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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHRISTINA SMITH, et al.,

Plaintiffs,

v.

LEVINE LEICHTMAN CAPITAL  
PARTNERS, INC., et al.,

Defendants.

No. C 10-00010 JSW

**ORDER RE CAFA NOTICE AND  
DIRECTING JOINT RESPONSE  
FROM PARTIES**

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On February 10, 2014, Defendants filed the Declaration of Joseph A. Escarez, in which they attach notices sent to the United States Attorney General, the California Attorney General, the Pennsylvania Attorney General, and the Commissioner for the California Department of Corporations of the pending settlement in the instant action. Defendants sent these notices pursuant to a provision of the Class Action Fairness Act (“CAFA”), which provides that “[n]ot later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement,” and other documents (hereinafter “CAFA Notice”). 28 U.S.C. § 1715(b)(1)-(7).

Defendants’ CAFA Notices, however, refer to the settlement agreement submitted to the Court for preliminary approval in April 2013. In August 2013, the parties submitted the Second Amended and Restated Settlement Agreement, which was the agreement the Court preliminarily

1 approved and which is the agreement that is pending before the Court for final approval.

2 It does not appear from the record that the parties sent CAFA Notices that specifically  
3 reference that agreement.

4 Pursuant to CAFA, “[a]n order giving final approval of a proposed settlement may not  
5 be issued earlier than 90 days after the later of the dates on which the appropriate Federal  
6 official and the appropriate State official are served with the notice required under subsection  
7 (b).” 28 U.S.C. § 1715(d). CAFA also contains provisions that address the consequences of not  
8 providing the notices required. *See id.* § 1715(e).

9 Accordingly, the parties are HEREBY ORDERED to show cause as to whether the  
10 Court has authority to issue a final approval order even though the CAFA Notices do not  
11 address the Second Amended Restated Agreement. If the parties intend to file CAFA Notices,  
12 the Court will defer ruling on the motion for final approval and the motion for attorneys fees  
13 until 90 days after the later of the dates on which notice is served.

14 The parties’ response to this Order to Show Cause shall be due on February 21, 2014.

15 **IT IS SO ORDERED.**

16 Dated: February 10, 2014

  
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JEFFREY WHITE  
UNITED STATES DISTRICT JUDGE