

FILED
Superior Court of California
County of Los Angeles

MAR 29 2023

David W. Slayton, Executive Officer/Clerk of Court
By: A. Morales, Deputy

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

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

Plaintiff,

vs.

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

Defendants.

And Related Case:

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

Plaintiffs,

vs.

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

Defendants.

Case No. 19STCV05738
Honorable Lawrence P. Riff

~~PROPOSED~~ ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION SETTLEMENT

Hearing Date: March 29, 2023
Time: 10:00 a.m.
Dept. 7

Complaint Filed: February 21, 2019

Case No. 19STCV36307
Honorable Lawrence P. Riff

Amended Complaint Filed: August 10, 2020

~~PROPOSED~~ ORDER GRANTING FINAL APPROVAL

1 The Motion for Final Approval of Class Action Settlement (“Final Approval Motion”)
2 and the Motion for Awards of Attorneys’ Fees and Costs, and Named Plaintiffs’ Service
3 Payments (“Fee Motion”), filed by Plaintiffs Michael Reynolds Enterprise, Inc. dba Reynolds
4 Termite Control (“Reynolds”), American Jetter & Plumbing, Inc. (“Jetter”), and Resilience
5 Treatment Center (“Resilience,” collectively with Reynolds and Jetter, “Named Plaintiffs”) came
6 on for hearing on March 29, 2023 in Department 7 of the of the Superior Court of California for
7 the County of Los Angeles, the Honorable Lawrence P. Riff presiding.

8 Drew E. Pomerance of Roxborough, Pomerance, Nye & Adreani, LLP, Michael Liskow
9 of Calcaterra Pollack LLP and Betsy C. Manifold and Ferdeza Zekiri of Wolf Haldenstein Adler
10 Freeman & Herz LLP appeared for Named Plaintiffs.

11 R. Timothy O’Connor appeared for Defendant State Compensation Insurance Fund
12 (“Defendant”).

13 Named Plaintiffs and Defendant are referred to herein together as the “Parties.”

14 Unless otherwise defined herein, all capitalized words and terms in this Order Granting
15 Final Approval of Class Action Settlement (“Order of Final Approval”) shall have the same
16 meanings as set forth in the Amended Settlement Agreement (“Settlement Agreement”) filed on
17 October 26, 2022.

18 On November 30, 2022, the Court entered an Order Granting Motion for Preliminary
19 Approval of Class Action Settlement (“Preliminary Approval Order”), preliminarily approving
20 the proposed settlement of the *Reynolds* and *Jetter* actions (the “Actions”) pursuant to the terms
21 of the Settlement Agreement and directing that notice be given to the Settlement Class Members
22 pursuant to the Notice Program.

23 Pursuant to the Notice Program, the Settlement Class was notified of the terms of the
24 proposed Settlement and of a Final Approval Hearing (at 10:00 a.m. on March 29, 2023) to
25 determine: (1) whether the terms and conditions of the Settlement are fair, reasonable and
26 adequate for the release of the Released Claims against the Released Parties; (2) whether this
27 Order of Final Approval and corresponding Judgment should be entered; (3) whether the Court
28 should approve the provisions of the Settlement Agreement with respect to the Service Payments

1 requested by Named Plaintiffs; and (4) whether the Court should grant Reynolds Counsel and
2 Jetter Counsel's application for Attorneys' Fees and Costs.

3 A Final Approval Hearing was held on March 29, 2023. Prior to the Final Approval
4 Hearing, proof of completion of the Notice Program was filed with the Court, along with
5 declarations of compliance as prescribed in the Preliminary Approval Order. Settlement Class
6 Members were therefore notified of their right to appear at the hearing in support of or in
7 opposition to the proposed Settlement, the award of Attorneys' Fees and Costs to Reynolds
8 Counsel and Jetter Counsel, and Service Payments to Named Plaintiffs.

9 The Court, (i) having heard and considered the oral presentations made at the Final
10 Approval Hearing (including any materials and documents presented to the Court therein), (ii)
11 having reviewed and considered the Settlement Agreement, the Final Approval Motion, the Fee
12 Motion, and supporting papers and declarations, including the pleadings filed in support of the
13 Motion for Preliminary Approval of Class Action Settlement and declarations, and any
14 supplements thereto, and any timely and proper objections, and (iii) having determined that the
15 Settlement is fair, adequate and reasonable, and good cause appearing thereon, makes the
16 following findings and determinations.

17 It is hereby ORDERED, ADJUDGED, and DECREED that:

18 1. The Court, for purposes of this Order of Final Approval, adopts all defined
19 terms as set forth in the Settlement Agreement.

