

**IN THE CIRCUIT COURT OF STODDARD COUNTY, MISSOURI  
DIVISION 1**

**MARK RINEHART, MARK RINEHART, )  
LLC, and VICKIE RINEHART )**

**Plaintiffs, )**

**v. )**

**Case No. 09SD-CC00090**

**Division 1**

**FARMERS INSURANCE EXCHANGE, )  
TRUCK INSURANCE EXCHANGE, )  
FIRE INSURANCE EXCHANGE, )  
MID-CENTURY INSURANCE EXCHANGE, )  
FARMERS NEW WORLD LIFE INSURANCE )  
COMPANY, FARMERS INSURANCE )  
COMPANY, INC., CLAY HURST, DENNIS )  
LUSK and PAUL CROSETTI )**

**JURY TRIAL DEMANDED**

**Defendants. )**

**VERIFIED SECOND AMENDED PETITION  
FOR INJUNCTIVE RELIEF AND DAMAGES**

For their claims against defendants Farmers Insurance Exchange, Truck Insurance Exchange, Fire Insurance Exchange, Mid-Century Insurance Exchange, Farmers New World Life Insurance Company, Farmers Insurance Company, Inc., Clay Hurst, Dennis Lusk, and Paul Crosetti, plaintiffs Mark Rinehart, Mark Rinehart, LLC, and Vickie Rinehart state and allege as follows:

**Parties, Venue and Jurisdiction**

1. Plaintiff Mark Rinehart is an individual residing at 11429 Northview Drive, Dexter, Missouri 63841.
2. Plaintiff Mark Rinehart, LLC is a limited liability company organized under the laws of the State of Missouri with its principal place of business at 808 Specialty Drive, Suite B, Dexter, Missouri 63841. Plaintiff Mark Rinehart is the founder and organizer of Mark Rinehart, LLC.

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**EXHIBIT**

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3. Plaintiff Vickie Rinehart is an individual residing at 11429 Northview Drive, Dexter, Missouri 63841. Plaintiff Vickie Rinehart is the owner of VMR, LLC, a limited liability company organized under the laws of the State of Missouri that operates as an independent insurance agency.

4. Upon information and belief, defendants Farmers Insurance Exchange, Truck Insurance Exchange, and Fire Insurance Exchange are interinsurance exchanges organized under California law.

5. Upon information and belief, defendants Mid-Century Insurance Exchange, Farmers New World Life Insurance Company, and Farmers Insurance Company, Inc. are foreign corporations registered to do business in the State of Missouri.

6. Defendant Clay Hurst works in the position of District Manager for Farmers at 3105 Independence Street, Suite A, Cape Girardeau, Missouri 63703.

7. Defendant Dennis Lusk works in the position of Division Marketing Manager for Farmers at 16090 Swingley Ridge Road, Suite 220, Chesterfield, Missouri, 63017.

8. Defendant Paul Crosetti works in the position of Executive Director – Missouri State Office for Farmers at 11880 College Boulevard, Suite 120, Overland Park, Kansas 66210.

9. This Court has subject matter jurisdiction pursuant to the Missouri Constitution, Article V, § 14(a).

10. This Court has personal jurisdiction over defendants pursuant to R.S.Mo. § 506.500 as the cause of action against these defendants arises out of the transaction of business in Missouri, the making of a contract in Missouri, and the commission of tortious acts in Missouri.

11. Venue in this Circuit is proper pursuant to R.S.Mo. § 508.010.4 as Stoddard County was the place where plaintiffs were first injured by the wrongful acts alleged below.

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### General Allegations

12. Plaintiffs incorporate by reference the allegations set forth above in paragraphs 1 through 11 as if fully set out herein.

13. During all relevant time periods defendants Farmers Insurance Exchange, Truck Insurance Exchange, and Fire Insurance Exchange, Mid-Century Insurance Exchange, Farmers New World Life Insurance Company, and Farmers Insurance Company, Inc. (collectively, "Farmers") were engaged in the business of selling insurance.

14. Farmers actively sold insurance policies to customers through insurance sales agents, including plaintiffs Mark Rinehart and Mark Rinehart, LLC.

15. These insurance sales agents, including Mark Rinehart, operated under a Corporate Agent Appointment Agreement ("the Agreement") with Farmers.

16. Defendants and Mark Rinehart entered into the Agreement on October 16, 2003 in Missouri. A copy of the agreement is attached as Exhibit A.

