

Niewinski v. State Farm  
P.O. Box 2677  
Portland, OR 97208-2677

## **CLASS NOTICE OF STATE FARM COST OF INSURANCE CLASS ACTION SETTLEMENT**

Dear Class Member,

You have been sent this Class Notice of State Farm Cost of Insurance Class Action Settlement (the “Class Notice”) because you have been identified as a Settlement Class Member in the class action lawsuit, *Niewinski v. State Farm Life Insurance Company*, pending in the United States District Court for the Western District of Missouri, Case No. 2:23-cv-04159. This Class Notice summarizes a recent Settlement that impacts your rights. A full description of the Settlement is contained in the Settlement Agreement, which includes the precise definitions of capitalized terms used in this Class Notice. The Agreement is available for you to read at <http://www.nationalsf86settlement.com>. Please read it and this Class Notice carefully to understand your rights and obligations under the Settlement.

Records provided by State Farm Life Insurance Company and State Farm Life and Accident Assurance Company indicate that you are currently the owner or were the owner at the time of termination of a Form 86040/A86040 or Form 86075/A86075 universal life insurance policy issued and administered by State Farm. Throughout this Class Notice, State Farm Life Insurance Company and State Farm Life and Accident Assurance Company are collectively referred to as “State Farm.”

The Settlement involves the Cost of Insurance that State Farm deducted from the Cash Values of these life insurance policies. The Settlement provides that State Farm will fund a Settlement Fund in the amount of \$65 million, which will be used to pay: (1) cash to Settlement Class Members; (2) Class Counsel’s attorneys’ fees and expenses in an amount to be approved by the Court; (3) any service awards to the Plaintiffs in an amount to be approved by the Court; and (4) the expenses incurred in administering the Settlement.

**Questions? Visit [www.nationalsf86settlement.com](http://www.nationalsf86settlement.com) or  
call 1-888-431-3884 or email [info@nationalsf86settlement.com](mailto:info@nationalsf86settlement.com)**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI

**If You Own or Owned a Form 86040, A86040, 86075, or A86075  
Flexible Premium Adjustable Whole Life (or Universal Life)  
Insurance Policy Issued and Administered by State Farm,  
a Class Action Settlement May Affect Your Rights**

**A COURT AUTHORIZED THIS CLASS NOTICE.  
THIS IS NOT A SOLICITATION FROM A LAWYER.  
YOU ARE NOT BEING SUED.**

- A Settlement has been reached with State Farm in a class action lawsuit about the Cost of Insurance deducted from the Cash Value of these policies. If the Settlement is approved by the Court, you will automatically receive a payment. No further action is required.
- Generally, the Settlement includes current and former Form 86040/A86040 and 86075/A86075 Flexible Premium Adjustable Whole Life (or Universal Life) Insurance policy owners (*see* Questions 4 & 5 below).
- As part of the Settlement, Settlement Class Members will be eligible to receive a portion of a cash Settlement Fund funded by State Farm in the amount of \$65 million (*see* Question 6 below).

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT</b>	
<b>DO NOTHING</b>	Automatically receive your share of the Settlement Fund.
<b>ASK TO BE EXCLUDED</b>	Get no benefits from the Settlement and preserve your right to separately sue State Farm about the claims in this case.
<b>OBJECT</b>	Write to the Court if you don't like the Settlement.
<b>GO TO A HEARING</b>	Make a request to speak in Court about the fairness of the Settlement.

- These rights and options—and the deadlines to exercise them—are explained in this Class Notice.
- The Court in charge of this case still must decide whether to finally approve the Settlement. Settlement checks will be automatically issued to each Settlement Class Member if the Court approves the Settlement and after any appeals are resolved. **You do not need to take further action to receive payment if you are eligible under the Settlement. Please be patient.**

**BASIC INFORMATION**

**1. Why did I get this Class Notice?**

State Farm's records show that you own or owned one of the covered flexible premium adjustable whole life (or universal life) insurance policies (or were identified as the legal representative of such an owner) that was in force on or after January 1, 2002. A Court authorized this Class Notice because you have a right to know about the proposed Settlement and all of your options before the Court decides whether to approve the Settlement. This Class Notice explains the lawsuit, the Settlement, and your legal rights.

