

**If you provided MRI services to people insured by Nationwide or one of its affiliates (as identified below), this class action notice may affect your rights.**

*A court authorized this Notice. This is not a solicitation from a lawyer.*

- A magnetic resonance imaging (“MRI”) service provider has sued several affiliated companies that are collectively referred to as “**Nationwide**” in this Notice. Those companies are: Nationwide Mutual Insurance Company, Nationwide General Insurance Company, Nationwide Mutual Fire Insurance Company, Nationwide Property and Casualty Insurance Company, Nationwide Assurance Company, Titan Indemnity Company, Allied Property and Casualty Insurance Company, Depositors Insurance Company, Victoria Select Insurance Company, and Victoria Fire & Casualty Insurance Company. Sometimes these companies are referred to in claims documents as Nationwide Insurance or Specialty Products Division.
- The lawsuit alleges that Nationwide did not fully pay Florida MRI providers that treated individuals insured under automobile insurance policies issued by Nationwide.
- A Florida Court has allowed the lawsuit to be a statewide class action on behalf of MRI providers in Florida who provided MRI services to Nationwide insureds for injuries arising from a covered accident that occurred on or after January 1, 2008.
- The Court has not decided whether Nationwide did anything wrong. Lawyers must prove the claims against Nationwide. There is no money available now, and no guarantee there will be. However, your rights are affected, and you have a choice to make now:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT:	
<b>DO NOTHING</b>	<p><b>Stay in this lawsuit. Await the outcome. Give up certain legal rights.</b></p> <p>By doing nothing, you keep the possibility of getting money or other benefits that may come from a trial or a settlement without having to submit a pre-suit notice pursuant to Florida law, or concern about exhaustion of benefits occurring after the date of your bill for MRI services. But, you give up any rights to sue Nationwide on your own about the same type of legal claims in this lawsuit, or additional benefits if claims are not subject to statutory fee schedule limitations. You will be bound by the Court’s judgment, whether favorable or not.</p>
<b>ASK TO BE EXCLUDED OR TO APPEAR BY SEPTEMBER 14, 2009</b>	<p><b>Preserve the right to seek damages on your own. Get no damages or money from this lawsuit. Keep certain legal rights.</b></p> <p>The Court overseeing this lawsuit will determine the proper reimbursement calculation for MRI services under the Florida PIP statute that became effective January 1, 2008. All MRI providers, as well as Nationwide, will be bound by the final judgment whether you ask to be excluded or not.</p> <p>You may stay in the lawsuit and make a separate appearance in accordance with Florida law.</p> <p>You may also ask to be excluded from the damages Class. If you ask to be excluded, and money or benefits are later awarded, you won’t share in those. But, you keep certain rights to sue Nationwide on your own for certain types of legal claims involved in this lawsuit, or for additional benefits if claims are not subject to statutory fee schedule limitations. You will <u>not</u> be protected by the stipulation concerning pre-suit notices and exhaustion of benefits occurring after the date of your bill for MRI services, as further explained in this Notice.</p>

**WHAT THIS NOTICE CONTAINS**

**BASIC INFORMATION** ..... **PAGE 3**

1. Why was this Notice issued?
2. What is this lawsuit about?
3. What is a class action?
4. Why is this lawsuit a class action?

**THE CLAIMS IN THE LAWSUIT** ..... **PAGE 3-4**

5. What does the lawsuit complain about?
6. How does Nationwide respond to the lawsuit?
7. Has the Court decided who is right?
8. What is the Plaintiff asking for?
9. Is there any money available now?

**WHO IS IN THE CLASS** ..... **PAGE 4-5**

10. How do I know if I am part of this?
11. I'm still not sure if I am included.

**YOUR RIGHTS AND OPTIONS** ..... **PAGE 5**

12. What happens if I do nothing at all?
13. What happens if I exclude myself or request to appear?
14. Why would I want to consider excluding myself?
15. How do I ask to be excluded?

