a hyperlink to the pre-filled Claim Form on the Settlement Website;
  - (d) Mailed Notice shall be sent once on a date suggested by the Settlement Administrator; and
  - (e) Settlement Class members, for whom the Safeco maintains physical addresses and Email addresses, notice shall be sent by both Mailed Notice and Email Notices.
8. Within thirty (30) days of the Preliminary Approval Order, the Settlement Administrator shall send the Short-Form Notice and a Claim Form for each Covered Total Loss Claim. The post card Short-Form Notice and Claim Form shall be sent by first-class mail to each potential Settlement Class Member. The post card Claim Form will be return-addressed and shall be affixed with prepaid postage sufficient to mail back to the Settlement Administrator. Prior to mailing, the Settlement Administrator shall run physical mailing addresses through the National Change of Address Database (“NCOA”), Accurint, or another similar address database to attempt to obtain a more current name and/or physical mailing address for each potential Settlement Class Member.
9. The Settlement Administrator shall post the Settlement Agreement, the Short-Form Notice, the Long-Form Notice, including the Website Claim Form (as contained in **Exhibit 2**), and the Preliminary Approval Order on the website. The website shall contain an online claim form and the ability to submit the claim form through that portal. The Parties shall mutually agree on the URL address for the website, which shall not include the name of Safeco. All claim forms shall be available in Spanish and English.
10. The Settlement Administrator shall use best practices in the timing of the 5 short form email notices.
11. The website may be amended from time to time as agreed to by the Parties, including to add any fee application and Final Approval Order. The Settlement Administrator shall maintain the website for at least 180 days after the Claims Submission Deadline.
12. If any Short-Form Notice and/or Claim Form mailed to any potential Settlement Class Member is returned to the Settlement Administrator as undeliverable, the Settlement Administrator will promptly log each Short-Form Notice and/or Claim Form. If the mailing is returned to the Settlement Administrator with a forwarding address, the Settlement Administrator shall forward the mailing to that address. The Parties agree that the procedures set



forth in the preceding Paragraphs 6-11 and this Paragraph constitute reasonable and the best practicable notice under the circumstances and an appropriate and sufficient effort to locate current addresses for Settlement Class Members such that no additional efforts to do so shall be required.

13. The Long-Form Notice and Website Claim Form will also be made available to all potential Settlement Class Members by request to the Settlement Administrator, who shall send via first-class U.S. mail any of these documents as requested by any potential Settlement Class Member.

#### **IV. SETTLEMENT ADMINISTRATOR**

14. The Defendant agrees to pay all reasonable class settlement administration costs. The Parties agree that a third party shall be appointed as Settlement Administrator to perform the services described herein; the Settlement Administrator shall be selected pursuant to the method described in Section II.2 above.
15. The Settlement Administrator shall assist with the various administrative tasks set forth herein and any others necessary to implement the terms of this Agreement and the Proposed Settlement as preliminarily approved.
16. Using data and information provided by Safeco and its review of submitted Claim Forms, the Settlement Administrator shall be responsible for determining whether Class Members are eligible for a payout from the Settlement Fund. The Settlement Administrator shall deny any claims by Class Members who have already received sales tax from Safeco or who are otherwise ineligible for a claim payment due to the existence of a prior release of such claims or for any other reason, including the filing of duplicative Claim Forms or failure to fully complete the Claim Form. Safeco shall be provided copies of all Claim Forms submitted and has the right to audit and/or review any Claim Form submitted to assist in the determination(s) of whether a Class Member is eligible for distribution from the Settlement Fund.
17. If any claim is disputed Settlement Administrator shall have full binding authority to resolve the dispute pursuant to the procedure set forth in Section VII below and the Parties shall be bound by the decision of the Settlement Administrator.

#### **V. CLAIMS PAYMENTS**

18. To be eligible for a Claim Payment under this settlement, a Settlement Class Member or his or her Legally Authorized Representative must timely submit a complete Claim Form and must not have submitted a request for exclusion.
19. The maximum Claim Payment paid to Eligible Class Members who submit timely and valid claims will be:



- (a) 7% of 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 actual cash value, \$540.32, which is 7% of the average cash value shown in the Defendant's data.

If an Eligible Class Member previously has been paid sales tax in an amount less than as provided above in Para. 19(a), he/she shall only be paid the difference between the maximum Claim Payment and that amount.

- 20. The payment described herein is the only payment to which Settlement Class Members are entitled under this Agreement, with the sole exception of the Service Award for the Plaintiff as otherwise provided herein. The payments shall be in full and final disposition of the Action, and in consideration for the release of any and all Released Claims as against any and all Released Persons. Any rights to settlement Claim Payments under this Agreement shall inure solely to the benefit of Settlement Class Members and are not transferable or assignable to others.

## **VI. CLAIM SUBMISSIONS**

- 21. This is a "claims-made" settlement. Each Settlement Class Member will be provided an opportunity to submit, at his or her option, a Claim Form requesting a payment calculated in accordance with Section V.
- 22. A Claim Form submitted for a Settlement Class Member who has more than one claim shall constitute a Claim Form for all covered claims of the Settlement Class Member.
- 23. To be considered for payment, a Claim Form must be postmarked no later than the Claims Submission Deadline, which is thirty (30) days after the Order on Final Approval of settlement (a/k/a Fairness Hearing Order).
- 24. A Settlement Class Member must in a Claim Form (i) affirm Settlement Class membership; (ii) affirm his or her identity; (iii) affirm that he or she has not already received payment of Sales Tax related to the total loss vehicle; and (iv) sign the Claim Form attesting to the accuracy of the information contained in the submitted Claim Form. Each Settlement Class Member will have a corresponding Claimant ID (assigned by the settlement administrator for tracking purposes) which will be listed on each class notice. In the event that a claimant prints a blank Website Claim Form from the settlement website and submits such a Claim Form, in addition to the claimant's current name and address, the claimant shall also provide his or her complete name at the time that the policy was in effect and the address (or addresses) at the time that the claimant's total loss claim was adjusted by Safeco. Such claimant submitting a claim in this manner shall be responsible for his or her own postage. In the

event that the name and/or address does not materially match the name and address for a total loss claimant in Safeco's records, the claim is not payable.

## VII. CLAIMS ADMINISTRATION

25. Claim Forms that are timely mailed to the correct address shall be processed as follows:
- (a) If a Claim Form is unsigned, illegible, or does not include all of the information listed and required in Section VI, that Claim Form shall be deemed defective and not eligible for payment. In such event the Class Administrator shall promptly notify claimants of the defect(s) in the Claim Form and shall provide an opportunity to cure the defect with a corrected Claim Form which must be submitted within forty-five (45) days after the Claims Submission Deadline.
  - (b) The Defendant reserves the right to audit or challenge individual claims submitted by Settlement Class Members on a case-by-case basis. These are referred to as "Disputed Claims." If the Defendant challenges a claim submission, within thirty (30) days after the Claims Submission Deadline, the Defendant will explain in writing to the Settlement Class Member the reason why the Defendant does not believe the Settlement Class Member is entitled, in whole or in part, to payment, a copy of which will be provided to Class Counsel. If the individual Settlement Class Member disagrees with the Defendant's explanation, the Settlement Class Member is entitled to submit a request for relief to the Claims Administrator within forty-five (45) days after the Claims Deadline. The decision of the Claims Administrator shall be final and binding on the Parties.
  - (c) For those claims that the Defendant does not challenge as Disputed Claims, the Defendant will review its records, claims files, and data, and shall provide the Settlement Administrator and Class Counsel information with the amount of the Claim Payment for each claim. If the individual Settlement Class Member disagrees with the Defendant's explanation, the Settlement Class Member is entitled to submit a request for relief to the Claims Administrator within forty-five (45) days after the Claims Deadline. The decision of the Claims Administrator shall be final and binding on the Parties.
  - (d) Properly completed, timely submitted, and eligible claims shall be paid by check issued by Defendant to the Settlement Administrator within forty-five (45) days following the Claims Deadline. Checks shall be valid for 120 days. Any uncashed checks after 120 days shall be deemed a forfeiture of the claim. The Settlement Administrator shall

be responsible for distributing settlement checks and accounting for payments made to Class Members.

