

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

3  
4 MARIA E. PINTOS,

No. C 03-5471 CW

5                                    Plaintiff,

ORDER DENYING  
PLAINTIFF'S

6                                    v.

REQUEST FOR AN  
ORDER REQUIRING

7 PACIFIC CREDITORS ASSOCIATION,

DEFENDANT AND  
DEFENDANT'S

8                                    Defendant.

INSURER TO APPEAR  
(Docket No. 175)

9 \_\_\_\_\_/

10                                    On September 27, 2011, upon having been advised that the  
11 parties had agreed to a settlement, the Court entered a  
12 conditional order of dismissal of this cause. In that order, the  
13 Court stated that if any party certified to the Court, with proof  
14 of service upon the opposing counsel, within ninety days, that the  
15 agreed consideration for the settlement had not been delivered,  
16 the order would be vacated and the cause restored to the calendar  
17 to be set for trial.

18                                    On November 18, 2011, Plaintiff Maria E. Pintos certified to  
19 the Court that she had not yet received the settlement amount and  
20 that it had been represented to her that Defendant Pacific  
21 Creditors Association's insurer, Travelers, would issue and mail  
22 payment for the settlement amount by the week of November 7-11,  
23 2011. Plaintiff requested that the Court issue an order requiring  
24 Defendant and Travelers to appear and explain why the settlement  
25 amount had not yet been paid.

26                                    On December 5, 2011, the Court issued an order granting  
27 Plaintiff's request in part and requiring Defendant to file a  
28 response within twenty-four hours, explaining the delay and

1 stating when payment will be received or confirming that Plaintiff  
2 has received payment already. The order further stated that the  
3 Court would set the matter for a hearing if Defendant's response  
4 was not satisfactory.

5 On December 5, 2011, Defendant filed a response, stating that  
6 Plaintiff received the settlement payment on December 2, 2011.  
7 Defendant further stated that it took longer than it expected to  
8 get the settlement checks from its insurance company, because the  
9 insurance company has gone through significant reorganization  
10 since 2003, the time of Plaintiff's claim, and that as a result it  
11 took an unexpected amount of time for the insurance company to  
12 authorize and process the payment.

13 Because it appears that the settlement amount has now been  
14 paid in full, that Defendant acted in good faith and that the  
15 delay was the result of circumstances beyond Defendant's control,  
16 the Court declines to set this matter for hearing at this time.

17 Plaintiff may renew her request within two weeks of the date  
18 of this order as either a motion to set aside the conditional  
19 order of dismissal or a motion to enforce the settlement agreement  
20 if she is able to truthfully provide a further certification to  
21 the Court that the agreed consideration for the settlement has not  
22 been delivered.

23 IT IS SO ORDERED.

24  
25 Dated: 12/6/2011

26   
27 CLAUDIA WILKEN  
28 United States District Judge