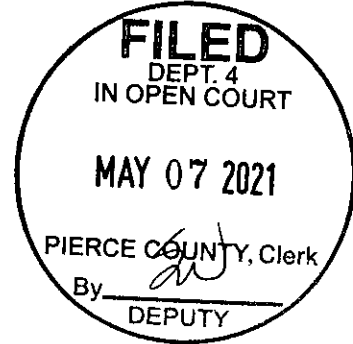


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5/12/2021

The Honorable BRYAN CHUSHCOFF



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

RYAN STIER, individually and as the
representative of all persons similarly situated;

NO. 18-2-08153-5

Plaintiff,

FINAL ORDER APPROVING
SETTLEMENT AND JUDGMENT OF
DISMISSAL WITH PREJUDICE

v.

PEMCO MUTUAL INSURANCE
COMPANY AND PEMCO INSURANCE
COMPANY,

Defendants.

THIS MATTER comes before the Court for final approval of the Settlement Agreement, also sometimes referred to as the Agreement, submitted on December 16, 2020 by the Motion for Order Preliminarily Approving Settlement, Approving Notice to Class Members, and Setting Date for Settlement Fairness Hearing, came before the Court for consideration. The Parties have appeared through their respective counsel.

WHEREAS, Plaintiff, RYAN STIER, on behalf of himself and the proposed Settlement Class, and Defendants, the PEMCO MUTUAL INSURANCE COMPANY and PEMCO INSURANCE COMPANY (collectively "PEMCO" or "Defendants"), have executed and filed a

1 Settlement Agreement with the Court on December 16, 2020; and

2 WHEREAS, all capitalized terms used herein shall have the same meaning as set forth in
3 the Agreement and are hereby incorporated by reference; and

4 WHEREAS, the Court, on January 12, 2021, entered the Preliminary Approval Order,
5 preliminarily approving the proposed Settlement; and

6 WHEREAS, RYAN STIER was appointed the Class Representative of the Class; and

7 WHEREAS, the Court, as part of its Preliminary Approval Order, directed that a plan for
8 disseminating notice of the Settlement (“Notice Plan”) be implemented, and scheduled a hearing
9 to be held to determine whether the proposed Settlement should be approved as fair, reasonable
10 and adequate; and

11 WHEREAS, Defendants and Class Counsel satisfactorily have indicated to the Court that
12 the Notice Plan was followed and provided the best notice practical to members of the Class; and

13 WHEREAS, a final approval hearing was held at which all interested persons were given
14 an opportunity to be heard, and all objections to the Settlement, if any, were duly considered;

15 NOW, THEREFORE, the Court, having read and considered all submissions made in
16 connection with the proposed Settlement, and having reviewed and considered the files and
17 records herein, finds and concludes as follows:

18 1. The Complaint filed in this Action alleges generally that, in breach of their
19 insurance policies, and in violation of WAC 284-30-391, RCW 19.86 et seq., and their duty of
20 good faith and fair dealing, Defendants improperly failed to pay the Plaintiff and Class Members
21 for their total loss claims through taking a discount for “typical negotiation.”

22 2. On January 12, 2020 the Court in the above-entitled matter preliminarily
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1 approved a settlement of claims earlier certified as a Class Action and for purposes of such
2 settlement, defining the Settlement Class as follows:

3 All PEMCO insureds with Washington policies issued in Washington State, who
4 received compensation for the total loss of their own vehicles under their First
5 Party Coverages (Comprehensive, Collision, and UIM) and received a total loss
6 valuation from PEMCO based upon an "Autosource" report including deductions
7 for "typical negotiation."

8 Excluded from the Class are (a) the assigned judge, the judge's staff and family,
9 (b) PEMCO employees, (c) claims for accidents with dates of loss occurring
10 before May 17, 2012 and after April 30, 2020 and (d) claims where only one
11 PEMCO Autosource estimate was obtained, and it did not take a "typical
12 negotiation" discount.

13 3. The Court hereby re-affirms this definition of the Settlement Class for purposes of
14 this Final Judgment.

15 4. The Class Representative has entered into the Agreement which has been filed
16 with the Court. The Agreement provides for the Settlement of this Action with Defendants on
17 behalf of the Class Representative and the Settlement Class, subject to approval by the Court of
18 its terms. The Court scheduled a hearing to consider the approval of the Settlement and directed
19 that the Notice be disseminated in accordance with the terms of the Preliminary Approval Order.

20 5. In accordance with the terms of the Settlement and the Preliminary Approval
21 Order, the Parties implemented the Notice Plan approved by the Court. Defendants' counsel and
22 Class Counsel have confirmed to the Court that the Parties complied with the Notice Plan.

23 6. The Court hereby finds that the Notice Plan and the Notice constituted the best
24 notice practicable under the circumstances, and constituted valid, due and sufficient notice to
25 members of the Settlement Class.