- (e) Claim Forms that are not timely postmarked, as determined by the Settlement Administrator, will not be considered for payment. Claim Forms that are not postmarked shall be deemed valid but only for such forms received by the Claims Administrator within 30 days after the Claims Deadline. Electronic notice must be received by the Claims Deadline to be valid.

### **VIII. ATTORNEYS' FEES AND COSTS AWARD AND SERVICE AWARD**

- 26. Class Counsel's entitlement, if any, to an Attorneys' Fee Award and the Plaintiff's entitlement, if any, to a Service Award, will be determined by the Court. The terms of any such awards, fees, costs, or expenses were not negotiated until after all material elements of the Proposed Settlement were preliminarily resolved subject to the execution of a term sheet between the Parties, and the terms of this Proposed Settlement are not conditioned upon any maximum or minimum Attorneys' Fee Award or Service Award, except as explicitly stated herein. Defendant shall bear its own attorneys' fees and costs.
- 27. Class Counsel will file a motion with the Court prior to the Fairness Hearing requesting an award of attorneys' fees and costs payable to Class Counsel in a total amount that shall not exceed \$245,000.00 ("Maximum Attorneys' Fees and Costs Award"), and the incentive award to Plaintiff not to exceed \$5,000.00 ("Maximum Service Award"). Class Counsel agrees not to seek attorney's fees and costs of more than \$245,000.00. Under those conditions, Defendant agrees not to oppose such request. Payment of any attorneys' fees and costs award and/or Service Award, and of the costs of the administration of this Settlement, are to be paid by Defendant separate from and in addition to the payments available to Settlement Class Members. The amount owed and/or paid to Settlement Class Members will not be adjusted or reduced at all as a result of any payments made for attorneys' fees, costs, Service Award, or the costs of administration and notice.
- 28. The Defendant will not oppose or object to a motion requesting an award of attorneys' fees, costs, and expenses to be paid to Class Counsel in an amount not exceeding the Maximum Attorneys' Fees and Costs Award. The Defendant will not oppose or object to a motion requesting Service Award to the Plaintiff in an amount not exceeding the Maximum Service Award. The Defendant agrees to pay the Attorneys' Fee and Service Award or any lesser amount the Court may award. Plaintiff and Class Counsel will not seek to enforce or recover any Attorneys' Fee Award in excess of the Maximum Attorneys' Fees and Costs Award or any Service Award in excess of the Maximum Service Award. The Defendant will not oppose or object to the payment of settlement administration costs as separate costs and expenses that

are in addition to the Maximum Attorneys' Fees and Costs Award. Class Counsel represent that they have conferred with all attorneys for Plaintiff and that the amount set forth herein is the maximum fee and costs amount for *all* counsel for Plaintiff in connection with the Action.

29. Any Attorneys' Fees and Costs Award and Service Award made by the Court must be paid by the Defendant to Class Counsel no later than thirty-seven (37) days after the Order on Final Approval of Settlement and Judgment unless an appeal or other relief is sought from that Final Order and Judgment. If an appeal or other relief is sought from the Final Order and Judgment, the attorneys' fees and costs and service award shall not be due until forty-five (45) days after the resolution of such appeal or other request for relief. The Defendant shall not be obligated to pay any attorneys' fees and costs or service award if the Settlement is not finally approved and/or sustained on appeal. If this Settlement is not finally approved or sustained, then the Defendant shall be entitled to contest Class Counsel's entitlement to an award of attorneys' fees and costs and any service award in the Action.
30. The Parties agree that, in the event that individual objectors attempt to enter the Action and/or object to or oppose this Settlement, Plaintiff will bear his own attorneys' fees and costs associated with any efforts to resolve objectors' claims and demands in the Action, except to the extent that Plaintiff may seek to recover his attorneys' fees and costs against anyone who submits an objection. In no event shall the Defendant be responsible for fees and costs exceeding the amount set forth above, and Class Counsel agree not to seek or enforce an award against the Defendant exceeding the amount set forth above.
31. Any disputes as to amounts paid on settlement claims of individual Settlement Class Members shall be submitted to the Claims Administrator for resolution, but no attorneys' fees or costs will be recoverable by any Party in connection with such disputes in excess of the amount set forth above.

## **IX. FINAL APPROVAL OF THE PROPOSED SETTLEMENT**

32. Within fifteen (15) days after the deadline for seeking exclusion from the Settlement Class and/or for filing objections to the Proposed Settlement as provided herein, Class Counsel will file a motion seeking the Court's final approval of the Proposed Settlement at the Fairness Hearing to be held at a time, date, and location as set by the Court and that will be stated in the Short-Form Notice. The Motion shall request, at minimum, the Court to enter a Final Order and Judgment that:
  - (a) certifies the Settlement Class for settlement purposes only;

- (b) finds the Court has personal jurisdiction over all Settlement Class Members and subject matter jurisdiction to approve this Agreement and all Exhibits thereto;
- (c) gives final approval to the Proposed Settlement and directs the Parties and counsel to comply with and consummate the terms of the Agreement;
- (d) finds that Class Counsel and the Plaintiff adequately represented the Settlement Class;
- (e) finds that the terms of this Agreement are fair, reasonable, and adequate to the Settlement Class Members;
- (f) finds that the notice set forth in this Agreement (i) constituted the best practicable notice under the circumstances, (ii) was reasonably calculated to apprise potential Settlement Class Members of the pendency of the Action, their right to object to or exclude themselves from the Proposed Settlement, and to appear at the Fairness Hearing, and (iii) constituted due, adequate, and sufficient process and notice to all Persons entitled to receive notice;
- (g) finds that the Opt-Out List is a complete list of all Settlement Class Members who have timely requested exclusion from the Settlement Class and, accordingly, neither share in nor are bound by the Final Order and Judgment;
- (h) provides that the Plaintiff, all Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List, and their respective heirs, trustees, executors, administrators, principals, beneficiaries, representatives, agents, and present and former officers, directors, employees, insureds, attorneys, contractors, predecessors, successors, parent companies, subsidiaries, divisions, affiliates, and assigns, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, regardless of whether they have submitted a Claim Form, and regardless of whether they have received actual notice of the Proposed Settlement, have conclusively compromised, settled, discharged, and released all Released Claims against the Defendant and the Released Persons, and are bound by the provisions of this Agreement;
- (i) dismisses all claims in the Action on the merits and with prejudice, and without fees or costs except as provided herein, and entering final judgment thereon;

- (j) determines the amount of the Attorneys' Fees Award to Class Counsel, and the Service Award to the Plaintiff; and
- (k) appoints the Settlement Administrator.

