

Dear Clients and their Ohana -

On October 9, 2023, Judge Lisa W. Cataldo ruled that a letter filed by a Class Member on August 17, 2023, is a Notice of Appeal of the entire case. The Class Members' claim was rejected under the Settlement and Court's prior orders because the Class Member did not meet the statutory claims criteria. The Class Member has no claim.

The State does not dispute that the Class Member has no claim. Class Counsel proposed a method for the State to release the Settlement Funds and allow the claims process to go forward with no risk to the State. But, after all its demands were met, the State now has refused to allow the funds to be transferred.

The Court's Order explains that the Class Member's letter was treated by the Clerk of Court and understood by Class Counsel to be an objection to the denial of the Class Member's personal claim and not an appeal of the entire case. The Court agreed, stating:

[T]he fact that [the letter] was not filed with the appellate court after the appellate court became aware of it, and the fact that the limited scope of [the letter] is consistent with other documents [the Class Member] filed in this Court that object *only* as to the determination of his claim and *not* to the Final Approval Order/ Final Judgment.

October 9, 2023, Order at 2.

Class Counsel took immediate steps to resolve the issue and negotiated a stipulation with the State to allow immediate release the funds. After initially agreeing to the Stipulation, the State changed its mind. The October 9th Order explains:

Initially after [the Class Member's] letter was filed, counsel attempted to negotiate a stipulation that permitted the long-awaited transfer of settlement funds to the QST Trustee so that class members with cognizable claims could receive their portion of the settlement amount immediately. Near completion of that effort, **the State changed course**, advising that the filing of [the Class Member's letter] divested this Court of jurisdiction and as such, the Court could not take any action related to the transfer of funds, including entry of the stipulation.

October 9, 2023 Order at 2 (emphasis added).

The Court then set a hearing to resolve the matter. The Order explains:

From September 25, 2023, until October 5, 2023, the State never objected to the hearing. Then, in a letter dated October 5, 2023, **the State changed course**, stating: "[The Class Member's] August 17, 2023 filing ... is a timely notice of appeal that must be immediately filed with the appellate court. State Defendants assert that this Court does not have jurisdiction to dispose of the Class Member's August 17 filing at the hearing currently scheduled for October 13, 2023."

October 9, 2023 Order at 3 (emphasis added).

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The Order explains that, because of the State's changed position, the Court now was required to file the appeal:

**[I]t is the State's refusal** to advise this Court if it would initiate its own appellate action if the Court ordered the transfer of funds – thereby even further delaying the class members' receipt of those funds – **that ensures there will be no resolution at this stage.**

October 9, 2023 Order at 5 (emphasis added).

The Court noted:

The State further maintains that before the settlement proceeds may be distributed to the class members, either the Class Member must withdraw their appeal or the appellate court must dispose of the appeal. The State's position is intractable despite all of the facts in this unique case set forth above, as well as the fact that, at best, resolution at the appellate court level will take at least 6 months and, Class Counsel recently stated that 3-4 class members die per month.

October 9, 2023 Order at 4.

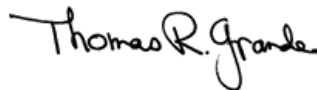
The Court found that the State insists that the appeal go forward “even though **the State cannot articulate any actual real-world risk in the distribution of settlement proceeds** short of withdrawal of the letter] or disposition by the appellate court.” October 9, 2023 Order at 5 (emphasis added).

The State is aware that the Class Member has no claim and his “appeal” presents no risk to final approval of the settlement. Neither the Court nor Class Counsel have any way of dealing with State's demand except to pursue dismissal of the appeal. We are taking measures to ensure the appeal is dismissed as soon as possible. We understand and share your frustration. We cannot provide you with an estimate of the delay that will occur. Please visit this website for updates or call 1-808-650-5551 or 1-833-639-1308 for additional information. Do not contact the Court. Please do not call us directly. We are working continuously on opposing the appeal and cannot take individual questions. We appreciate your kōkua and patience during this time. We are committed to resolving this appeal and getting payments into eligible Class Members' hands as soon as possible.

Aloha,



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