

# **EXHIBIT 1**

SUM-100

**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, a corporation; STEPHEN ROTHMAN, M.D., an individual, DOES 1-100,

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**  
BRIAN NOVACK, M.D.

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)  
**FILED**  
LOS ANGELES SUPERIOR COURT  
APR 16 2009  
JOHNA CLARKE, CLERK  
BY MARY GARCIA, DEPUTY

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia. Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:  
(El nombre y dirección de la corte es):

LOS ANGELES SUPERIOR COURT  
111 N. Hill Street  
Los Angeles, CA 90012  
Central District

CASE NUMBER:  
(Número del Caso):

BC 412007

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
RICARDO ECHEVERRIA, ESQ. (909) 621-4935 (909) 625-6915

SHERNOFF BIDART DARRAS ECHEVERRIA, LLP  
600 S. Indian Hill Boulevard  
Claremont, CA 91714

DATE:  
(Fecha)

APR 14 2009

JOHNA CLARKE, CLERK  
(Secretario)

M. GARCIA

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):
3.  on behalf of (specify):  
under:
 

<input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4.  by personal delivery on (date):



*31' Carly West*  
*D. [redacted]*  
*[redacted]*

1 MICHAEL J. BIDART #60582  
2 RICARDO ECHEVERRIA #166049  
3 STEVEN SCHUETZE #143778  
4 **SHERNOFF BIDART**  
5 **DARRAS ECHEVERRIA, LLP**  
6 600 South Indian Hill Boulevard  
7 Claremont, CA 91711  
8 Telephone: (909) 621-4935  
9 Facsimile: (909) 625-6915  
10 Attorneys for Plaintiff

**FILED**  
LOS ANGELES SUPERIOR COURT

APR 16 2009

JOHN A. CLARKE, CLERK  
*[Signature]*  
BY MARY GARCIA, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

**SHERNOFF BIDART**  
**DARRAS ECHEVERRIA**  
LAWYERS FOR INSURANCE POLICYHOLDERS  


11 BRIAN NOVACK, M.D.

12 Plaintiff,

13 vs.

14 STATE FARM MUTUAL AUTOMOBILE  
15 INSURANCE COMPANY, a corporation;  
16 STEPHEN ROTHMAN, M.D., an  
17 individual, DOES 1-100,

18 Defendants

Case No.: **BC412007**

**COMPLAINT AND  
DEMAND FOR JURY TRIAL**

- 1. BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING
- 2. INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS
- 3. VIOLATIONS OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200 [CLASS ACTION]

CIT/CASE: BC120007 LEA/DEF#:  
RECEIPT #: CC#478057041  
DATE PAID: 04/16/09 02:21:50 PM  
PAYMENT: \$900.00 0310  
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CHECK: 900.00  
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I.

**INTRODUCTION**

1. Plaintiff BRIAN NOVACK, M.D., (hereinafter DR. NOVACK) is a well-known successful plastic surgeon. On December 10, 2002, he was seriously injured in an automobile accident due to the fault of a third party driver who unfortunately only had \$250,000 in liability insurance.

2. DR. NOVACK, though, had uninsured/underinsurance (UM/UIM) motor vehicle insurance under his STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY ("STATE FARM") POLICY, Policy Number 71-C0-1158-8 with UIM/PLUP (Personal Liability Umbrella Policy) limits of \$3,000,000. This coverage provided DR. NOVACK an additional \$2,750,000 in insurance to compensate DR. NOVACK for his injuries and his loss of earnings and earning capacity.

3. Despite repeated clear and unequivocal offers to settle the underinsurance claim of DR. NOVACK for policy limits, at a time when STATE FARM knew that the liability was reasonably clear and the damages exceeded the policy limits, STATE FARM unreasonably refused and delayed paying the policy limits for nearly two years. Instead, STATE FARM engaged in an unreasonable pattern of placing its own financial interests above those of its insured, and unreasonably ignored the overwhelming evidence that DR. NOVACK's damages significantly exceed the policy limits.

4. STATE FARM also engaged in egregious actions and ignored its duty to conduct a full, fair and balance investigation of the claim by hiring expert witnesses who had been retained by the adverse third party defendant in an attempt to defeat DR. NOVACK's legitimate claim. When DR. NOVACK sought to learn the potential financial bias of these expert witnesses, STATE FARM unreasonably refused to respond to DR. NOVACK's proper discovery. DR. NOVACK was required to repeatedly seek Court intervention to obtain Court orders to compel disclosure from STATE FARM of such

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1 information. STATE FARM then elected to ignore at least three Court orders to disclose  
2 such information of financial bias of these experts to DR. NOVACK.

3 5. DR. NOVACK is suing STATE FARM for breach of the implied covenant of  
4 good faith and fair dealing for its unreasonable and bad faith conduct toward him in the  
5 handling of the first party underinsurance claim. An insured pays a premium to an  
6 insurance company for additional protection of an underinsurance/uninsured motorist  
7 claim in the event he/she is injured in an accident where the negligent third party lacks  
8 adequate insurance. An underinsurance claim is a **first party claim** by an insured  
9 against his or her own insurance company, and the insurance company has a duty to  
10 act in good faith and to fairly deal with its own insured in the handling and adjustment of  
11 this type of claim.

12 6. DR. NOVACK is also suing STATE FARM in a class action suit under  
13 California Business & Professions Code § 17200 et seq. to seek an injunction to require  
14 STATE FARM to review all Uninsured/Underinsured ("UM/UIM") first party claims made  
15 over the last four years against STATE FARM, and for future UM/UIM claims, to require  
16 STATE FARM to disclose the financial bias of any expert that has been retained by  
17 STATE FARM to defend such claims, including, the amount of money paid to and the  
18 number of times an expert has been hired by STATE FARM. In a first party UM/UIM  
19 claim, an insured is entitled to know any potential bias of an expert being used against  
20 the insured since STATE FARM has a duty to conduct a full, fair and balanced  
21 investigation.

22 7. DR. NOVACK is also suing STEPHEN ROTHMAN, M.D. ("DR.  
23 ROTHMAN") for tortious interference with contractual relations. DR. ROTHMAN was  
24 first retained as an advocate by the third party defendant against DR. NOVACK. A third  
25 party defendant, and his insurance carrier, is in a purely adversarial role against the  
26 plaintiff, and there does not exist an implied covenant of good faith and fair dealing  
27 toward the plaintiff in such cases. Despite knowing that his original retention in this  
28 case was by a third party defendant who is in an adversarial role against DR. NOVACK,

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1 DR. ROTHMAN also agreed to act as an expert for STATE FARM in the UM/UIM case,  
2 whose duty of good faith and fair dealing to their own insured included the duty to  
3 conduct a full, fair and thorough investigation of plaintiff's claims. DR. ROTHMAN  
4 intended to disrupt the contractual relationship and the duty of good faith and fair  
5 dealing that STATE FARM owed to DR. NOVACK by rendering biased and one-sided  
6 opinions that did not fully and fairly consider the evidence supporting DR. NOVACK's  
7 claim. DR. ROTHMAN has gone on record literally thousands of times stating that a  
8 disc bulge cannot be caused by trauma and that a disc herniation can only be caused  
9 by catastrophic trauma akin to severing the spinal cord. DR. ROTHMAN earns well  
10 over \$2,000,000 a year doing defense medical examinations for insurance companies  
11 and renders opinions which are utterly one-sided in favor of the insurance company.  
12 DR. ROTHMAN has also performed research on which words are best used at trial to  
13 limit jury verdicts and has given speeches on how to defeat an injured person's case.  
14 DR. ROTHMAN intended to ignore or minimize evidence that supported the claim in an  
15 effort to deprive plaintiff DR. NOVACK of the full benefits that were owed to and due  
16 under DR. NOVACK's insurance policy with STATE FARM.

17  
18 **II**

19 **PRELIMINARY ALLEGATIONS**

20 8. Plaintiff DR. NOVACK is a resident of the County of Los Angeles, State of  
21 California.

22 9. At all times relevant to this lawsuit, defendant STATE FARM was and is in  
23 the business of selling and providing insurance policies and doing business in the  
24 County of Los Angeles, State of California.

25 10. At all times relevant to this lawsuit, DR. ROTHMAN, is a resident of the  
26 County of Los Angeles, State of California.

27 11. Plaintiff DR. NOVACK does not know the true names and capacities of  
28 defendants sued herein as Does 1-100, inclusive, and therefore sues said defendants

1 by such fictitious names pursuant to California Code of Civil Procedure §474. DR.  
2 NOVACK will amend this Complaint to state the true names and capacities of the  
3 fictitiously named defendants when the same are ascertained. DR. NOVACK is  
4 informed and believes and based thereon allege that each of the fictitiously named  
5 defendants is legally responsible in some manner for the events and damages alleged  
6 in this Complaint under the causes of action stated herein.

7 12. DR. NOVACK is informed and believe and based thereon allege that at all  
8 times mentioned herein, each of the defendants was the agent, partner, joint venturer,  
9 associate and/or employee of one or more of the other defendants and was acting in the  
10 course and scope of such agency, partnership, joint venture, association and/or  
11 employment when the acts giving rise to the cause of action occurred.

12  
13 III.

14 **FACTUAL ALLEGATIONS**

15 **A. December 10, 2002 Accident**

16 13. DR. NOVACK was a skilled plastic surgeon who depended on the full use  
17 of his upper extremities to perform high end and very precise plastic surgeries. Before  
18 December 10, 2002, he would perform surgery three days per week, charging fees for  
19 such surgeries as face-lifts ranging \$75,000-\$100,000 or more, rhinoplasty for a fee of  
20 \$45,000-\$50,000, and full-face fat transfers for \$30,000.

21 14. On December 10, 2002, DR. NOVACK was traveling westbound in the  
22 number three lane on California Interstate 10. DR. NOVACK was wearing his seat belt.  
23 Due to traffic ahead of him, he slowed and eventually stopped. As DR. NOVACK was  
24 stopped, his vehicle was struck from behind by a vehicle driven by Brian Gorman. The  
25 impact was substantial and required both vehicles involved in the accident to be towed  
26 from the scene of the accident.

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1           15. As a result of the accident, DR. NOVACK experienced immediate severe  
2 pain in the right side of his neck, and numbness and weakness running down his right  
3 arm and into the fingers of his right hand.

4           16. Brian Gorman was insured through Mercury Insurance Company with a  
5 policy limit of \$250,000 at the time of the accident.

6           17. DR. NOVACK was also insured at the time of the accident through STATE  
7 FARM, Policy Number 71-C0-1158-8 with UIM/PLUP (Personal Liability Umbrella  
8 Policy) limits of \$3,000,000.

9  
10 **B. Pre-Underinsurance Claim Events**

11           18. On December 11, 2002, the day after the accident, DR. NOVACK was  
12 evaluated by orthopedist Dr. Jon Greenfield. An MRI taken on that day revealed a  
13 broad-based posterior 4 millimeter disc protrusion at the C6-7 level, with compression of  
14 the anterior cord. The disc protrusion at the C6-7 level resulted in moderate central  
15 canal and foraminal stenosis. The scan revealed the absence of degenerative changes  
16 to the spine, which indicated DR. NOVACK suffered an acute disc herniation. At the  
17 C5-6 level, the scan showed mild to moderate compression of the right foramen.

18           19. DR. NOVACK's condition progressively worsened. By January 2004, DR.  
19 NOVACK was experiencing severe pain radiating in his right upper arm, through his  
20 bicep, forearm, thumb and index finger. His grip strength in his right hand weakened,  
21 he suffered atrophy of the right bicep and forearm, involuntary muscle contractions at  
22 the right bicep, and numbness at the right forearm thumb and index fingers.

23           20. DR. NOVACK's injuries and resulting pain and weakness in his right arm  
24 adversely impacted his successful surgical practice. He was no longer able to perform  
25 plastic surgeries on a full-time basis. Consequently, he had no choice but to refer many  
26 patients to other plastic surgeons and to reduce the amount of time spent at his practice  
27 almost in half, decreasing his surgical volume. This resulted in significant loss of  
28 earnings to DR. NOVACK.

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1 21. On or about November 14, 2003, DR. NOVACK filed suit against Gerald L  
2 Gorman and Brian Gorman, LASC Case No. SC079750.

3 22. On September 23, 2004, Dr. Robert Bray recommended a right C5-6 and  
4 C6-7 posterior cervical foramintomy.

5 23. On or about February 11, 2005, Gerald L. Gorman and Brian M. Gorman  
6 designated expert witnesses. Included in the defendants expert witness was DR.  
7 ROTHMAN. A true and correct copy of the expert designation is attached as **Exhibit 1**.  
8 (Only Exhibits E & F included; Exhibits A-D, G, H, excluded)

9 24. In March 2005, the third party defendants Gerald L. Gorman and Brian M.  
10 Gorman tendered their \$250,000 policy limits to settle the civil suit. DR. NOVACK  
11 accepted the \$250,000 policy limits from the third party defendants.

12  
13 **C. Submission of Underinsurance Claim To State Farm**

14 24. On March 11, 2005, DR. NOVACK submitted his underinsurance claim to  
15 STATE FARM under his umbrella policy of 75-J569-04. DR. NOVACK notified STATE  
16 FARM that the third party claims settled for policy limits of \$250,000. Attached as  
17 **Exhibit 2** is a true and correct copy of the March 11 letter.

18  
19 **D. STATE FARM's Ten Month Delay In Making A Coverage Determination**

20 26. On March 18, 2005, STATE FARM sent a letter to DR. NOVACK stating  
21 that his umbrella policy may not have been included in his umbrella policy, and STATE  
22 FARM was reserving its rights. Attached as **Exhibit 3** is a true and correct copy of the  
23 March 18 letter to DR. NOVACK's.

24 27. On March 18, 2005, STATE FARM also sent a letter to DR. NOVACK's  
25 attorney confirming a March 16, 2005 phone conference stating that STATE FARM's  
26 records did not indicate uninsured motor coverage under the Personal Liability Umbrella  
27 Policy. Attached as **Exhibit 4** is a true and correct copy of the March 18 letter to DR.  
28 NOVACK's attorney.

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1           28.    On March 18, 2005, DR. NOVACK's attorney sent a letter stating that DR.  
2 NOVACK understood uninsured motorist coverage was included in his \$3,000,000  
3 policy, and enclosed medical reports and bills as well as a Loss of Income verification.  
4 Attached as **Exhibit 5** is a true and correct copy of the March 18 letter from DR.  
5 NOVACK's attorney.

6           29.    On March 28, 2005, STATE FARM confirmed receipt of the medical bills  
7 and loss of earnings documentation, but stated it was still investigating the issues of  
8 policy coverage. Attached as **Exhibit 6** is a true and correct copy of the March 28,  
9 2005 letter from STATE FARM.

10           30.    On April 14, May 13, June 13, and July 11, 2005, STATE FARM sent  
11 identical form letters stating they were investigating coverage for the accident. Attached  
12 as **Exhibit 7** are true and correct copies of the April 14, May 13, June 13, and July 11,  
13 2005 letters from STATE FARM.

14           31.    An MRI performed in July 2005 revealed disc protrusion at C5-6 and a  
15 broad-based disc bulge at C6-7.

16           32.    On July 29, 2005, DR. NOVACK'S attorney sent a letter to STATE FARM  
17 stating that DR. NOVACK had been receiving the same letter stating that a coverage  
18 determination was pending coverage counsel's opinion and requested that STATE  
19 FARM make a decision. Attached as **Exhibit 8** are true and correct copies of the July  
20 29, 2005 letter from DR. NOVACK's attorney.

21           33.    On August 18 and October 4, 2005, STATE FARM sent additional form  
22 letters stating the a determination pertaining to coverage was pending their coverage  
23 counsel's opinion. Attached as **Exhibit 9** is a true and correct copy of the August 18  
24 and October 4, 2005 letters from STATE FARM.

25           34.    On October 17, 2005, it was agreed that STATE FARM would take DR.  
26 NOVACK'S statement on November 3, 2005. Attached as **Exhibit 10** are true and  
27 correct copies of the letters confirming the date of DR. NOVACK's statement.

28           35.    DR. NOVACK's statement was taken on November 3, 2005.

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1 36. On November 30, 2005 and December 28, 2005, STATE FARM sent  
2 additional form letters that a coverage determination was still pending. Attached as  
3 **Exhibit 11** are true and correct copies of the November 30 and December 28, 2005  
4 letters from STATE FARM.

5 37. On January 24, 2006, *ten months after the claim was first submitted*,  
6 STATE FARM advised DR. NOVACK that they would adjust DR. NOVACK'S uninsured  
7 motor vehicle claim subject to his PLUP Policy limit of \$3,000,000. Attached as **Exhibit**  
8 **12** is a true and correct copy of STATE FARM's attorney's January 24, 2006 letter  
9 accepting coverage.