## **X. REQUESTS FOR EXCLUSION AND OBJECTIONS**

- 33. Settlement Class Members who wish to exclude themselves from the Settlement Class must submit timely and written requests for exclusion. To be effective, such a request must include the Settlement Class Member's name and address, an unequivocal statement that the Settlement Class Member wishes to be excluded from the Settlement Class, and the signature of the Settlement Class Member or the Legally Authorized Representative of the Settlement Class Member. The request must be mailed to the Settlement Administrator at the address provided in the Short-Form Notice postmarked no later than thirty (30) days after the mailed Notice Date. Requests for exclusion must be exercised individually by the Settlement Class Member and are only effective as to the individual Settlement Class Member requesting exclusion.
- 34. Settlement Class Members may not opt out of specific aspects of the settled claims while still participating for other aspects of this Settlement based on the same Total Loss claim. Settlement Class Members may not both opt out of the Settlement Class and object to the Settlement. If a Settlement Class member opts out of the Settlement Class, he or she is ineligible to object to the terms of the Settlement.
- 35. Plaintiff shall not elect or seek to opt out or exclude from the Settlement Class, and any such attempt will be deemed a breach of this Agreement and sufficient to permit the Defendant to terminate this Agreement.
- 36. The Settlement Administrator shall promptly log and prepare a list of all Persons who properly requested exclusion from the Settlement Class (the "Opt-Out List") and shall submit an affidavit to the Court which includes and attests to the accuracy of the Opt-Out List no later than ten (10) days prior to the Final Fairness Hearing set by the Court.
- 37. All Settlement Class Members who do not timely and properly exclude themselves from the Settlement Class shall be bound by this Agreement, and all their potential claims shall be dismissed with prejudice and released as provided for herein pursuant to the terms of a Final Order and Judgment.
- 38. Settlement Class Members who do not request exclusion from the Settlement Class may object to the Proposed Settlement. Settlement Class Members who choose to object to the Proposed Settlement must file with the Court written notices of intent to object and serve notice of the filed objection with the Class

Administrator. Any Settlement Class Member who timely files an objection in compliance with this Paragraph may appear at the Fairness Hearing, in person or by counsel, and be heard to the extent and only if permitted by the Court.

39. To be timely, the objection or motion to intervene must be postmarked and mailed to the Settlement Administrator, and filed with the Court, no later than thirty (30) days after the mailed Notice Date.
40. The right to object to the Proposed Settlement or to intervene in the Action must be exercised individually by a Settlement Class Member or his or her attorney, and not as a member of a group, class, or subclass, except that such objections may be submitted by a Settlement Class Member's Legally Authorized Representative.
41. To be effective, a notice of intent to object to the Proposed Settlement must:
  - (a) Include the name of the case and case number;
  - (b) Provide the name, address, telephone number, and signature of the Settlement Class Member filing the objection;
  - (c) Indicate the specific reasons why the Settlement Class Member objects to the Proposed Settlement;
  - (d) Contain the name, address, bar number, and telephone number of the objecting Settlement Class Member's counsel, if any, and any such attorney must comply with all applicable rules of the Court; and
  - (e) State whether the objecting Settlement Class Member intends to appear at the Fairness Hearing, either in person or through counsel.
42. In addition, a notice of intent to object must contain the following information, if the Settlement Class Member or his or her attorney requests permission to speak at the Fairness Hearing:
  - (a) A detailed statement of the legal and factual basis for each objection;
  - (b) A list of any and all witnesses the Settlement Class Member may seek to call at the Fairness Hearing (subject to applicable rules of procedure and evidence and at the discretion of the Court), with the address of each witness and a summary of his or her proposed testimony;
  - (c) A list of any legal authority the Settlement Class Member will present at the Fairness Hearing; and



(d) Documentary proof of membership in the Settlement Class.

43. Any Settlement Class Member who does not timely serve and file a timely notice of intent to object may, in the discretion of the Court, waive the right to object or to be heard at the Fairness Hearing and be barred from making any objection to the Proposed Settlement. Settlement Class Members have the right to exclude themselves from the Proposed Settlement and pursue a separate and independent remedy against the Defendant by complying with the exclusion opt out provisions set forth herein. Settlement Class Members who object to the Proposed Settlement shall remain Settlement Class Members and waive their right to pursue an independent remedy against the Defendant. To the extent any Settlement Class Member objects to the Proposed Settlement, and such objection is overruled in whole or in part, such Settlement Class Member will be forever bound by the Final Order and Judgment of the Court. Settlement Class Members can avoid being bound by any judgment of the Court by complying with the opt out exclusion provisions set forth herein.
44. The Settlement Administrator shall provide the Defendant and Class Counsel a copy of each notice of intent to object received by the Settlement Administrator.

## **XI. DENIAL OF LIABILITY**

45. The Defendant denies any fault, wrongdoing, or liability to Plaintiff or the Settlement Class Members for monetary damages or other relief, but it believes that the proposed Settlement herein is desirable in order to avoid the further significant burden, expense, risk, and inconvenience of protracted litigation, and the distraction and diversion of its personnel and resources. Neither this Agreement nor the negotiations concerning it or any settlement negotiations may be used, offered, or admitted as evidence of liability or for any purpose or filed with the Court for any reason.
46. The Defendant enters into this Agreement without admitting, conceding, or acknowledging any fault, liability, or wrongdoing of any kind. This Agreement shall not be construed as an admission or concession of the truth of any of the allegations in the Action, or of any liability, fault, or wrongdoing of any kind.

## **XII. NON-MONETARY RELIEF**

47. As part of this Settlement, no later than the next business day after the Preliminary Approval Order is entered:
- (a) With respect to first-party Total Loss claims in Nebraska, the Defendant agrees to make payment of applicable Sales Tax based on



the Adjusted Vehicle Value of the insured Total Loss vehicle at the time of loss (and not on the value of any replacement vehicle). The Defendant shall make such payment at the time of payment for the loss unless the applicable insurance policy or endorsement expressly provides otherwise in terms of the timing of payment of Sales Tax (in which case the Defendant has the option of determining the timing of payment of Sales Tax in accordance with such terms). The Defendant will not require the insured to provide proof that the insured purchased a replacement vehicle prior to the payment of such Sales Tax (unless the insured's policy and/or applicable endorsements expressly provide that the payment of Sales Tax may be deferred by the Defendant until Sales Tax has been incurred with respect to a replacement vehicle) and will pay such Sales Tax whether or not the vehicle is owned or leased.

- (b) With respect to first-party Total Loss claims in Nebraska, the Defendant shall not be required to pay any "taxes" other than those specifically identified in (a) directly above.
- (c) The Defendant reserves the right to change its practices related to the payment of Total Loss claims as set forth in this Agreement in the event:
  - (i) that there are relevant change(s) in the statutes or regulations applicable to the adjustment of Total Loss claims in Nebraska;
  - (ii) that any Nebraska court of appellate jurisdiction issues a decision addressing an insurer's obligation to pay Sales Tax in the context of automobile Total Loss claims;
  - (iii) that there is a change in the State of Nebraska's calculation of vehicle Sales Tax; and/or
  - (iv) that the Defendant amends or revises any of the terms of its Nebraska automobile insurance policies with regard to "collision," and/or "comprehensive" coverage (or "other than collision coverage") after preliminary approval of this Settlement.

