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## Class Actions Filed Against State Farm and Allstate

(2002-2) — Separate but similar class action lawsuits have been filed in Texas against several entities of State Farm and Allstate by minors whose physical injury claim settlements included periodic payments and “on behalf of others similarly situated.” The petitions initiating the suits allege that the liability insurer offered “illusory options” either to accept the settlement proceeds as a cash lump sum and suffer tax consequences or accept a structured settlement funded with an annuity purchased from the affiliated life insurance company “at less than market or competitive rates.”

James Coppedge was killed in an automobile accident on March 7, 1997, leaving his widow and two minor sons. State Farm Mutual provided uninsured/underinsured motorist coverage on the decedent. The widow reached an agreement with State Farm Mutual on behalf of the minor plaintiffs as to the amount the insurer would spend at the time of settlement for the benefit of the claimants. She allegedly sought to structure amounts allocated to her sons that would use an annuity from a life insurance company other than State Farm Life to provide future payments. State Farm Mutual refused, according to the petition, giving her the choice of receiving a check for the entire settlement amount’s present value and making her sons subject to tax liability on any future interest, or accepting structured settlements funded by annuities from State Farm Life. Payments from State Farm Life were said in the petition to be lower than what could have been obtained from other life insurance companies with similar ratings and financial strength. *Coppedge-Link v. State Farm*, 53rd Judicial Dist., Travis Co., Texas, Cause No. GN-200735.

Joshua Stafford, a minor, was injured in an automobile accident on October 16, 1997. His mother filed suit on behalf of the minor against the person who allegedly caused the accident. The defendant was insured by Allstate Insurance Company. During the course of the initial litigation, the parties agreed on an amount that Allstate Insurance Company would pay at the time of settlement on behalf of its insured for the benefit of the minor. According to the plaintiff’s petition initiating the current suit against several Allstate entities, the mother had asked at the time the original physical injury claim was being settled that the entire amount be applied toward the funding of future payments after her son reached majority. Allstate Insurance Company allegedly refused to structure with any company other than Allstate Life Insurance Company as annuity issuer and Allstate Settlement Corporation as assignee of the future payment obligation. As in the above case, the claimants were said to have been given the option of accepting the settlement’s present value as a cash lump sum, which would cause any growth to be a taxable event, or accepting the Allstate annuity as the funding asset. The future payments from the Allstate annuity were alleged to be lower than what could have been obtained from an annuity issued by “other life insurance companies with similar ratings and financial strength.” *Stafford v. Allstate*, 172nd Judicial Dist., Jefferson Co., Texas, Cause No. E-166795.

Allowing for the differences in the basic facts of these two cases, the allegations are almost identical. Both petitions state: “Defendants shared a common goal of soliciting and selling structured settlements funded by annuities, so that each of the participants in the schemes

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alleged herein could enjoy profits either through the increased sale of their products at lower than competitive rates, increased and excessive fees and commissions resulting from the sale of their products, and the payment of rebates/kickbacks.” It was alleged that the annuities were funded at a price less than the negotiated settlement with the plaintiffs and the classes. The causes of action contained in the plaintiffs’ petitions are: 1) Violation of the Texas Deceptive Trade and Practices—Consumer Protection Act and Violation of the Texas Insurance Code; 2) Violations of the Texas Free Enterprise and Antitrust Act of 1983; 3) Civil Conspiracy; 4) Unjust Enrichment; and 5) Conversion.

In seeking certification as a class action, the plaintiffs’ petitions claim that the respective defendant groups have “sold hundreds, and possibly thousands, of the structured settlements funded by annuities....” Members of the class, if certified by the court, would be all persons who, while under the age of 18, settled their claims with periodic payments funded by immediate fixed annuities in Texas since January 14, 1983. The plaintiffs’ petitions state: “It is not known, at this time, whether defendants engaged in the same conduct outside of Texas. If so, the class may be amended to include persons in other states that have similar laws prohibiting the conduct described herein.”

Allstate had removed the case to the United States District Court for the Eastern District of Texas, Beaumont Division, Civil Action No. 1:02-CV-22, asserting both federal diversity and federal question jurisdiction. Federal court, however, has remanded the case back to state court. According to Matthew R. Pearson of San Antonio, Texas, an attorney representing both plaintiffs, the case against State Farm is proceeding in state court. ■