26 7. The Class Representative and Defendants have applied to the Court for final
27 approval of the terms of the proposed Settlement and for the entry of this Final Judgment.
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Pursuant to the Class Notice, a hearing was held before this Court, on May 7, 2021, to determine whether the proposed Settlement of the Action should be finally approved as fair, reasonable, and adequate, and whether the Final Judgment approving the Settlement and dismissing all claims in the Action on the merits, with prejudice and without leave to amend should be entered.

8. The Court hereby finds that approval of the Agreement and the Settlement embodied therein will result in substantial savings of time and money to the Court and the litigants and will further the interests of justice.

9. The Court hereby finds that the proposed Settlement is the result of good faith arm's length negotiations by the Parties thereto.

10. The Court hereby finds the terms of the Settlement are fair, reasonable and adequate.

NOW, THEREFORE, GOOD CAUSE APPEARING THEREFOR, IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

11. The Court possesses jurisdiction over the subject matter of this Action, the Class Representatives, the Settlement Class, Defendants, and the Released Persons.

12. One Class Member, Deborah Campbell, a member of the Settlement Class has filed requests for exclusion. All remaining Class Members [other than Deborah Campbell] are therefore bound by this Final Judgment and by the Agreement and the Settlement embodied therein.

13. All provisions and terms of the Settlement are hereby found to be fair, reasonable and adequate as to the Settlement Class and the Class Representative, and all provisions and terms of the Settlement are hereby finally approved in all respects.

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1 14. The Parties are hereby directed to consummate the Settlement in accordance with
2 its terms.

3 15. This Action is dismissed in its entirety, on the merits, with prejudice and without
4 leave to amend, and all members of the Settlement Class and their respective heirs, predecessors,
5 successors, assigns, family members, personal representatives, attorneys, officers, stockholders,
6 employees, executors, administrators, insurers, reinsurers, underwriters, directors and/or past,
7 present and future parent, subsidiary and affiliated corporations, lienholders, financing
8 companies, gap insurers, and any other person or entity who could or might assert any claim
9 under or through any of the foregoing, shall be forever barred and permanently enjoined from
10 asserting, either directly or indirectly, individually, or in a representative capacity or on behalf of
11 or as part of a class, and whether under State or Federal statutory or common law, any Released
12 Claim against any Released Person.

13 16. As of the Effective Date, by operation of the entry of the Final Judgment, each
14 member of the Settlement Class shall be deemed to have fully released, waived, relinquished and
15 discharged, to the fullest extent permitted by law, all Released Claims and Unknown Claims that
16 the member of the Settlement Class may have against all the Released Persons.

17 17. "Released Claims" means and includes, whether known or unknown, any and all
18 claims for relief or causes of action, claims, rights, demands, actions, suits, debts, liens,
19 contracts, liabilities, agreements, interest, fees, costs, expenses or losses, including but not
20 limited to claims based in contract or tort, common law or equity, and federal, state, or local law,
21 statute, ordinance, administrative code, or regulation, and any other claims for relief and/or
22 remuneration whatsoever, including, but not limited to, all claims arising out of the Defendants'
23 handling or administering of claims for coverage for total loss payments; including claims for
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1 bad faith; claims for the amounts of total loss payments; breach of any written or oral agreement
2 or insurance contract or any similar act; waiver; estoppel; any tortious injury, including any
3 intentional or negligent acts; agent negligence; failure to procure coverage or misconduct;
4 punitive damages; treble damages; statutory damages; regulatory claims; claims for violation of
5 the Revised Code of Washington or similar statutes; claims for violation of the Washington
6 Consumer Protection Act or any similar act; claims for violation of the Washington Insurance
7 Fair Conduct Act or any similar act; misrepresentation; and/or any claim for attorneys' fees and
8 expenses; arising on or before the date hereof, which the Releasing Parties had or have alleged in
9 the Action that relate in any way whatsoever to the Action's claims related to total loss payment.
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12 18. "Released Persons" means the Defendants, as defined in the Agreement, and any
13 of their past, present or future subsidiaries, controlled, affiliated, related and/or parent
14 corporations, business entities or divisions, heirs, predecessors, successors, assigns, officers,
15 stockholders, insurers, reinsurers, underwriters, directors, agents, employees and/or independent
16 contractors, attorneys-in-fact, attorneys at law, and/or past, present and future parent, subsidiary
17 and affiliated corporations and/or any other person or entity who could or might be subject to any
18 liability under or through, or derivatively of any of the foregoing.
19

20 19. "Unknown Claims" means claims arising out of facts found hereafter to be other
21 than or different from the facts now believed to be true, relating to any matter covered by the
22 Agreement, as to any of the Released Claims.
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24 20. It is hereby determined that the Notice Plan and the Notice constituted the best
25 notice practicable under the circumstances to all members of the Settlement Class and is
26 therefore finally approved as reasonable. Due and adequate notice of the pendency of this
27 Action and of the Settlement has been provided to all the members of the Settlement Class, and
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1 this Court hereby finds that the Class Notice complied fully with the requirements of due
2 process, the Washington Superior Court Rules of Civil Procedure, and all other applicable rules
3 and laws.