48. Nothing in this Proposed Settlement shall preclude the Defendant from changing its claims settlement practices under these conditions.

### **XIII. DISMISSAL OF ACTION AND RELEASE OF CLAIMS**

49. Plaintiff and all other Settlement Class Members who do not request exclusion from the Settlement Class under the terms to be set forth in the Settlement Agreement or who do not opt out of the Settlement Class, hereby expressly acknowledge and agree, on their own behalf and on behalf of each of their

respective heirs, trustees, executors, administrators, principals, beneficiaries, representatives, agents, and present and former officers, directors, employees, insureds, attorneys, contractors, predecessors, successors, parent companies, subsidiaries, divisions, affiliates, and assigns, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, that they release and discharge the Released Persons of and from all Released Claims and shall not now or hereafter initiate, maintain, or assert against any of the Released Persons, either directly or indirectly, derivatively, on their own behalf, on behalf of the Settlement Class, or on behalf of any other Person or entity any right, liability, claim, or cause of action arising out of or relating to the Released Claims.

50. Upon the Effective Date, the Plaintiff, all Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List, and their heirs, estates, trustees, executors, administrators, principals, beneficiaries, representatives, agents, assigns, and successors, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, regardless of whether they have submitted a Claim Form, will be bound by the Final Order and Judgment and conclusively deemed to have fully released, acquitted, and forever discharged all Released Persons from all Released Claims.
51. Upon the entry of the Final Order and Judgment, the Action will be dismissed with prejudice as to the Defendant, the Plaintiff, and all Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List. The Final Order and Judgment will release all Released Persons from Released Claims. The Court will reserve jurisdiction to resolve any claims related to the settlement and claims process.

#### **XIV. RETENTION OF RECORDS**

52. The Settlement Administrator, Class Counsel, and the Defendant shall retain copies or images of all returned Short-Form Notices and Claim Forms and correspondence relating thereto, for a period of up to two (2) years after the Effective Date. After this time, upon the Defendant's written request, Class Counsel shall destroy any documentary records in their possession. Defendant will retain notice and claim forms in settlement members' claim files pursuant to its usual document retention protocols.

#### **XV. MISCELLANEOUS PROVISIONS**

53. This Settlement is contingent upon approval by the Court. If the Settlement does not receive final and non-appealable court approval, the Defendant shall not be obligated to make any payments or provide any other monetary or non-monetary relief to the Plaintiff or the Settlement Class Members, any

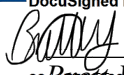
attorneys' fees or expenses to Class Counsel, or any service award to Plaintiff; in such event, the Parties shall be restored to the *status quo ante* in the Action.

54. As described in this Agreement, the Defendant will pay all costs incurred to implement and effectuate this Settlement, including, but not limited to, administrative costs, notice costs, claims handling cost, postage, website maintenance, mediation fees, and all other costs necessary to comport with this Agreement. These costs are separate from, and not included within, the lawsuit costs and expenses that the Defendant has agreed to pay, if ordered by the Court, as part of the Attorneys' Fees and Costs Award.
55. Each Party to this Agreement warrants that he, she, or it is fully authorized to enter into this Agreement, and is acting upon his, her, or its independent judgment and upon the advice of his, her, or its counsel and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other party, other than the warranties and representations expressly made in this Agreement.
56. The Parties agree to undertake best efforts to effectuate this Agreement and the terms of the Proposed Settlement, including taking all steps and efforts contemplated by this Agreement, and any other reasonable steps and efforts which may become necessary by order of the Court or otherwise.
57. The headings and captions contained in this Agreement are for reference purposes only and in no way define, extend, limit, describe, or affect the scope, intent, meaning, or interpretation of this Agreement.
58. Unless otherwise noted, all references to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal or state legal holiday, such date or deadline shall be on the first business day thereafter.
59. Except as otherwise provided in a written amendment executed by the Parties or their counsel, this Agreement contains the entire agreement of the Parties hereto and supersedes any prior agreements or understandings between them. All terms of this Agreement shall be construed as if drafted by all Parties hereto. The terms of this Agreement are and shall be binding upon each of the Parties and their agents, attorneys, employees, successors, and assigns, and upon all other Persons claiming any interest in the subject matter hereof through any of the Parties hereto, including any Settlement Class Member.
60. This Agreement may be amended or modified only by a written instrument signed by all Parties.

- 61. This Agreement shall be subject to, governed by, construed, and enforced pursuant to the laws of the State of Nebraska, without regard to principles of conflicts of law.
- 62. The exhibits to this Agreement are integral parts of the settlement and are hereby incorporated and made part of this Agreement.
- 63. To the extent permitted by law, this Agreement may be pleaded as a full and complete defense to any action, suit, or other proceeding which may be instituted, prosecuted, or attempted in breach of this Agreement.
- 64. This Agreement shall be deemed to have been executed upon the last date of execution by all the undersigned Parties and/or counsel.
- 65. The terms of all confidentiality agreements and orders in the Action remain in full force and effect, and the Parties shall continue to maintain the confidentiality of materials exchanged pursuant to the terms of those agreements and orders.
- 66. The Parties agree that, if any party is contacted by and/or wants to issue any statement to the press or media regarding the Settlement of the Action prior to final approval, no statement will be issued and "no comment" shall be the response by all Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by themselves or by their duly authorized representatives:

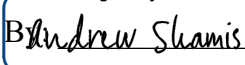
**For the Settlement Class Representative and the Settlement Class:**

DocuSigned by:  
  
 8317429  
 Brett Wagner

Date: 9/30/2021

**For Plaintiff:**

*Counsel for Plaintiff & Settlement Class*

DocuSigned by:  
  
 325AF79EE375481...

Print Name: Andrew Shamis

Title: Managing Partner

Date: 9/28/2021

**For Defendant:**

*Counsel for Safeco Insurance Company of Illinois*

By: 

Print Name: James A. Morsch

Title: Partner

Date: 9/28/2021

# **EXHIBIT 1**

**IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA**

BRETT WAGNER, individually and on behalf of all others similarly situated,	)	Case No.: CI20-10735
Plaintiff,	)	
	)	
	)	
	)	
SAFECO INSURANCE COMPANY OF ILLINOIS,	)	
	)	
Defendant.	)	
	)	
	)	

**ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT**

WHEREAS Plaintiff Brett Wagner (“Plaintiff”), individually and as Class Representative on behalf of a proposed Settlement Class, and Defendant Safeco Insurance Company of Illinois (together, "Safeco" or "Defendants") all acting by and through their respective counsel, have agreed, subject to Court approval, to settle this Action upon the terms and conditions stated in the Settlement Agreement and Release:

NOW, THEREFORE, based upon the Agreement, upon all of the files, records, and proceedings herein, statements of counsel, and it appearing to the Court that a hearing should be held to determine whether the Proposed Settlement described in the Agreement should be finally approved as fair, reasonable, and adequate.

IT IS HEREBY ORDERED THAT:

1. The Agreement (including Exhibits) is hereby incorporated by reference in this Order, and all terms defined in the Agreement will have the same meanings in this Order.
2. This Court has personal jurisdiction over all Settlement Class Members because the Settlement Class Members are defined as persons to whom Nebraska Automobile Insurance

Policies were issued by Defendant.

3. The Court preliminarily approves the Agreement (including Exhibits), finding that the Proposed Settlement is sufficiently fair, reasonable, and adequate to warrant providing notice to the Settlement Class.