17. Paragraph C of the Agreement provides a minimum notice period required to be given prior to the termination of an agency.

18. Under paragraph C of the Agreement, the contract provides that three (3) months written notice is required if the relationship is terminated without cause, thirty (30) days written notice is required if the contract is breached by either party, and immediate termination is permitted only for the following reasons:

- a. Embezzlement of monies;
- b. "Switching of insurance" from the Farmers to another carrier;
- c. Abandonment of the Agency;
- d. Conviction of a felony;

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e. Willful misrepresentation that is material to the agency's operation;

19. Paragraph F of the Agreement provides: "[t]he Agent or the Agent's heirs may sell all or any part of this Agency to a member(s) of the Agent's immediate family at any time, provided the purchaser is acceptable to the Companies, and provided the sale price does not exceed the proportionate share of the 'Contract Value' (as hereinafter defined) of the Agency."

20. Paragraph F of the Agreement clearly and directly expresses an intent to benefit an identifiable class of persons, including immediate family members of an agent.

21. Vickie Rinehart, the spouse of Mark Rinehart, is within this identifiable class of persons and the provisions relating to family transfer were intended for her benefit.

22. In March or April 2003 while Mark Rinehart was interviewing for a position as an agent for Farmers, Mark Rinehart and Vickie Rinehart discussed the advantages to entering into such a contract with Clay Hurst at the Farmers district office in Advance, Missouri. At that time, Hurst specifically referenced the rights provided to plaintiffs in paragraph F of the Agreement. Hurst also assured plaintiffs that the family transfer provision would be available upon request.

23. Mark Rinehart and Vickie Rinehart specifically asked Hurst whether Vickie Rinehart's employment as an agent for Farm Bureau Insurance, a third-party insurance company, would prevent Farmers from allowing the agency to be transferred to her. Hurst assured them that this would not prevent any requested transfer.

24. Following the decision to sign the Agreement, various agents of Farmers repeatedly discussed the availability of the family transfer provision at a training meeting in Kansas City, Missouri in December 2003. At this meeting, speakers affiliated with Farmers stated that the right under the Agreement was "one of the greatest business opportunities available in America."

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25. Following the decision to sign the Agreement, Mark Rinehart traveled to numerous training meetings, agent meetings, and state level meetings. At nearly every such meeting, the availability of the family transfer provision was discussed and Farmers marketed this right as a reason to continue as an agent for Farmers.

26. In early summer 2009 at a Farmers agent district meeting, Clay Hurst gave a speech to district agents and attending Farmers employees. During this speech, Hurst discussed the family transfer provision at length and stated that "no other company offers such a tradition." Hurst then specifically pointed out various agents who were present at the meeting whose agencies had been acquired through the family transfer provision.

27. On January 18, 2009, Mark Rinehart, LLC filed its Articles of Organization with the office of the Secretary of State of the State of Missouri.

28. On or about July 17, 2009 Rinehart requested approval of his contractual option to transfer his agency to his spouse, Vickie Rinehart.

29. On or about August 19, 2009, Farmers informed Rinehart by letter from Dennis Lusk that the proposed transfer to Vickie Rinehart was denied. In this letter, Farmers' falsely claimed that Rinehart had failed to provide information necessary to determine whether the proposed transfer to Vickie Rinehart was acceptable.

30. Farmers' justification for the denial of the family transfer was pretextual in that: (1) it repeatedly assured plaintiffs that the ability to transfer the agency was available upon request; (2) it repeatedly assured plaintiffs that Vickie Rinehart's status as an agent for Farm Bureau Insurance would not prevent such a transfer; and (3) it routinely allowed the sale or transfer of agencies to spouses and/or children who are similarly situated to plaintiffs.

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31. Farmers' actions have resulted in damage to plaintiffs. These damages include, but are not necessarily limited to, the time, money, and effort spent by plaintiffs in establishing an insurance agency that they were promised could be transferred from Mark Rinehart, to his spouse, Vickie Rinehart, upon request.

32. On August 27, 2009, Mark Rinehart instituted this action by filing a Petition asserting claims for breach of contract, fraudulent misrepresentation, and civil conspiracy.

33. In a letter dated September 25, 2009 and hand-delivered on September 30, 2009, Dennis Lusk informed Mark Rinehart that the Agreement was being terminated effective September 30, 2009 pursuant to paragraph C of the Agreement due to "switching" of insurance.

34. Farmers' justification for termination was false in that Mark Rinehart and his agency did not engage in "switching" of insurance.

