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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 HELEN JOSEPHINE THORNTON,
11 et al.,

12 Plaintiffs,

13 v.

14 COMMISSIONER OF SOCIAL
15 SECURITY,

16 Defendant.

CASE NO. C18-1409JLR

ORDER GRANTING RELIEF

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I. INTRODUCTION

Before the court are the parties' responses to the court's September 11, 2020 order to show cause regarding class relief. (*See* 9/11/20 Order (Dkt. # 86); Pl.'s Resp. to OSC (Dkt. # 88); Def.'s Resp. to OSC (Dkt. # 92).) On September 11, 2020, the court adopted Magistrate Judge J. Richard Creatura's combined report and recommendation on Plaintiffs Helen Josephine Thornton and National Committee to Preserve Social Security and Medicare's complaint and motion for class certification (the "Report and

1 Recommendation”).¹ (*See generally* 9/11/20 Order.) Thus, the court has already
2 certified a nationwide class in this case and determined that the class is entitled to relief.
3 (*See id.* at 26-27.) However, the court also concluded that “additional briefing is
4 necessary regarding the exact scope of class-wide injunctive relief warranted as a result
5 of the court’s order.” (*Id.*) In response to the court’s order to show cause, Ms. Thornton
6 identified a number of issues and requests relating to the appropriate form of relief in this
7 case. (*See generally* Pl.’s Resp. to OSC.) Defendant Commissioner of Social Security
8 (“the Commissioner”) responded to the issues Ms. Thornton identified. (*See generally*
9 Def.’s Resp. to OSC.) The court has reviewed the parties’ supplemental briefing, the
10 relevant portions of the record, and the applicable law. Being fully advised, the court
11 addresses the issues raised by the parties in turn.

12 II. ANALYSIS

13 A. Relief for Ms. Thornton

14 Although the court’s order to show cause sought input solely on the appropriate
15 form of class relief to award in this case, Ms. Thornton requests that the court grant her
16 additional relief in her individual capacity. (*See* Pl.’s Resp. to OSC at 1; *see also* 9/11/20
17 Order at 26-27.) Specifically, Ms. Thornton asks the court to order that the
18 Commissioner grant Ms. Thornton’s request for individual relief by November 11, 2020.
19 (Pl.’s Resp. to OSC at 1.) The court rejects this request. The court is sympathetic to the

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21 ¹ The court’s order adopting the Report and Recommendation dismissed Plaintiff
22 National Committee to Preserve Social Security and Medicare from this action. (9/11/20 Order
at 24-27.) Thus, this order refers to Ms. Thornton as the only remaining named Plaintiff in this
action.

1 lengthy delay that Ms. Thornton has experienced in receiving surviving spousal benefits
2 (“survivor’s benefits”) that the court determined she is entitled to receive. However, the
3 court remanded Ms. Thornton’s claim for survivor’s benefits to the Social Security
4 Administration (the “Administration”) for further proceedings. (9/11/20 Order at 15.)
5 The Administration is in a better position than the court to determine the appropriate
6 timeframe for complying with the terms of court’s order. The court trusts that the
7 Administration takes the court’s order seriously and will act expeditiously to ensure that
8 Ms. Thornton receives the appropriate relief.

9 **B. Class Relief**

10 In its order to show cause, the court advised the parties that it was considering
11 issuing the following order and injunction regarding class relief:

12 The court **ORDERS** the Administration to re-adjudicate class members’
13 claims on terms consistent with this order and **ENJOINS** the Administration
14 from denying Social Security survivor’s benefits to class members without
15 considering whether class members would have satisfied the marriage
16 requirements but for applicable laws that prohibited same-sex marriage.

17 (*Id.* at 26-27.) Ms. Thornton proposed revisions to this draft order, but the Commissioner
18 argued that the court’s proposed language was adequate. (Pl.’s Resp. to OSC at 1-2; Def.
19 Resp. to OSC at 3-5.) Having reviewed the parties’ responses on this issue, the court
20 issues the following order on class relief:

21 The court **ORDERS** the Administration to re-adjudicate class members’
22 claims on terms consistent with the court’s September 11, 2020 order and
ENJOINS the Administration from denying Social Security survivor’s
benefits to class members without determining whether class members would
have satisfied the marriage requirements but for applicable laws that
prohibited same-sex marriage.

1 **C. Notice to Class Members**

2 Ms. Thornton asks the court to direct the Commissioner to identify and provide
3 notice to class members and to confer with Ms. Thornton’s counsel in doing so. (Pl.’s
4 Resp. to OSC at 2-3.) The Commissioner agrees to meet and confer with Ms. Thornton
5 regarding the form and manner of class notice and offers to “provid[e] some form of
6 reasonable notice.” (Def. Resp. to OSC at 5.) Accordingly, the court ORDERS the
7 parties to meet and confer regarding class notice within 30 days of the filing date of this
8 order. The court commends the Commissioner on its willingness to work with Ms.
9 Thornton on this issue, and encourages the parties to cooperate and attempt to resolve
10 issues relating to class notice without additional court intervention. If, however, the
11 parties are unable to reach agreement on notice to the class, the court invites Ms.
12 Thornton to file a motion on this issue.