4. For purposes of determining whether the terms of the Proposed Settlement should be finally approved as fair, reasonable and adequate, the following Settlement Class is preliminarily certified for settlement purposes only:

All Nebraska policyholders who were insured for private-passenger auto physical damage coverage by Safeco Insurance Company of Illinois (“Safeco”) who suffered a first-party loss of a covered leased vehicle at any time during the Class Period, whose claims were adjusted by Safeco as a total-loss claim, and whose claim resulted in a Total Loss Claim Payment by Safeco, and who were not paid Full Sales Tax (7% of the actual cash value of the Class Member’s Adjusted Vehicle Value);

Per the Settlement Agreement “Releasing Persons” means: (a) Plaintiff; and (b) Settlement Class Members in the Claims and Policy Data who do not otherwise timely opt-out of the Settlement Class (whether or not such members submit claims) and their respective present, former or subsequent assigns, heirs, successors, predecessors, parents, subsidiaries, officers, directors, shareholders, members, managers, partners, principals, representatives, agents, employees and anyone working on their behalf. Accordingly, only those insureds in the claims and policy data will be in the list of those provided notice and only those in the notice list will potentially have their claims released by virtue of membership in the class. “Releasing Persons shall also include any policyholders of Safeco who submit a valid Claim Form, Electronic Claim Form, or Electronic Blank Claim Form and their respective present, former or subsequent assigns, heirs, successors, predecessors, parents, subsidiaries, officers, directors, shareholders, members, managers, partners, principals, representatives, agents, employees and anyone working on their behalf.

5. The Court preliminarily finds that the terms of the Settlement Agreement are fair, adequate, and reasonable. In so finding, the Court has considered several factors in making such finding, including: (1) the complexity and duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings; (4) the risk of establishing liability; (5) the risk

of establishing damages; (6) the risk of maintaining a class action; (7) the ability of the defendant to withstand a greater judgment; (8) the reasonableness of the settlement in light of the best recovery; and (9) the range of reasonableness of the settlement in light of all the attendant risks of litigation.

6. Plaintiff is preliminarily appointed as representative of the Settlement Class (“Class Representative”), and the following attorneys are preliminarily appointed as counsel for the Settlement Class (“Class Counsel”):

**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**  
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)

7. The Parties have prepared the forms of the Class Notice, which are affixed as Exhibits 2-10 to the Settlement Agreement. The Court has carefully reviewed the forms and hereby approves the Class Notice as to form and content, and directs that forms be without material alteration from those attached to the Agreement unless otherwise modified by agreement of the Parties and approved by the Court. The Court directs that the Class Notices be sent to the Persons described and in the manner set forth in paragraphs 7 to 13, *inter alia*, of the Agreement and, for Notices returned undelivered, directs the Settlement Administrator to follow the procedures set out in the Agreement.



8. The Court directs the Settlement Administrator to initiate and maintain the website as set forth in paragraphs 7 to 11 of the Agreement, and to post thereon the Settlement Agreement, Long-Form Notice, Claim Form, Electronic Claim Form, Preliminary Approval Order, and frequently asked questions, as set forth in the Agreement, and to maintain the website for 180 days after the Claims Submission Deadline.

9. Within 10 days of entry of this Order, Defendant shall provide the last-known physical mailing address and any and all email addresses it possesses for potential Settlement Class members. The Settlement Administrator shall run physical mailing addresses through the National Change of Address Database (“NCOA”) to attempt to obtain a more current name and/or physical mailing address for each potential Settlement Class Member. Within 30 days of entry of this Order, the Settlement Administrator shall send a copy of the Mailed Notice by first-class mail to the Settlement Class members.

10. Defendant shall send 5 emails notices as outlined in the settlement agreement with the timing of the emails to be determined by the Class Administrator in accordance with best practices to best effectuate notice to each Class Member.

11. If any mailed Notice and/or Claim Form mailed to any potential Settlement Class Member is returned to the Settlement Administrator as undeliverable, the Settlement Administrator will promptly log each Notice and/or Claim Form that is returned as undeliverable and provide copies of the log to Defendant and Class Counsel upon request. If the mailing is returned to the Settlement Administrator with a forwarding address, the Settlement Administrator shall forward the mailing to that address. For the remaining returned mailings, the Settlement Administrator will use reasonable efforts to attempt to obtain a new address and those mailings shall be forwarded to any new address obtained through such a search. If any Notice is returned as undeliverable a

second time, no further mailing shall be required. The Court finds that the procedures set forth herein constitute reasonable and the best practicable notice under the circumstances and an appropriate and sufficient effort to locate current addresses of Settlement Class Members.

12. The Court preliminarily finds that the notice provided to potential Settlement Class Members (i) is the best practicable notice; (ii) is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action and of their right to object or to exclude themselves from the Proposed Settlement; and (iii) is reasonable and constitutes due, adequate, and sufficient notice to all Persons entitled to receive notice.

13. Potential Settlement Class Members who wish to exclude themselves from the Settlement Class must submit timely, written requests for exclusion as set forth in the Agreement and Class Notice. To be effective, such a request must include the Settlement Class Member's name and address, a clear and unequivocal statement that the Settlement Class Member wishes to be excluded from the Settlement Class, and the signature of the Settlement Class Member or his or her Legally Authorized Representative. The request must be mailed to the Administrator at the address provided in the Mailed and Emailed Notice and must be postmarked no later than 30 days after the Mailed Notice Date. Requests for exclusion must be exercised individually by the Settlement Class Member or his or her Legally Authorized Representative, and not as or on behalf of a group, class, or subclass.

14. No later than 10 days before the Final Approval Hearing, the Settlement Administrator shall file proof of mailing of the Notice, along with the Opt-Out List, which shall be a list of all Persons who timely and properly requested exclusion from the Settlement Class, and an affidavit or declaration attesting to the accuracy of the Opt-Out List.

15. Potential Class Members who submit timely and valid requests for exclusion in the

manner set forth in the Notice and the Agreement shall be excluded from the Settlement Class. Such Persons shall have no rights under the Proposed Settlement, shall not share in any distribution of funds under the Proposed Settlement, and shall not be bound by the Proposed Settlement or by any Final Order and Judgment approving the Proposed Settlement.

16. All Settlement Class Members who do not submit a timely, written request for exclusion in the manner set forth in the Notice and Agreement shall be bound by any Final Order and Judgment entered, even if such Settlement Class Members never received actual notice of this Action or this Proposed Settlement, or never submitted a claim pursuant to the Proposed Settlement. If final approval of the Proposed Settlement is granted, they shall be barred, now and in the future, from asserting any of the Released Claims, as defined in the Agreement, against any Released Persons, as defined in the Agreement.

17. Settlement Class Members who do not request exclusion from the Settlement Class may object to the Proposed Settlement. Settlement Class Members who choose to object to the Proposed Settlement must file with the Court and mail to the Class Administrator written notices of intent to object or intervene, as described in the Agreement and below. Any Settlement Class Member who has timely filed an objection in compliance with the Agreement and this Order may appear at the Final Approval Hearing, in person or by counsel, and be heard to the extent allowed by the Court. The right to object to the Proposed Settlement must be exercised individually by an individual Settlement Class Member or his or her attorney or his or her Legally Authorized Representative, and not as a member of a group, class, or subclass.

