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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN FRANCISCO DIVISION

10 Vlaho Miletak,

NO. C 06-03778 JW

11 Plaintiff,

**ORDER REQUIRING REVISED
PROPOSED ORDER**

12 v.

13 Allstate Ins. Co., et al.,

14 Defendants.
_____ /

15 Presently before the Court is the parties' Motion for Preliminary Approval of Class Action
16 Settlement.¹ The Motion is scheduled for a hearing on March 5, 2012. Upon review of the Motion
17 and the associated Proposed Order,² the Court finds that the following revisions are necessary:

- 18 (1) The Court sets **June 18, 2012 at 9 a.m.** for a Final Fairness Hearing in this matter.
19 Accordingly, the parties shall file a Revised Proposed Order that: (a) states that the
20 Final Fairness Hearing will be held on that date, and (b) sets forth the actual date of
21 all other deadlines that are calculated pursuant to the date of the Final Fairness
22 Hearing.³
23 _____

24 ¹ (Notice of Motion and Motion for Preliminary Approval of Class Action Settlement and
25 Directing Dissemination of Notice to the Class; Memorandum of Points and Authorities in Support
Thereof, hereafter, "Motion," Docket Item No. 369.)

26 ² ([Proposed] Order Granting Joint Motion for Preliminary Approval of Class Action
27 Settlement and Directing Dissemination of Notice, hereafter, "Proposed Order," Docket Item No.
371.)

28 ³ (See, e.g., Proposed Order ¶ 8 (stating that an attorney fee application may be made "[n]ot
later than thirty-five (35) days prior to the Final Approval Hearing").)

- (2) The Settlement Agreement provides for a settlement fund “not to exceed \$ 2,727,555,”⁴ out of which Class Members will be paid. However, the Motion, Settlement Agreement and Proposed Order are silent as to what will happen to any portion of the \$ 2,727,555 settlement fund that goes unclaimed. Accordingly, in their Revised Proposed Order, the parties shall address the issue of what will happen to any unclaimed portion of the \$ 2,727,555 settlement fund. In particular, the parties shall include language providing: (a) for a *cy pres* distribution of the unclaimed portion of the settlement fund; and (b) that the parties shall nominate recipients of such a *cy pres* distribution, subject to the Court’s approval. To the extent that the parties do not believe this requirement is consistent with the terms of the settlement, the parties shall file a separate Statement articulating those reasons.
- (3) The Proposed Order includes a proposed Claim Form which requires Class Members to confirm the truth of the statement “I paid the ‘pay in full’ amount on one or more Allstate Due Date Renewal Bill(s) by the ‘due date’ on the bill.”⁵ However, the Court finds that this requirement is inappropriate, inasmuch as Defendants—rather than Class Members—are in possession of information as to the precise dates on which any individual Class Member paid their bills. Thus, the Court finds that a more appropriate Claim Form would: (a) apprise Class Members that they are in the Class, pursuant to Allstate’s records; and (b) simply require Class Members to check a box indicating that they wish to be in the Settlement Class. Accordingly, the parties’ Revised Proposed Order shall include a Claim Form containing such language. To the extent that the parties do not believe that the Court’s proposed modification is appropriate, the parties shall file a separate Statement articulating those reasons.

⁴ (Stipulation and Settlement Agreement at 6, Docket Item No. 370.)


⁵ (See Proposed Order, Ex. B, Claim Form.)

1 On or before **March 1, 2012 at 3 p.m.**, the parties shall either file: (1) a Revised Proposed
2 Order pursuant to the terms of this Order, or (2) a Revised Proposed Order reflecting the date of the
3 Final Fairness Hearing, along with a Statement addressing those of the Court's recommended
4 modifications that the parties believe are not appropriate. The parties should be prepared to address
5 these issues at the hearing.

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8 Dated: February 28, 2012



JAMES WARE
United States District Chief Judge

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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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9
10 **Dated: February 28, 2012**

Richard W. Wieking, Clerk

11
12 **By: /s/ JW Chambers**
13 **Susan Imbriani**
14 **Courtroom Deputy**
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