

3. KID filed a Summary Order on May 30, 2006 asserting findings of fact and conclusions of law arising out of the investigation and adjustment of a claim brought by Brothers Dairy, Inc. d/b/a Brothers Dairy, d/b/a Devere Brothers (“Brothers”) against Nationwide’s insured, Fleming Feed & Grain, Inc. d/b/a Fleming Feed & Grain Company (“Fleming”).
4. In response to KID’s allegations contained in the Summary Order, Nationwide filed a timely request for hearing on May 31, 2006.
5. KID and Nationwide jointly agree that Nationwide will pay the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) and KID will dismiss this action with prejudice.
6. KID acknowledges that Nationwide admits no liability whatsoever in agreeing to this Consent Order. The payment made pursuant to this agreement is in settlement of disputed claims and shall not be construed in any fashion as an admission of liability on behalf of Nationwide or as an admission that Nationwide was in any way at fault or committed any wrongful acts for the purposes of this administrative action or for the purposes of any other litigation, administrative or civil, arising out of this incident including, but not limited to, *Brothers Dairy, Inc. v. Fleming Feed & Grain, Inc.*, Cowley County District Court Case No. 05-CV-143-W.

Applicable Law

1. K.S.A. 77-501 *et seq.* – The Kansas Administrative Procedures Act
2. K.S.A. 77-601 *et seq.* – The Act for Judicial Review and Civil Enforcement of Agency Action.

Conclusions of Law

IT IS, THEREFORE, AGREED UPON BY THE COMMISSIONER OF INSURANCE AND NATIONWIDE AGRIBUSINESS INSURANCE COMPANY:

- a. Nationwide agrees to make a payment of Seven Thousand Five Hundred Dollars (\$7,500) to KID in exchange for the dismissal of this action with prejudice.
- b. KID acknowledges that Nationwide admits no liability whatsoever in agreeing to this Consent Order. The payment made pursuant to this agreement is in settlement of disputed claims and shall not be construed in any fashion as an admission of liability on behalf of Nationwide or as an admission that Nationwide was in any way at fault or committed any wrongful acts for the purposes of this administrative action or for the purposes of any other litigation, administrative or civil, arising out of this incident including, but not limited to, *Brothers Dairy, Inc. v. Fleming Feed & Grain, Inc.*, Cowley County District Court Case No. 05-CV-143-W.
- c. The fact of this payment, the settlement negotiations between KID and Nationwide and the entry of this Consent Order shall not be admissible in evidence in any respect in *Brothers Dairy, Inc. v. Fleming Feed &*

Grain, Inc., Cowley County District Court Case No. 05-CV-143-W.

- d. Upon the entry of this Consent Order this action shall be dismissed with prejudice. None of the findings of fact, conclusions of law or orders contained in KID's Summary Order filed May 30, 2006 are deemed binding or effective since no hearing was conducted in the matter to find facts.
- e. The entry of this Consent Order is based upon a strict compromise of disputed issues between KID and Nationwide and may not be used as evidence in any other proceeding.
- f. Nationwide shall deliver, within twenty (20) days of the entry of this Order, the sum of Seven Thousand Five Hundred Dollars (\$7,500) to Zachary Anshutz, KID Staff Attorney, on behalf of the Kansas Insurance Department.
- g. If payment is not made as required, KID may vacate and/or declare this Consent Order void and proceed with a hearing.

IT IS SO ORDERED THIS 14th DAY OF AUGUST, 2006, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Sandy Praeger
Commissioner of Insurance

By: /s/ John W. Campbell
John W. Campbell
General Counsel

Nationwide Agribusiness Insurance
Company

By: /s/ Craig Blumreich

Certificate of Service

The undersigned hereby certifies that he served a true and correct copy of the above and foregoing Consent Order on this 14th day of August, 2006, by placing the same in the United States Mail, first class postage prepaid, addressed to the following:

Craig C. Blumreich
Gehrt & Roberts, Chartered
5601 SW Barrington Court South
Topeka, Kansas 66604-0306
Attorney for Nationwide

NOTICE OF RIGHTS

Nationwide Agribusiness Insurance Company (“Nationwide”) is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedure Act. If Nationwide desires a hearing, the company must file a written request for a hearing with:

John W. Campbell, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

This request must be filed within fifteen (15) days from the date of service of this Order. If Nationwide requests a hearing, the Kansas Insurance Department will notify the company of the time and place of the hearing and information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing, before commencement of the same.

If a hearing is not requested in the time and manner stated above, this Consent Order shall become effective as a Final Order upon the expiration of time for requesting a hearing, pursuant to K.S.A. 77-613. In the event Nationwide files a petition for judicial review, pursuant to K.S.A. 77-613(e), the agency officer to be served on behalf of the Kansas Insurance Department is:

John W. Campbell, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

Certificate of Service

The undersigned hereby certifies that he served a true and correct copy of the above and foregoing Notice on this _14th_ day of August, 2006, by placing the same in the United States Mail, first class postage prepaid, addressed to the following:

Craig C. Blumreich
Gehrt & Roberts, Chartered
5601 SW Barrington Court South
Topeka, Kansas 66604-0306
Attorney for Nationwide

/s/ Zachary J.C. Anshutz _____
Zachary J.C. Anshutz
Staff Attorney