18. To be timely, any objection or motion to intervene must be postmarked and mailed to the Settlement Administrator, or filed with the Court, no later than thirty (30) days prior to the Final Approval Hearing. Any untimely objection or motion to intervene may not be considered, at

the discretion of the Court.

19. A notice of intent to object to the Proposed Settlement should also:

- (a) Contain a heading which includes the name of the case and case number;
- (b) Provide the name, address, telephone number, and signature of the Settlement Class Member filing the objection;
- (c) Indicate the specific reasons why the Settlement Class Member objects to the Proposed Settlement;
- (d) Contain the name, address, bar number, and telephone number of the objecting Settlement Class Members' counsel, if represented by an attorney. If the Settlement Class Member is represented by an attorney, he or she must comply with all applicable rules of the Court; and
- (e) State whether the objecting Settlement Class Member intends to appear at the Final Approval Hearing, either in person or through counsel.

A lack of substantial compliance with these requirements may result in the objection not being considered by the Court.

20. In addition, a notice of intent to object should contain the following additional information, if the Settlement Class Member or his/her or its attorney requests permission to speak at the Final Approval Hearing:

- (a) A detailed statement of the specific legal and factual basis for each objection;
- (b) A list of any and all witnesses whom the Settlement Class Member may seek to call at the Final Approval Hearing, with the address of each witness and a summary of his or her proposed testimony;
- (c) A detailed description of any and all evidence the Settlement Class Member may seek to offer at the Final Approval Hearing, including photocopies of any and all exhibits which the objector may seek to introduce at the Final Approval Hearing;
- (d) A list of any legal authority the Settlement Class Member will present at the Final Approval Hearing; and
- (e) Documentary proof of membership in the Settlement Class.

21. Settlement Class Members have the right to exclude themselves from the Proposed Settlement and pursue a separate and independent remedy against Defendant by complying with the exclusion provisions set forth herein. Settlement Class Members who object to the Proposed

Settlement shall remain Settlement Class Members, and waive their right to pursue an independent remedy against Defendant. To the extent any Settlement Class Member objects to the Proposed Settlement, and such objection is overruled in whole or in part, such Settlement Class Member will be forever bound by the Final Order and Judgment of the Court.

22. The Court directs the Settlement Administrator to rent a post office box to be used for receiving requests for exclusion, objections, notices of intention to appear, and any other settlement-related communications, and provides that only the Settlement Administrator, the Court, the Clerk of the Court, and their designated agents shall have access to this post office box, except as otherwise expressly provided in the Agreement or by further order of the Court. The Court also directs the Settlement Administrator promptly to furnish Class Counsel and Counsel for Defendant copies of any and all objections, written requests for exclusion, motions to intervene, notices of intention to appear, or other communications that come into its possession, as set forth in the Agreement.

23. The Court approves the claims submission process as set forth in the Agreement, including the Claim Form(s) and Electronic Claim Form proposed by the Parties, and finds the claim submission process to be fair and reasonable. The Court directs the Parties and Settlement Administrator to initiate the claims' process as set forth in the Agreement, including a deadline to submit a claim thirty (30) days after the mailing or emailing of notice. Claims submitted after such date shall be deemed untimely.

24. The Court will hold a Final Approval Hearing to consider the fairness, reasonableness, and adequacy of the Proposed Settlement on [REDACTED] at [REDACTED]. During the Final Approval Hearing, the Court will consider whether the proposed settlement described in the Agreement should be approved as fair, reasonable, and adequate, and whether the Court should

enter the proposed Final Order and Judgment approving the Proposed Settlement and dismissing this Action on the merits, with prejudice. The Court will also consider the amount of any Attorneys' Fee Award and whether to make, and the amount of, any Incentive Award to the Class Representative. The Final Approval Hearing may be postponed, adjourned, or rescheduled by order of the Court without further notice to Settlement Class Members other than on the settlement website, and the Court's docket.

25. The Court confirms the following schedule (which the court, upon showing of good cause, may extend any of the deadlines):

#	Action	Deadline
1	Website Notice Posted by Settlement Administrator	Thirty (30) days after entry of the Preliminary Approval Order (“PAO”)
2	Deadline for Settlement Administrator to mail out direct mail notice (“Notice Date”)	Thirty (30) days after entry of the Preliminary Approval Order
3	Deadline for Settlement Class Members to opt-out of the Agreement	Thirty (30) days prior to the Final Approval Hearing
4	Deadline for submission of Notice of Intent to object to agreement	Thirty (30) days prior to the Final Approval Hearing
5	Deadline for Settlement Class Members to file claims.	Thirty (30) days after Fairness Hearing
6	Deadline for Class Counsel to file their Motion for Final Approval of the Settlement, application for attorneys’ fees, costs and expenses, and for a service award for Plaintiff.	Fifteen (15) days prior to final Fairness Hearing
7	Deadline for Settlement Administrator to file proof of completion of Notice, along with complete and accurate Opt-Out list	Ten (10) days before Final Hearing

8	Fairness Hearing	_____ at _:_.m. (at least 105 days after entry of Preliminary Approval Order (“PAO”))
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26. The Court stays all proceedings in this Action until further Order of the Court, except that the Parties may conduct such limited proceedings as may be necessary to implement the Proposed Settlement or to effectuate the term of the Agreement.

**DONE AND ORDERED** in chambers in the District Court of Douglas County, Nebraska, this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
GREGORY M. SCHATZ  
DISTRICT COURT JUDGE

Copies finished to:  
Counsels of Record

# **EXHIBIT 2**



## Blank Claim Form

### CLAIM FORM

Name & Address: [PREFILL] CLAIM ID: \_\_\_\_\_

Date of Loss: [PREFILL]

#### 1. ADDRESS (if different from above)

Primary Address:

Primary Address (continued)

City:

State:

Zip Code:

**2. AFFIRMATION (required):** By signing below, I certify that to the best of my knowledge, the information on this Claim Form is true and correct, and that neither I nor any member of claimant's family has already submitted a Claim Form or was already paid sales tax by Safeco in connection with the replacement of the totaled vehicle, or entered into a release of such claim with Safeco.

Signature: \_\_\_\_\_ Dated: \_\_\_\_\_

Name (please print): \_\_\_\_\_

# **EXHIBIT 3**

## ELECTRONIC CLAIM FORM

To be considered, this Claim Form must be submitted on or before       .

### CLAIM FORM

Name & Address: [PREFILL] CLAIM ID: \_\_\_\_\_

Date of Loss: [PREFILL]

**1. ADDRESS (if different from above)**

Primary Address:

Primary Address (continued):

City:

State:

Zip Code:

**2. AFFIRMATION (required):** By signing below, I certify that to the best of my knowledge, the information on this Claim Form is true and correct, and that neither I nor any member of claimant's family has already submitted a Claim Form or was already paid sales tax by Safeco in connection with the replacement of the totaled vehicle, or entered into a release of such claim with Safeco.

Electronic Signature: \_\_\_\_\_ Dated: \_\_\_\_\_

# **EXHIBIT 4**

**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 [the date of Preliminary Approval] 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-###-###-#### 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 statewide 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 owes total loss claimants 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 [REDACTED], to decide whether to grant final approval of the Proposed Settlement.

### **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:

1. (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 [date of preliminary approval] 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 1-8XX-XXX-XXXX or visit [www.\[URL\].com](http://www.[URL].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 prefilled online claim form.