10

11 **E. Uninsured Motorist Vehicle Coverage Provisions In PLUP Policy**

12 38. The PLUP as amended by endorsement FE-7655.1 provides:

13 **"UNINSURED MOTOR VEHICLE COVERAGE**

14 This coverage applies to the operation of your automobile if the coverage is listed  
15 with a coverage amount in the Declarations. This coverage will also apply to the  
16 operation of your Recreational Motor Vehicles if the listing also states, "including  
17 Recreational Motor Vehicles."

18 39. Coverage U – Uninsured Motor Vehicle of endorsement FE-7655.1 states:

19 We will pay, up to the Coverage U limit, the amount which you and your  
20 passengers are legally entitled to recover as bodily injury damages from the  
21 owner or driver of an **uninsured motor vehicle**.

22 These conditions apply:

- 23 1. You must maintain underlying limits for **uninsured motor vehicle**
- 24 coverage equal to the limits listed in the **Declarations**. If these underlying
- 25 limits are not maintained, this coverage will not apply.
- 26 2. The **retained limit** for Coverage U is the total amount received for
- 27 the loss from or on behalf of the liable party plus the amount received from
- 28 your underlying coverage, but not less than the amount of your required
- underlying limits.
- 3. We will pay only the amount in excess of the **retained limit** up to
- the Coverage U limit per **loss**.
- 4. This coverage will apply only when damages are paid by or on
- behalf of the liable party or there is payment by your underlying coverage.
- 5. This coverage will apply only in accordance with the terms and
- conditions of your underlying **Uninsured Motorist Coverage**.

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- 6. Any payment made to a person under this coverage shall reduce any amount payable to that person under Coverage L – Personal Liability. This does not reduce the limit of liability required by law.
- 7. The limits of liability are not increased because:
  - a. more than one vehicle is insured under this policy; or
  - b. more than one person is insured at the time of the accident.”

40. “Uninsured Motor Vehicle” is defined under the endorsement as:

- “1. a land motor vehicle, the ownership, maintenance or use of which is: . . .
  - b. insured, or bonded for bodily injury liability at the time of the accident, but . . .
    - (2) the limits of liability:
      - (a) are less than the limits you carry for uninsured motor vehicle coverage under the policy; or
      - (b) have been reduced by payments to persons other than an **insured** to an amount less than the limits you carry for uninsured motor vehicle coverage under this policy.”

F. Demand To Settle The Underinsured Case For Policy Limits.

41. On January 30, 2006, DR. NOVACK’s attorney sent to STATE FARM the updated report of David Campion, M.D., a list of cancelled surgical cases for only 2005 totaling \$1,409,000 and DR. NOVACK’s medical charges for just for calendar year 2005 were \$13,983.92. DR. NOVACK’s attorney also stated “this matter should be settled for the policy limits under DR. NOVACK’s uninsured coverage.” A true and correct copy of the January 30, 2006 letter is attached as **Exhibit 13**.

42. On February 24, 2006, STATE FARM’s attorney noticed the deposition of DR. NOVACK for April 10, 2006 and set a defense medical examination for March 8, 2006. Attached as **Exhibit 14** is a true and correct copy of the February 24, 2006 letter from STATE FARM’s attorneys.

43. The defense medical examination was conducted as scheduled on March 8, 2006 by Dr. Keith Liberman.

1 44. On March 9, 2006, DR. NOVACK underwent surgery. Dr. Bray performed  
2 a right intralaminar laminectomy and mesial facetectomy of C5-6 and bilateral C6-7  
3 intralaminar laminotomy, mesial facetectomy and foraminotomy.

4 45. DR. NOVACK's deposition was started on April 10, 2006. Volume 2 of  
5 his deposition was taken on May 10, 2006.

6 46. On August 22, 2006, STATE FARM was provided documentation to show  
7 the number of surgeries performed by DR. NOVACK to that date. Attached as **Exhibit**  
8 **15** is a true and correct copy of the August 22, 2006 letter to STATE FARM's counsel.

9 47. On September 22, 2006, DR. NOVACK's attorney provided medical bills  
10 and records incurred since March 31, 2006, including Dr. Bray's records, to STATE  
11 FARM's attorneys. A true and correct copy of the September 22, 2006 letter is  
12 attached as **Exhibit 16**.

13 48. On October 20, 2006, DR. NOVACK's attorney submitted to STATE  
14 FARM's attorneys a list of cases DR. NOVACK referred to other plastic surgeons  
15 because he was unable to operate more than two days a week. A true and correct  
16 copy of the October 20, 2006 letter is attached as **Exhibit 17**.

17 49. On November 1, 2006, DR. NOVACK's attorney sent by certified mail a  
18 clear and unequivocal letter to STATE FARM'S attorneys demanding settlement for the  
19 UIM policy limits stating:

20 "It has been over a year since State Farm accepted UIM coverage for Dr.  
21 Novack's accident of December 10, 2002. [¶] Since that time your office did a  
22 great deal of discovery and it is now time to settle Dr. Novack's claim for the UIM  
23 coverage of \$3,000,000 less \$250,000 already paid by the third party carrier....  
24 [¶] As of this date, Dr. Novack is still limited to operating only one or two days a  
25 week which results in a continuing loss of income and the ability to generate a  
26 great deal more, [¶] From the information our office provided your office, Dr.  
27 Novack's answers to the interrogatories to your office, his testimony at his  
28 deposition and the information obtained by your office it is clear that Dr. Novack's  
damages exceeds his policy limits. In view of the above, I hereby demand that  
State Farm tender the policy limits of \$3,000,000.00 less the \$250,000.00  
already paid by the third party carrier. The offer to settle for the policy limits shall  
remain open until December 1, 2006."

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1 A true and correct copy of this November 1, 2006 letter to STATE FARM settle for the  
2 policy limits is attached as **Exhibit 18**.

3 50. On November 10, 2006, STATE FARM's attorneys acknowledged receipt  
4 of the policy limits demand, but stated "our investigation and discovery into Dr. Novack's  
5 loss of earning capacity claim is still ongoing . . ." A true and correct copy of this  
6 November 10, 2006 letter is attached as **Exhibit 19**.

7

8 **G. Repeated Demands For Arbitration And Policy Limits Demand**

9 51. On January 30, 2007, DR. NOVACK's attorney made a first DEMAND  
10 FOR ARBITRATION. Attached as **Exhibit 20** is a true and correct copy of this January  
11 30, 2007 letter.

12 52. On July 6, 2007, DR. NOVACK's attorney made their second DEMAND  
13 FOR ARBITRATION. Attached as **Exhibit 21** is the July 6, 2007 letter demanding  
14 arbitration, as well as a July 17, 2007 letter enclosing a copy of the July 6, 2007 letter.

15 53. On July 6, 2007, DR. NOVACK's attorney made his second unequivocal  
16 demand for policy limits, and which would remain open until August 1, 2007. DR.  
17 NOVACK's counsel also enclosed documentation from DR. NOVACK's CPA  
18 demonstrating the present value of his lost income to date of \$6,106,702.82,  
19 significantly exceeding the policy limits. A true and correct copy of this July 6, 2007  
20 letter is attached as **Exhibit 22**.

21 54. DR. NOVACK continued to experience severe pain, weakness, and  
22 disability from his neck down his right arm. His days became filled with making  
23 decisions regarding pain management.

24

25 **H. Continued Demands To Settle For Policy Limits**

26 55. A Mediation took place on September 5, 2007, and the matter did not  
27 settle.

28

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1           56. On October 18, 2007, STATE FARM's Counsel was informed that Michael  
2 Alder, Esq., was attorney of record DR. NOVACK.

3           57. In the early part of November, 2007, STATE FARM's counsel Steve  
4 Pasarow, Esq., spoke on the phone with DR. NOVACK's attorney, Mr. Alder. Mr. Alder  
5 informed Mr. Pasarow that STATE FARM should pay the policy limit and that STATE  
6 FARM was committing bad faith because DR. NOVACK's case was not a "cookie-  
7 cutter" type of case, and that STATE FARM did not seem to understand the nuances of  
8 an extremely high-end plastic surgery practice.

9           58. On November 5, 2007, Dr. Brian King's (one of DR. NOVACK's treating  
10 doctors) deposition was taken, and he clearly related the disc herniation and the DR.  
11 NOVACK's injuries to the subject accident.

12           59. On November 8, 2007, Dr. Greenfield's (one of DR. NOVACK's treating  
13 doctors) deposition was taken and Dr. Greenfield testified that in his opinion DR.  
14 NOVACK's neck injury was caused by the accident.

15           60. When DR. NOVACK could no longer endure the severe pain, he  
16 underwent an emergency surgery. On November 13, 2007, DR. NOVACK underwent a  
17 2 level anterior endoscopic microdiscectomy performed by Dr. Stanton Schiffer, M.D., in  
18 Fremont, California.

19           61. On November 14, 2007 DR. NOVACK's counsel advised STATE FARM's  
20 counsel of the surgery and stated "this latest medical procedure is yet another reason  
21 why STATE FARM should tender its policy limits." A true and correct copy of this  
22 November 14, 2007 letter is attached as **Exhibit 23**.

23           62. As a result of his November 13, 2007 surgery, DR. NOVACK was unable  
24 to perform surgeries on his regular surgery days of Tuesday and Thursday for two  
25 months. On Tuesdays, DR. NOVACK would perform face-lifts with fees ranging from  
26 \$75,000-\$100,000 or more. On Thursdays, DR. NOVACK would perform multiple  
27 procedures (or combination procedures on a single patient). Fees on Thursdays  
28 would total roughly \$80,000. On Thursday, DR. NOVACK might perform a rhinoplasty



1 with osteotomy with a fee of \$45,000-\$50,000 followed by a full-face transfer with a fee  
2 of \$30,000.

3 63. On November 19, 2007, STATE FARM's counsel sent correspondence to  
4 DR. NOVACK's counsel stating that STATE FARM's position was contained in the  
5 reports of their retained experts Dr. James Kent ("Dr. Kent"), Dr. Keith Liberman ("Dr.  
6 Liberman") and DR. ROTHMAN. Dr. Kent is a kinesiologist retained by STATE FARM.  
7 Dr. Liberman is an orthopedic surgeon retained by STATE FARM. DR. ROTHMAN is a  
8 radiologist retained by STATE FARM. A true and correct copy of this November 19,  
9 2007 letter is attached as **Exhibit 24**.

10 64. DR. ROTHMAN issued a report on June 8, 2007. A true and correct copy  
11 of DR. ROTHMAN's June 8, 2007 report is attached as **Exhibit 25**. Regarding the initial  
12 abnormal MRI, DR. ROTHMAN's report states:

13 "Why would one do an MRI scan of the cervical spine following an accident  
14 unless the patient had severe neurological injury? It's hard to imagine that  
15 having occurred considering how normal this MRI scan is. We see the same  
16 broad-based disc bulge present on here that you see on all the other studies.  
17 This type of abnormality is never caused by recent trauma. . . ." (Pg. one-pg.  
two)

18 DR. ROTHMAN concludes "I note from these reports that Brian Novack is an  
19 M.D. I didn't know that when this started. That probably accounts for the fact  
20 that he has so many useless MRI scans. It's very easy for doctors to get over-  
21 scanned, as he certainly has. . . . [¶] The only thing I can say here is that the  
pathology that was operated on was existing years before the accident in  
question." (Pg. 4)

22 65. On November 27, 2007, DR. NOVACK's attorney sent STATE FARM's  
23 counsel a letter stating that DR. ROTHMAN, Dr. Kent and Dr. Liberman were biased  
24 and none were impartial. As to DR. ROTHMAN, DR. NOVACK's attorney states:

25 "As I am sure we will learn when State Farm responds to my discovery, Dr.  
26 Rothman's defense-oriented opinions were well known to State Farm before Dr.  
27 Novack's accident even happened. Dr. Rothman has gone on record literally  
28 thousands of times stating that a disc bulge cannot be caused by trauma and that  
a herniation can only be caused by catastrophic trauma akin to severing the  
spinal cord. Dr. Rothman earns well over \$2,000,000 a year doing defense  
medical examinations, 99.9% of which are utterly one-sided in favor of the

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1 insurance company. Dr. Rothman has performed research on which words are  
2 best used at trial to limit jury verdicts and has given speeches on how to defeat  
3 plaintiffs' case."

4 DR. NOVACK's attorney enclosed the MRI images of DR. NOVACK's cervical  
5 spine taken the day after his accident, and circled the herniation which impinged on the  
6 spinal cord. A true and correct copy of this November 27, 2007 letter is attached as  
7 **Exhibit 26.**

8 66. On November 27, 2007, DR. NOVACK's counsel sent correspondence to  
9 STATE FARM's attorney stating that DR. NOVACK underwent a 2 level anterior  
10 endoscopic microdiscectomy with a surgeon's fee of \$13,780, and the estimates of his  
11 loss of earnings were at \$500,000. A true and correct copy of the November 27, 2007  
12 letter is attached as **Exhibit 27.**

13  
14 **I. State Farm Refuses To Respond To Proper Discovery**

15 67. On or about October 19, 2007, DR. NOVACK's attorneys served on  
16 STATE FARM a Request for Production of Documents and Special Interrogatories  
17 pertaining to the income that DR. ROTHMAN, Dr. Kent and Dr. Liberman and were paid  
18 by STATE FARM over the last 10 years. STATE FARM responded on November 30,  
19 2007 objecting to responding to discovery pertaining to how much money STATE FARM  
20 had paid the doctors over the last 10 years, and refused to provide substantive  
21 responses. The text of discovery requests and responses are included in DR.  
22 NOVACK's Separate Statements filed and served with their motions to compel. A true  
23 and correct copy of the Separate Statement pertaining to the Special Interrogatories is  
24 attached as **Exhibit 28** and a true and correct copy of the Separate Statement  
25 pertaining to the Request for Production of Documents is attached as **Exhibit 29.**

26 68. On December 31, 2007, DR. NOVACK's counsel sent a meet and confer  
27 letter to STATE FARM stating that the discovery was designed to discover the financial  
28 bias of the doctors which STATE FARM was relying upon, the number of times they had

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1 been used, and the long term relationships between STATE FARM and these doctors.  
2 A true and correct copy of the December 31, 2007 letter is attached as **Exhibit 30**.

3 69. On January 23, 2008, STATE FARM's counsel responded to the  
4 December 31, 2007 letter by stating that STATE FARMS would stand by their  
5 objections and would not disclose the information sought by the discovery requests  
6 pertaining to DR. ROTHMAN, Dr. Kent and Dr. Liberman. A true and correct copy of  
7 this January 23, 2008 letter is attached as **Exhibit 31**.

8 70. On January 24, 2008, DR. NOVACK filed a Petition to Commence  
9 Discovery in the Superior Court of California, County of Los Angeles, West District.  
10 The case, which was assigned case number SC096820 was assigned to the Honorable  
11 John L. Segal. A true and correct copy of the Petition is attached as **Exhibit 32**.

12 71. On January 31, 2008, DR. NOVACK'S counsel sent STATE FARM's  
13 counsel correspondence stating that the "main disagreement between our clients is the  
14 extent to which State Farm is required to disclose information regarding how much  
15 money it paid to the experts involved in this case." A true and correct copy of the  
16 January 31, 2008 letter is attached as **Exhibit 33**.

17 72. On February 1, 2008, DR. NOVACK filed motions to compel further  
18 responses to Special Interrogatories and Production of Documents seeking to compel  
19 responses to the discovery of the financial bias of the doctors retained by STATE FARM  
20 as experts. The motion to compel hearing was set for March 4, 2008. True and correct  
21 copies of these motions are attached as **Exhibits 34 and 35**.

22 73. On February 22, 2008, DR. NOVACK's attorney sent correspondence to  
23 STATE FARM's attorney that the November 13, 2007 surgery resulted in a loss of  
24 income to DR. NOVACK of \$775,000 - \$900,000. A true and correct copy of this  
25 February 22, 2008 letter is attached as **Exhibit 36**.