**THE LAWYERS REPRESENTING YOU** ..... **PAGE 6**

16. Do I have a lawyer in this lawsuit?
17. Should I get my own lawyer?
18. How will the lawyers be paid?

**A TRIAL** ..... **PAGE 6**

19. How and when will the Court decide who is right?
20. Do I have to come to the trial?
21. Will I get money after the trial?

**GETTING MORE INFORMATION** ..... **PAGE 6**

22. Are more details available?

## BASIC INFORMATION

### 1. Why was this Notice issued?

A court has allowed, or “certified,” this lawsuit to be a class action lawsuit, and it may affect you if you are a Florida MRI service provider who treated injured people covered under automobile insurance policies issued by Nationwide for accidents that occurred on or after January 1, 2008. This decision triggers certain legal rights you have, even before a court determines whether the claims being made against Nationwide are correct. This Notice explains all of these things.

Judge James M. Barton, II of the Circuit Court of the 13<sup>th</sup> Judicial Circuit, Hillsborough County, Florida, is overseeing this lawsuit. The lawsuit is known as *AFO Imaging, Inc. v. Nationwide Mut. Ins. Co., et al.*, Case No. 08-CA-021531-I. The company who sued is called the Plaintiff. The companies it is suing, defined as Nationwide in this Notice, are called the Defendants. The Court is overseeing this lawsuit together with lawsuits making similar claims against other insurance companies. You may receive notices for those lawsuits as well.

### 2. What is this lawsuit about?

The lawsuit is about the proper calculation of amounts due for MRI services covered by personal injury protection (“PIP”) coverage under automobile policies issued in Florida. The Florida Motor Vehicle No-Fault Law that took effect January 1, 2008, contains a fee schedule that Nationwide is using as the basis for reimbursing MRI services billed under PIP coverage for accidents that occurred on or after January 1, 2008. The parties disagree as to the amount due for MRI services under the fee schedule. The parties’ positions are set forth in more detail under Questions 5 through 9 in this Notice.

The parties will request the Court overseeing the lawsuit to determine the appropriate PIP reimbursement calculation for MRI services. The reimbursement determination established in this class action lawsuit will be binding on Nationwide as well as any MRI provider that seeks PIP reimbursement from Nationwide.

### 3. What is a class action?

In a class action, a Class Representative, in this lawsuit, AFO Imaging, Inc., sues on behalf of people who have similar claims. All these people, called class members, make up a class. One court resolves the issues for all class members, except that class members may exclude themselves from the issues in this lawsuit concerning damages. The “**Class**” and “**Class Members**” in this lawsuit are described in more detail under Question 10 in this Notice.

### 4. Why is this lawsuit a class action?

The Court decided that this lawsuit could move forward as a class action because it meets the requirements of Rule 1.220 of the Florida Rules of Civil Procedure, which governs class actions in the State of Florida. For instance, the Court found that the issues in the lawsuit are common among all the Class Members and that the claims of the Plaintiff MRI provider are typical of the claims of the other MRI provider Class Members. The Court also found that the Plaintiff and the lawyers bringing this lawsuit would adequately represent the interests of the Class Members.

The Court also found that it should address the disputed issues with respect to the entire Class of MRI providers because separate lawsuits could result in inconsistent obligations and rights for the MRI provider Class Members and Nationwide. Accordingly, both the Class Members and Nationwide will be able to rely on the Court’s judgment as the basis for past and future reimbursement of MRI services under PIP coverage.

The Court also found that it would be appropriate for it to determine what is owed, if anything, by Nationwide to Class Members for MRI services under PIP coverage. Accordingly, should the Court determine that Nationwide did not properly calculate PIP coverage reimbursement, it will address the appropriate amount of damages owed to Class Members.

More information about why the Court is allowing this lawsuit to be a class action is in the [Class Certification Ruling](#), which you may view at [www.clarkmartino.com](http://www.clarkmartino.com).