You also can submit an Electronic Claim Form by visiting [www.\[URL\].com](http://www.[URL].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.\[URL\].com](http://www.[URL].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 1-8XX-XXX-XXXX 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 [REDACTED]. If you submit an Electronic Claim, you must do so by 11:59 p.m. on [REDACTED].

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

You have the right to not be part of the Settlement by excluding yourself or “opting out” of the Class. If you wish to exclude yourself, you must do so on or before [REDACTED] 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 the request to:

CLAIMS ADMINISTRATOR  
c/o NAME  
ADDRESS  
ADDRESS

A request for exclusion must be received by on or before [REDACTED].

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 RECEIVED BY DEADLINE OF [REDACTED], 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.\[URL\].com](http://www.[URL].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:

CLAIMS ADMINISTRATOR  
c/o [NAME]  
[ADDRESS]  
[ADDRESS]

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 [REDACTED]. 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**

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 Claims do 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-###-###-#### or go to www. [REDACTED].com.

This www. [REDACTED].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;
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. [REDACTED], JUDGE, IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

DATED: [REDACTED] ##, 2021.

# **EXHIBIT 5**

If you had a total loss claim **FOR A LEASED OR OWNED VEHICLE** and did not receive reimbursement for sales tax, you may be a class member in a class action against Safeco Insurance Company of Illinois ("Safeco"). The Parties have agreed to settle the case. The case is *Wagner, et al. v. Safeco Ins. Co. of Illinois*, Case No. CI20-10735 (Neb. Dist. Ct., Douglas Cty.). The insurance company included in the proposed settlement is Safeco Insurance Company of Illinois ("Safeco" or "Defendant").

**Why am I getting this Notice?** 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 and may have submitted a covered physical damage claim with respect to a covered vehicle during the period of December 21, 2015 through [the date of Preliminary Approval] that resulted in a total loss claim payment. **This settlement concerns both leased and owned vehicles.**

**What is this lawsuit about?** The Settlement resolves a lawsuit claiming that Safeco breached its auto insurance policies by failing to pay sales tax to customers who submitted Nebraska first-party total-loss auto claims on leased or owned vehicles.

**Settlement Terms.** Safeco will pay eligible Settlement Class Members who submit a claim (1) state sales tax of 7% of the actual cash value as previously adjusted for the total loss vehicle at the time of loss. The payment is the full amount sought in the case. The average claim is \$540.32 but each claim amount will depend on the particular facts of the claim. In addition, Safeco has agreed that it will not contest an application for payment of attorneys' fees and costs of up to \$245,000.00 and \$5,000.00 as a service award to the Class Representative. These payments will not reduce the amount of money available to Settlement Class Members. The Parties estimate that the average claim payment to eligible Settlement Class Members is \$540.32. This is only an average; individual payments will vary based on the facts of the claim.

**How do I Receive Payment?** To receive a payment, you must complete and mail the attached Claim Form (no stamp needed - - return postage has been prepaid) or submit a Claim Form online at [www.\[URL\].com](http://www.[URL].com). You may submit a Claim Form online by visiting [www.\[URL\].com](http://www.[URL].com), clicking "Make a Claim" and entering the Claimant ID that is on the attached Claim Form. Claim Forms must be postmarked or submitted online by [60 days after Mail Notice].

**Do I have any other options?** If you are a Settlement Class Member and had a leased or owned vehicle total loss claim and fail to submit a Claim Form, you will not be eligible to get a Settlement payment and your rights will be affected. If you don't want to be legally bound by the settlement, pursuant to which you will be giving a release of any claims asserted in the lawsuit, you must exclude yourself from it by [MONTH], [DAY], [YEAR]. Unless you exclude yourself, you won't be able to sue or continue to sue Safeco for any claim made in this lawsuit or released by the Settlement Agreement. If you stay in the settlement (i.e., don't exclude yourself), you may object to it or ask for permission for you or your own lawyer to appear and speak at the hearing—at your own cost—but you don't have to. Objections and requests to appear must be received by [MONTH], [DAY], [YEAR]. More details and the full terms of the Proposed Settlement is available at [www.\[URL\].com](http://www.[URL].com).

COURT ORDERED LEGAL NOTICE

**If you suffered a total-loss of a leased or owned vehicle while insured by Safeco from 2015-2021, you may be entitled to payment for sales tax and prejudgment interest.**

**Complete and return the enclosed form by \_\_\_\_\_  
to receive a cash payment.**

Wagner v Safeco Class Action  
Settlement  
PO BOX 0000  
City, State, Zip Code

**Class Member John Doe  
123 ABC Street  
Omaha, NE 68183**

**CLAIM FORM**

Name & Address: [PRE-FILL]  
Date of Loss: [PRE-FILL]

CLAIMANT ID: [PRE-FILL]

**1. ADDRESS (if different from above)**

Primary Address

Primary Address continued

City:

State:

Zip Code:

**2. AFFIRMATION (required):** By signing below, I certify that to the best of my knowledge, the information on this Claim Form is true and correct, and that neither I nor any member of claimant's family has already submitted a Claim Form or was already paid sales tax by Safeco in connection with the replacement of the totaled vehicle, or entered into a release of such claim with Safeco.

Signature: \_\_\_\_\_ Dated \_\_\_\_\_

Name (please print): \_\_\_\_\_

postage  
prepaid  
mark

Settlement Administrator  
P.O. Box \_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_



# **EXHIBIT 6**

## FIRST EMAIL

To:

From:

Subject: Safeco Settlement Regarding Leased or Owned Vehicles - Submit a Claim

**Safeco's records show you suffered a total loss of your vehicle while insured with the company. If you leased or owned that vehicle at the time of the total loss, and did not previously receive reimbursement for sales tax, you may be entitled to a payment from the class action settlement in this case. If you owned the total loss vehicle, you are not entitled to payment and can ignore this notice.**

**Claim your cash payment from the settlement by [Date].**

This settlement concerns both leased and owned vehicles.

**TO MAKE A CLAIM:** Click [here](#), or go to [www.\[URL\].com](http://www.[URL].com) and enter your Claimant ID [insert Claim ID]

**Why am I getting this Notice?** You have been identified as a potential "Settlement Class Member" from Safeco Insurance Company's claims data because you were a Nebraska policyholder insured by Safeco and submitted a physical damage claim during the period December 21, 2015 through [insert date of preliminary approval], that resulted in a total loss claim payment. If your total loss claim was for a covered leased or owned vehicle, you are part of the Settlement Class and may be entitled to an award.

**What is this lawsuit about?** The settlement resolves a lawsuit claiming that Safeco breached its auto insurance policies by failing to pay sales tax to customers who submitted Nebraska first-party total-loss auto claims on leased or owned vehicles.

**Settlement Terms.** Safeco will pay eligible Settlement Class Members who submit a claim (1) sales tax of 7% of the actual cash value as previously adjusted value of the total loss vehicle at the time of loss; The Parties estimate that the average claim payment to eligible Settlement Class Members is \$540.32, for sales tax. The payment is the full amount sought in the case. This is only an average; individual payments will vary based on the facts of your claim. In addition, Safeco has agreed that it will not contest an application for payment of attorneys' fees and costs of up to \$245,000.00 and \$5,000.00 as a service award to the Class Representative. These payments will not reduce the amount of money available to Settlement Class Members. The insurance company included in the proposed settlement is Safeco Insurance Company of Illinois (together, "Safeco" or "Defendant").