20 2. The Court has jurisdiction over the subject matter of the Actions and over all
21 claims raised therein and all Parties thereto, including the Settlement Class Members.

22 3. The Settlement Class, which will be bound by this Order of Final Approval and
23 corresponding Judgment to be entered, shall include all Settlement Class Members who did not
24 submit a timely and valid request for exclusion. The Settlement Class Members who have
25 requested exclusion are identified in Exhibit A to this Order.

26 4. Solely for the purposes of the Settlement Agreement and this Order of Final
27 Approval, the Court hereby certifies the following Settlement Class:
28

1 All insureds of State Fund whose workers' compensation insurance premiums were
2 calculated using a tier modifier in excess of 1.00, and where such calculation resulted in
3 the payment of a higher premium than the insured would have otherwise paid, for any
4 policy in effect from March 1, 2013, through November 30, 2022, the date of
5 preliminary approval of this Settlement.

6 Excluded from the Settlement Class are Defendant State Fund, its affiliates, predecessors,
7 successors, officers, directors, agents, servants and employees and the immediate families of
8 such persons.

9 5. The Court finds that the requirements of Code of Civil Procedure § 382 are
10 satisfied. Specifically, with respect to the Settlement Class, the Court finds that: (a) the
11 members of the Settlement Class are so numerous that their joinder is impracticable; (b) there
12 are questions of law and fact common to the Settlement Class which predominate over any
13 individual questions; (c) the claims of the Class Representatives are typical of the claims of the
14 Settlement Class; and (d) a class action is superior to other available methods for the fair and
15 efficient adjudication of the controversy considering: (i) the interests of the members of the
16 Settlement Class in individually controlling the prosecution of separate actions, (ii) the extent
17 and nature of any litigation concerning the controversy already commenced by the Settlement
18 Class, (iii) the desirability or understandability of concentrating the litigation of these claims in
19 the particular forum, and (iv) the difficulties likely to be encountered in the management of the
20 Actions.

21 6. The Court grants final approval to the appointment of Named Plaintiffs
22 Reynolds, Jetter and Resilience as Class Representatives for the Settlement Class.

23 7. The court grants final approval to the appointment of Roxborough, Pomerance,
24 Nye & Adreani, LLP and Michael Liskow of Calcaterra Pollack, LLP as Settlement Class
25 Counsel.

26 8. Notice was provided to the Settlement Class Members in accordance with the
27 Preliminary Approval Order and the Notice Program. The notice provided to the Settlement
28 Class (a) satisfied the requirements of due process, California Code of Civil Procedure section
382 and rule 3.766 of the California Rules of Court; and (b) provided the best notice

1 practicable, and (c) was reasonably calculated under the circumstances to apprise Settlement
2 Class Members of the pendency of the Actions, the terms of the Settlement Agreement, their
3 right to appear at the Final Approval Hearing, their right to object to the Settlement, and their
4 right to exclude themselves from the Settlement. As such, the Court finds that the Notice
5 Program satisfies the requirements of California law and federal due process of law.

6 9. The Settlement Agreement was arrived at following over eighteen months of
7 extensive serious, informed, adversarial, and arm's-length negotiations conducted in good faith
8 by counsel for the Parties, facilitated by an experienced mediator, and is supported by the
9 majority of the members of the Settlement Class.

10 10. The Settlement, as set forth in the Settlement Agreement, is in all respects fair,
11 reasonable, adequate and in the best interests of the Settlement Class and is approved. The
12 Parties shall effectuate the Settlement Agreement according to its terms, including the
13 injunctive relief requiring Defendant to (1) not file any portion of any of its rate filings
14 pertaining to tier rating or tier modifiers confidentially with the California Department of
15 Insurance for at least the next five years, and to notify Settlement Class Counsel for five years
16 thereafter if Defendant seeks to do so; (2) make all tier rating rate filings publicly available as
17 long as the applicable statute remains in effect; (3) explicitly identify the tier modifier on
18 certain documents provided to insureds in the same manner as it does now for brokers; and (4)
19 provide to any policyholder or broker who inquires a complete and fair explanation as to how
20 and why Defendant applied a particular tier modifier to the policyholder. The Settlement
21 Agreement shall be deemed incorporated herein as if explicitly set forth and shall have the full
22 force and effect of an Order of this Court.