35. Farmers terminated the agency relationship in order to transfer Mark Rinehart's book of business to inexperienced agents to whom Farmers could pay a lower commission than the commissions being received by Mark Rinehart and his agency and because Mark Rinehart refused to engage in unethical insurance practices.

36. Upon information and belief, following the wrongful termination of Mark Rinehart and his agency, Farmers, through its own acts and conduct and that of its employees, agents, and/or independent contractors acting in the course and scope of their employment, intentionally exercised wrongful dominion or control over the property of Mark Rinehart and his agency. In particular, Farmers directed its new agents to send letters to, and to engage in telephone communications with, Mark Rinehart's insureds to indicate that their policies had been "assigned" to these new agents for service. At no time did Mark Rinehart ever assign any policies to these new agents.

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37. Upon information and belief, Farmers, through its own acts and conduct and that of its employees, agents, and/or independent contractors acting in the course and scope of their employment, intentionally exercised wrongful dominion or control over the property of Mark Rinehart and his agency by demanding customer lists and other documents, and wrongfully precluding contact with the clients and customers with which Mark Rinehart had spent years establishing relations.

38. Upon information and belief, Farmers, through its own acts and conduct and that of its employees, agents, and/or independent contractors acting in the course and scope of their employment tortiously interfered in the business relations of Mark Rinehart and his agency by contacting insureds with whom Mark Rinehart had done business and falsely informing them that their policies had been "assigned" to new agents for service.

39. Farmers' actions were intentional, and without justification, because Farmers materially and substantially breached the Agreement thereby denying it the benefit of any such contractual provisions.

40. Defendants' various acts have resulted in damage to plaintiffs.

**COUNT I – Temporary, Preliminary, and Permanent Injunction**  
**(Against Farmers, Clay Hurst, Dennis Lusk, and Paul Crosetti)**

41. Plaintiffs incorporate by reference the allegations set forth above in paragraphs 1 through 40 as if fully set out herein.

42. Pursuant to Mo.R.Civ.P. 92.02(a), plaintiffs request that this Court issue an Order restraining and enjoining defendants, and each of them, from: (1) advising any person or entity that Mark Rinehart or Vickie Rinehart cannot accept their insurance business; (2) contacting any independent insurance carrier in any manner which may serve to discourage that carrier from accepting Vickie Rinehart's insurance agency as an agent for their company; (3) disseminating

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information by any means of communication that would disparage or place into question the reputation of Mark Rinehart or Vickie Rinehart as insurance agents or that would disparage or place into question the capability, ability, ethics, or integrity of them or either of them to provide insurance for any potential insured; (4) advising the insureds of any of defendants that such insureds cannot seek the advice of Mark Rinehart, Vickie Rinehart or entities of them as to their insurance needs; and (5) advising the insureds of any of defendants that Mark Rinehart is prohibited by contract from writing insurance.

43. By reason of the foregoing conduct, plaintiffs have and will continue to suffer immediate, substantial and irreparable injury unless defendants are enjoined from the actions described above.

44. Plaintiffs have no adequate remedy at law, as the damage in terms of money for the future loss of insureds based on the conduct of defendants cannot be measured or calculated.

45. Plaintiffs' relationships with their clients involve and require the trust of the client in dealing with the confidential, private, and financial matters of the client.

46. Plaintiffs' abilities to ethically place their insureds in the best possible coverages will be compromised if the requested relief is not granted.

47. Plaintiffs' insureds and potential insureds will suffer confusion, in particular as to the placement of their coverage, its viability, and premium payment and claims procedures.

48. Plaintiffs and their insureds would suffer undue hardship if any communications on these issues were prohibited in the future.

49. Defendants will suffer no harm if enjoined and restrained from these activities as they have no right under the Agreement to engage in these activities because Farmers materially and substantially breached that agreement.

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50. The public in general, and plaintiffs' clients in particular, have an interest in being able to maintain complete and effective communications and relationships with the insurance agents of their own choice.

