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FILED
Superior Court of California
County of Los Angeles
01/26/2023
David W. Slayton, Executive Officer / Clerk of Court
By: A. Morales Deputy

7 [Additional Counsel Listed on Signature Page]

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES, SPRING STREET**

10 MICHAEL REYNOLDS ENTERPRISE,
11 INC. DBA REYNOLDS TERMITE
12 CONTROL, individually and on behalf of
all others similarly situated,

13 Plaintiff,

14 vs.

15 STATE COMPENSATION INSURANCE
16 FUND, a public enterprise fund; and
DOES 1 through 50, inclusive,

17 Defendants.

Case No. 19STCV05738

Assigned for all purposes to
Honorable Lawrence P. Riff
Department 7

**JOINT STIPULATION REGARDING
NOTICE TO ADDITIONAL CLASS
MEMBERS**

[PROPOSED] ORDER

Complaint Filed: February 21, 2019

19 And Related Case:

20 AMERICAN JETTER & PLUMBING,
21 INC. and RESILIENCE TREATMENT
22 CENTER, on behalf of themselves and
all others similarly situated,

23 Plaintiffs,

24 vs.

25 STATE COMPENSATION INSURANCE
26 FUND, a public enterprise fund; and
27 DOES 1 through 50, inclusive,

28 Defendants.

Case No. 19STCV36307
Honorable Lawrence P. Riff

Amended Complaint Filed: August 10, 2020

1 Plaintiffs Michael Reynolds Enterprise, Inc. dba Reynolds Termite Control, American
2 Jetter & Plumbing, Inc., and Resilience Treatment Center (collectively, “Plaintiffs”), and
3 Defendant State Compensation Insurance Fund (“State Fund”), by and through their respective
4 counsel of record, stipulate and agree to the following:

5 1. In accordance with the Parties’ Amended Settlement Agreement and the Court’s
6 Order Granting Motion for Preliminary Approval of Class Action Settlement (“Preliminary
7 Approval Order”), State Fund initially determined that 90,438 policyholders (the “Initial Class
8 List”) were class members because they paid additional premium - due to the application of a
9 tier modifier in excess of 1.00 for any policy in effect from March 1, 2013, through November
10 30, 2022 – the date the Court granted preliminary approval of the Settlement.

11 2. At policy inception, a policyholder’s premium is estimated, in part, based on
12 their expected payroll for the upcoming policy year. Once a policy ends, workers’
13 compensation carriers, including State Fund, conduct an audit to “true-up” the actual premium.
14 Audits may not be completed for months and sometimes years after a policy ends. The actual
15 payroll of a policyholder may end up differing significantly from the estimated payroll at policy
16 inception. In such a case, the policyholder may end up having to pay additional premium, or
17 may have overpaid premium and is entitled to a refund. When State Fund created the Initial
18 Class List, it used the estimated annual premium as the criteria for inclusion or exclusion from
19 the Initial Class List, which was determined to be the most reliable data field for the highest
20 number of policyholders.

21 3. The Claims Administrator mailed and emailed notice of the Settlement to those
22 policyholders on the Initial Class List (with available postal and/or email addresses) within 30
23 days of the date of the Preliminary Approval Order, pursuant to the Order.

24 4. On or around January 10, 2023, counsel for American Jetter noted that American
25 Jetter was not on the settlement class list. State Fund explained to counsel that the criteria for
26 determining class members produces a snapshot of the potential class at the time the data is
27 examined. If the data is examined at a later date, the results might change due to later
28 completed audits, changes in payroll, etc. On or around January 17, 2023, State Fund used a

1 different criteria to determine the class list, which considered actual premium figures following
2 any audit (when an audit on a policy had been performed and had been deemed complete by
3 November 30, 2022), which required further data extracts and extensive analysis and
4 calculations to determine any changes to the settlement class which incorporated policyholder
5 audit results. Utilizing this different criteria, approximately 7,655¹ policyholders would be
6 added to the Settlement Class and the Initial Class List (the “New Class Members”), and after
7 extensive analysis approximately 8,173² policyholders included on the Initial Class List and
8 who received notice of the class action Settlement should be omitted from the Settlement Class
9 based on the updated data (the “Non-Class Members”).

10 5. After notice was sent, the parties agreed that using actual premium numbers
11 following an audit (when an audit on a policy had been performed and had been deemed
12 complete by November 30, 2022) would more accurately determine whether a particular
13 policyholder is a Settlement Class member during the Class Period.

14 6. When State Fund re-ran the numbers using actual audited premium where
15 available, it determined that the approximately 7,655 New Class Members were omitted from
16 the Settlement Class (and therefore the Initial Class List), while approximately 8,173 Non-Class
17 Members received notice due to their erroneous inclusion on the Initial Class List despite not
18 being Settlement Class members because the tier rating modifier did not adversely impact their
19 actual audited premiums.

20 7. As a result, the Parties agree that the additional approximately 7,655 New Class
21 Members who are Settlement Class members but have not yet been provided notice, shall be

22 _____
23 ¹ The final total of New Class Members will be 7,655 plus or minus ten (7,645-7,665), based on
24 the current analysis underway and expected to be completed within two business days. The
25 Parties will report the final number of New Class Members in their supplemental brief due to
the Court on March 22, 2023.