13 **D. Presentment Cut-Off Date**

14 In its prior order on Ms. Thornton’s motion for class certification, the court
15 certified a class that included only individuals “who presented claims for Social Security
16 survivor’s benefits.” (9/11/20 Order at 16.) Ms. Thornton asks the court to clarify that
17 the cut-off date for application of the presentment requirement falls on the date of entry
18 of the forthcoming final judgment. (Pl.’s Resp. to OSC at 3.) The Commissioner agrees
19 with Ms. Thornton on that issue (Def.’s Resp. to OSC at 5), and so does the court. For
20 the avoidance of doubt, the court clarifies that individuals who present claims for Social
21 Security survivor’s benefits to the Administration prior to the date that the court enters
22 final judgment in this matter may be included as class members, so long as those

1 individuals satisfy the other requirements in the class definition. (9/11/20 Order at 16.)

2 The court will include language in its final judgment to this effect.

3 **E. Status Reports**

4 Ms. Thornton asks the court to order the parties to file periodic status reports
5 regarding the Commissioner's compliance with the court's orders. (Pl.'s Resp. to OSC at
6 3-4.) The Commissioner objects to this request as unnecessary. (Def.'s Resp. to OSC at
7 5-6.) The court agrees with Ms. Thornton that status reports could prove useful in this
8 case, but also agrees with the Commissioner that requiring indefinite status reports would
9 be unnecessarily burdensome. Accordingly, the court ORDERS the parties to submit a
10 joint status report regarding the status of the Administration's progress on providing
11 relief to Ms. Thornton and the class within 90 days of the filing date of this order. If Ms.
12 Thornton believes that an additional status report is necessary at that time, the court
13 invites Ms. Thornton to request one in the joint status report and the court will consider
14 the request at that time.

15 **F. Implementation Documents**

16 Ms. Thornton asks the court to "order [the Commissioner] to provide [Ms.
17 Thornton] with an advance copy of the materials used to implement the [c]ourt's ruling,
18 including any form of instructions to agency staff on how to handle and re-adjudicate
19 class members' claims, and the processes and procedures for such claims." (Pl.'s Resp.
20 to OSC at 4.) The court agrees with the Commissioner that such an order would
21 unreasonably intrude on the Administration's internal processes. (Def.'s Resp. to OSC at
22 6.) Accordingly, the court rejects Ms. Thornton's request. The court notes, however, that

1 the Commissioner offers “to share *final* versions of significant implementation
2 documents with [Ms. Thornton’s] counsel (with appropriate redactions, to the extent they
3 are necessary).” (*Id.*) Thus, the court ORDERS the Commissioner to provide copies of
4 “final versions of significant implementation documents” to Ms. Thornton’s counsel,
5 with redactions as necessary, as those documents become available.

6 **G. Retention of Jurisdiction**

7 Finally, although Ms. Thornton recognizes that “the [c]ourt retains inherent
8 authority to enforce its own injunction and judgment,” Ms. Thornton asks the court to
9 explicitly state that it retains jurisdiction over its orders in this matter. (Pl.’s Resp. to
10 OSC at 4-5.) The Commissioner argues that such a statement from the court is
11 unnecessary because the court automatically retains jurisdiction to enforce its own orders.
12 (*See* Def.’s Resp. to OSC at 6.) The court agrees with both parties that it automatically
13 retains jurisdiction to enforce its orders. *See, e.g., Reebok Int’l. Ltd. v. McLaughlin*, 49
14 F.3d 1387, 1390 (9th Cir. 1995). Nevertheless, the court sees no harm in stating that it
15 retains jurisdiction to enforce its orders and the judgment in this matter. Accordingly, for
16 the avoidance of doubt, the court expressly retains jurisdiction to enforce compliance
17 with this order, the court’s September 11, 2020 order, and the forthcoming judgment in
18 this matter.

19 **III. CONCLUSION**

20 For the reasons set forth above and in the court’s September 11, 2020 order (Dkt.
21 # 86), the court:
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1 (1) ORDERS the Administration to re-adjudicate class members' claims on
2 terms consistent with the court's September 11, 2020 order and ENJOINS the
3 Administration from denying Social Security survivor's benefits to class members
4 without determining whether class members would have satisfied the marriage
5 requirements but for applicable laws that prohibited same-sex marriage;

6 (2) ORDERS the parties to meet and confer regarding class notice within 30
7 days of the filing date of this order;

8 (3) CLARIFIES that individuals who present claims for Social Security
9 survivor's benefits to the Administration prior to the date that the court enters final
10 judgment in this matter may be included as class members, so long as those individuals
11 satisfy the other requirements in the class definition;

12 (4) ORDERS the parties to submit a joint status report regarding the status of
13 the Administration's progress on providing relief to Ms. Thornton and the class within 90
14 days of the filing date of this order; and

15 (5) ORDERS the Commissioner to provide copies of "final versions of
16 significant implementation documents" to Ms. Thornton's counsel, with redactions as

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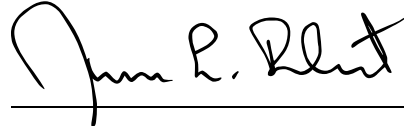
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1 necessary, as those documents become available.

2 The court expressly retains jurisdiction to enforce compliance with this order, the
3 court's September 11, 2020 order, and the forthcoming judgment in this matter.

4 Dated this 24th day of November, 2020.

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7 JAMES L. ROBART
8 United States District Judge
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