26 74. On March 4, 2008, a hearing was held for the two motions to compel  
27 before the Judge Segal. The Court granted the motion the motion to compel as to the  
28 Special Interrogatories. As to the Requests for Production of Documents, the Court

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1 granted the motion to compel as to Requests 9, 12, 13, 14, 17, 18, 19, 22, 23, 24 and  
2 25. STATE FARM was ordered to serve verified responses within ten days. A true  
3 and correct copy of the Notice of Ruling on the motions to compel is attached as  
4 **Exhibit 37.**

5 75. After expiration of the ten days to respond as ordered by the Court, on  
6 March 18, 2008, STATE FARM appeared ex parte "to Extend the Time in Which to  
7 Respond to Court Ordered Discovery." The Court granted the ex parte and ordered that  
8 STATE FARM respond within thirty days from March 4, 2008 instead of the ten days  
9 originally ordered. The Court deferred ruling on whether STATE FARM waived its  
10 objections in its further responses to special interrogatories and request for production.  
11 Attached as **Exhibit 38** is a true and correct copy of the transcript of the hearing on the  
12 March 18 ex parte. A true and correct copy of the Notice of Ruling on the March 18,  
13 2008 ex parte is attached as **Exhibit 39.**

14 76. On April 2, 2008, DR. NOVACK's counsel sent a letter to STATE FARM's  
15 counsel again requesting an arbitration date. DR. NOVACK's counsel further states:

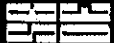
16 "State Farm's behavior and lack of response to its insured is simply callous and  
17 unconscionable. Dr. Novack has now been forced to withdraw the remainder of  
18 his home equity line of credit. He has put his home up for sale and has been  
19 forced to liquidate investment property which he has owned for the past eight  
20 years. Obviously, now is not the best time to be selling either piece of property.  
21 These additional losses have been caused by State Farm's bad faith refusal to  
22 timely pay its policy.

23 Earlier today, Dr. Novack received a steroid injection from Dr. Nocola for his neck  
24 and shoulder pain. Yesterday, Dr. Novack had an EMG with Dr. David Campion,  
25 essentially finding the same continued nerve abnormality.

26 Last month, Dr. Novack was forced to have a cervical epidural and translaminar  
27 nerve block with Dr. Brian King at Landmark Imaging.

28 Dr. Novack is very concerned about his practice and ability to survive  
economically. Although Dr. Bray and his associate, Dr. Vorshook, have  
requested a compassionate use waiver for experimental disk replacement for Dr.  
Novack, there is no guarantee that (1) the waiver will be granted or (2) that Dr.  
Novack will agree to the surgery due to the chance it may destroy his ability to  
operate."

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1 A true and correct copy of the April 2, 2008 letter is attached as **Exhibit 40**.

2 77. On April 8, 2008, DR. NOVACK's counsel sent a letter to STATE FARM's  
3 attorney stating that STATE FARM for the second time failed to respond to the court-  
4 ordered discovery. A true and correct copy of this April 8, 2008 correspondence is  
5 attached as **Exhibit 41**.

6 78. On April 8, 2008, STATE FARM's counsel inquired whether DR.  
7 NOVACK's attorney would agree to a confidentiality order. A true and correct copy of  
8 this April 8, 2008 correspondence is attached as **Exhibit 42**.

9 79. On April 8, 2008, DR. NOVACK's attorney sent a second letter on that  
10 date to STATE FARM's counsel stating that Dr. Novack would appear ex parte on April  
11 10, 2008 in Dept. O in Santa Monica seeking to compel responses, and for an ex parte  
12 application for sanctions for violation of a court order. A true and correct copy of this  
13 April 8, 2008 correspondence is attached as **Exhibit 43**.

14 80. On April 10, 2008, DR. NOVACK's attorneys appeared ex parte to compel  
15 discovery responses and to shorten time for a Motion for Sanctions. STATE FARM's  
16 attorneys made no appearance. The Court ordered STATE FARM to personally serve  
17 responses to the discovery previously ordered on March 4 by April 14, 2008. The Court  
18 also set a hearing date for a Motion for Sanctions for April 17, 2008. A true and correct  
19 copy of the Notice of Ruling from the April 10, 2008 Ex Parte is attached as **Exhibit 44**.

20 81. On April 14, 2008, STATE FARM's counsel sent correspondence to DR.  
21 NOVACK's attorneys stating that they had miscalendared the ex parte, and would  
22 appear ex parte on April 15, 2008 for relief from the April 10 order, and for a protective  
23 order to prevent dissemination of the information contained in the responses to the  
24 requested discovery. A true and correct copy of the April 14, 2008 correspondence is  
25 attached as **Exhibit 45**.

26 82. On April 15, 2008, counsel for STATE FARM and DR. NOVACK appeared  
27 in Dept. O before Judge Segal. A true and correct transcript of the hearing is attached  
28 as **Exhibit 46**. At the hearing counsel for STATE FARM admitted that she had the



1 discovery responses but did not have the signed verifications (April 15 Transcript, Page  
2 2, line 16-22). When the Court instructed STATE FARM's counsel to turn over the  
3 discovery responses and mail the verifications later, STATE FARM's counsel responded  
4 "here is the issue that I have, that again, I've never been in this position and it's very  
5 difficult one for me" (April 15 Transcript, Page 3, lines 25-27) and took the position that  
6 the experts were not designated and all that should be produced is the reports. (April  
7 15 Transcript, Page 3, lines 27-Page 4 line 4). The Court then inquired:

8 "THE COURT: Well, they are going to testify in the arbitration, right?

9 MS. GROVER [STATE FARM's COUNSEL]: Yes. I can't say they're not. . . ."  
10 (April 15 Transcript, Page 3, lines 5-8)

11 83. At the April 15, 2008 hearing, STATE FARM's counsel further stated "All I  
12 want - -and I'm not asking for a whole lot -is just that they don't disseminate this  
13 information outside of this case." (April 15 Transcript, Page 3, line 28 through page 4  
14 line 2) "All I'm asking is that the information not be disseminated outside of his firm.  
15 I've got the information. I just want that protective order that he keeps it to himself . . ."  
16 (April 15 Transcript, Page 5, line 12-14).

17 84. Upon further inquiry at the hearing on April 15, 2008, STATE FARM's  
18 counsel refused to respond to the discovery that had been court ordered on March 4,  
19 2008, even though STATE FARM's counsel stated she had brought the responses to  
20 the discovery with her:

21 "THE COURT: Well, she says she's giving them to you today.

22 MR. ALDER [DR. NOVACK'S COUNSEL]: I know

23 THE COURT: You're not?

24 MS. GROVER: You [sic] can't?

25 THE COURT: I thought you just you were going to.

26 MS. GROVER: I have to take it up - - I have to take a writ. I said I brought it - -  
27

28 MR. ALDER: - - Not.

1 MS. GROVER: -- to show my good faith that I'm not trying to disregard court  
2 orders, I'm taking this very very seriously, but I also have people who are  
3 telling me not to disclose this information. . . .  
(April 15 Transcript, Page 10, lines 6 through 18)(emphasis added)

4 The Court hearing continued where the Court confirmed that it had already  
5 ordered the discovery to be responded to:

6 "MR. ALDER: Your honor, I'd like you to order that she give me the discovery  
7 right now. She's admitted that she has it in hand.

8 THE COURT: I've already done that.

9 MR. ALDER: She said she wasn't going to give it to me. When we leave her,  
10 it's going to be -- I've got to come back ex parte.

11 THE COURT: No, No, you're coming back Thursday.

12 MR. ALDER: Well, she just said, "I have the Discovery" You said "Okay, give  
13 it to her -- give it to him," and she just told us in open court, "I can't do that. I'm  
14 not going to do that." So when we leave here, despite now three court orders --

15 MS. GROVER: Well --

16 MR. ALDER: Wait a minute.

17 THE COURT: I didn't order it just now. I asked.

18 MR. ALDER: No, this is the order from last Thursday, which then became  
19 yesterday, both of which were blown. That now she's in court with the discovery  
20 and just told us in open court "I'm not giving it to Mr. Alder." At some point your  
21 honor --and I know you're being very tolerant for both side -- you've got to put  
22 the hammer down.

23 THE COURT: I've already done that.

24 MR. ALDER: Well --

25 THE COURT: I issued an order, and you didn't get it. So you filed a motion  
for some kind of sanction, and that's going to be heard Thursday.

26 MS. GROVER: It's not getting continued now?

27 THE COURT: No, because there's no reason to. You're not providing the  
28 discovery. I think what you need is --



1 MS. GROVER: Well, I need more time. If I can go into chambers, I'll explain  
2 everything. I just can't disclose it on the record.

3 THE COURT: You need more time for what?

4 MS. GROVER: Now to file a writ.

5 THE COURT: But you had since - - when did I make this original ruling?

6 MR. ALDER: You made it 35 days ago.

7 THE COURT: That's - -

8 MR. ALDER: 37 days ago, I think."  
9 (April 15 Transcript, page 11, line 10 through page 12, line 21).

10  
11 85. The Court at the April 15, 2007 hearing summarized the chronology of  
12 events regarding STATE FARM's refusal to comply with the Court's previous orders:

13 "THE COURT: But it's more than that. I mean, I can review the history, but the  
14 order is March 4, 2008. You had ten days to comply.

15 MS. GROVER: And I messed up on that one too.

16 THE COURT: You didn't. And you came in and said 'Can I have some more  
17 time?' I said 'Sure. You can have some more time. You can have until April 3.'  
18 So the first deadline came, and we extended it. And April 3rd came and went,  
19 right - -

20 MR. ALDER: Which was acknowledged in their papers today that they knew  
21 that date was - -

22 THE COURT: - - then came April 10<sup>th</sup>. So put yourself in my position. All I do  
23 is issue orders. And people comply or they don't. So there wasn't - - so then I  
24 said, 'Okay, April 3<sup>rd</sup> has come' - - sorry. What did I extend to. April 3<sup>rd</sup> has  
25 come and gone and there is no production. So he filed a motion.

26 MR. ALDER: Extended it to yesterday.

27 THE COURT: Here is what's going to happen, right? I'll issue whatever order  
28 it is. You really won't comply. All I can do - - I have the sanctions. You got any  
29 other ideas?

30 MR. GROVER: Can the Court put the motion for sanctions, give us one more  
31 week, put it a week from - -

32 THE COURT: You still - -

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MS. GROVER: I know.

THE COURT: You still have to comply.

MS. GROVER: I will. I understand.

THE COURT: You just told me you're not going to. I realize you are just the messenger. **Someone may be sending you here.**

[April 15 transcript, Page 15, lines 6 through Page 16, line 8](emphasis added)

86. On April 15, 2008, DR. NOVACK's attorney sent a letter to STATE FARM's attorney. A true and correct copy of the April 15, 2008 letter is attached as **Exhibit 47**. DR. NOVACK's attorney states:

"State Farm's willful and intentional disobedience of now the third court order (and admission of it on record) continues to shock and amaze me. This is a **first party case** where State Farm owes – at a minimum – the same obligation and duties to its insured as it does to itself. Clearly, State Farm is placing its interests over its insured's by unnecessarily delaying paying policy limits in this case, in an attempt to avoid responding to discovery.

Unfortunately, the damage to Dr. Novack from State Farm's continued failure to tender the policy limits continues to get worse and worse. Dr. Novack's neck is very unstable. He has lost an inch in height. His most recent MRI report (which is attached) shows a further 2 mm bulge superimposed on his 3 m bulge, which is significantly impinging on the spinal cord. This is not surprising, as I have been telling you for several weeks about his continued and increasing pain and complaints.

Dr. Novack's continued medical problems are having a catastrophic effect on his medical practice. . . . [¶] The refusal of State Farm to tender its policy limits has caused Dr. Novack an extraordinary amount of emotional distress. He is caught in a continuing cycle of having to work to pay his large overhead, at the expense of his never being able to fully attempt to recuperate. If he had money from State Farm, he would at least have the ability to take a short step back. . . .

***This letter is AGAIN a demand that State Farm immediately tender its policy limits.***" (emphasis in original)

(April 15, 2008 letter from Dr. Novack's attorney to State Farm's attorneys)

87. On April 16, 2008, STATE FARM filed a writ and request for a stay of enforcement of the Court's March 4, 2008 order with the Court of Appeal.





1 88. On April 16, 2008, the Court of Appeal issued an order that in order to give  
2 the court the opportunity to review the petition, the enforcement order was stayed, and  
3 opposition to the writ must be filed on or before May 12, 2008 and a reply brief must be  
4 filed on or before May 21, 2008.

5 89. On April 17, 2008, the parties again appeared in front of Judge Segal. A  
6 true and correct transcript of the hearing is attached as **Exhibit 48**. Judge Segal noted  
7 that his March 4, 2008 order was stayed by the Court of Appeal, and that he had read  
8 the brief. The Court then noted that on Page 33 of the Petition for a Writ State Farm  
9 stated:

10 THE COURT: On page 33, I have a question about what you wrote:

11 MS. GROVER: Okay.

12 THE COURT: I'll read it to you.

13 MS. GROVER: I've got it.

14  
15 THE COURT: State Farm is not requesting that the Court limit the scope of the  
16 disclosure, although there are cases which support such a ruling, now State  
17 Farm is simply seeking a ruling preventing claimant and his attorney from  
18 disseminating the information to persons disinterested in this legal proceeding. I  
19 assume you mean uninterested, but in any event - -

20 MS. GROVER: I did mean uninterested . . .

21 THE COURT: If I'm reading it incorrectly, you're not requesting that the Court of  
22 Appeal limit the scope of the disclosure. You're only requesting the ruling  
23 preventing claimant and his attorney from disseminating it, presumably putting it  
24 up on the website, or whatever.

25 I guess my question is, if that's true, and since you wrote it, it must be true, then  
26 why don't I just issue the protective order now? You can turn over the  
27 information, and we'll just wait for the Court of Appeal to deal with the narrower  
28 issue of whether it gets disseminated.

MR. ALDER: I'd accept that

MS. GROVER: That was what I was asking for on Monday."

(April 17, 2008 transcript, page 2, line 16 to Page 28; Page 3, line 12 to 22).



1 90. As the April 17, 2008 hearing progressed, the Court offered to issue a  
2 protective order precisely as STATE FARM proposed to the Court of Appeal so DR.  
3 NOVACK'S attorney could have the information they requested:

4 THE COURT: What protective order would you like? That he not disseminate  
5 it to anyone other than his client?

6 MS. GROVER: Not even his client. The order that I presented to the Court was  
7 just to his expert and to the -- even -- I don't even see why the expert needs it.  
8 Just to the Arbitrator.

9 THE COURT: And co-counsel?

10 MS. GROVER: Co-counsel.

11 THE COURT: So why don't I issue that order? He can have it now, and the  
12 Court of Appeal will only have to deal with the much narrower issue of whether it  
13 should be disseminated . . . ."

14 (April 17, 2008 transcript, Page 4, lines 5 through 16)

15 91. STATE FARM's counsel then changed their position during the April 17  
16 hearing as predicted by DR. NOVACK's attorney:

17 MR. ALDER: Judge, I think what they're -- and you're right, we have  
18 statements not filed with the Appellate Court. I think what they are going to say  
19 is 'Oh, we've got to think about it,' and then they're going to amend their writ to  
20 try to get out of it. So I would agree to that right now. They brought the  
21 discovery three days ago. I'm sure they have it now, if not.

22 THE COURT: No, it was in a folder before. She was waiving it in front of you.

23 MR. ALDER: I'll leave her and driver over to their office. I'll even give Ms.  
24 Grover a ride.

25 MR. PASAROW (STATE FARM's counsel): I think she can driver herself. She  
26 doesn't want to be with Mr. Alder any more than she has to --

27 THE COURT: -- Protective Order.

28 MR. PASAROW: We appreciate and respect Mr. Alder's position, but we'd like  
an opportunity to consider the Court's suggestion, and we'd like to have another  
opportunity to come back after we had a chance to consider what has been said  
here today.

(April 17, 2008 transcript, Page 5, line 5-23)



1 92. The Court then noted that STATE FARM had been taking inconsistent  
2 positions and intentionally violated a Court order:

3 "THE COURT: I've got to say, I'm going to let the Court of Appeal decide this,  
4 obviously, but the positions that the respondents have been taking, they keep  
5 changing. They're not the same."  
(April 17, 2008 Transcript, Page 6, lines 13-16)

6 \* \* \*

7 MR. ALDER: If I may, just the last thing I'd say, in effect then, what it allows is  
8 what happened. I've got three separate orders, and they [State Farm] said, "I'm  
9 not going to do it." And this allows them to do it as many times as necessary in  
10 hopes that maybe somewhere down the line the Court of Appeal will say not. It  
11 just completely ignores the process by which we have to go through. And for a  
12 litigant like State Farm to utilize the Court as much as they do and just to say 'I  
13 don't have to listen to you, Judge' - -

14 "THE COURT: Well, the one thing unique about this case was not only was  
15 there intentional violation of the order, it was actually in Court, in open Court.  
16 Usually people just violate orders at home. Here, you came into Court, said 'I  
17 have the information,' showed it to me, and said 'I'm not going to comply with  
18 your order.' It's a little unusual, but if you're right, then after the Court of Appeals  
19 rules, even if they grant the writ and reverse, then there may be a time to have a  
20 hearing on what you're saying, which is that, forget about the propriety of the  
21 March 4<sup>th</sup> order, it was an intentional violation. . . ."  
(April 17, 2008 transcript, Page 13, lines 8-27)

18 93. On April 17, 2008, DR. NOVACK's attorney sent a letter confirming that  
19 following the hearing that STATE FARM's attorney had declined to confirm any offer  
20 had ever been made by STATE FARM to DR. NOVACK outside of mediation. STATE  
21 FARM'S counsel also declined to reconfirm the \$500,000 offer made a mediation. DR.  
22 NOVACK's attorney stated "I have tried everything I can to get State Farm to  
23 reasonably evaluate this case and offer what they believe the case is worth. In this  
24 clear case, with millions of dollars in damages, State Farm has offered my client zero."  
25 A true and correct copy of April 17, 2008 letter is attached as **Exhibit 49** (emphasis in  
26 original.)