## THE CLAIMS IN THE LAWSUIT

### 5. What does the lawsuit complain about?

In general, the lawsuit alleges that, starting January 1, 2008, under the Florida Motor Vehicle No-Fault Law, MRI providers in Florida were entitled to payments for their services without reference to Medicare’s Hospital Outpatient Prospective Payment System (“OPPS”) reductions under Sections 627.736(5)(a)2.f, (a)3 and/or (a)4, Florida Statutes (2007-2008). The Plaintiff contends that

under Section 627.736(5)(a)2.f, (a)3, and/or (a)4, Florida Statutes (2007-2008), the allowable amount under the participating physicians schedule of Medicare Part B sets the baseline value of MRI services which may be reimbursed by PIP insurers to MRI providers in Florida. In other words, the Plaintiff contends that, when applicable, Medicare Part B for 2007 must be used when the Medicare fee schedule in effect at the time the MRI services are rendered is "less than the allowable amount under the participating physicians schedule of Medicare Part B for 2007." You can read the Plaintiff's [Class Action Complaint](http://www.clarkmartino.com), at [www.clarkmartino.com](http://www.clarkmartino.com).

#### 6. How does Nationwide respond to the lawsuit?

Nationwide denies the claims and allegations in the lawsuit. Nationwide contends that, pursuant to Section 627.736(5)(a)2.f, (a)3 and/or (a)4, Florida Statutes (2007-2008), MRI services are reimbursable at "200% of the allowable amount under the participating physicians schedule of Medicare Part B" ... "for the area in which such services were rendered." The schedule "in effect at the time the services ... were rendered" governs, "except it may not be less" than that schedule for 2007. According to Nationwide, this means that an MRI service provider gets reimbursed at two times (200%) what a participating physician would be reimbursed under Medicare for that same service in that same area. That amount for the year in which the service was rendered needs only to be compared to that amount for 2007, to ensure that it is not less, in order to determine the appropriate reimbursement amount. Nationwide contends that the Plaintiff reached its reimbursement calculation by improperly excluding the OPSS (and potentially other) payment limitation calculations inherent within the participating physicians schedule, and therefore seek an overpayment from Nationwide. Nationwide denies it did anything wrong, and contends that its payments to MRI service providers from January 1, 2008, to the present were correct. You can also read Nationwide's [Answer and Affirmative Defenses](http://www.clarkmartino.com) at [www.clarkmartino.com](http://www.clarkmartino.com).

#### 7. Has the Court decided who is right?

No. The Court has not decided whether the Plaintiff or Nationwide is right. By establishing the Class and ordering that this Notice be provided, the Court is not suggesting the Plaintiff will win or lose this lawsuit. The lawyers for the Plaintiff must prove the lawsuit at trial, or other dispositive hearing, which has not yet been scheduled.

#### 8. What is the Plaintiff asking for?

The Plaintiff wants the Court to decide the parties' respective rights and obligations under Section 627.736(5)(a)2.f, (a)3 and/or (a)4, Florida Statutes (2007-2008), and otherwise applicable law, including, but not limited to, an explanation of the proper amount of reimbursement available pursuant to those statutory provisions for MRI services under the participating physicians schedule of Medicare Part B for 2007, or the participating physicians schedule of Medicare Part B for the year in which the MRI services were rendered. The Plaintiff also wants Nationwide to pay Class Members without regard to any OPSS reductions, plus any accrued interest.

#### 9. Is there any money available now?

No money or benefits are available now because the Court has not yet decided whether Nationwide did anything wrong, and the two sides have not settled the lawsuit. There is no guarantee that money or benefits will ever be obtained. If they are, you will be notified about how to ask for a share. However, Nationwide agreed that the Class does not have to send a pre-suit demand letter pursuant to Section 627.736(10), Florida Statutes, and that recovery by the Class, if any, will be made without regard to exhaustion of benefits of any claim as of the date you submitted your bill for MRI services.