51. Therefore, plaintiffs request that this Court:

(a) Issue a temporary restraining order enjoining and restraining defendants, their agents, and employees from:

(i) advising any person or entity that Mark Rinehart or Vickie Rinehart cannot accept their insurance business;

(ii) contacting any independent insurance carrier in any manner which may serve to discourage that carrier from accepting Vickie Rinehart's insurance agency as an agent for their company;

(iii) disseminating information by any means of communication that would disparage or place into question the reputation of Mark Rinehart or Vickie Rinehart as insurance agents or that would disparage or place into question the capability, ability, ethics, or integrity of them or either of them to provide insurance for any potential insured;

(iv) advising the insureds of any of defendants that such insureds cannot seek the advice of Mark Rinehart, Vickie Rinehart or entities of them as to their insurance needs; and

(v) advising the insureds of any of defendants that Mark Rinehart is prohibited by contract from writing insurance.

(b) Issue a preliminary injunction enjoining and restraining defendants, their agents, and employees from the conduct set forth in the paragraph 51(a)(i)-(v) above.

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- (c) Issue a permanent injunction enjoining and restraining defendants, their agents, and employees from the conduct set forth in the paragraph a above; and
- (d) Award judgment in their favor against defendants.

WHEREFORE, plaintiffs Mark Rinehart, Mark Rinehart, LLC, and Vickie Rinehart pray for judgment in their favor against defendants on Count I of the Second Amended Petition for Injunctive Relief and Damages awarding them injunctive relief and for such other relief as this Court deems just and proper.

**COUNT II – Breach of Contract – Notice Prior to Termination**  
**(Against Farmers)**

52. Plaintiffs incorporate by reference the allegations set forth above in paragraphs 1 through 51 as if fully set out herein.

53. As a term of the Agreement, Farmers promised to, among other things, comply with the termination provisions of the Agreement.

54. Paragraph C of the Agreement provides a minimum notice period required to be given prior to the termination of an agency.

55. Under paragraph C of the Agreement, the contract provides that three (3) months written notice is required if the relationship is terminated without cause, thirty (30) days written notice is required if the contract is breached by either party, and immediate termination is permitted only for the following reasons:

- a. Embezzlement of monies;
- b. "Switching of insurance" from the Farmers to another carrier;
- c. Abandonment of the Agency;
- d. Conviction of a felony;
- e. Willful misrepresentation that is material to the agency's operation;

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56. Mark Rinehart accepted the offer made by defendant Farmers and the parties formed an enforceable contract or agreement.

57. Mark Rinehart fully performed the Agreement.

58. Farmers, through its own acts and conduct and that of its employees, agents, and/or independent contractors, breached the contract and failed to perform their agreement by terminating Mark Rinehart without cause via letter dated September 25, 2009 and hand-delivered September 30, 2009 without the requisite three (3) months written notice required under the Agreement.

59. Farmers terminated the agency relationship in order to transfer Mark Rinehart's book of business to inexperienced agents to whom Farmers could pay a lower commission than the commissions being received by Mark Rinehart and his agency and because Mark Rinehart refused to engage in unethical insurance practices

60. Mark Rinehart and his agency were damaged as a result of Farmers' breach of contract.

WHEREFORE, plaintiffs Mark Rinehart and Mark Rinehart, LLC pray for judgment in their favor against defendant Farmers on Count II of the Second Amended Petition for Injunctive Relief and Damages awarding them damages in such amount that is fair and reasonable to compensate them for their losses, awarding them appropriate prejudgment and post-judgment interest, their costs incurred herein and for such other relief as this Court deems just and proper.

**COUNT III: Conversion**  
**(Against Farmers)**

61. Plaintiffs incorporate by reference the allegations set forth above in paragraphs 1 through 60 as if fully set out herein.

62. Upon information and belief, following the wrongful termination of Mark Rinehart and his agency, Farmers, through its own acts and conduct and that of its employees, agents, and/or

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independent contractors acting in the course and scope of their employment, intentionally exercised wrongful dominion or control over the property of Mark Rinehart by directing Farmers' new agents to send letters and to engage in telephone communications with Mark Rinehart's insureds to indicate that their policies had been "assigned" to these new agents for service. At no time did Mark Rinehart ever assign any policies to these new agents.

63. Upon information and belief, following the wrongful termination of Mark Rinehart and his agency, Farmers, through its own acts and conduct and that of its employees, agents, and/or independent contractors acting in the course and scope of their employment intentionally exercised wrongful dominion or control over the property of Mark Rinehart and his agency. In particular, defendants have directed Farmers' new agents to send letters to, and to engage in telephone communications with, Mark Rinehart's insureds to indicate that their policies had been "assigned" to these new agents for service. At no time did Mark Rinehart ever assign any policies to these new agents.