27 94. On April 18, 2008, STATE FARM's attorneys sent a letter by Facsimile  
28 and U.S. Mail to DR. NOVACK's attorneys in response to the April 15, 2008 letter.

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1 STATE FARM's attorney states "We will have to simply agree to disagree regarding  
2 your assertions that this accident is the cause of the problems for Dr. Novack as  
3 outlined in your letter." A true and correct copy of this April 18, 2008 letter is attached  
4 as **Exhibit 50**.

5 95. On April 18, 2008, STATE FARM's attorney sent a second letter that day  
6 by Facsimile and U.S. Mail to DR. NOVACK's attorney stating that the \$500,000 offer  
7 had never been withdrawn. A true and correct copy of this April 18, 2008 letter is  
8 attached as **Exhibit 51**.

9 96. On April 18, 2008, STATE FARM's attorney sent a third letter that day to  
10 DR. NOVACK's attorneys stating that "State Farm's [sic] believes \$1,500,000 is within  
11 the fair range of value and we enclose State Farm's check for \$1,250,00 (\$1,500,000  
12 minus the underlying liability payment of \$250,000) payable to Dr. Novack, your office  
13 and his prior attorney . . ." A true and correct copy of this April 18, 2008 along with the  
14 attached check is attached as **Exhibit 52**.

15 97. STATE FARM's check for \$1,250,000 was handwritten two days earlier on  
16 April 16, 2008. Based on information and belief, the check was issued in response to  
17 the Trial Court's orders of March 4 and April 10 and April 15, and in an effort to avoid  
18 and circumvent STATE FARM's Court-ordered discovery obligations. The check  
19 further did not represent a reasonable and unbiased evaluation or investigation of DR.  
20 NOVACK's injuries which far exceeded the policy limits of \$3,000,000.

21 98. On May 7, 2008, DR. NOVACK's counsel sent a letter to STATE FARM's  
22 attorneys regarding the partial payment, and the suspicious timing of such payments in  
23 relation to the Superior Court's discovery orders and given STATE FARM's position  
24 taken on the same day. A true and correct copy of this May 7, 2008 letter is attached  
25 as **Exhibit 53**. DR. NOVACK's counsel stated:

26 "I have received State Farm's \$1,250,000 partial payment for Dr. Brian Novack.  
27 While I appreciate that State Farm finally has decided to make this partial  
28 payment toward Dr. Novack's claim, the timing of this payment is suspicious, to  
say the least. Your abrupt reversal of course, the *very same day* you sent me a  
letter stating that "[w]e will have to simply agree to disagree regarding your



1 assertions that this accident is the cause of the problems for Dr. Novack outlined  
2 in your letter," came fresh on the heels of the April 15th and 17th, 2008 discovery  
3 proceedings. There, as you will recall, the Superior Court noted that State  
4 Farm's refusal to produce discovery in the face of three court orders was  
5 "unique" and unprecedented.

6 The only conclusion that may be drawn from State Farm's sudden change of  
7 course and partial payment is that State Farm is playing games. It seems  
8 implausible that between the time of your first letter of April 18<sup>th</sup> (denying  
9 Causation) and your second letter (enclosing the partial payment), State Farm  
10 suddenly came to believe that the accident *actually* was "the cause of the  
11 problems for Dr. Novack"; rather, State Farm was at risk of being caught *red-*  
12 *handed* abusing the discovery process in a proceeding with its insured, having  
13 refused to make any reasonable offer to pay Dr. Novack's claim. This partial  
14 payment represents nothing more than a further calculated attempt to save  
15 money on this claim.

16 As you well know, from day one, State Farm has had an obligation to conduct a  
17 fair and balanced investigation on this first party claim. Both Mr. Milliken and I  
18 have supplied you with ample evidence that demonstrates, unequivocally, that  
19 this claim is *worth well in excess* of the \$2,750,000 policy limit. . . .

20 For more than one year, I have done everything in my power to get State Farm  
21 "off the dime" to pay this righteous and legitimate claim. . . .

22 But the reality is that the payment has come, not coincidentally, at a time when  
23 State Farm is facing serious discovery sanctions, having been ordered to  
24 produce long overdue discovery responses *three times*, and having refused to do  
25 so in flagrant disregard for court orders that the Superior Court noted it had rarely  
26 seen. State Farm now seeks extraordinary relief by way of a petition for writ of  
27 mandate, all in a further effort to prevent a swift resolution of Dr. Novack's claim.

28 Aside from the recent legal proceedings having come out against State Farm,  
nothing has changed regarding the substantial information you have on Dr.  
Novack's injuries and damages that would suggest a legitimate reason for State  
Farm's belated offer. Again, Dr. Novack has continued to suffer, and his injuries  
have only been compounded by State Farm's failure to pay the policy limit on this  
claim, and afford him some relief from the economic demands of his practice in  
order to heal. The only thing that has changed is that my client has been forced  
to endure another year of suffering without the ability to rely on his insurance  
proceeds to get better. There simply is nothing that a fair investigation of this  
claim would reveal over the past year – much less between the time of your two  
letters of April 18 – to cause a re-evaluation from a zero offer to \$1,250,000  
(which, again, is still less than half of the true policy limit value of the claim.)

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1 It is clear to me that State Farm only now is attempting to settle this claim  
2 because it wants to conceal from my client the information that it was ordered to  
3 produce by the Superior court, such order that will likely remain after the writ  
4 proceeding. State Farm has gone to unprecedented lengths to keep that  
5 information secret, cavalierly ignoring numerous orders of the Superior Court.  
6 State Farm must realize that it is not above the law, and not entitled to abuse the  
7 discovery process, particularly in litigation wherein it owes at least the same  
8 duties of fairness and equality to Dr. Novack – as State Farm’s insured – as it  
9 does to itself. Does it really think that it can start offering a mere portion of the  
10 true value of this claim to get my client to walk away? The only conclusion that  
11 can been [sic] drawn from the recent payment is that it actually took a theat [sic]  
12 of sanctions and contempt from the Superior Court to get State Farm to start  
13 paying a claim. . . .

14 Now, that you seem to acknowledge that Dr. Novack is severely injured from this  
15 accident, why wouldn't you tender the policy? There is nothing that has  
16 indicated that the claim is worth ONLY \$1,500,000. State Farm is simply trying to  
17 have its cake and eat it, too.” (Emphasis in original)

18 [May 7, 2008 letter from DR. NOVACK’s attorney to STATE FARM’s attorneys]

19 99. On May 16, 2008, STATE FARM’s attorneys sent a letter to DR.  
20 NOVACK’s attorney stating that there was no correlation between the discovery dispute  
21 and the partial payment, and there continues to be a disagreement on the valuation  
22 issues. A true and correct copy of this May 16, 2008 letter is attached as **Exhibit 54**.

23 100. On May 29, 2008, STATE FARM’s attorney sent a letter to DR.  
24 NOVACK’s attorney that stated STATE FARM was willing to attend mediation, but was  
25 insisting on confidentiality. STATE FARM also inquired whether DR. NOVACK would  
26 take less than the policy limits. A true and correct copy of the May 29, 2008 letter is  
27 attached as **Exhibit 55**.

28 101. On June 19, 2008, DR. NOVACK’s sent a letter to STATE FARM’s  
29 attorney stating a willingness to go to mediation only if offers and demands are not  
30 shielded by confidentiality. DR. NOVACK’s attorney further stated “This is yet another  
31 demand for the remaining policy limits.” A true and correct copy is attached as **Exhibit**  
32 **56**.

33 102. On July 18, 2008, STATE FARM settled the case and paid the remaining  
34 policy limits up to \$2,750,000 to DR. NOVACK.

**FIRST CAUSE OF ACTION**

**(Breach of the Implied Covenant of Good Faith and Fair Dealing)**

**(As to Defendants STATE FARM and DOES 1 through 100)**

PLAINTIFF BRIAN NOVACK FOR A FIRST CAUSE OF ACTION AGAINST  
DEFENDANT STATE FARM, AND DOES 1 THROUGH 100, INCLUSIVE, FOR  
BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING,  
ALLEGE:

103. Plaintiff refers to each and every paragraph of the General Allegations,  
and incorporates those paragraphs as though set forth in full in this cause of action.

104. Defendants STATE FARM and DOES 1 through 100 have breached their  
duty of good faith and fair dealing owed to their insured DR. NOVACK in the following  
respects:

(a) Unreasonably and in bad faith failing and refusing to give at least  
as much consideration to the interests of plaintiffs' as it gave to its own interests.

(b) Unreasonably and in bad faith failing to accept a clear and  
unequivocal offer to settle the claim of DR. NOVACK for policy limits, at a  
time when STATE FARM knew that the liability was reasonably clear and  
the damages exceeded the policy limit;

(c) Unreasonably and in bad faith failing to conduct a full, fair, and  
thorough investigation of all of the bases of plaintiff's claim;

(d) Unreasonably and in bad faith retaining and relying on biased  
experts who were adversarial to the plaintiffs, and who did not conduct a full, fair  
and thorough investigation of plaintiff's claim.

(e) Unreasonably and in bad faith failing to diligently search for and  
consider evidence that supported settlement of the policy limits to plaintiff;

(f) Unreasonably and in bad faith delaying payment of benefits under  
the Policy to plaintiff, at a time when defendants knew that the plaintiff was  
entitled to such benefits under the terms of The Policy;

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1 (g) Unreasonably and in bad faith withholding benefits from the  
2 plaintiffs, knowing that plaintiffs' claim for benefits under the Policy to be valid;

3 (h) Unreasonably and in bad faith failing to effectuate, in good faith, a  
4 prompt, fair, and equitable settlement of the claim brought by plaintiff for his  
5 policy benefits, in which liability had become reasonably clear;

6 (i) Unreasonably and in bad faith failing to promptly provide a  
7 reasonable basis relied upon in the Policy, in relation to the applicable facts, for  
8 the delay of plaintiffs' claim for benefits; and

9 (j) Unreasonably and in bad faith refusing to disclose and concealing  
10 the potential financial bias of the experts retained by STATE FARM;

11 (k) Unreasonably and in bad faith failing to reasonably respond to  
12 discovery propounded by Plaintiff who sought information as to the potential  
13 financial bias of experts hired by STATE FARM;

14 (l) Unreasonably and in bad faith refusing to comply with Court  
15 ordered discovery in an effort to conceal information from their insured as to the  
16 financial bias of the experts retained by STATE FARM.

17 105. Plaintiff is informed and believes and thereon alleges that defendants  
18 STATE FARM and Does 1 through 100 have breached their duty of good faith and fair  
19 dealing owed to them by other acts or omissions of which plaintiffs are presently  
20 unaware and which will be shown according to proof at the time of trial.

21 106. As a proximate result of the above-mentioned unreasonable and bad faith  
22 conduct by defendants STATE FARM and Does 1 through 100, plaintiff DR. NOVACK  
23 has suffered, and will continue to suffer in the future, economic and consequential  
24 damages for a total amount to be shown at the time of trial.

25 107. As a further proximate result of the unreasonable and bad faith conduct of  
26 defendants STATE FARM and Does 1 through 100, plaintiff DR. NOVACK was  
27 compelled to retain legal counsel to obtain the benefits due under the Policy. Therefore,  
28 defendants are liable to plaintiffs for those attorneys' fees, witness fees, and cost of

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1 litigation reasonably necessary and incurred by plaintiffs in order to obtain the benefits  
2 under the Policy, in a sum to be determined at the time of trial.

3 108. As a further proximate result of the aforementioned wrongful conduct of  
4 Defendants STATE FARM and Does 1 through 100, Plaintiff DR. NOVACK has suffered  
5 anxiety, worry, mental, and emotional distress, all to his general damages in a sum to  
6 be determined at the time of trial.

7 109. As a further proximate result of the unreasonable and bad faith conduct of  
8 Defendants STATE FARM and Does 1 through 100, Plaintiff DR. NOVACK has suffered  
9 other consequential economic damages in a sum to be determined at the time of trial.

10 110. Defendants STATE FARM and Does 1 through 100 conduct described  
11 herein was intended by defendants to cause injury to plaintiff or was despicable conduct  
12 carried on by defendants with a willful and conscious disregard of the rights of plaintiff,  
13 subjected plaintiff to cruel and unjust hardship in conscious disregard of plaintiff's rights,  
14 or was an intentional misrepresentation, deceit, or concealment of a material fact known  
15 to defendants with the intention to deprive plaintiff of property or legal rights or to  
16 otherwise cause injury, such as to constitute malice, oppression or fraud under  
17 California Civil Code §3294, thereby entitling plaintiff to punitive damages in an amount  
18 appropriate to punish or set an example of defendants.

19 111. Defendants STATE FARM and Does 1 through 100 conduct described  
20 herein was undertaken by its corporate officers or managing agents, identified herein as  
21 DOES 1 through 100, who were responsible for claims supervision and operations,  
22 underwriting, communications, and/or decisions. The aforementioned conduct of said  
23 managing agents and individuals was therefore undertaken on behalf of the corporate  
24 defendants. Said corporate defendants further had advance knowledge of the actions  
25 and conduct of these individuals whose actions and conduct were ratified, authorized,  
26 and approved by managing agents whose precise identities are unknown to plaintiff at  
27 this time and are therefore identified and designated herein as DOES 1 through 100,  
28 inclusive.

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FILED IN CASE NO. 09-04114  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN JOSE, CALIFORNIA  
JULY 1, 2009

**SECOND CAUSE OF ACTION**

**(Intentional Interference with a Contractual Relationship)**

PLAINTIFF BRIAN NOVACK, FOR A SECOND CAUSE OF ACTION FOR INTENTIONAL INTERFERENCE WITH A CONTRACTUAL RELATIONSHIP AGAINST DEFENDANT STEPHEN ROTHMAN, M.D.; AND DOES 1 THROUGH 100, INCLUSIVE, ALLEGES:

112. Plaintiff refers to each and every paragraph of the General Allegations, and incorporates those paragraphs as though set forth in full in this cause of action.

113. Defendant DR. ROTHMAN, and Does 1 through 100, and each of them, were not parties to the insurance contract between plaintiff and STATE FARM, and was not in contractual privity with the plaintiff.

114. Defendant DR. ROTHMAN, and Does 1 through 100 and each of them, knew of the insurance contract between DR. NOVACK and STATE FARM.

115. Defendant DR. ROTHMAN and Does 1 through 100 intended to disrupt the performance of the contract between STATE FARM and DR. NOVACK by causing STATE FARM to delay and/or withhold its payment of policy benefits to DR. NOVACK by ignoring evidence supporting the claim, and minimizing DR. NOVACK's legitimate injuries.

116. Specifically, defendants DR. ROTHMAN and Does 1 through 100 interfered and disrupted the contract of plaintiff DR. NOVACK and STATE FARM in the following manner:

(a) DR. ROTHMAN is a doctor that is routinely hired in third party claims as an advocate for the third party defendants to intentionally minimize a plaintiff's injuries;

(b) DR. ROTHMAN earns over \$2,000,000 per year doing defense medical examinations which are one-sided and biased in favor of a third party defendant;

(c) DR. ROTHMAN has performed research on which words are best

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used at trial to limit jury verdicts and has given speeches on how to defeat or minimize a plaintiff's case;

(d) DR. ROTHMAN has gone on record numerous times stating a disc bulge cannot be caused by trauma and that a herniation can only be caused by catastrophic trauma akin to severing the spinal cord;

(e) DR. ROTHMAN was hired as an advocate for the third party defendant against DR. NOVACK in his civil case to express his opinion in an effort to minimize plaintiff DR. NOVACK's legitimate injuries. As such, DR. ROTHMAN's retention as a third party's expert did not create any obligation on the part of DR. ROTHMAN to render unbiased opinions, or conduct a full, fair and thorough investigation as is required in a first party UM/UIM claim;

(f) Despite knowing that his original retention in this case was by a third party defendant who is in an adversarial role against DR. NOVACK, DR. ROTHMAN also agreed to act as an expert for STATE FARM whose duty of good faith and fair dealing to their own insured included the duty to conduct a full, fair and thorough investigation of plaintiff's claims in a reasonable attempt to give their insured's interest at least as much consideration as their own.