#### WHO IS IN THE CLASS

#### 10. How do I know if I am part of this?

The Court has approved, or certified, the following "Class." Everyone who fits the following description is a "Class Member": *All (i) healthcare providers as defined by the Florida Motor Vehicle No-Fault Act; (ii) who, from January 1, 2008, to the present, provided MRI services (whether technical services associated with the taking of the MRI, professional services associated with reading the MRI or other MRI services) to persons insured by the Defendants under Florida No-Fault coverage; (iii) who received and hold an assignment of benefits from one or more insured(s) of the Defendants; (iv) who submitted bills for payment for those MRI services to the Defendants; and (v) which bills were paid by the Defendants according to the Defendants' determination of the allowable amount under Section 627.736(5)(a)2.f, Florida Statutes (2007-2008).*

Certain exclusions also apply, such as claims that may have been denied or reduced for reasons other than those at issue in the lawsuit. The full Class definition and exclusions are in the Class Certification Ruling, which may be viewed at [www.clarkmartino.com](http://www.clarkmartino.com).

## 11. I'm still not sure if I am included.

If you are still not sure whether you are included, you can visit the website [www.clarkmartino.com](http://www.clarkmartino.com), call toll-free 1-888-868-8146 or write to AFO Class Actions, Attn: J. Daniel Clark, Esq., Class Counsel, Clark & Martino, P.A., 3407 W. Kennedy Blvd., Tampa, FL 33609, for more information.

### YOUR RIGHTS AND OPTIONS

You have to decide whether to stay in the Class or whether to exclude yourself or appear before a possible trial, or other dispositive hearing, and you have to decide this no later than **September 14, 2009**.

## 12. What happens if I do nothing at all?

By doing nothing, you are staying in the Class. If the Plaintiff obtains money or benefits from Nationwide – either as a result of a judgment or a settlement – you will be eligible for a share. However, if you stay in, you will be legally bound by all of the decisions that the Court makes. No matter whether the Plaintiff wins or loses the lawsuit, you will not be able to sue, or continue to sue, Nationwide about the legal claims in this lawsuit ever again.

By doing nothing and staying in the Class, you do not have to serve a pre-suit demand and any recovery will be made without regard to exhaustion of benefits occurring after you submitted your bill for MRI services to Nationwide for the reasons discussed under Question 9 above.

However, to the extent Nationwide receives or has received a pre-suit demand under Section 627.736, or civil remedy notice under Chapter 624, Florida Statutes, any response by Nationwide has been tolled until 30 days after this lawsuit is concluded. Class Members who remain in this lawsuit may not bring separate lawsuits against Nationwide concerning the claims being decided in this lawsuit.

## 13. What happens if I exclude myself or request to appear?

If you exclude yourself from the Class, and if the Class gets any money or benefits (as a result of the trial, or other dispositive hearing, or any settlement that may be reached between Nationwide and the Plaintiff), you will not be able to get any of that money or those benefits, and you will not benefit from the agreement from Nationwide regarding pre-suit demands and exhaustion of benefits discussed in Question 9 above. However, even if you exclude yourself, you will still be legally bound by the Court's determination of the parties' respective rights and obligations under Section 627.736(5)(a)2.f, (a)3 and/or (a)4, Florida Statutes (2007-2008), and otherwise applicable law, including, but not limited to, the Court's decision on the proper reimbursement for MRI services under the participating physicians schedule of Medicare Part B for 2007, or the participating physicians schedule of Medicare Part B for the year in which the MRI services were rendered. If you exclude yourself from the Class, you may be allowed to sue, or continue to sue, Nationwide on your own about any payments allegedly owed now or in the future. However, Nationwide may seek to prevent you from doing so.

If you do pursue your own lawsuit after you exclude yourself, you will have to make arrangements to hire and pay your own lawyer for that lawsuit, and you'll have to prove your claims, without the benefit of the work performed by the lawyers in this class action.

You may also ask the Court to allow you to appear in the lawsuit. You do not have to appear to remain a Class Member, but you may believe that the Court should consider your particular circumstances. If you want to appear, you will have to make arrangements to hire and pay your own lawyer and you will still be bound by the Court's decisions in this lawsuit.