64. Upon information and belief, Farmers, through its own acts and conduct and that of its employees, agents, and/or independent contractors acting in the course and scope of their employment, intentionally exercised wrongful dominion or control over the property of Mark Rinehart and his agency by demanding customer lists and other documents, and by wrongfully precluding contact with the clients and customers with which Mark Rinehart had spent years establishing relations.

65. Farmers' actions, as set forth above, constituted an intentional and unauthorized assumption and exercise of right of ownership over property belonging to Mark Rinehart and his agency and defendants have intentionally failed to return possession of the property to plaintiffs.

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66. Any attempt by Farmers to justify its conduct as set forth in this Count through any provision of the Agreement would be invalid in that Farmers was the first, and only, party to materially and substantially breach the Agreement thereby denying it the benefit of any such contractual provisions.

67. Farmers' actions were willful and malicious and demonstrate a complete indifference to or conscious disregard for the rights of Mark Rinehart and his agency entitling them to an award of punitive damages.

WHEREFORE, plaintiffs Mark Rinehart and Mark Rinehart, LLC pray for judgment in their favor against defendant Farmers on Count III of the Second Amended Petition for Injunctive Relief and Damages awarding them damages in such amount that is fair and reasonable to compensate them for their losses, awarding them appropriate prejudgment and post-judgment interest, their costs incurred herein, punitive damages, and for such other relief as this Court deems just and proper.

**COUNT IV: Intentional Interference with Business Relationships**  
**(Against Farmers)**

68. Plaintiffs incorporate by reference the allegations set forth above in paragraphs 1 through 67 as if fully set out herein.

69. Mark Rinehart and his agency serviced the policies of insureds pursuant to his Agreement with Farmers.

70. Given their prior business relations with Mark Rinehart, Farmers knew of these relationships.

71. Farmers, through its own acts and conduct and that of its employees, agents, and/or independent contractors, tortiously interfered in the business relations of Mark Rinehart and his

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agency by contacting insureds with whom Mark Rinehart had done business and falsely informing them that their policies had been "assigned" to new agents for service.

72. Farmers' actions were intentional, and without justification because Farmers materially and substantially breach the Agreement thereby denying it the benefit of any such contractual provisions.

73. As a result of these false statements, Mark Rinehart and his agency have been damaged in an amount to be determined at trial.

74. Farmers' actions were willful and malicious and demonstrate a complete indifference to or conscious disregard for the rights of Mark Rinehart and his agency entitling them to an award of punitive damages.

WHEREFORE, plaintiffs Mark Rinehart and Mark Rinehart, LLC pray for judgment in their favor against defendant Farmers on Count IV of the Second Amended Petition for Injunctive Relief and Damages awarding them damages in such amount that is fair and reasonable to compensate them for their losses, awarding them appropriate prejudgment and post-judgment interest, their costs incurred herein, punitive damages, and for such other relief as this Court deems just and proper.

**COUNT V: Civil Conspiracy**  
**(Against Farmers, Clay Hurst, Dennis Lusk, and Paul Crosetti)**

75. Plaintiffs incorporate by reference the allegations set forth above in paragraphs 1 through 74 as if fully set out herein.

76. Farmers, Clay Hurst, Dennis Lusk, and Paul Crosetti engaged in a civil conspiracy to fraudulently induce Mark Rinehart to enter into a relationship with Farmers and to remain as an agent by concealing Farmers' intent to never permit Mark Rinehart to exercise his right to transfer his agency to his spouse, Vickie Rinehart.

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77. Farmers, Clay Hurst, Dennis Lusk, and Paul Crosetti also engaged in a civil conspiracy to wrongfully terminate Rinehart without cause so that they could convert the property of Mark Rinehart and his agency to their own.

78. Farmers, Clay Hurst, Dennis Lusk, and Paul Crosetti conspired and agreed to accomplish the unlawful purposes of: (1) fraudulently inducing Mark Rinehart to enter into the Agreement; and (2) wrongfully terminating Rinehart and his agency without cause in order to transfer Mark Rinehart's book of business to inexperienced agents to whom Farmers could pay a lower commission than the commissions being received by Mark Rinehart and his agency.

79. These actions have resulted in damage to plaintiffs.

80. Upon information and belief, Clay Hurst agreed to engage in the conspiracy to fraudulently induce Mark Rinehart to join Farmers as an agent in order to increase the number of agents in his district so that he might obtain a raise and/or a promotion. Hurst made these false representations with the belief that if Mark Rinehart later learned of their falsity and objected, Farmers could simply terminate him or force him to resign. If this occurred, Hurst would receive higher commissions and bonuses on renewals and any new agents could be made to sign a contract that would be more favorable to Farmers.