(g) DR. ROTHMAN intended to disrupt the contractual relationship and duty of good faith and fair dealing that STATE FARM owed to DR. NOVACK by rendering biased and one-sided opinion that did not fully and fairly consider the evidence supporting DR. NOVACK's claim. DR. ROTHMAN intended to ignore or minimize evidence that supported the claim in an effort to deprive plaintiff DR. NOVACK of the full benefits that were owed to and due under DR. NOVACK's insurance policy with STATE FARM.

(h) DR. ROTHMAN further intended to disrupt the performance of the insurance contract by unreasonably and without proper cause seeking to prevent plaintiff DR. NOVACK from discovering information as to his financial bias.

1 117. There may have been other acts of defendants DR. ROTHMAN and  
2 DOES 1 through 100 that interfered with the contract which are unknown to plaintiffs at  
3 this time. Plaintiff will seek leave to amend this Complaint according to proof at such  
4 time as additional facts have been ascertained.

5 118. The conduct of DR. ROTHMAN and Does 1 through 100 made prevented  
6 timely performance of the contract between DR. NOVACK and STATE FARM in the  
7 payment of the policy benefits, and/or made performance of the contract more difficult  
8 for STATE FARM and more expensive for DR. NOVACK.

9 119. As a proximate result of the intentional conduct of defendants DR.  
10 ROTHMAN and Does 1 through 100, and each of them, STATE FARM unreasonably  
11 delayed in the performance of its contract and breached its implied covenant of good  
12 faith and fair dealing to DR. NOVACK.

13 120. As a proximate result of the above-mentioned conduct by defendants DR.  
14 ROTHMAN and Does 1 through 100, plaintiff DR. NOVACK has suffered, and will  
15 continue to suffer in the future, economic and consequential damages for a total amount  
16 to be shown at the time of trial.

17 121. As a further proximate result of the aforementioned wrongful conduct of  
18 Defendants DR. ROTHMAN and Does 1 through 100, Plaintiff DR. NOVACK has  
19 suffered anxiety, worry, mental, and emotional distress, all to his general damages in a  
20 sum to be determined at the time of trial.

21 122. As a further proximate result of the wrongful conduct of DR. ROTHMAN  
22 Does 1 through 100, Plaintiff DR. NOVACK has suffered other consequential economic  
23 damages in a sum to be determined at the time of trial.

24 123. For the purposes of this cause of action plaintiff alleges that engaging in  
25 the conduct that forms the basis of this cause of action, defendant DR. ROTHMAN was  
26 not acting as an agent of STATE FARM, but was acting on his own behalf, in the  
27 furtherance of his own financial interests.  
28



1 124. Defendants DR. ROTHMAN and Does 1 through 100 conduct described  
2 herein was intended by defendants to cause injury to plaintiff or was despicable conduct  
3 carried on by defendants with a willful and conscious disregard of the rights of plaintiff,  
4 subjected plaintiff to cruel and unjust hardship in conscious disregard of plaintiff's rights,  
5 or was an intentional misrepresentation, deceit, or concealment of a material fact known  
6 to defendants with the intention to deprive plaintiff of property or legal rights or to  
7 otherwise cause injury, such as to constitute malice, oppression or fraud under  
8 California Civil Code §3294, thereby entitling plaintiff to punitive damages in an amount  
9 appropriate to punish or set an example of defendants.  
10

11 **THIRD CAUSE OF ACTION**

12 **[CLASS ACTION]**

13 **(Injunctive and Restitutionary Relief Under California Business and Professions**  
14 **Code § 17200, et. seq.)**

15 PLAINTIFF DR. BRIAN NOVACK FOR INJUNCTIVE RELIEF AGAINST STATE  
16 FARM UNDER CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200, ET.  
17 SEQ., ALLEGE:

18 **A. Unlawful, unfair or fraudulent practices**

19 125. Plaintiff incorporates by reference each and every paragraph of the  
20 Complaint as though set forth in full in this cause of action.

21 126. California Business & Professions Code § 17200 precludes a person or  
22 entity from engaging in unfair competition, defined as business practices which are  
23 unlawful, unfair or fraudulent. Business and Professions Code § 17203 permits the  
24 court in an action based on allegations of unfair competition to issue injunctive,  
25 restitutionary or other equitable relief, and any person who meets the standing  
26 requirements of California Business & Professions Code § 17204 and complies with  
27 California Code of Civil Procedure § 382 may pursue a representative action.  
28

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1           127. California Business & Professions Code § 17204 permits individuals, such  
2 as Plaintiff, to institute an action on behalf of the general public to obtain injunctive and  
3 restitutive relief against persons and entities which engage in unfair business practices  
4 and/or unfair competition.

5           128. Plaintiff has suffered injury in fact as a result of the unlawful, unfair or  
6 fraudulent business practices of STATE FARM. STATE FARM breached the implied  
7 covenant of good faith and fair dealing in failing to conduct a full, fair and thorough  
8 investigation of plaintiff's injuries and to withhold and delay payment of covered  
9 insurance benefits in reliance on DR. ROTHMAN who is financially biased against  
10 insureds due to the long-standing financial remuneration received from STATE FARM to  
11 render one-side opinions that ignore and/or minimize plaintiff's legitimate claims. This  
12 has caused plaintiff to suffer physical and emotional injuries as well as economic and  
13 consequential damages, plus interest, for a total amount to be proven at the time of trial.  
14 Additionally, DR. NOVACK was required to withdraw the remainder of his home equity  
15 line of credit. DR. NOVACK was required to put his home up for sale and has been  
16 forced to liquidate investment property which he has owned for eight years. Plaintiff  
17 DR. NOVACK also has been denied his legal rights to a full, complete and fair handling  
18 of his claims for benefits in violation of well-established principals of insurance claims  
19 handling set forth in statutory and case law.

20           129. Plaintiff DR. NOVACK had also suffered loss of money or property as a  
21 result of the unlawful, unfair or fraudulent business practices of STATE FARM. Plaintiff  
22 DR. NOVACK was deprived the timely payment benefits he was owed by STATE FARM  
23 under his policy and lost the use and benefit of the money he would have been able to  
24 obtain from such timely payment. As a result of STATE FARM's failure to timely pay  
25 benefits, DR. NOVACK was required to withdraw the remainder of his home equity line  
26 of credit. DR. NOVACK was required to put his home up for sale and has been forced  
27 to liquidate investment property which he has owned for eight years. Plaintiff DR.  
28 NOVACK also been denied his legal rights to a full, complete and fair handling of his



1 claim in violation of well-established principals of insurance claims handling set forth in  
2 statutory and case law. DR. NOVACK also lost money or property as a result of Court  
3 fees he was required to pay to seek to compel STATE FARM to properly respond to  
4 discovery and comply with discovery orders to disclose information as to the financial  
5 payments made by STATE FARM to its retained experts.

6 130. By way of this third Cause of Action for violations of California Business &  
7 Professions Code § 17200, Plaintiff DR. NOVACK is seeking equitable relief only and is  
8 specifically not seeking recovery of damages at law.

9 131. Defendants, and each of them, have also committed acts of unfair  
10 competition as defined by California Business & Professions Code § 17200 by engaging  
11 in the following conduct:

12 (a) Unlawfully, unfairly or fraudulently repeatedly retaining DR.  
13 ROTHMAN as a biased expert in first party insurance claims who fails to  
14 reasonably consider evidence supporting its insured claims;

15 (b) Unlawfully, unfairly or fraudulently concealing from their insured's  
16 the financial bias of DR. ROTHMAN as an expert in first party insurance claims  
17 who STATE FARM retains and relies upon to fail to withhold timely payment of  
18 benefits of an insured's first party claim. Such concealment includes the amount  
19 of income that the expert has earned from STATE FARM, and the number of  
20 times the expert has been by STATE FARM to render opinions;

21 (c) Unlawfully, unfairly or fraudulently misrepresenting the so-called  
22 "independence" or non-bias of DR. ROTHMAN in first party claims, who has  
23 been repeatedly retained and has a long standing financial bias in favor of  
24 STATE FARM and against STATE FARM's insureds;

25 (d) Unlawfully, unfairly, or fraudulently repeatedly using biased  
26 experts, such as DR. ROTHMAN, who have a known bias and are adversarial  
27 against injured insureds for uninsured and/or underinsured motorist claims  
28

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1 without disclosing their known financial bias including the amounts they have  
2 earned and the number of times they have been retained.

3 132. Plaintiff DR. NOVACK requests that a mandatory injunction be issued  
4 against Defendant STATE FARM, on his behalf and on behalf of the general public,  
5 requiring STATE FARM to disclose in every uninsured/underinsurance motorist first  
6 party claims within the last four years in California (1) the number of times an expert in  
7 which STATE FARM is relying upon has been retained by STATE FARM or by STATE  
8 FARM hired counsel, and (2) the amount of money that has been paid by STATE FARM  
9 directly, or by STATE FARM hired counsel on STATE FARM's behalf for each of the  
10 last four years.

11 133. Plaintiff DR. NOVACK requests that a mandatory injunction be issued  
12 against Defendant STATE FARM, on his behalf and on behalf of the general public,  
13 requiring STATE FARM to disclose for future uninsured/underinsurance motorist first  
14 party claims in California (1) the number of times an expert in which STATE FARM is  
15 relying upon has been retained by STATE FARM or by STATE FARM hired counsel,  
16 and (2) the amount of money that has been paid by STATE FARM directly, or by  
17 STATE FARM hired counsel on STATE FARM's behalf for each of the last 10 years.

18 134. Plaintiff requests that the Court order any other and further equitable relief  
19 deemed necessary by the Court including, without limitation, an order of judgment  
20 restoring to every person in interest money or property which may have been acquired  
21 by Defendants by means of such unfair competition and/or order for restitutionary relief.

22 135. Plaintiff requests an award of attorneys' fees upon prevailing in the  
23 request for injunctive, equitable, and/or restitutionary relief pursuant to California Code  
24 of Civil Procedure § 1021.5.

25

26 **B. Class Allegations**

27 136. Plaintiff only brings this Third Cause of Action as a class action for  
28 violations of California Business & Professions Code § 17200 on his own behalf and as

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1 a class action on behalf of all others similarly situated, pursuant to California Code of  
2 Civil Procedure § 382. The issues this case addresses are of common interest to  
3 thousands of insureds of STATE FARM who have first party claims against STATE  
4 FARM, if not millions, are subjected to STATE FARM's unfair, unlawful, or fraudulent  
5 scheme of repeatedly retaining biased experts to evaluate first party claims who have  
6 long standing financial relationships with STATE FARM and who act only in STATE  
7 FARM's interest, without disclosing such financial bias and long term relationships with  
8 their insureds.

9 137. Plaintiff is member of the class, his first party claims against STATE  
10 FARM are typical of the claims of the class members, and will fairly and adequately  
11 represent the interests of the class.

12  
13 **C. An Ascertainable Class Exists**

14 138. There exists numerous STATE FARM policy holders who have first party  
15 UM/UIM claims against STATE FARM.

16 139. Subject to refinement based on information learned during discovery;  
17 Plaintiff defines the proposed class as follows:

18 "The Class" includes all California residents who were, or who are, STATE  
19 FARM policy holders from 2005 to the present who within the four years  
20 preceding the filing of this complaint:

- 21 (1) Made a First Party uninsured/underinsurance claim to STATE FARM  
for payment of benefits;
- 22 (2) Where STATE FARM retained expert consultants on such first party  
23 claims against their insureds;
- 24 (3) Where STATE FARM failed to disclose the potential bias of such  
25 experts including the number of times they had retained such experts and  
26 the amount of money STATE FARM had paid each expert in the last four  
27 years

28 140. Excluded from the Class are the Defendants herein, officers and directors  
of the Defendants, members of the immediate family of the Defendants, any entity in

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1 which any Defendant has a controlling interest, and legal representatives, heirs,  
2 successors or assigns of any such excluded party.

3 141. Although the precise number of members of the Class is unknown to  
4 Plaintiff at this time and can only be determined by appropriate discovery, Plaintiffs  
5 allege that the class of persons affected by the actions and conduct of Defendant  
6 STATE FARM is so numerous, consisting of thousands, if not millions of people, that  
7 joinder of all members is impracticable.

8

9 **D. Commonality of Interest**

10 142. Common questions of law and fact exist as to all Class members and  
11 predominate over any questions affecting solely individual members of the Class. The  
12 common questions of law and fact include, but are not limited to, the following:

- 13 • All Class Members had first party claims against STATE FARM for  
14 benefits owed under their uninsured/uninsured motorist insurance  
15 policies.
- 16 • STATE FARM retained expert consultants in an effort to evaluate the  
17 first party claims of their insured.
- 18 • STATE FARM owed a duty to conduct full, fair, non-biased, and  
19 thorough investigations of each claims.
- 20 • All Class Members are entitled to know in the adjustment of their  
21 claims whether the so-called independent or "unbiased" experts in  
22 which STATE FARM are relying upon have any long standing  
23 relationship or financial bias in favor of STATE FARM and against  
24 insureds
- 25 • All Class Members are entitled to know the number of times the  
26 STATE FARM retained expert has been hired by STATE FARM and  
27 the amount of money the expert has been paid by STATE FARM.  
28

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- 1 • The adjustment of first party claims requires an insurance carrier to act
- 2 fair and in good faith and are not supposed to be adversarial, which is
- 3 different for an insurance company's duties in defense of a third party
- 4 claim.

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**E. Typical Claims**

143. The claims and defenses of the Plaintiff are typical of the claims and defenses of members of the Class in that he had a first party underinsurance claim against STATE FARM in which STATE FARM hired expert consultants and refused to disclose evidence of those experts financial bias.

144. The injuries suffered by the Plaintiff is the same or similar to the injuries suffered by the members of the Class in that STATE FARM relied on experts without disclosing their financial bias or long standing relationship with STATE FARM in delaying payment of the legitimate claim, and seeking to pay less than the Claim was worth.

145. The conduct of STATE FARM in the handling of the Plaintiff's claim of using biased experts against their insured to adjust a first party claim without disclosing their financial bias is not unique to the Plaintiff, but instead, is typical of STATE FARM's claims handling of all members of the Class.

146. The members of the Class have been or will injured by the same course of conduct that has injured Plaintiff if the bias, financial or otherwise, is not disclosed.

**F. Class Treatment is Superior**

147. The prosecution of this cause of action as a class action is the superior means of resolving this litigation, both for the parties and the court.

148. Numerous Class members have suffered injury as a result of STATE FARM's conduct; however, numerous Class members' individual claims are not of

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**DARRAS ECHEVERRIA**  
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1 sufficient size to warrant individual action. Thus, the denial of class relief would result in  
2 unjust enrichment to STATE FARM for its wrongdoings.

3 149. It would be impracticable to bring all members of the Class before the  
4 court.

5 150. The prosecution of separate actions by individual members of the Class  
6 would create a risk of inconsistency and varying adjudications regarding the duty to  
7 disclose the number of times an expert has been retained and the amount of money  
8 that STATE FARM has paid each expert, establishing incompatible standards of  
9 conduct for STATE FARM.

10 151. STATE FARM has acted, and refused to act, on grounds generally  
11 applicable to the Class, thereby making final injunctive relief with respect to the Class as  
12 a whole appropriate. There are questions of law and fact common to the members of  
13 the Class which predominate over questions affecting only individual Class members.

14 152. A class action is superior to all other available methods for the fair and  
15 efficient adjudication of this controversy. Prosecution of this cause of action as a class  
16 action will provide redress for claims too small to support the expense of complex  
17 litigation and reduce the possibility of repetitious litigation.

18 153. Plaintiff anticipates no unusual case management problems with the  
19 pursuit of this complaint as a class action.

20  
21 **G. Adequate Representation**

22 154. Plaintiff will fairly and adequately represent and protect the interests of the  
23 Class. The interests of Plaintiffs are consistent with, and not antagonistic to, those of  
24 the other members of the Class.

25 155. Plaintiff has retained counsel with extensive experience and background  
26 in class actions.

27 156. Plaintiff is entitled to an award of attorneys' fees and costs in prosecuting  
28 this complaint because:

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DARRAS ECHEVERRIA**  
LAWYERS FOR INSURANCE POLICYHOLDERS



1. (a) A successful outcome in this action will result in the enforcement of  
2 important rights affecting the public interest by maintaining the integrity of  
3 institutions that provide insurance in this State;

4 (b) This action will result in a significant benefit by enabling a STATE  
5 FARM insured who is making an uninsured/uninsured motorist claim to know  
6 potential bias of experts hired by STATE FARM, which will lead in the full  
7 disclosure of such bias in an effort for the insured will receive a full, fair and  
8 thorough investigation to which the insured is entitled to have in a first party  
9 claims;

10 (c) Unless this complaint is prosecuted, many Class members would  
11 not be aware that they were damaged by STATE FARM's wrongful practices;  
12 and

13 (d) Unless the attorneys' fees and costs are awarded against STATE  
14 FARM, the Class will not recover the full measure of its damages.