## 14. Why would I want to consider excluding myself?

You may want to exclude yourself from the Class if, for example, you believe that the amount owed for the MRI services you provided to Nationwide's insureds since January 1, 2008, is not controlled by Section 627.736(5)(a)2-4, Florida Statutes (2007-2008). A copy of the applicable Florida Statutes is available on the website at [www.clarkmartino.com](http://www.clarkmartino.com). There might be other reasons associated with your particular situation and circumstances, of which we are not aware, that might lead you to consider excluding yourself from the Class. If you are unsure about whether to exclude yourself from the Class, you should consult with an independent attorney concerning your particular situation and circumstances.

## 15. How do I ask to be excluded?

To exclude yourself, you must send in an Exclusion Request form. You can get the form at [www.clarkmartino.com](http://www.clarkmartino.com). You must mail your Exclusion Request postmarked by **September 14, 2009**, to: AFO Class Actions Exclusions, Attn: J. Daniel Clark, Esq., Class Counsel, Clark & Martino, P.A., 3407 W. Kennedy Blvd., Tampa, FL 33609.

## THE LAWYERS REPRESENTING YOU

### **16. Do I have a lawyer in this lawsuit?**

The Court appointed the law firms of Clark & Martino, P.A., The Law Offices of Christopher P. Calkin, P.A., de la Parte & Gilbert, P.A., the Jeeves Law Group, and Craig Rothburd, P.A. of Tampa, FL to represent you as “Class Counsel.” More information about these law firms, their practices, and their lawyers’ experience is available at [www.clarkmartino.com](http://www.clarkmartino.com). These firms are experienced in handling similar lawsuits. Complete contact information for these law firms representing Class Members is at the website [www.clarkmartino.com](http://www.clarkmartino.com).

### **17. Should I get my own lawyer?**

If you do not exclude yourself from the Class, you do not need to hire your own lawyer because Class Counsel is working on your behalf. But, if you want your own lawyer, you will have to pay that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

### **18. How will the lawyers be paid?**

If Class Counsel obtains money or benefits for the Class, they may ask the Court for fees and expenses. You don’t have to pay any of these fees and expenses. If the Court grants their request, the fees and expenses would be paid directly by Nationwide, or alternatively, deducted from any money obtained for the Class.

## A TRIAL

### **19. How and when will the Court decide who is right?**

If the lawsuit is not dismissed or settled, the Plaintiff will have to prove its claims at a trial, or other dispositive hearing. During the trial or hearing, the Judge will hear all of the evidence, so that a decision can be reached about whether the Plaintiff or Nationwide is right about the claims in the lawsuit. There is no guarantee that the Plaintiff will win any money or benefits for the Class.

### **20. Do I have to come to the trial?**

You will not need to attend unless you choose to do so, or you are asked to attend by the Court. Class Counsel will present the lawsuit for the Plaintiff and the Class, and the lawyers for Nationwide will present their defenses. You and/or your own lawyer are welcome to come, at your own expense, but may not participate without prior permission from the Court. Check the website [www.clarkmartino.com](http://www.clarkmartino.com) to be kept informed of the trial schedule.

### **21. Will I get money after the trial?**

If the Plaintiff obtains money or benefits as a result of the trial, or other hearing, or a settlement, you will be notified about how you can receive a share or what your other options are at that time. These things are not known at this time. Court orders and other important information about the lawsuit will be posted on the website [www.clarkmartino.com](http://www.clarkmartino.com) as it becomes available. You can access the website whether you stay in the lawsuit or exclude yourself, or to obtain current information about this lawsuit.

## GETTING MORE INFORMATION

### **22. Are more details available?**

Visit the website at [www.clarkmartino.com](http://www.clarkmartino.com), where you will find the [Class Certification Ruling](#) and other Court rulings, the [Complaint](#) that the Plaintiff filed, and Nationwide’s Answer and Affirmative Defenses to the Class Action Complaint, and the applicable Florida Statutes involved. You may also call Class Counsel toll-free 1-888-868-8146 or write to AFO Class Actions, Attn: J. Daniel Clark, Esq., Class Counsel, Clark & Martino, P.A., 3407 W. Kennedy Blvd., Tampa, FL 33609, for more information.