United States District Judge Beth Phillips of the United States District Court for the Western District of Missouri is overseeing this case. The case is known as *Niewinski v. State Farm Life Insurance Company*, Case No. 2:23-cv-04159. The persons who sued, Lorin Niewinski, John Baker McClanahan, personal representative of the Estate of Melissa Buchanan, Robert A. Bozaich, Ronnie Jackson, and Sherif B. Botros are called the "Representative Plaintiffs." State Farm Life Insurance Company and State Farm Life and Accident Assurance Company are collectively called "State Farm."

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The following is only a summary of the Settlement. A full description of the Settlement is in the Settlement Agreement. Nothing in this Class Notice changes the terms of the Settlement Agreement. You can read the Settlement Agreement by visiting [www.nationalsf86settlement.com](http://www.nationalsf86settlement.com).

## 2. What is this lawsuit about?

This lawsuit is about whether State Farm's Cost of Insurance deductions were improper, including, specifically, whether they were consistent with the policy language in its Form 86040/A86040 and 86075/A86075 flexible premium adjustable whole life (or universal life) insurance policies ("Policies"). The Policies have a Cash Value that earns interest at or above a minimum rate guaranteed under the Policies. The Policies expressly authorize State Farm to take a Monthly Deduction from the Cash Value to cover various charges.

Representative Plaintiffs allege that State Farm took improper deductions from the Cash Values of its Policies. The Form 86040/A86040 Policy says that the Monthly Cost of Insurance Rates for each "policy year" will be "based on the Insured's age on the policy anniversary, sex, and applicable rate class," and the Form 86075/A86075 Policy says that the Monthly Cost of Insurance Rates for each "policy year" will be "based on the Insured's age on the policy anniversary and applicable rate class." Both Policies say that the rates "can be adjusted for projected changes in mortality." Representative Plaintiffs allege State Farm breached the Policies in five ways. First, Representative Plaintiffs allege that State Farm impermissibly used unauthorized and undisclosed factors to compute the Monthly Cost of Insurance Rates under the Policies. Second, while the Policies permit a separate Monthly Expense Charge, Representative Plaintiffs allege that State Farm impermissibly used expenses to compute the Cost of Insurance Rates that are in excess of the Monthly Expense Charge permitted by the Policies. Third, while the Policies state that Monthly Cost of Insurance Rates "can be adjusted for projected changes in mortality," Representative Plaintiffs allege State Farm failed to reduce its Monthly Cost of Insurance Rates when State Farm's expectations as to future mortality experience improved. Fourth, Representative Plaintiffs allege State Farm failed to consider and use only its expectations of future mortality when its Monthly Cost of Insurance Rates were adjusted. Fifth, Representative Plaintiffs allege State Farm failed to reduce its Monthly Cost of Insurance Rates to the full extent of mortality improvements experienced by State Farm when State Farm adjusted its Cost of Insurance Rates. Additionally, Representative Plaintiffs allege State Farm breached the covenant of good faith and fair dealing and converted monies belonging to policy owners by engaging in the aforementioned alleged conduct.

State Farm denies all of Representative Plaintiffs' claims, including claims challenging the pricing of the Policies and development and application of the Monthly Cost of Insurance Rates, and asserts that, at all times, it complied with the plain language of the Policies by deducting charges from the Cash Value, including but not limited to the Monthly Expense Charge and the Cost of Insurance, that are, and always have been, consistent with the language and terms of the Policies.

You can read Representative Plaintiffs' Class Action Complaint and other relevant documents at [www.nationalsf86settlement.com](http://www.nationalsf86settlement.com).

## 3. Why is there a Settlement?

The Parties negotiated the Settlement with an understanding of the factual and legal issues that would affect the outcome of this lawsuit. During the lawsuit, Representative Plaintiffs, through their attorneys, thoroughly examined and investigated the facts and the law relating to the issues in this case.