15  
16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of  
18 them, as follows:

19 **AS TO THE FIRST CAUSE OF ACTION AGAINST STATE FARM MUTUAL**  
20 **AUTOMOBILE INSURANCE COMPANY; AND DOES 1 THROUGH 100, INCLUSIVE,**  
21 **FOR BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR**  
22 **DEALING:**

- 23 1. Damages for failure to timely pay policy benefits, plus interest, in a sum to  
24 be determined at the time of trial;
- 25 2. General damages for mental and emotional distress in a sum to be  
26 determined at the time of trial;
- 27 3. For prejudgment interest on all damages awarded to Plaintiffs in  
28 accordance with California Civil Code § 3287;

- 1           4.     For attorneys' fees, witness fees and costs of litigation incurred by Plaintiff
- 2     to obtain the policy benefits in an amount to be determined at trial;
- 3           5.     For economic and consequential damages arising out of Defendant's
- 4     unreasonable failure to timely pay policy benefits;
- 5           6.     For punitive and exemplary damages in an amount appropriate to punish
- 6     or set an example of Defendants;
- 7           7.     For costs of suit herein; and
- 8           8.     For such other relief as the Court deems just and proper.

9

10           **AS TO THE SECOND CAUSE OF ACTION AGAINST STEPHEN ROTHMAN,**

11           **M.D. ; AND DOES 1 THROUGH 100, INCLUSIVE, FOR INTENTIONAL**

12           **INTERFERENCE WITH CONTRACTUAL RELATIONS:**

- 13           1.     For all past economic and consequential damages to be determined at
- 14     the time of trial;
- 15           2.     For future economic and consequential damages for a total amount to be
- 16     determined at the time of trial.
- 17           3.     For general damages for mental and emotional distress in a sum to be
- 18     determined at the time of trial in a sum to be determined at the time of trial.
- 19           4.     For economic and consequential damages arising out of Defendant State
- 20     Farm's failure to timely pay policy benefits;
- 21           5.     For punitive and exemplary damages in an amount appropriate to punish
- 22     or set an example of Defendants;
- 23           6.     For costs of suit herein; and
- 24           7.     For such other relief as the Court deems just and proper.

**SHERNOFF BIDART**  
**DARRAS ECHEVERRIA**  
 LAWYERS FOR INSURANCE POLICYHOLDERS

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28

1 AS TO THE THIRD CAUSE OF ACTION AGAINST STATE FARM; AND DOES  
2 1 THROUGH 100, INCLUSIVE, FOR INJUNCTIVE AND RESTITUTIONARY RELIEF  
3 UNDER CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200, ET. SEQ:

- 4 1. Pursuant to Business & Professions Code § 17203, and pursuant to the
- 5 equitable powers of this Court, Plaintiffs pray that the Defendants be preliminarily and
- 6 permanently enjoined from engaging in the acts of unfair competition set forth above.
- 7 2. For attorneys' fees under Code of Civil Procedure § 1021.5;
- 8 3. For costs of suit incurred herein; and
- 9 4. For such other and further relief as this Court deems just and proper.

10 DATED: April 16, 2009.

SHERNOFF BIDART  
DARRAS ECHEVERRIA, LLP

By: 

MICHAEL J. BIDART  
RICARDO ECHEVERRIA  
STEVEN SCHUETZE  
Attorneys for Plaintiff

17 DEMAND FOR JURY TRIAL

18 Plaintiff hereby demands a jury trial.

19 DATED: April 16, 2009.

SHERNOFF BIDART  
DARRAS ECHEVERRIA, LLP

By: 

MICHAEL J. BIDART  
RICARDO ECHEVERRIA  
STEVEN SCHUETZE  
Attorneys for Plaintiff

SHERNOFF BIDART  
DARRAS ECHEVERRIA  
LAWYERS FOR INSURANCE POLICYHOLDERS

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**G**IBEAUT, MAHAN & BRISCOE  
GREG W. GIBEAUT -- CSB 82119  
6701 Center Drive West, Suite 611  
Los Angeles, California 90045  
(310) 410-2022, FAX (310) 410-2010

Attorney for defendants, GERALD GORMAN  
and BRIAN M. GORMAN

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES, WEST DISTRICT

BRIAN NOVACK, an individual,

Plaintiff,

v.

GERALD L. GORMAN, an individual,  
BRIAN M. GORMAN, an individual, et al.,

Defendants.

Case No. SC079750

**DEFENDANTS' DESIGNATION OF  
EXPERT WITNESSES [C.C.P., § 2034]**

**TRIAL DATE:** April 5, 2005

TO PLAINTIFF AND TO HIS ATTORNEYS OF RECORD:

Defendants, GERALD L. GORMAN and BRIAN M. GORMAN, hereby designate the  
following expert witnesses in the above-entitled action:

1. Tony Fuerman, M.D., 16133 Ventura Boulevard, Suite 1105, Encino, California  
(818) 905-9642.
2. S. Andrew Schwartz, M.D., 9033 Wilshire Boulevard, Suite 207, Beverly Hills,  
California (310) 276-0900.
3. Stephen Rothman, M.D., 9233 West Pico Boulevard, Suite 210, Los Angeles,  
California (310) 278-7643.
4. David J. Weiner, M.B.A., AM, 445 South Figueroa Street,, Suite 3700, Los  
Angeles, California (213) 817-6600.

FA 1



1 Defendants reserve the right to call at time of trial any of the experts designated by plaintiff  
2 as set forth in his designation or amended/supplemental designations.

3 Defendants further reserve the right to call any expert witnesses whose identity, or the need  
4 for whose expertise, is discovered after the service of this designation.

5  
6  
7 DATED: February 11, 2005

GIBEAUT, MAHAN & BRISCOE

8 By: 

9 GREG W. GIBAUT  
10 Attorneys for defendants,  
11 GERALD GORMAN and BRIAN M.  
12 GORMAN  
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**STEPHEN L. G. ROTHMAN, M.D.**

9233 W. Pico Blvd., Suite 210 • Los Angeles, CA 90035 • 310-278-7643 • 310-278-7645 Facsimile

**PERSONAL**

Date of Birth: January 15, 1942  
Place of Birth: Bronx, New York  
Citizenship: U.S.A.

**LICENSES, CERTIFICATIONS, MEMBERSHIPS**

CALIFORNIA MEDICAL LICENSE	G46280	1991
ARIZONA MEDICAL LICENSE	19993	1991
NEVADA MEDICAL LICENSE	6314	1991
HAWAII MEDICAL LICENSE	MD8851	1994

AMERICAN BOARD OF RADIOLOGY CERTIFIED  
Diagnostic Radiology  
(subspecialty/neuroradiology) 1974

AMERICAN BOARD OF RADIOLOGY CERTIFIED  
Diagnostic Radiology with added  
qualifications in Neuroradiology 1995

AMERICAN SOCIETY OF NEURORADIOLOGY  
AMERICAN SOCIETY OF SPINE RADIOLOGY

**EDUCATION**

YESHIVA UNIVERSITY - NEW YORK, NY  
Bachelor of Arts, BHL, 1959-1963

ALBERT EINSTEIN COLLEGE OF MEDICINE - NEW YORK, NY  
M.D., 1963-1967

**POST GRADUATE TRAINING:**

INTERNSHIP  
MT. SINAI HOSPITAL - NEW YORK, NY  
1967-1968

FELLOWSHIP - YALE UNIVERSITY SCHOOL OF MEDICINE - NEW HAVEN, CT  
Radiology Fellow, 1968-1969 & 1971-1973

MILITARY SERVICE - CAPTAIN & MAJOR U.S. ARMY  
1969-1971

POSITIONS HELD AFTER COMPLETION OF POSTGRADUATE TRAINING:

NEW HAVEN HOSPITAL - NEW HAVEN, CONNECTICUT  
DEPARTMENT OF RADIOLOGY  
*Associate Radiologist* 1973-1974  
*Attending Radiologist* 1974-1981  
*Computerized Tomography* 1976-1981  
*Administrative Director* 1976-1981

NEW HAVEN VETERANS ADMINISTRATION HOSPITAL - NEW HAVEN, CONNECTICUT  
DEPARTMENT OF RADIOLOGY  
*Neuroradiologist* 1973-1976

HADASSAH HEBREW UNIVERSITY MEDICAL SCHOOL - JERUSALEM, ISRAEL  
DEPARTMENT OF NEURORADIOLOGY  
*Guest Professor* 6/75 - 8/75  
*Visiting Professor* 1978-1979

YALE UNIVERSITY SCHOOL OF MEDICINE - NEW HAVEN, CONNECTICUT  
DEPARTMENT OF DIAGNOSTIC RADIOLOGY  
*Assistant Professor* 1973-1976  
*Associate Professor* 1976-1981  
*Professor* 7/81-10/81

SHAARE ZEDEK HOSPITAL - JERUSALEM, ISRAEL  
DEPARTMENT OF RADIOLOGY  
*Consulting Neuroradiologist* 1977-1978

MULTI-PLANAR DIAGNOSTIC IMAGING, INC. - TORRANCE, CALIFORNIA  
*Medical Director* 1981-1989

RANCHO LOS AMIGOS HOSPITAL - DOWNEY, CALIFORNIA  
*Consulting Specialist* 1986-Present

ROTHMAN-CHAFETZ MEDICAL GROUP, INC. - TORRANCE, CALIFORNIA  
*Radiologist* 1989 - 1997

SAN PEDRO PENINSULA HOSPITAL - SAN PEDRO, CALIFORNIA  
*Radiologist* 5/92 - 7/02

UNIVERSITY OF SOUTHERN CALIFORNIA  
DEPARTMENT OF RADIOLOGY  
*Clinical Faculty* 11/00 - Present

**LECTURES AT SEMINARS AND POSTGRADUATE COURSES:**

Computerized Tomography of the Spine. Rush Presbyterian Course in Computerized Tomography, Chicago, IL, September 1976.

CT Evaluation of the Thorax - Computed Tomography of the Body and Head - Current Concepts, The ACTA Body Scanning System - Computed Tomography of the Body and Head - Current Concepts. Orlando, FL, November 1976.

Computerized Tomography of the Abdomen and Spine. Insights into CT Scanning Symposium. New Orleans, LA, 1976.

Computerized Tomography in Stenosing Lesions of the Spine. Guest lecture. University of Leiden, Leiden, Netherlands, December 1976.

Computerized Tomography of the Thorax and Spine. Guest lecture. University of Louvain, Louvain, Belgium, December 1976.

Computerized Tomography of the Brain and Spine. Guest lecture. Antwerp University Hospital, Antwerp, Belgium, December 1976.

Computerized Tomography of the Abdomen and Spine. Guest lecture. Milan, Italy, December 1976.

Computerized Tomography in the Diagnosis of Diseases of the Chest and Abdomen. Pisa, Italy, December, 1976.

Computerized Tomography of the Spine. Spanish Radiology Society, Barcelona, Spain, December 1976.

Computerized Tomography in Diseases of the Chest and Abdomen. Barcelona, Spain, December 1976.

Computerized Tomography of the Brain and Head. Insights into CT Scanning Symposium, Baltimore, Maryland, 1977.

Computerized Tomography of the Brain and Spine. Insights into CT Scanning Symposium, New York, NY 1977.

Computerized Tomography of the Chest and Abdomen. Guest lecture. Albert Einstein College of Medicine, Bronx, New York, February 1977.

Advances in Neuroradiology of the Spine. Connecticut Chapter of the American College of Physicians, March 1977.

The Radiology of Transsphenoidal Hypophysectomy. Postgraduate Course in Sphenoidal Surgery. Yale

University School of Medicine, New Haven, CT, March 1977.

Computerized Tomography of the Brain and Body. Insights into CT Scanning Symposium, Boston, MA, April 1977.

Computerized Tomography of the Brain. Insights into CT Scanning Symposium, Toronto, Canada, May 1977.

Advances in Computerized Tomography of the Spine. Insights into CT Scanning Symposium, Montreal, Canada, May 1977.

Extracranial Computerized Tomography. Advances in Clinical Gastroenterology, Yale University School of Medicine, June 1977.

Computerized Tomography of the Brain, Spine and Body. Insights into CT Scanning Symposium, Hartford, CT, August 1977.

Computerized Tomography in the Diagnosis and Treatment of Cancer. American Cancer Society Symposium, Milford, CT, September 1977.

Computerized Tomography of the Brain. Insights into CT Scanning Symposium, Los Angeles, California, March 1978.

Computerized Tomography in Diseases of the Spine. Insights into CT Scanning Symposium, Los Angeles, California, March 1978.

Computerized Tomography of the Spine. Insights into CT Scanning Symposium, Denver, Colorado, March 1978.

Computerized Tomography of the Base of the Skull. Johns Hopkins Course, Baltimore, Maryland, April 1978.

Computerized Tomography of the Spine. Johns Hopkins Course, Baltimore, Maryland, April 1978.

Angiography and Microangiography of the Eye and Orbit. Tel Hashomer Hospital, Tel Aviv, Israel, 1979.

Computerized Tomography of the Spine in "The New Technology Noninvasive Diagnostic Techniques". Shaare Zedek Medical Center, Jerusalem, Israel, November 12, 1978.

Special Radiography Procedures in Orbital Diagnosis. Third Diploma Course in Ophthalmology. Hadassah Medical Center, Jerusalem, Israel, November 23, 1978.

Plain X-ray Diagnosis of the Orbit. Third Diploma

Course in Ophthalmology, Hadassah Medical Center, Jerusalem, Israel, November 23, 1978.

The Radiology of Congenital Disorders of Brain and Orbit. Third Diploma Course in Ophthalmology. Hadassah Medical Center, Jerusalem, Israel, November 23, 1978.

The Physics of Computerized Tomography. Guest lecture. Department of Medical Physics. Hebrew University, Jerusalem, Israel, December 1978.

An Introduction to Clinical Computerized Tomography. Department of Medical Physics, Hebrew University, Jerusalem, Israel, December 1978.

Computerized Tomography of the Brain. CT Seminar. Tel Aviv, Israel, January 1979.

Computerized Tomography of the Orbits. CT Seminar, Tel Aviv, Israel, January 1979.

Computerized Tomography of the Chest and Abdomen. CT Seminar, Tel Aviv, Israel, January 1979.

The Radiologic Differential Diagnosis of Neurophthalmology Disorders. Postgraduate Course in Neurology. Tel Aviv University, Tel Aviv, Israel, January 19, 1979.

Seminar on Spinal Radiology. Ichilov Hospital, Tel Aviv, Israel, January 1979.

Seminar on Orbital Radiology. Ichilov Hospital, Tel Aviv, Israel, February 1979.

Computerized Tomography of the Spine. Belinson Hospital, Petach-Tiqva, Israel, 1979.

The Radiology of Cervical Spine Fracture. Postgraduate Course in Spine Radiology, Tel Aviv University Medical School, Tel Aviv, Israel, March 11, 1979.

The Radiology of Degenerative Disease of the Spine. Postgraduate Course in Spine Radiology. Tel Aviv University Medical School, Tel Aviv, Israel, March 11, 1979.

The Normal and Abnormal Myelogram, Postgraduate Course in Spine Radiology. Tel Aviv University Medical School, Tel Aviv, Israel, March 11, 1979.

Computerized Tomography of the Base of the Skull in Oral Surgery. Meeting of the Israeli Dental Society, Tel Aviv, Israel, 1979.

The Radiology of Neurophthalmologic Syndromes. Hebrew University School of Medicine, Jerusalem,

Israel, May 1979.

Congenital Disorders of the Orbits. 18th Leo G. Rigler Lecture and Convention on Pediatric Radiology, Tel Aviv, Israel, May 8-10, 1979.

Computerized Tomography of the Brain. Guest lecture. Postgraduate Hospital, Budapest, Hungary, June 1979.

Computerized Tomography of the Petrous Bone. Guest lecture. Transvaal Radiologic Society Meeting, Johannesburg, South Africa, October 1980.

Computerized Tomography of the Spine. Guest lecture. Pretoria, South Africa, October 1980.

Computerized Tomography of the Petrous Bone. Guest lecture. Durban, South Africa, October, 1980.

Spine and Myelography. Lecture, Yale University School of Medicine Imaging Update, New Haven, CT, October 1980.

Petrous Bone CT. Lecture, Yale University School of Medicine Imaging Update, New Haven, CT, October 1980.