23 11. Upon the date that Defendant fully funds the entire Settlement Fund (within
24 seven (7) days after the Effective Date), the Class Representatives and each Member of the
25 Settlement Class, on behalf of themselves and any other legal or natural persons who may
26 claim by, through or under them, are deemed to have fully, finally and forever released and
27 discharged the Released Parties from any and all Released Claims (as defined in Section 2.7 of
28

1 the Settlement Agreement) arising during the Class Period of March 1, 2013 through the date of
2 the entry of the Preliminary Approval Order, November 30, 2022.

3 12. Members of the Settlement Class who have not validly opted-out of the
4 Settlement Agreement, including the Class Representatives, are hereby barred from hereafter
5 instituting, maintaining, prosecuting, and/or asserting any of the Released Claims as part of any
6 suit, action, and/or proceeding against the Released Parties, either directly or indirectly, on their
7 own behalf, on behalf of a class or on behalf of any other person or entity.

8 13. This Order of Final Approval and corresponding Judgment, the Settlement
9 Agreement, the Settlement which it reflects, and any and all acts, statements, documents or
10 proceedings relating to the Settlement, are not, and shall not, be construed as or used as an
11 admission by or against Defendant or any other Released Party of any fault, wrongdoing, or
12 liability on their part, or of the validity of any Released Claim or of the existence or amount of
13 damages.

14 14. Pursuant to the Settlement Agreement, within 60 days following the last day
15 upon which all Settlement Payment checks have either been cashed or have become void, the
16 Parties will file a joint report with the Court setting forth the total amount that was actually paid
17 to Participating Settlement Class Members, the total number of Participating Settlement Class
18 Members who cashed checks (and the amount of such checks), the number of checks returned
19 as undeliverable (and amount of such checks), the number of checks voided due to not being
20 timely cashed (and amount of such checks), and the total dollar amount of monies (including
21 any accrued interest) remaining in the Settlement Fund Account (the "Joint Settlement
22 Report").

23 15. If, after the first distribution, there is \$500,000 or less in the Settlement Fund
24 Account, these residual funds will automatically be distributed to the *Cy Pres* recipients
25 approved by the Court herein, in equal amounts. If, however, after the first distribution there
26 remains more than \$500,000 in the Settlement Fund Account, there shall be a second
27 distribution following the Court's determination as to whether the residual funds ought to be
28 dispersed only to those Participating Settlement Class Members who timely cashed their

1 Settlement Payment checks, or whether the residual funds shall instead be paid to all
2 Participating Settlement Class Members. Once the Claims Administrator confirms all
3 Settlement Payment checks have either been cashed or have become void (the “Confirmation
4 Date”), the Parties will promptly contact the Court to (1) inform the court of when the Parties
5 will file the Joint Settlement Report (no later than 60 days after the Confirmation Date) and (2)
6 schedule a hearing for the Court to review the Joint Settlement Report with the Parties to
7 determine if a final accounting can be provided and whether a final distribution of the
8 remaining Settlement Fund can be made at that time..

9 16. Within 60 days following the last day upon which all settlement checks from
10 any second distribution have either been cashed or become void, the Parties shall file a second
11 Joint Settlement Report with the Court. If, after the second distribution, there is \$500,000 or
12 less in the Settlement Fund Account, these residual funds will automatically be distributed to
13 any *Cy Pres* recipients approved by the Court in equal amounts. If instead, after the second
14 distribution there still remains in excess of \$500,000 in the Settlement Fund Account, counsel
15 for State Fund and Settlement Class Counsel will confer with the Court, in consultation with
16 the Claims Administrator, to determine whether any further distributions shall take place, or
17 whether the residual amount shall be paid to any *Cy Pres* recipients approved by Court in equal
18 amounts.

19 17. The Court finds that distribution to the proposed *cy pres* recipients may be
20 useful in fulfilling the purposes of the underlying Actions; the nonprofit organizations
21 designated as *cy pres* recipients by the Parties satisfy the requirements of California Code of
22 Civil Procedure 384(b) by supporting projects that fulfill the purposes of the underlying
23 Actions, benefiting members of the public, including Settlement Class Members. Worksafe is a
24 California-based non-profit organization dedicated to promoting and protecting the basic right
25 of all people to a safe and healthy workplace. Worksafe’s mission of creating safer workplaces
26 in California directly benefits the Members of the Settlement Class by reducing their workers’
27 compensation insurance premiums and preventing secondary effects from worker injuries.
28 Kids’ Chance of California satisfies the requirements of California Code of Civil Procedure

1 section 384(b) because it is a non-profit organization whose mission is to provide need-based
2 educational scholarships to the children of California workers who have been fatally or
3 seriously injured on the job. The Parties, Reynolds Counsel and Jetter Counsel have provided
4 declarations, attached to the Settlement Agreement as Exhibits G-N, affirming that they have
5 no interest or involvement in the governance or work of either of the proposed *Cy Pres*
6 recipients.