As with all litigation, the final outcome of the lawsuit, and two other related lawsuits, *McClanahan v. State Farm Life Ins. Co.*, No. 1:22-cv-01031-STA-JAY (W.D. Tenn.) and *Millwood v. State Farm Life Ins. Co.*, No. 7:10-CV-01445-DCC (D.S.C.), is uncertain. A settlement avoids the costs and risks of further litigation, if the lawsuit were to proceed through trial and appeals, and provides immediate relief to the Settlement Class Members. Based on their evaluation of the facts and law, Representative Plaintiffs and their attorneys have determined that the proposed Settlement is fair, reasonable, and adequate. They have reached this conclusion based on the substantial benefits the Settlement provides to Settlement Class Members and the risks, uncertainties, and costs inherent in the lawsuit.

There has been no trial and there has been no final appellate determinations on the merits of the claims or defenses. However, the two related cases demonstrate the uncertainty and risk of continuing to litigate claims. First, in *McClanahan* the trial court ruled against the Tennessee policy owners and dismissed the lawsuit in its entirety. A copy of this order may be found on the Settlement Website. Second, in *Millwood*, the trial court granted the plaintiff's motion for class certification, but a decision from the court on summary judgment was pending at the time this

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lawsuit was resolved. Because the case has settled, there will be no trial or final determination on the merits of the remaining claims and defenses if the Court approves the Settlement. The Settlement does not indicate that State Farm has done anything wrong or that Representative Plaintiffs and the Settlement Class Members would win or lose if this lawsuit or any of the other lawsuits were to go to trial.

#### 4. Who is included in the Settlement Class?

The Settlement Class includes all persons or entities who own or owned one of the approximately 450,000 **Policies** issued by State Farm. Policies means all Form 86040/A86040 flexible premium adjustable whole life (or universal life) insurance policies, as well as all Form 86075/A86075 flexible premium adjustable whole life (or universal life) insurance policies that were issued and administered by State Farm or their predecessors in interest. A Policy includes all applications, schedules, riders, and other forms that were specifically made a part of the Policies at the time of their issue, plus all riders and amendments issued later. Policies include everything that was part of “The Contract,” as that term is defined in your Policy or Policies.

You are **not** part of the Settlement Class if you are State Farm; any entity in which State Farm has a controlling interest; any of the officers or members of the board of directors of State Farm; the legal representatives, heirs, successors, and assigns of State Farm; anyone employed with Representative Plaintiffs’ counsel’s law firms; or any Judge to whom this case is assigned or his or her immediate family.

If someone who would otherwise be a Settlement Class Member is deceased, his or her estate is a Settlement Class Member.

#### 5. How can I confirm that I am in the Settlement Class?

If you are not sure whether you are included in the Settlement Class, you can get free help at [www.nationalsf86settlement.com](http://www.nationalsf86settlement.com) or by calling 1-888-431-3884 or by emailing [info@nationalsf86settlement.com](mailto:info@nationalsf86settlement.com).

#### 6. What does the Settlement provide?

State Farm has agreed to fund a Settlement Fund in the amount of \$65 million, which will be used to pay: (1) all payments to Settlement Class Members; (2) Class Counsel’s attorneys’ fees and expenses in an amount to be approved by the Court; (3) any service awards to Plaintiffs (including the named plaintiffs in the related litigation) in an amount to be approved by the Court; and (4) the expenses incurred in administering the Settlement. The Net Settlement Fund equals \$65 million less the amounts described in (2) through (4) as approved by the Court.

If the Court approves the Settlement, settlement checks will be mailed to Settlement Class Members in amounts that will vary according to a Distribution Plan. The Distribution Plan is designed to provide each Settlement Class Member an approximate *pro rata* portion of the Net Settlement Fund in proportion to the amount of monthly deductions actually paid by each Settlement Class Member for Cost of Insurance and Monthly Expense Charges. There will also be a minimum cash payment and more paid where a Settlement Class Member’s Policy is still in force.

The full Distribution Plan is attached to the Plaintiffs’ Motion for Preliminary Approval and is available on the Settlement Website.