Postgraduate Course in Neuro-ophthalmology. American Society of Ophthalmology Meeting. Atlanta, GA, November 1981.

Computed Tomography of the Spine. Annual Convention of American Osteopathic Association, Los Angeles, CA 1981.

Multiplanar Scanning of the Spine. University of California, Irvine, CA, February 17, 1982.

Multiplanar Spine CT. 19th Meeting of the Federation of Western Societies of Neurological Science, San Diego, CA, February 25, 1982.

Multiplanar Pituitary and Orbital CT. 19th Meeting of the Federation of Western Societies of Neurological Science, San Diego, CA, February 1982.

Multiplanar CT in the Diagnosis of Spondylolysis - A Review of 35 Cases. Western Neuroradiological Society Meeting, Lake Tahoe, NV, March 1982.

An Overview of Multiplanar Spine CT. George Washington University Hospital, Washington, D.C., November 1982.

Disc Disease and the Postoperative Spine. Orthopedic Grand Rounds, Yale-New Haven Hospital, New Haven, CT, November 1982.

Multiplanar CT and MR of the Spine. Seattle

Washington, March 1987.

Multiplanar CT and MR of the Spine, St. Louis, MO, March 1987.

Multiplanar CT and MR of the Spine. New York, March 1987.

Multiplanar CT and MR of the Spine. Washington, DC, April 1987.

CT of the Spine In Things You Have Never Thought About. American Academy of neurologic and orthopaedic Med. and Surg., Las Vegas, NV, October 23, 1987.

Dental CT and implant technology. Loma Linda School of Dentistry, Loma Linda, California, February 9, 1989.

Dental CT and implant technology. Long Beach Dental Society Implant Study Group, Long Beach, California, February 21, 1990.

Dental CT and root form implant in the partially edentulous patient. UCLA Dental Symposium, Palm Springs, California, April 20, 1990.

Computerized tomography and implant site selection. The Sixth Annual Implant Team System Seminar, Universal City, California, November 18, 1990.

Dental CT and implant technology. Los Angeles Dental Society Implant Study Group, Los Angeles, California, December 3, 1990.

Dental CT and implant technology. USC School of Dentistry, Department of Periodontics, Los Angeles, California, January 17, 1991.

Radiology of spondylolisthesis. Los Angeles Chiropractic College, Whittier, California, March 26, 1991.

Gross anatomy, National Association of Railroad Trial Counsel, Snowbird, Utah, February 7, 1992.

The cranio-cervical junction, Los Angeles Chiropractic College, May 26, 1992.

Practical application in sports medicine, Palm Springs, May 30, 1992.

Spinal injury seminar at Ontario Community Hospital, Ontario, June 12, 1992.

The medicolegal implications of MR and CT of the spine, The Western Neuroradiological Society, October 2, 1992.

Medicolegal aspects of spinal imaging, 1991 American College of Chiropractors, Radiology Workshop/Symposium, October 4, 1992.

CT scanning for implant placement, Alpha Omega International Dental Fraternity Implant Extravaganza, Los Angeles, November 1, 1992.

The Radiology of Spinal Trauma, Pearls & Pitfalls, American Academy of Orthopedic Surgery, Anaheim, CA, February 2000.

The Radiology of Spinal Trauma, Pearls & Pitfalls, American Paraplegia Society, Las Vegas, NV, 2000.

Rothman, SLG, Wiltse, L.L, Spondylolisthesis, American Society Spine Radiology, Marco Island, FL, 2001.

The Radiology of Dental Implants, USC School of Dentistry, December 2001.

The History of Neuroradiology Through My Eyes, San Pedro Peninsula Hospital, January 2002.

Spinal CT and MR - American Society Interventional Pain Physicians, March 2002.

Seminar Spinal Radiology - American Society of Interventional Pain Physicians, March 2002

The Craniovertebral Junction, American Osteopathic Radiology Society, April 2002.

Spondylolisthesis, American Osteopathic Radiology Society, April 2002.

Medlegal Implications of Spinal Injury, American Osteopathic College of Radiology, April 2002.

Radiology of the Spine, A Course in Ten Parts. USC School of Medicine, July 1, 2002 through June 30, 2003.

Rothman, SLG, Seminar on the Intervertebral Disc-Nomenclature, American Society of Neuroradiology, Washington D.C., May 2003.

#### PAPERS AND PRESENTATIONS

Rothman SLG, Kier EL, Deuker DK: Microangiographic anatomy of the cat's eye. American Society of Neuroradiology, Boston, MA, April 1973.

Rothman SLG, Kier EL, Allen WE III, Pratt AG: Angiographic topography of orbital mass lesions. Radiological Society of North America, Chicago, IL, December 1974.

Rothman SLG, Kirchner JA, Kier EL: Preoperative

laminographic evaluation of the sphenoid sinus for transsphenoidal surgery. Triological Society Sectional Meeting, Boston, MA, Jan. 1975

Rothman SLG, Allen WE III: The radiology of transsphenoidal hypophysectomy. The American Society of Neuroradiology, Vancouver, British Columbia, Canada, June 1975.

Rothman SLG, Allen WE III, Simeone J: The medial posterior choroidal artery as an indicator of masses at the foramen of Monroe. The American Society of Neuroradiology, Vancouver, British Columbia, Canada, June 1975.

Rothman SLG: The angiographic anatomy of the cerebral ventricles. Guest lecture. Haifa University School of Medicine, Haifa, Israel, July 1975.

Rothman SLG: Angiography of the normal and abnormal maxillary artery. Neuroradiological Society of Israel, Jerusalem, Israel, August 1975.

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Rothman SLG: Comparative use of CAT in chest radiology. Comparative Productivity of Techniques for Noninvasive Medical Diagnosis Symposium, New Hampshire, August 1976

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Rothman SLG, Glenn WV Jr: Spondylolysis and spondylolisthesis: Multiplanar computer tomographic analysis of 250 cases. XII Symposium Neuroradiologicum, Washington, D.C., October 1982.

Lesser R, Rothman SLG: The Radiology of Neurophthalmology. Postgraduate course, American

Academy of Ophthalmology, San Francisco, CA, November 1982.

Rothman SLG: Multiplanar imaging of the spine. Meeting of the American College of Chiropractic Radiology, San Diego, CA, November 1982.

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Rothman SLG: Postoperative spine CT. Continuing Medical Education Lecture, Holy Cross Hospital, Mission Hills, CA, December 14, 1982

Rothman SLG: Multiplanar neuro and cervical spine CT. Continuing Medical Education Lecture, Holy Cross Hospital, February 1, 1982

Rothman SLG: CT evaluation of the postoperative spine. Radiology Grand Rounds, University of California at San Francisco, January 6, 1983.

Rothman SLG: The impossible axial CT scan. Postgraduate fellowship course, University of California at San Francisco, January 6, 1983.

Rothman SLG: Spine CT Seminar, Santa Barbara Cottage Hospital, Santa Barbara, CA, January 12, 1983.

Rothman SLG: An overview of spine CT. Florida Hospital, Orlando, FL, January 17, 1983

Rothman SLG: Spine CT. Alachua General Hospital, Gainesville, FL, January 18, 1983. Rothman SLG: Postoperative spine CT. Orthopedic Grand Rounds, University of Miami School of Medicine, January 20, 1983.

Rothman SLG: Multiplanar spine CT. Radiology Conference, University of Miami, January 20, 1983.

Glenn WV Jr, Rothman SLG: High-resolution CT of the uncinate processes and neural foramina of the cervical spine. Third Radiological Symposium, Graz, Austria, October 6-8, 1983.

Glenn WV Jr., Rothman SLG: High resolution lumbar multiplanar CT in spondylolisthesis. Third Radiological Symposium, Graz, Austria, October 6-8, 1983.

Glenn WV Jr., Rothman SLG: Multiplanar CT as key factor in evaluating interbody fusions. Third Radiological Symposium, Graz, Austria, Oct 6-8,



1983.

Rothman SLG: CT scanning of the spine and its relevance to the legal profession. USC Medical Center, Los Angeles, CA, May 2, 1984.

Rothman SLG: CT of spondylolysis and spondylolisthesis. CT of the spine course. New York University Medical Center. New York City, NY, May 9-13, 1984.

Rothman SLG: Radiculopathy caused by displaced postoperative facet fractures. 22nd Annual Meeting, ASNR, Boston, MA, June 2-7, 1984.

Rauschnig W, Rothman SLG: CT anatomy of the cervical spine in oblique reformatted planes. 22nd Annual Meeting, ASNR, Boston, MA, June 2-7, 1984.

Rothman SLG: CT in the diagnosis of degenerative disease of the lumbar spine: The importance of reformatted images. The differential diagnosis between postoperative changes and recurrent disc herniation. Nordic Association of Neuroradiology, Trondheim, Norway, August 30, 1984.

Rothman SLG: CT in degenerative disc disease of the C-spine. Nordic Association of Neuroradiology, Trondheim, Norway, August 30, 1984.

Lesser RL, Rothman SLG: The differential diagnosis of neuro-ophthalmologic syndrome. Western Neuroradiological Society Meeting, Santa Barbara, CA, October 11-14, 1984.

Lesser RL, Rothman SLG: Neuro-ophthalmic Imaging. American Academy of Ophthalmology. Atlanta, Georgia, November 11-15, 1984.

Rothman SLG: CT scanning in lumbar diagnosis. North American Academy of Manipulative Medicine, San Diego, CA, November 14-16, 1984.

Rothman SLG, Glenn WV Jr., Rhodes ML, Bruce R, Pratt C: Individualized prosthesis production from routine CT data. Radiological Society of North America, Chicago, Nov. 17-22, 1985.

Rothman SLG, Rauschnig W, Glenn WV Jr.: Lumbar zygapophyseal joints: normal and pathologic anatomy. Radiological Society of North America, Chicago, Nov. 17-22, 1985.

Rothman SLG: CT in the diagnosis of conjoint nerve roots and other minor root abnormalities. International College of Surgeons, Las Vegas, NV, March 1986.

Rothman SLG: Healing pars defects and other occult stress fractures of the vertebral arches. The

International Society for the Study of the Lumbar Spine, Rome, Italy, May 24-28, 1987.

Rothman SLG, Rhodes ML, Schwarz M, Chafetz N: Preoperative CT Analysis of the mandible and maxilla for permanent prosthetic implantation. Radiological Society of North America, Chicago, IL, Dec. 4, 1987.

Rhodes ML, Rothman SLG, Tivattanasuk ES, Schwarz M, Chafetz N: CT image presentations for surgical planning of maxilla and mandibular denture implants. Radiological Society of North America, Chicago, IL, Nov. 31 - Dec. 4, 1987.

Rothman SLG: Occult fractures of the spinal neural arch (poster presentation). The American Society of Neuroradiology, New York City, NY, May 10-15, 1987.

Rothman SLG: Reformatted CT for dental implants. Academy of Osseointegration, Chicago, IL, April 1987.

Misenhimer G, Peek RD, Wiltse LL, Rothman SLG: Anatomic analysis of pedicle cortical and cancellous diameter as related to screw size. Third Annual Meeting of North American Spine Society, June 24-27, 1988.

Rothman, SLG: Imaging of the cranio-vertebral junction and C2, American Spinal Imaging Association Meeting, San Diego, California, May 11, 1993.

Rothman, SLG: The medicolegal significance of imprecise anatomical description of spinal imaging studies. American Society of Neuroradiology Convention (Scientific Exhibit), Vancouver, Canada, May 14, 1993.

Rothman SLG: Paper: Medicolegal significance of magnetic resonance misinterpretation. American Academy of Orthopedic Surgeons - Annual Meeting/Scientific Program - New Orleans, Louisiana, February 23-27, 1994.

Rothman SLG: Poster Presentation: A unifying theory on the etiology of L5/S1 Spondylolysis and Spondylolisthesis, American Society of Neuroradiology, Nashville, Tennessee, May 1-8, 1994.

Rothman SLG, Chafetz, NI: Poster Presentation: The radiological distinction between congenital os odontoideum and post traumatic pseudoarthrosis of the dens, American Society of Neuroradiology, Nashville, Tennessee, May 1-8, 1994.

Rothman SLG, Chafetz, NI: Poster Presentation: Mandibular and maxillary augmentation for the purpose of dental implantation, American Society of Neuroradiology, Nashville, Tennessee, May 1-8, 1994.

Rothman SLG, Chafetz, NI: Poster Presentation:

Radiology of dental implants. American Society of Neuroradiology, Nashville, Tennessee, May 1-8, 1994

Rothman SLG, Slavin B, Chafetz NI: An anatomic explanation for over-reading disc herniations on imaging studies of the spine. Western Neurological Society, Tucson, Arizona, October 6-8, 1994.

Rothman SLG, Chafetz NI, Mackey JK, Slavin B: Poster Presentation: An anatomic explanation for over-reading disc herniations on imaging studies of the cervical spine. American Society of Neuroradiology, Chicago, Illinois, April 22-26, 1995

Rothman SLG, Chafetz NI: Poster Presentation: An anatomical explanation for over-reading disc herniations on MRI imaging studies of the lumbar spine. American Society of Neuroradiology, Chicago, Illinois, April 22-26, 1995

Rothman SLG, Chafetz NI: Poster Presentation: The medicolegal significance of imprecise anatomical description of spinal imaging studies. American Society of Neuroradiology, Chicago, Illinois, April 22-26, 1995

#### Medicolegal Radiology Lectures:

Insurance Education Association, Irvine, California, March 6, 1989.

Insurance Education Association, Los Angeles, California, November 2, 1989.

Aetna Insurance Company, Glendale, California, November 15, 1989.

Aetna Insurance Company, Santa Ana, California, November 16, 1989.

Insurance Education Association, Irvine, California, March 6, 1990.

Eagle Pacific Insurance Company, Long Beach, California, April 25, 1990.

Insurance Education Association, September 17, 1990.

Transamerica Corporation, Woodland Hills, California, September 27, 1990.

Rockwell Insurance Adjusters, Downey, California, December 14, 1990.

Insurance Education Association, Pasadena, California, February 20, 1991.

National Association of Railroad Trial Counsel, Pebble Beach, California, May 3, 1991.

Twentieth Century, Burbank, California, October 2, 1991.

Insurance Education Association, Pasadena, California, October 23, 1991.

Burns, Ammirato, Palumbo, et al. Pasadena, California, November 14, 1991

Crawford & Company, Culver City, California, November 27, 1991.

Insurance Education Association, Pasadena, California, March 13, 1992.

Parker, Stanbury, Babcock, et al., Los Angeles, California, March 31, 1992.

Thompson & Colegate, Riverside, California, June 23, 1992.

Bollington, Stitz, Bloeser & Curry, Woodland Hills, California, September 25, 1992.

Jacklin & Johnson, Costa Mesa, California, November 2, 1992.

Mac Lachlan, Burford & Arias, MBA Day, Ontario, California, November 6, 1992

Mission Forensic Sciences Educational Institute - Lecture: Uses of MRI in litigation. Anaheim, California, August 6, 1993.

Mission Forensic Sciences Educational Institute - Lecture: Uses of MRI in litigation. Monterey, California, October 15, 1993.

Mission Forensic Sciences Educational Institute - Lecture: Uses of MRI in litigation. Rancho Mirage, California, November 7, 1993.

Mission Forensic Sciences Educational Institute - Lecture: Uses of MRI in litigation. Carlsbad, California, December 3, 1993.

Oregon State Bar Continuing Legal Education - Lecture: Gross anatomy: understanding and using diagnostic tests of the back. Portland, Oregon, April 29, 1994.

#### EXHIBITS

Kier EL, Allen WE III, Rothman SLG: Magnification angiography in intracranial mass lesions. American Association of Neurological Surgeons, Boston, MA, 1972.

Kier EL, Allen WE III, Rothman SLG: Direct magnification cerebral angiography. American

Roentgen Ray Society, October 1972.

Rothman SLG, Kier EL, Kirchner JA, Allen WE III: Preoperative laminographic evaluation of the sphenoid sinus for transsphenoidal surgery. Radiological Society of North America, Chicago, IL, December 1874.

Rothman SLG, Kier EL, Allen WE III, Pratt AG: A tomographical analysis of orbital mass lesions. Radiological Society of North America, Chicago, IL, Dec. 1974.

Rothman SLG, Allen WE III, Kier EL, Conlogue G: High resolution microangiography of the nervous system. Radiological Society of North America, Chicago, IL, Dec. 1975.

Allen WE III, Rothman SLG, Kier EL, Rosnagle RS: Angiography in the diagnosis and treatment of intractable epistaxis. Radiological Society of North America, Chicago, IL, Dec. 1975.