81. Upon information and belief, Dennis Lusk and Paul Crosetti also agreed to engage in the conspiracy to fraudulently induce Mark Rinehart to remain as a Farmers agent in an effort to obtain raises and/or promotions from Farmers.

82. Upon information and belief, Clay Hurst, Dennis Lusk, and Paul Crosetti agreed to engage in the conspiracy to wrongfully accuse Mark Rinehart and his agency of "switching" insurance because it allowed them to account to Farmers for the fact that large numbers of customers within Rinehart's district were taking their insurance business to other companies. In

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fact, the decrease in the number of Farmers' policyholders was not due to any wrongdoing on the part of Mark Rinehart or his agency, but rather Farmers' own decision to dramatically increase premium rates on its customers.

83. The overt and wrongful acts committed in furtherance of this conspiracy included, but are not limited to, each and every act of Defendants as pled more fully above.

84. Mark Rinehart and Mark Rinehart, LLC suffered damages as a result of this conspiracy and the acts committed pursuant to and in furtherance of it, including each and every item of damage alleged in Counts III, IV, and VIII. In particular, plaintiffs were damaged in that they spent valuable time, money, and effort in establishing an insurance agency that they were falsely promised would be transferred from Mark Rinehart to his spouse upon request. Plaintiffs also lost substantial sums of money as a result of defendants wrongful conversion of plaintiffs' property.

85. The conduct of Farmers, Clay Hurst, Dennis Lusk, and Paul Crosetti with respect to their civil conspiracy was willful and malicious and committed with deliberate indifference to and conscious disregard for the rights of others sufficient to justify an additional award of punitive damages to punish defendants and deter others from like conduct.

WHEREFORE, plaintiffs Mark Rinehart and Mark Rinehart, LLC pray for judgment in their favor against defendants Farmers, Clay Hurst, Dennis Lusk, and Paul Crosetti on Count V of their Second Amended Petition for Injunctive Relief and Damages awarding them damages in such amount that is fair and reasonable to compensate them for their losses, awarding them appropriate prejudgment and post-judgment interest, their costs incurred herein, punitive damages, and for such other relief as this Court deems just and proper

**COUNT VI: Prima Facie Tort**  
**(Against Farmers and Plead in the Alternative)**

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86. Plaintiffs incorporate by reference the allegations set forth above in paragraphs 1 through 85 as if fully set out herein.

87. In the alternative, Farmers, through its own acts and conduct and that of its employees, agents, and/or independent contractors acting in the course and scope of their employment, acted lawfully by terminating the contract but did so with the intention of causing injury to Mark Rinehart and his agency.

88. Mark Rinehart and his agency suffered damages as a result.

89. As pled above, Farmers lacked any justification for terminating the contract.

WHEREFORE, plaintiffs Mark Rinehart and Mark Rinehart, LLC pray for judgment in their favor against defendant Farmers on Count VI of their Second Amended Petition for Injunctive Relief and Damages awarding them damages in such amount that is fair and reasonable to compensate them for their losses, awarding them appropriate prejudgment and post-judgment interest, their costs incurred herein and for such other relief as this Court deems just and proper.

**COUNT VII: Breach of Contract – Family Sale Provision**  
**(Against Farmers)**

90. Plaintiffs incorporate by reference the allegations set forth above in paragraphs 1 through 89 as if fully set out herein.

91. Prior to the parties entering into the Agreement, Farmers repeatedly represented that a principal benefit to entering into an agreement to sell Farmers' insurance was that an agent with Farmers could, upon request, easily transfer their agency to an immediate family member and that the agency could, if so desired, be passed on to multiple generations of family members.

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92. Paragraph F of the Agreement provides: “[t]he Agent or the Agent’s heirs may sell all or any part of this Agency to a member(s) of the Agent’s immediate family at any time, provided the purchaser is acceptable to the Companies, and provided the sale price does not exceed the proportionate share of the ‘Contract Value’ (as hereinafter defined) of the Agency.”

93. Paragraph F of the Agreement clearly and directly expresses an intent to benefit an identifiable class of persons, including immediate family members of an agent.

94. Vickie Rinehart, the spouse of Mark Rinehart, was within this identifiable class of persons and the provisions relating to family transfer were intended for her benefit.