**You should consult your own tax advisors about the tax consequences of the proposed Settlement, including any benefits you may receive and any tax reporting obligations you may have as a result.**

#### 7. How do I participate in the Settlement?

Settlement Class Members do not have to do anything to participate in the Settlement. No claims need to be filed. Upon approval of the Settlement, a settlement check will be sent to every Settlement Class Member in the amount determined by the Settlement Administrator using the method described in Question 6. If someone who would otherwise be a Settlement Class Member is deceased, his or her estate is a Settlement Class Member. If your address changes, you should contact the Settlement Administrator to give them your new address.

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## 8. When will I receive my settlement check?

The settlement checks will be sent to Settlement Class Members within 30 days after the Final Settlement Date, which is the date that the approval process is formally completed. Settlement checks will be automatically mailed without any proof of claim or further action on the part of the Settlement Class Members. It could take several months to complete the Settlement process and depends on factors that cannot be predicted at this time. Updates will be made available to you on the Settlement Website.

## 9. What happens if I do nothing?

If the Settlement is approved, you will receive a settlement check representing your share of the Settlement.

If the Settlement is approved, you cannot sue State Farm (or certain other released parties included as “Released Parties” in the Settlement Agreement) or be part of any other lawsuit against State Farm concerning the Released Claims, as that term is defined in the Settlement Agreement.

If your Policy is still in force, State Farm is not required to lower its Monthly Cost of Insurance Rates and may continue to use its current Monthly Cost of Insurance Rates. State Farm may also increase Monthly Cost of Insurance Rates if deterioration in its expectations as to future projected mortality is a material or primary reason for the increase.

The Settlement Agreement is available at [www.nationalsf86settlement.com](http://www.nationalsf86settlement.com) and describes the claims that you are giving up. If you have any questions, you can talk to the law firms listed in Question 12 for free, or you can hire your own lawyer.

## 10. Can I exclude myself from the Settlement?

Yes. If you don't want a payment from the Settlement, and/or you want to keep the right to hire your own lawyer and sue State Farm at your own expense about the issues in this case, then you may request to be excluded from the Settlement Class by sending a written notice to the Settlement Administrator. The notice must include the following information:

- The Settlement Class Member's name (or the name of the entity that owns the Policy), current address, telephone number, and e-mail address;
- Policy number;
- A clear statement that the Settlement Class Member elects to be excluded from the Settlement Class and does not want to participate in the Settlement in *Niewinski v. State Farm Life Insurance Company*, Case No. 2:23-cv-04159; and,
- The Settlement Class Member's signature, or the signature of a person providing a valid power of attorney to act on behalf of the Settlement Class Member. If there are multiple owners of a Policy, all owners must sign the notice, unless the signatory submits a copy of a valid power of attorney to act on behalf of all then-current owners of the Policy.

If you want to exclude yourself from the Settlement, your written notice must be served on the Settlement Administrator by mailing it to *Niewinski v. State Farm*, PO Box 2677, Portland, OR 97208-2677 postmarked no later than February 9, 2024.

## 11. How do I tell the Court if I do not like the Settlement?

You can object to the Settlement if you do not like some part of it. The Court will consider your views. To object to the Settlement, you must serve a written objection in the case, *Niewinski v. State Farm Life Insurance Company*, Case No. 2:23-cv-04159. The objection must include the following information:

- The Settlement Class Member’s name (or the name of the entity that owns the Policy), current address, telephone number, and email address;
- Policy number;
- A written statement of all grounds for the objection accompanied by any legal support for the objection (if any);
- Copies of any papers, briefs, or other documents upon which the objection is based;
- A list of all persons who will be called to testify in support of the objection (if any);
- An indication of whether you intend to appear at the Fairness Hearing and the identity of all attorneys who will appear at the Fairness Hearing on your behalf (if any);
- A statement whether the objection applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class; and
- The signature of you or your counsel.

You must serve your objection on the Settlement Administrator by mailing it to Niewinski v. State Farm, PO Box 2677, Portland, OR 97208-2677 postmarked no later than February 9, 2024.