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5 21. Within thirty (30) days after the Effective Date, Class Counsel shall return, upon
6 request, to Defendants all Confidential Information and copies thereof in their possession,
7 custody, or control and delete any electronic copies of Confidential Information. Within fortyfive
8 (45) days after the Effective Date, Class Counsel shall deliver a letter to Defendants
9 confirming their compliance with this paragraph, including a description of steps taken to assure
10 the deleted material cannot be recovered or restored. In the event that any Confidential
11 Information or documents have already been destroyed, Class Counsel will include in that letter
12 the name and address of the person(s) who destroyed the Confidential Information and/or
13 documents.
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15 22. Also in furtherance of this confidentiality provision, Class Counsel and the Class
16 Representative agree not to make any statements to the media or in any public forum, orally or in
17 writing, about the Action, or the Agreement, other than statements which are fully consistent
18 with the Agreement and the Class Notice.
19

20 23. Class Counsel agree that any representation, encouragement, solicitation or other
21 assistance, including but not limited to referral to other counsel, of or to any Opt Outs or any
22 other person seeking to litigate with Defendants over any of the claims covered under the
23 Release in this matter could place Class Counsel in an untenable conflict of interest with the
24 Class.
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26 24. Accordingly, Class Counsel and their respective firms agree (only to the extent
27 that it is otherwise not violative of any applicable rules governing the practice of law) not to
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represent, encourage, solicit or otherwise assist, in any way whatsoever (including, but not limited to referrals to other counsel) any Opt Out except that referring such person to the Notice or suggesting to any such person the option of obtaining separate counsel, without specifically identifying options for such counsel, shall be permitted under the terms of this provision.

Additionally, Class Counsel and their respective firms agree (only to the extent that it is otherwise not violative of any applicable professional rules) not to represent, encourage, solicit or otherwise assist, in any way whatsoever, any Opt Out or any other person who seeks to represent any form of opt-out class, or any other person, in any subsequent litigation that person may enter into with Released Persons regarding the Released Claims or any related claims, except that suggesting to any such person the option of obtaining separate counsel, without specifically identifying options for such counsel, shall be permitted.

25. Neither this Final Judgment, the Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by Defendants of the truth of any of the allegations made in the Action, or of any liability, fault, or wrongdoing of any kind whatsoever on the part of Defendants. To the extent permitted by law, neither this Final Judgment, the Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be offered as evidence or received in evidence in any pending or future civil, criminal, or administrative action or proceeding, to establish any liability or admission by Defendants, except in any proceedings brought to enforce the Agreement and except that any Released Persons may file this Order in any action that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or

1 counterclaim. Neither this Final Judgment, the Agreement, nor any pleading or other paper
 2 related in any way to this Agreement, nor any act or communication in the course of negotiating,
 3 implementing or seeking approval of the Agreement, shall be deemed an admission by
 4 Defendants that certification of a class or subclass is appropriate in any other litigation, or
 5 otherwise shall preclude Defendants from opposing or asserting any argument they may have
 6 with respect to certification of any class(es) or subclass(es) in any proceeding, or shall be used as
 7 precedent in any way as to any subsequent conduct of Defendants, except as set forth in the
 8 Agreement.
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 11 26. The Court has considered the request for a Class Representative award, and
 12 hereby approves and awards the Class Representative, RYAN STIER, the amount of
 13 \$ 10,000[←], to be paid by Defendants within fourteen (14) days after the Effective
 14 Date.

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 16 27. The Court has considered Class Counsel's request for an attorneys' fees and costs
 17 award of for the prosecution of this action, and hereby makes an award in the amount of
 18 \$ 3,809,708²¹ in fees, and \$ 44,507⁶³ in costs, to be paid by Defendants within fourteen
 19 (14) days after the Effective Date.

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 21 28. The sums set forth in Paragraphs 26 and 27 above shall be paid in accordance
 22 with the Agreement, and out of the sources set forth therein.

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 24 29. This Final Judgment is a final order in the Action within the meaning and for the
 25 purposes of Rules 23(e), 41, and 54 of the Washington Superior Court Rules of Civil Procedure
 26 as to all claims among Defendants on the one hand, and the Class Representative and all
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1 members of the Settlement Class, on the other, and there is no just reason to delay enforcement
2 or appeal. Without in any way affecting the finality of this Final Judgment, this Court shall retain
3 continuing jurisdiction over this Action for purposes of:

- 4 A. Enforcing this Final Judgment, the Agreement and the Settlement;
- 5 B. Hearing and determining any application by any Party to the Settlement for a
6 settlement bar order; and
- 7 C. Any other matters related or ancillary to any of the foregoing.

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9 IT IS SO ORDERED.

10 DONE IN OPEN COURT this 7th day of May, 2021.

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14 BRYAN CHUSHCOFF
15 Superior Court Judge

16 Presented By:
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18 Law Offices of STEPHEN M. HANSEN, PS
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21 _____
22 STEPHEN M. HANSEN WSBA# 15642
23 Of Attorneys for Plaintiff
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