7 18. Within 60 days following the last day upon which all settlement checks have
8 either been cashed or have become void, the Parties shall file a joint report with the Court that
9 sets forth the total amount that was actually paid to the Participating Settlement Class
10 Members, the total number of Participating Settlement Class Members who cashed checks (and
11 the amount of such checks), the number of checks returned as undeliverable (and amount of
12 such checks), the number of checks voided due to not being timely cashed (and amount of such
13 checks), and the total dollar amount of monies (including any accrued interest) remaining in the
14 Settlement Fund Account (the "Joint Settlement Report").

15 19. For the reasons set forth in the Fee Motion, the Court hereby collectively awards
16 Reynolds Counsel and Jetter Counsel attorneys' fees from the Settlement Fund in the total
17 amount of \$19,500,000, inclusive of all costs, which amount is 30% of the total common fund,
18 and which the Court finds fair and reasonable. The Court finds that the percentage of the
19 benefit approach is the preferred method for awarding attorneys' fees and costs in these
20 Actions, given that Plaintiffs' Counsel created a true common fund.

21 20. For the reasons set forth in the Named Plaintiffs' request for Service Payments,
22 the Court hereby awards each Named Plaintiff a Service Payment of \$25,000 each (totaling
23 \$75,000). Such amounts are reasonable considering Named Plaintiffs' service in bringing and
24 prosecuting the Actions, and the risks they have taken by agreeing to be Class Representatives.
25 The foregoing sums shall be paid from the Settlement Fund in accordance with the Settlement
26 Agreement.

27 21. This Order of Final Approval does not constitute an expression by the Court of
28 any opinion, position or determination as to the merit or lack of merit of any of the claims or

1 defenses of Named Plaintiffs or Defendant. This Order of Final Approval is not an admission
2 or indication by Defendant of the validity of any claims in these Actions or of any liability or
3 wrongdoing or of any violation of law.

4 22. Named Plaintiffs and the Settlement Class, on the one hand, and the Defendant,
5 on the other, shall take nothing further from the other side except as expressly set forth in the
6 Settlement Agreement and this Order of Final Approval and corresponding Judgment.

7 23. The Parties are authorized to implement the terms of the Settlement Agreement.

8 24. Pursuant to California Code of Civil Procedure section 664.6 and rule 3.769(h)
9 of the California Rules of Court, and without affecting the finality of this Order of Final
10 Approval and corresponding Judgment, the Court reserves exclusive and continuing
11 jurisdiction over these Actions, the Class Representatives, the Members of the Settlement
12 Class, and Defendant in order to, among other things: (i) monitor and enforce compliance with
13 the Settlement Agreement, this Order of Final Approval, and any related order of this Court;
14 and (ii) resolve any disputes over this Settlement Agreement or the administration of any
15 benefits of this Settlement Agreement, including disputes over entitlement to payments for
16 Attorneys' Fees and Costs.

17 25. The Claims Administrator shall post this Order of Final Approval on the
18 settlement website, www.https://www.cptgroupcaseinfo.com/SCIFSettlement.com, forthwith.

19 26. No objections to the Settlement were made by the Settlement Class Members.

20 27. The Court approves the Administrative Costs associated with the Settlement.

21 28. The Clerk is directed to enter this Order of Final Approval forthwith.

22
23 IT IS SO ORDERED

3/29/2023



24
25 DATED: _____

THE HONORABLE LAWRENCE P. RIFF

26 29. The court sets a hearing for 12/11/2023 at
27 9:00 A.M. concerning "Round One" of the payment disburse-
28 ments. Plaintiffs to provide a declaration concerning
such payments on or before 12/4/2023.

EXHIBIT A

Settlement Class Members Requesting Exclusion from Settlement Class

<u>NAME</u>	<u>ADDRESS</u>
Alberti Farms, Inc.	Lodi, CA
All in One Enterprise	Fort Jones, CA
Carrillo Painting	Santa Rosa, CA
City Business Shipping, Inc.	Los Angeles, CA
Claud Townsley, Inc. dba Central Roofing Co.	Gardena, CA
Hazel Shuman Trust	Willows, CA
J G Management Consultants Inc.	Corona, CA
Mid Construction Group Inc. (formerly known as DH Remodel Services Inc.)	Los Angeles, CA
Ronald E. Pribble	Escondido, CA