95. In March or April 2003 while Mark Rinehart was interviewing for a position as an agent for Farmers, Mark Rinehart and Vickie Rinehart discussed the advantages to entering into the Agreement with Clay Hurst at the Farmers district office in Advance, Missouri. At that time, Hurst specifically referenced the rights provided to plaintiffs in paragraph F of the Agreement. Hurst also assured plaintiffs that the family transfer provision would be available upon request.

96. Mark Rinehart and Vickie Rinehart specifically asked Hurst whether Vickie Rinehart’s employment as an agent for Farm Bureau Insurance, a third-party insurance company, would prevent Farmers from allowing the agency to be transferred to her. Hurst assured them that this would not prevent any requested transfer.

97. Following the decision to sign the Agreement, various agents of Farmers repeatedly discussed the availability of the family transfer provision at a training meeting in Kansas City, Missouri in December 2003. At this meeting, speakers affiliated with Farmers stated that the right under the Agreement was “one of the greatest business opportunities available in America.”

98. Following the decision to sign the Agreement, Mark Rinehart traveled to numerous training meetings, agent meetings, and state level meetings. At nearly every such meeting, the

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availability of the family transfer provision was discussed and Farmers marketed this right as a reason to continue as an agent for Farmers.

99. In early summer 2009 at a Farmers agent district meeting, Clay Hurst gave a speech to district agents and attending Farmers employees. During this speech, Hurst discussed the family transfer provision at length and stated that "no other company offers such a tradition." Hurst then specifically pointed out various agents who were present at the meeting whose agencies had been acquired through the family transfer provision.

100. In reliance upon these promises, Mark Rinehart accepted the offer made by Farmers and the parties formed an enforceable contract or agreement.

101. In reliance upon the continued assurances of the availability of the family transfer provision, Mark Rinehart remained an agent for Farmers.

102. Mark Rinehart and Mark Rinehart, LLC fully performed the agreement.

103. On or about July 17, 2009 Rinehart requested approval of his contractual option to transfer his agency to his spouse, Vickie Rinehart.

104. On or about August 19, 2009, Farmers informed Rinehart by letter from Dennis Lusk that the proposed sale to his spouse, Vickie Rinehart, was denied. In this letter, Farmers' falsely claimed that Mark Rinehart had failed to provide information necessary to determine whether the proposed transfer to Vickie Rinehart was acceptable.

105. Farmers' justification for the denial of the requested transfer was pretextual in that: (1) it repeatedly assured plaintiffs that the ability to transfer the agency was available upon request; (2) it repeatedly assured plaintiffs that Vickie Rinehart's status as an agent for Farm Bureau would not prevent such a transfer; and (3) it routinely allowed the sale or transfer of agencies to spouses and/or children who are similarly situated to plaintiffs.

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106. Farmers unequivocally modified paragraph F of the Agreement by its acts, conduct, and course of dealings. In particular, Farmers assured plaintiffs prior to entering into the contract that Mark Rinehart's spouse's employment would not prevent such a transfer. Farmers also routinely allowed the sale or transfer of agencies to spouses and/or children who are similarly situated to plaintiffs. As a result, Farmers' failure to approve the transfer or sale of the agency to Vickie Rinehart constituted a breach of the contract as modified.

107. Alternatively, Farmers had a duty of good faith and fair dealing in exercising their right to accept or deny any request under paragraph F of the Agreement which it breached in refusing to permit the transfer or sale of the agency based on pretextual reasons.

108. Plaintiffs were damaged as a result of Farmers' breach of contract. These damages include, but are not necessarily limited to, the time, money, and effort spent by plaintiffs in establishing an insurance agency that they were promised could be transferred from Mark Rinehart, to his spouse, Vickie Rinehart.

WHEREFORE, plaintiffs Mark Rinehart, Mark Rinehart, LLC, and Vickie Rinehart pray for judgment in their favor against defendant Farmers on Count VII of their Second Amended Petition for Injunctive Relief and Damages awarding them damages in such amount that is fair and reasonable to compensate them for their losses, awarding them appropriate prejudgment and post-judgment interest, their costs incurred herein and for such other relief as this Court deems just and proper.

**COUNT VIII: Fraudulent Misrepresentation (Fraud in the Inducement)**  
**(Against Farmers and Clay Hurst and Pled in the Alternative to Plaintiffs' Breach of Contract Claims)**

109. Plaintiffs incorporate by reference the allegations set forth above in paragraphs 1 through 108 as if fully set out herein.