26 ² The final total of Non-Class Members will be 8,173 plus or minus ten (8,163-8,183), based on
27 the current analysis underway and expected to be completed within two business days. The
28 Parties will report the final number of Non- Class Members in their supplemental brief due to
the Court on March 22, 2023.

1 emailed the Long Form Notice (when their email is available)³ no later than January 31, 2023,
2 and mailed the Short Form postcard notice no later than February 3, 2023, and potentially
3 earlier. These notices to the New Class Members will advise such class members that they have
4 until March 17, 2023, 42 days from the last day they will receive both postal and email notice,⁴
5 to object to or opt out of the Settlement.

6 8. If the Short Form postcard notice is resent after having been returned
7 undeliverable to the Claims Administrator, or if the emailed Long Form email notice bounces
8 back without reaching the available email address, the policyholder shall have an additional
9 seven (7) calendar days to opt out of or object to the Settlement. That deadline will be March
10 24, 2023.

11 9. Plaintiffs' deadline to reply to any objections will remain March 22, 2023, with
12 the exception being that with respect to any objections submitted from March 18 through March
13 24, 2023 by policyholders who are resent notices. Plaintiffs' deadline to reply to those later
14 filed objections will be March 28, 2023.

15 10. For those approximately 8,173 Non-Class Members who erroneously received
16 notice but are not actually members of the Settlement Class, Short Form postal notice and Long-
17 Form email notice (when such email is available) will be sent to them no later than February 10,
18 2023, explaining that they were sent notice of the Settlement in error, and that they are not part
19 of the Settlement Class because it was determined that State Fund's tier modifier did not
20 adversely impact their actual premium paid to State Fund.

21 11. The Final Approval Hearing shall remain scheduled for March 29, 2023 at 10:00
22 a.m.

23 12. The Parties will include this stipulation and order, if and when granted, on the
24 settlement website.

25 _____
26 ³ The Updated Class List includes emails and addresses for as many as what is available in State
27 Fund's system of the New Class Members and postal mailing addresses for all New Class
28 Members.

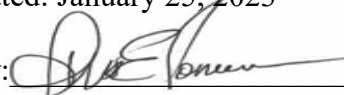
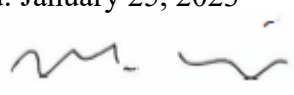
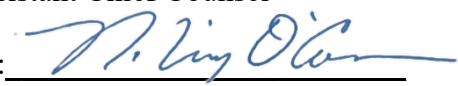
⁴ The current deadline for Class Members to opt-out and object is March 1, 2023.

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IT IS SO STIPULATED.

[Signatures on Next Page]

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<p>Dated: January 25, 2023</p> <p>By: </p> <p>Drew E. Pomerance David R. Ginsburg ROXBOROUGH, POMERANCE, NYE & ADREANI, LLP</p> <p>Attorneys for Plaintiffs Michael Reynolds Enterprise, Inc. dba Reynolds Termite Control</p>	<p>Dated: January 25, 2023</p> <p>By: </p> <p>Michael Liskow (SBN 243899) mliskow@calcaterrapollack.com CALCATERRA POLLACK LLP 1140 Avenue of the Americas, 9th Floor New York, NY 10036-5803 Tel: (212) 899-1761 Fax: (332) 206-2073</p> <p>Scott M. Priz (pro hac vice) priz@priz-law.com PRIZ LAW, LLC 3230 S. Harlem Ave., Suite 221B Riverside, IL 60546 Tel: (708) 268-5768</p> <p>Betsy C. Manifold (SBN 182450) manifold@whafh.com Brittany N. Dejong (SBN 258766) dejong@whafh.com WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLP 750 B Street, Suite 1820 San Diego, CA 92101 Tel: (619) 239-4599 Fax: (619) 234-4599</p> <p>Attorneys for Plaintiffs American Jetter & Plumbing, Inc. and Resilience Treatment Center</p>
<p>Dated: January 25, 2023</p> <p>NOAH GRAFF Assistant Chief Counsel</p> <p>By: </p> <p>R. Timothy O'Connor John B. De Leon Steve L. Clarence Attorneys for Defendant State Compensation Insurance Fund</p>	

1 **PROOF OF SERVICE**

2
3 STATE OF CALIFORNIA)
4) ss.
5 COUNTY OF LOS ANGELES)

6 I am employed in the county of Los Angeles, State of California. I am over the age of
7 18 and not a party to the within action; my business address is 5900 Canoga Avenue, Suite 450,
8 Woodland Hills, California 91367.

9 On the date below, I served the foregoing documents on the interested parties:

10 **JOINT STIPULATION REGARDING NOTICE TO ADDITIONAL CLASS MEMBERS**
11 **[PROPOSED] ORDER**

12 Pursuant to the Order Authorizing Electronic Service, entered in this matter on May 23,
13 2019, I caused service of the foregoing document(s) on the interested parties as listed on the
14 Service List posted on www.caseanywhere.com for this matter by submitting an electronic
15 version of the document(s) via file transfer protocol (FTP) to Case Anywhere through the
16 upload feature at www.caseanywhere.com.

17 I declare under penalty of perjury and under the laws of the State of California that the
18 foregoing is true and correct.

19 Executed on January 25, 2023

20 */s/ ELIA RAMIREZ*
21 ELIA RAMIREZ
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