Rothman SLG, Putman CE, Allen WE III, Greenspan RG, McCloud T, Littner M, Schachter N, Gee JBL: Computerized axial tomography in sarcoidosis. American Thoracic Society, May 1976.

Masters SJ, Allen WE III, Rothman SLG: Stereoscopy of the cervical spine - A valuable adjunct in the diagnosis of acute/occult injury. Radiological Society of North America, Chicago, IL, Nov. 1976.

Rothman SLG, Putman CE, Allen WE III, Greenspan RH, McCloud T: Computerized tomography in pulmonary sarcoidosis. Radiological Society of North America, Chicago, IL, Nov. 1976.

Allen WE III, Rothman SLG, Kier EL, Rosnagle RS: Angiography in the diagnosis and treatment of intractable epistaxis. American Academy of Ophthalmology and Otolaryngology, Dallas, TX, Oct. 1977.

Rothman SLG, Geehr RB, Kier EL, Allen WE III, Hoffman HB: Computerized tomography of the spine. Radiological Society of North America, Chicago, IL, Nov. 1977.

Rothman SLG, Geehr RB, Kier EL, Hoffman HB: Computerized tomography of the cranio-cervical junction. The American Society of Neuroradiology, New Orleans, Louisiana, Feb. 1978.

Rothman SLG: A video programmed course in computerized tomography of the brain. The American Society of Neuroradiology, New Orleans, LA, Feb. 1978.

Rothman SLG, Geehr RB, Kier EL, Siew F, Weinstein

D, Virapongse C: Pluridirectional tomography in the diagnosis of hyperprolactinemia - Is it justifiable? American Society of Neuroradiology, Los Angeles, CA, March 1980.

Rothman SLG, Glenn WV Jr: Multiplanar CT in 250 cases of spondylolisthesis. Radiological Society of North America, Chicago, IL, Nov.-Dec., 1982.

Glenn WV Jr., Rothman SLG: Objective criteria for reporting spine CT scans. Radiological Society of North America, Chicago, IL, Nov.-Dec., 1982.

Rhodes ML, Glenn WV Jr., Rothman SLG, Howland RS, Azzawi YM: A stereotactic neurosurgery system for CT. Radiological Society of North America, Chicago, IL, Nov.-Dec. 1982.

Rothman SLG, Glenn WV Jr., Kerber CW: Multiformatted non-spine orthopedic CT - A review of 250 cases. Radiological Society of North America, Chicago, IL, Nov.-Dec. 1984.

Lufkin R, Rauschnig W, Glenn WV Jr., Rothman S, Hanafee W: Laser video disc display of multiplanar cross-sectional anatomy, CT and MR. Radiological Society of North America, Chicago, IL, Nov. 17-22, 1985.

#### VIDEO TAPE PRESENTATIONS

Rothman SLG, Kier EL: The radiology of the sella turcica. Produced through The American College of Radiology by the 3M Company, St. Paul, Minnesota, 1975.

Van Gilder JC, Page RB, Collins WF Jr., Rothman SLG: The anatomy and physiology of the hypothalamus. National Medical Audio Visual Center, Atlanta, GA.

Collins WF Jr., Mulrow P, Rothman SLG: Acromegaly. National Medical Audio Visual Center, Atlanta, GA.

Rothman SLG: CT of the brain - Normal anatomy and disorders of cerebral ventricles. Medcom Produces, New York, NY 1977.

Rothman SLG: CT of the brain - Pathology. Medcom Produces, New York, New York, 1977.

Rothman SLG: CT of the brain - Base of skull, face and orbits. Medcom Produces, New York, NY, 1977.

Rothman SLG: CT of the upper abdomen. Medcom Produces, New York NY 1977.

Rothman SLG: CT of the lower abdomen. Medcom Produces, New York, NY 1977.

Rothman SLG: CT of the spine. Medcom Produces, New York, New York, 1977.

#### ABSTRACTS

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#### ORIGINAL ARTICLES

Rothman SLG, Kier EL, Allen WE III, Barauskas L: A simple technique for photographic image enhancement of subtraction films. Radiology 107:457-459, 1973

Rothman SLG, Aza-Kia B, Kier EL, Schechter MD, Allen WE III: The angiography of posterior inferior cerebellar artery aneurysms. Neuroradiology 6:1-7, 1973.

Allen WE III, Kier EL, Rothman SLGR: The maxillary artery: Normal radiographic anatomy. AJR 118:517-527, 1973.

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Rothman SLGR, Kier EL, Deuker DK: In vivo angiography of the rabbit eye. Invest Radiol 10:68-72, January 1975.

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Rawe S, VanGlider JC, Rothman SLG, Allen WE III: Radiographic diagnostic evaluation and surgical treatment of multiple cerebellar, brain stem and spinal cord hemangioblastomas. *Surg Neurol* 9:33-41, 1978.

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REVISED: 07/03



**STEPHEN L. G. ROTHMAN, M.D.**

9233 W. Pico Blvd., Suite 210 • Los Angeles, CA 90035  
Board Certified Radiologist with CAQ in Neuroradiology  
(310) 278-7643 • (310) 278-7645 Fax

RECEIVED

OCT 20 2004

GIBEAU,  
MAHAN & BRISCOE

October 18, 2004

Greg W. Gibeaut  
Gibeaut, Mahan & Briscoe  
6701 Center Drive West, Ste. 611  
Los Angeles, CA 90045

RE: Novack v. Gorman

Assured: Gerald Gorman  
File: 00604-024  
Claim No.: VA010094-39  
D/Loss: 12/10/02

I have today received and reviewed a packet of films on Brian Novack which include an MRI scan of the brain dated 10/12/01. The MRI scan of the brain is normal.

There is a cervical spine MRI scan done on 2/10/97. Unfortunately this is not done with the same excellent technique. There is evidence of degenerative disc disease at C6/7. Unfortunately, there are no T2 weighted images, only gradient echo views. There is minimal annular bulge at C5/6, more prominent annular bulge at C6/7.

There is a cervical spine MRI scan done on 10/12/01. This study shows diffuse degenerative change of the cervical spine. There are central minor disc bulges in the upper cervical spine, more prominent disc bulges especially on the right side at C6/7. The disc bulge at C6/7 is slightly more prominent on the study in 2002 than it is on this study, but it's functionally the same process; multi-level degenerative disc disease. The pre accident study proves my impression that this is all preexisting disease. The sequence of MRI scans indicates continued aging changes of the intervertebral discs, as one would certainly expect.

There is also a thoracic spine MRI scan done on 10/12/01. This study is normal. There is no evidence of any significant degenerative disease.

Greg W. Gibeaut  
Re: Brian Novack  
October 18, 2004  
Page Two

In summary, this patient has multi-level degenerative disc disease prior to and following the accident. No evidence that the accident actually did anything to the cervical spine.

It's been my pleasure to provide this review for you.



Stephen L. G. Rothman, M.D.

SLGR:ts

**STEPHEN L. G. ROTHMAN, M.D.**  
9233 W. Pico Blvd., Suite 210 • Los Angeles, CA 90035  
Board Certified Radiologist with CAQ in Neuroradiology  
(310) 278-7643 • (310) 278-7645 Fax

May 20, 2004

Greg W. Gibeaut  
Gibeaut, Mahan & Briscoe  
6701 Center Drive West, Ste. 611  
Los Angeles, CA 90045

RE: Novack v. Gorman  
Assured: Gerald Gorman  
File: 00604-024  
Claim No.: VA010094-39  
D/Loss: 12/10/02

I have today received and reviewed a large packet of films on Brian Novack including a cervical spine CT dated 3/29/04.

This study shows the same minor degenerative cervical spondylosis noted on the original study. There is no evidence of any injury here.

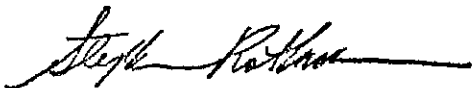
There is a CT scan of the lumbar spine dated 3/29/04. The lumbar spine CT is normal. There is no evidence of disc herniation or neural compression. There is nothing on this study which would be referable to any trauma, nor is there anything on this study which suggests any neurocompressive or objective abnormality.

There is an MRI scan of the cervical spine done on 1/30/04. This shows minimal annular bulge at C6/7 and very minor annular bulge at C5/6. This correlates perfectly with the CT scan in that it shows the most minimal degenerative change with the disc bulge on the right side at the medial end of the neural foramen at C5/6 and a diffuse broad-based annular bulge at C6/7. When I compare this to the previous MRI scan of 12/11/02 which I previously reviewed, C6/7 looks the same. C5/6 looks slightly more prominent now than it did on the previous study. The patient is two years older. As mentioned earlier, there is no hint here of spinal injury. This patient is dramatically over-imaged. There is no reason to do the CT scan of the cervical spine following the cervical spine MRI

Greg W. Gibeaut  
Re: Brian Novack  
May 20, 2004  
Page Two

scan. The cervical MRI scan immediately following the accident excludes the possibility of disc herniation from trauma. The later one shows two-level degenerative disc disease, slightly more prominent at C5/6 than on the original study which shows the similar abnormality but slightly less prominent.

It's been my pleasure to provide this review for you.

A handwritten signature in cursive script, appearing to read "Stephen Rothman", with a long horizontal flourish extending to the right.

Stephen L. G. Rothman, M.D.

SLGR:ts

**STEPHEN L. G. ROTHMAN, M.D.**

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Board Certified Radiologist with CAQ in Neuroradiology

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April 30, 2004

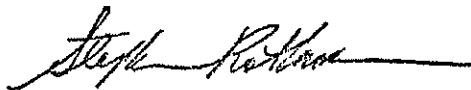
Greg W. Gibeaut  
Gibeaut, Mahan & Briscoe  
6701 Center Drive West, Ste. 611  
Los Angeles, CA 90045

RE: Novack v. Gorman  
Assured: Gerald Gorman  
File: 00604-024  
Claim No.: VAO10094-39  
D/Loss: 12/10/02

I have today received and reviewed an MRI scan of the cervical spine done on 12/11/02, one day after the accident in question on Brian Novack. That's fairly strange. Only a physician would have an MRI scan one day after an accident.

This study shows diffuse broad-based disc bulge at C6/7 extending from foramen to foramen. This is a longstanding chronic abnormality. This can be seen quite well on the axial. There is some diffuse broad-based annular bulge. Diffuse annular bulge is never caused by a single blunt force trauma. Since this study was done one day after the accident, one can say with absolute certainty that this could not have been caused by that episode. There is some minor degenerative change at C5/6 with small uncinata ridges. Minimal central annular bulges are seen in the upper cervical spine compatible with convex vertebrae which are present in these levels. None of these abnormalities were in any way caused by trauma.

It's been my pleasure to provide this review for you.



Stephen L. G. Rothman, M.D.

SLGR:ts

**STEPHEN L. G. ROTHMAN, M.D.**  
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RECEIVED

MAY - 5 2004

GIBEAU  
MAHAN & BRISCOE

April 30, 2004

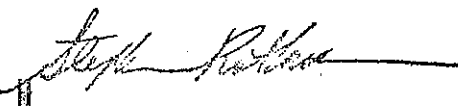
Greg W. Gibeaut  
Gibeaut, Mahan & Briscoe  
6701 Center Drive West, Ste. 611  
Los Angeles, CA 90045

RE: Novack v. Gorman  
Assured: Gerald Gorman  
File: 00604-024  
Claim No.: VA010094-39  
D/Loss: 12/10/02

I have today received and reviewed an MRI scan of the cervical spine done on 9/11/02, one day after the accident in question on Brian Novack. That's fairly strange. Only a physician would have an MRI scan one day after an accident.

This study shows diffuse broad-based disc bulge at C6/7 extending from foramen to foramen. This is a longstanding chronic abnormality. This can be seen quite well on the axial. There is some diffuse broad-based annular bulge. Diffuse annular bulge is never caused by a single blunt force trauma. Since this study was done one day after the accident, one can say with absolute certainty that this could not have been caused by that episode. There is some minor degenerative change at C5/6 with small uncinatoid ridges. Minimal central annular bulges are seen in the upper cervical spine compatible with convex vertebrae which are present in these levels. None of these abnormalities were in any way caused by trauma.

It's been my pleasure to provide this review for you.

  
Stephen L. G. Rothman, M.D.

SLGR:ts

LAW OFFICES  
**JERRY S. MILLIKEN**  
A Professional Corporation  
1875 CENTURY PARK EAST, SUITE 1770  
LOS ANGELES, CALIFORNIA 90067-2507  
PHONE (310) 273-7222  
FACSIMILE (310) 273-4678

March 11, 2005

State Farm Insurance  
P.O. Box 2257  
Bakersfield, CA 93390

Attention: Claims

Re: My Client/Your Insured: Dr. Brian Novack  
Umbrella Policy No.: 71-C0-1158-8  
Date of Loss: December 10, 2002

Gentlemen:

Please be advised that we are submitting an underinsurance claim on behalf of our client Dr. Brian Novack.

Dr. Brian Novack settled his third party claim for policy limits of \$250,000.00. Dr. Novack's claim has a value in excess of \$1,000,000.00.

Please contact our office.

Very truly yours,

JERRY S. MILLIKEN

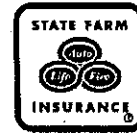
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Enclosures

11-11-05

ER 2

# State Farm Insurance Companies®



March 18, 2005

Culver City Operations Center  
PO Box 22257  
Bakersfield, CA 93311  
888 310 1053 Fax 800 377 0989

LAW OFFICES OF JERRY MILLIKEN  
1875 CENTURY PK E STE 1770  
LOS ANGELES CA 90067-2507

RE: Claim Number: 75-J569-094  
Insured: Brian Novack  
Date of Loss: December 10, 2002  
Policy Number: 71-C0-1158-8

Dear Mr. Milliken:

We are in receipt of your letter dated March 11, 2005.

As we discussed on March 16, 2005, Company records indicate that uninsured motorist coverage was not included in Dr. Novack's Personal Liability Umbrella Policy. State Farm® is investigating this matter under a full and complete Reservation of Rights regarding coverage. Our investigation into this claim should not be construed as an admission or agreement that coverage is in place for this claim. State Farm observes its right to supplement its Reservation of Rights and/or deny coverage as additional information comes to light.

We would appreciate receiving all available medical information regarding this claim.

Upon conclusion of our investigation, we will contact you to discuss your client's claim. If you have any questions, please contact our office.

Sincerely,

Anne Grogan  
Claim Representative  
310 568 5313  
State Farm Mutual Automobile Insurance Company

038/0318004CA

EX 3



# State Farm Insurance Companies®



March 18, 2005

Culver City Operations Center  
PO Box 22257  
Bakersfield, CA 93311  
888 310 1053 Fax 800 377 0989

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED AND REGULAR MAIL**

BRIAN NOVACK  
C/O LAW OFFICES OF JERRY S MILLIKEN  
1875 CENTURY PARK E STE 1770  
LOS ANGELES CA 90067-2507

RE: Insured: Brian Novak  
Claim Number: 75-J569-094  
Date of Loss: December 10, 2002  
Policy Number: 71-C0-1158-8

Dear Dr. Novak:

We have received notification of an incident alleged to have occurred on or about December 10, 2002, at 10:55 p.m. State Farm General Insurance Company may have no duty to pay, indemnify, defend, or otherwise perform under the policy referenced above because:

"The records of the Company indicate that uninsured motorist coverage was not included in the policy."

For this reason, and for any other reasons which may become known, State Farm General Insurance Company reserves all its rights under the policy, including the right to deny coverage in its entirety.

If you have any information or materials which may aid in the analysis of your claim for coverage, please provide it to us as soon as possible.

Any action taken by State Farm General Insurance Company, or any of its authorized representatives to investigate, evaluate, pay, defend, or otherwise adjust any claim presented, shall not waive any terms or conditions of the policy mentioned above, nor shall any such actions waive any of our other rights.

The company does not intend, by this letter, to waive any policy defenses not stated above, but specifically reserves its right to assert such additional policy defenses at any time.

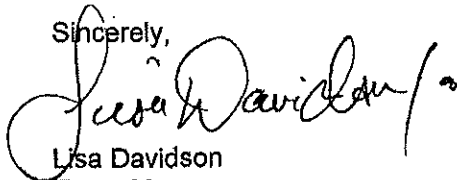
If you have questions regarding this letter, please contact your claim representative, Anne Grogan, at (310) 568-5313.

EX 4

BRIAN NOVAK  
75-J569-094  
Page 2  
March 18, 2005

Your correspondence is important to us. In order to ensure we can identify and match all documents to your claim file, please include your claim number on all correspondence.

Sincerely,



Lisa Davidson  
Team Manager  
(310) 568-2965  
State Farm General Insurance Company

062/0318002CA

cc: BOB LITTLE  
11654 W PICO BLVD  
LOS ANGELES CA 90064-2909