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110. In the alternative to plaintiffs' breach of contract claims, prior to Mark Rinehart's decision to enter into the Agreement, Farmers, through its own acts and conduct and that of its employees, agents, and/or independent contractors, acting in the course and scope of their employment, including but not necessarily limited to Clay Hurst, repeatedly represented that a principal benefit to entering into an agreement to sell Farmers' insurance was that an agent with Farmers could easily transfer their agency to an immediate family member and that the agency could, if so desired, be passed on to multiple generations of family members. Hurst also represented that Vickie Rinehart's work as an agent for third party insurance companies would not prevent such a transfer.

111. Mark Rinehart was induced to enter into the Agreement as a result of these false and fraudulent misrepresentations made to him by Farmers and Clay Hurst.

112. Farmers and Clay Hurst knew these representations were untrue in that they never intended to honor them but made them with the intent that Mark Rinehart should act upon these representations and enter into the Agreement.

113. Alternatively, Farmers and Clay Hurst later determined that they would not honor these promises and failed to inform plaintiffs of this fact.

114. Mark Rinehart was ignorant of the truthfulness of these representations and in justifiable reliance upon same, entered into the Agreement.

115. On or about July 17, 2009 Rinehart requested approval of his contractual option to transfer his agency to his spouse, Vickie Rinehart.

116. On or about August 19, 2009, Farmers informed Rinehart by letter from Dennis Lusk that the proposed sale to his spouse, Vickie Rinehart, was denied. In this letter, Farmers' falsely

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claimed that Rinehart had failed to provide information necessary to determine whether the proposed transfer to Vickie Rinehart was acceptable.

117. Farmers' justification for the denial of the requested transfer was pretextual in that: (1) it repeatedly assured plaintiffs that the ability to transfer the agency was available upon request; (2) it repeatedly assured plaintiffs that Vickie Rinehart's status as an agent for Farm Bureau Insurance would not prevent such a transfer; and (3) it routinely allowed the sale or transfer of agencies to spouses and/or children who are similarly situated to plaintiffs.

118. Farmers and Clay Hurst's fraudulent misrepresentation damaged plaintiffs in that it induced them to enter a contract that was less favorable than that promised.

119. The conduct of Farmers and Clay Hurst was willful and malicious and committed with deliberate indifference to and conscious disregard for the rights of others sufficient to justify an additional award of punitive damages to punish defendants and deter others from like conduct.

WHEREFORE, plaintiffs Mark Rinehart and Mark Rinehart, LLC pray for judgment in their favor against defendants Farmers and Clay Hurst on Count VIII of their Second Amended Petition for Injunctive Relief and Damages awarding them damages in such amount that is fair and reasonable to compensate them for their losses, awarding them appropriate prejudgment and post-judgment interest, their costs incurred herein, punitive damages, and for such other relief as this Court deems just and proper.

**COUNT IX: Declaratory Judgment**  
**(Against Farmers)**

120. Plaintiffs incorporate by reference the allegations set forth above in paragraphs 1 through 119 as if fully set out herein.

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121. Pursuant to R.S.Mo. § 527.010 et seq. and Mo.R.Civ.P. 87.01, plaintiffs seek a declaratory judgment finding that Farmers has materially and substantially breached the Agreement rendering it unenforceable by Farmers.

122. Specifically, plaintiffs seek a judgment from this Court finding and declaring the following facts and law:

- (a) Farmers was the first party to materially and substantially breach the Agreement by its failure to honor its contractual promise in paragraph F (relating to the family transfer provision);
- (b) Farmers was the first party to materially and substantially breach the Agreement by its failure to honor its contractual promise in paragraph C (relating to notice prior to termination)
- (c) As a direct result of these material and substantial breaches of contract, Farmers cannot claim the benefits of the Agreement; and
- (d) Mark Rinehart may continue to work as an insurance agency with his spouse, Vickie Rinehart, and Farmers may take no action to limit any solicitation of potential insurance business.

WHEREFORE, plaintiffs Mark Rinehart and Mark Rinehart, LLC pray for judgment in their favor against defendant Farmers on Count IX of their Second Amended Petition for Injunctive Relief and Damages awarding them damages in such amount that is fair and reasonable to compensate them for their losses, awarding them appropriate prejudgment and post-judgment interest, their costs incurred herein, punitive damages, and for such other relief as this Court deems just and proper.

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Respectfully submitted,

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