**How do I make a Claim?** To be eligible for payment, you must complete and mail the Claim Form attached to the postcard you received in the mail or submit a Claim Form online at [www.\[URL\].com](http://www.[URL].com) by using the above link and Claimant ID information. Claim Forms must be postmarked or submitted online by [redacted].

**What are my options?** You can make a claim, exclude yourself (“opt out”), object to the Settlement, or do nothing. The deadline to opt out or object is [REDACTED]. If you do not opt out, and the Court approves the Settlement, you will release your claims against Safeco. The Court will hold a hearing on \_\_\_ to decide whether to approve the Settlement. You may attend.

**How do I get more information?** Go to [www.\[URL\].com](http://www.[URL].com) or call toll-free [REDACTED] to get more detailed information, FAQs, an online claim form, court filings, and the Settlement Agreement.

***Wagner, et al. v. Safeco Ins. Co. of Illinois***  
**Case No. CI20-10735 (Neb. Dist. Ct., Douglas Cty.)**

# **EXHIBIT 7**

## SECOND EMAIL

To:  
From:  
Subject: Safeco Settlement Potential Claim re Total Loss Vehicles

**Claim your cash payment from the settlement by [Date].**

**TO MAKE A CLAIM:** Click [here](#), or go to [www.\[URL\].com](http://www.[URL].com) and enter your Claimant ID [Prefilled Claim ID]

**Safeco's records show you suffered a total loss to a vehicle while insured with the company. If your total loss was to a vehicle that you owned or leased, and you have not already received reimbursement for sales tax, you may be entitled to sales tax of 7% of the actual cash value of your totaled vehicle as part of this class action settlement.**

This settlement concerns leased and owned vehicles.

The Settlement Administrator's records show that you have not yet filed your Claim Form to receive, sales tax, from the class action settlement with Safeco Insurance Company ("Safeco").

**Why am I getting this Notice?** Safeco's claims data indicates you may be part of the settlement, because you were a Nebraska policyholder insured by Safeco and submitted a physical damage claim with respect to a total loss vehicle during the period December 21, 2015 through [insert date of preliminary approval], that resulted in a total loss claim payment.

**What is this lawsuit about?** The settlement resolves a lawsuit claiming that Safeco breached its auto insurance policies by failing to pay sales tax to customers who submitted Nebraska first-party total loss auto claims.

Plaintiff's counsel calculates that the average claim payment to eligible Settlement Class Members is \$540.32. This is only an average; individual payments will vary based on the facts of the claim.

**How do I make a Claim?** To be eligible for payment, you must complete and submit a Claim Form online by using the link and Claimant ID information above by [date].

**How do I get more information?** More details and the full terms of the Proposed Settlement is available at [www.\[URL\].com](http://www.[URL].com). You can also call toll-free [redacted] to get more detailed information, FAQs, an online claim form, court filings, and the Settlement Agreement.

**THIS IS A REMINDER EMAIL NOTICE: IF YOU ALREADY SUBMITTED A CLAIM FORM BY MAIL OR ONLINE YOU CAN IGNORE THIS REMINDER: YOU DO NOT NEED TO DO ANYTHING ELSE TO MAKE A CLAIM.**

***Wagner, et al. v. Safeco Ins. Co. of Illinois .***  
**No. CI20-10735 (Neb. Dist. Ct., Douglas Cty.)**

# **EXHIBIT 8**

## THIRD EMAIL

To:

From:

Subject: Safeco Settlement Regarding Total Loss Vehicles - Reminder Notice to Make a Claim

**Time is running out to claim your cash payment from the settlement. If you suffered a total loss to a leased or owned vehicle, and did not previously receive reimbursement for sales tax, file your Claim Form by [Date] to be eligible to receive sales tax of 7% of the previously adjusted of your totaled vehicle as part of this class action settlement.**

**TO MAKE A CLAIM:** Click [here](#), or go to [www.\[URL\].com](http://www.[URL].com) and enter your Claimant ID [Prefilled Claim ID]

[This settlement concerns both leased and owned vehicles.](#)

You have not yet filed your Claim Form for a potential payment from the total loss you suffered while you were insured with Safeco.

Complete and submit a Claim Form online by using the link and Claimant ID information above by [date].

If you take no action before [date], and the Court approves the Settlement, you will release your claims against Safeco and receive nothing.

More details and the full terms of the Proposed Settlement are available at [www.\[URL\].com](http://www.[URL].com). You can also call toll-free [redacted] to get more detailed information, FAQs, an online claim form, court filings, and the Settlement Agreement.

***Wagner, et al. v. Safeco Ins. Co. of Illinois .***  
**No. CI20-10735 (Neb. Dist. Ct., Douglas Cty.)**



# **EXHIBIT 9**

## FOURTH EMAIL

To:

From:

Subject: Safeco Settlement Regarding Leased or Owned Vehicles - Reminder Notice to Make a Claim

**Time is running out to claim your cash payment from the settlement. If you suffered a total loss to a leased or owned vehicle, and did not previously receive reimbursement for sales tax, file your Claim Form by [Date] to be eligible to receive sales tax of 7% of the previously adjusted of your totaled vehicle as part of this class action settlement.**

**TO MAKE A CLAIM:** Click [here](#), or go to [www.\[URL\].com](http://www.[URL].com) and enter your Claimant ID [Prefilled Claim ID]

[This settlement concerns both leased and owned vehicles.](#)

You have not yet filed your Claim Form for a potential payment from the total loss you suffered while you were insured with Safeco.

Complete and submit a Claim Form online by using the link and Claimant ID information above by [date].

If you take no action before [date], and the Court approves the Settlement, you will release your claims against Safeco and receive nothing.

More details and the full terms of the Proposed Settlement are available at [www.\[URL\].com](http://www.[URL].com). You can also call toll-free [redacted] to get more detailed information, FAQs, an online claim form, court filings, and the Settlement Agreement.

***Wagner, et al. v. Safeco Ins. Co. of Illinois .  
No. CI20-10735 (Neb. Dist. Ct., Douglas Cty.)***

# **EXHIBIT 10**

## FINAL NOTICE EMAIL

To:

From:

Subject: Safeco Settlement Regarding Leased or Owned Vehicles - Final Notice to Make a Claim

**Time is running out to claim your cash payment from the settlement. If you suffered a total loss to a leased or owned vehicle, and did not previously receive reimbursement for sales tax, file your Claim Form by [Date] to be eligible to receive sales tax of 7% of the previously adjusted value of your totaled vehicle as part of this class action settlement.**

**TO MAKE A CLAIM:** Click [here](#), or go to [www.\[URL\].com](http://www.[URL].com) and enter your Claimant ID [Prefilled Claim ID]

This settlement concerns both leased and owned vehicles.

You have not yet filed your Claim Form for a potential payment from the total loss you suffered while you were insured with Safeco this is your last notice.

Complete and submit a Claim Form online by using the link and Claimant ID information above by [date].

If you take no action before [date], and the Court approves the Settlement, you will release your claims against Safeco and receive nothing.

More details and the full terms of the Proposed Settlement are available at [www.\[URL\].com](http://www.[URL].com). You can also call toll-free [redacted] to get more detailed information, FAQs, an online claim form, court filings, and the Settlement Agreement.

***Wagner, et al. v. Safeco Ins. Co. of Illinois***  
**No. CI20-10735 (Neb. Dist. Ct., Douglas Cty.)**