**12. Do I have a lawyer in this case?**

Yes. The Court appointed the following lawyers as “Class Counsel” to represent all the members of the Settlement Class:

David M. Wilkerson The Van Winkle Law Firm 11 N. Market Street Asheville, NC 28801 dwilkerson@vwlawfirm.com	Melinda R. Coolidge Nathaniel Giddings Hausfeld LLP 888 16 <sup>th</sup> Street, NW, Suite 300 Washington, DC 20006 ngiddings@hausfeld.com
John J. Schirger Joseph M. Feierabend Miller Schirger LLC 4520 Main St., Suite 1570 Kansas City, MO 64111 Statefarm86settlement@millerschirger.com	Sophia Goren Gold Kaliel Gold PLLC 950 Gilman St., Ste. 200, Berkeley, CA 94710 sgold@kalielpllc.com
Norman E. Siegel, Ethan M. Lange Stueve Siegel Hanson LLP 460 Nichols Rd., Suite 200 Kansas City, MO 64112 Statefarm86settlement@stuevesiegel.com	

If you have questions, you may contact these lawyers. You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**13. How will the lawyers be paid?**

Class Counsel and the other lawyers who were involved in the pending cases have not been paid for their work in this case. In addition to thousands of hours of labor spent on this case, Class Counsel have expended substantial expenses prosecuting this case. The Court will determine how much Class Counsel will be paid for fees and expenses. Class Counsel will seek an award for attorneys’ fees of up to one-third of the Settlement Fund, plus reimbursement of Class Counsel’s costs and expenses (no more than \$1,100,000), also to be paid from the Settlement Fund. You will not be responsible for payment of Class Counsel’s fees and expenses.

Class Counsel will also request a service award payment of up to \$25,000 for each Plaintiff (including the named plaintiffs in the related litigation) for their service to the Settlement Class. This payment will also be paid from the Settlement Fund. The Court must approve any amounts paid to Class Counsel and to Plaintiffs.

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#### **14. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Fairness Hearing to decide whether to approve the Settlement and any requests for attorneys' fees and expenses, service awards to Plaintiffs, and the costs of settlement administration. You may attend and ask to speak, but you do not have to.

The Court will hold the Fairness Hearing at 10:00 a.m. on March 28, 2024, at the United States District Court for the Western District of Missouri, 400 E. 9<sup>th</sup> St., Kansas City, Missouri, 64106, in Courtroom 7A. The Fairness Hearing may be moved to a different date or time without additional notice being mailed to you, so it is a good idea to check [www.nationalsf86settlement.com](http://www.nationalsf86settlement.com) for any updates. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and in the best interests of Settlement Class Members and whether to award the requested attorneys' fees, expenses, and service awards. If there are objections, the Court will consider them and will listen to people who have asked to speak at the Fairness Hearing. After the Fairness Hearing, the Court will decide whether to approve the Settlement. We do not know how long the Court's decision will take.

#### **15. Do I have to attend the hearing?**

No, but you or your own lawyer are welcome to attend the Fairness Hearing at your expense. If you send a timely objection but do not attend the Fairness Hearing, the Court will still consider your objection.

#### **16. May I speak at the hearing?**

You may speak at the Fairness Hearing by filing an objection that indicates your intention to do so. If you wish to appear through counsel, your written objection must list the attorneys representing you who will appear at the Fairness Hearing. Unless otherwise ordered by the Court, a Settlement Class Member who does not submit a timely objection with the required information will not be permitted to speak at the Fairness Hearing.

#### **17. How do I get more information?**

This Class Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can find a copy of the Settlement Agreement at [www.nationalsf86settlement.com](http://www.nationalsf86settlement.com). You may also send your questions to the Settlement Administrator, in writing, at Niewinski v. State Farm, PO Box 2677, Portland, OR 97208-2677 or call the Settlement Administrator at 1-888-431-3884. You can review the Court's docket in this case at [www.pacer.gov](http://www.pacer.gov).

If your address has changed or will change, please notify the Settlement Administrator by April 8, 2024.

DATE: December 4<sup>th</sup>, 2023