

IMPORTANT LEGAL MATERIALS



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Notice ID Number: <<RustID>>

**19TH JUDICIAL DISTRICT COURT
EAST BATON ROUGE PARISH, LOUISIANA**

DONALD W. ABSHIRE, ET AL.

-versus-

THE STATE OF LOUISIANA, ET AL.

CIV. ACTION NO. 377,713 c/w NO. 412,265

DIV. “N” Sec. 26

THE HONORABLE RICHARD “CHIP” MOORE

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND
HEARING REGARDING SETTLEMENT**

TO: ALL PERSONS OR ENTITIES IN THE UNITED STATES WHO FILED SUIT AGAINST THE STATE OF LOUISIANA AND/OR ITS DEPARTMENT OF INSURANCE OR OFFICE OF FINANCIAL INSTITUTIONS FOR DAMAGES CAUSED BY THE STATE’S CONDUCT IN CONNECTION WITH THE FAILURE OF PUBLIC INVESTORS LIFE INSURANCE COMPANY, INC., PUBLIC INVESTORS, INC., OR MIDWEST LIFE INSURANCE COMPANY, AND WHOSE CLAIM WAS CONSOLIDATED INTO CIVIL ACTION No. 377,713 (CAPTIONED DONALD W. ABSHIRE, ET AL., VS. THE STATE OF LOUISIANA, ET AL.) OR CIVIL ACTION No. 412,265 (CAPTIONED ARTHUR A. LEWIS, ET AL., VS. THE STATE OF LOUISIANA, ET AL) IN THE ABOVE-CAPTIONED MATTER (“CLASS MEMBERS”), YOUR RIGHTS COULD BE AFFECTED.

Certain owners of financial instruments (Plaintiffs) issued by Public Investors Life Insurance Company, Inc., Public Investors, Inc., and/or Midwest Life Insurance Company filed a lawsuit against the following defendants:

- a) State of Louisiana, through the Department of Insurance (DOI),
- b) State of Louisiana, through the Office of Risk Management (OFI),
- c) State of Louisiana, through the Office of Risk Management Self Insurance Fund (ORM),
- d) International Insurance Company¹,
- e) Admiral Insurance Company,
- f) Lexington Insurance Company,
- g) National Union Fire Insurance Company of Pittsburgh, PA,
- h) American Excess Insurance Association and its members²,

¹ Pursuant to a Notice and Certificate of Assumption, Westchester Fire Insurance Company assumed the rights and obligations of International Insurance, who originally issued an insurance policy to the State of Louisiana.

(collectively, “Defendants”), alleging that through the negligence, gross negligence, intentional conduct and/or other actions and inactions by DOI and OFI, the owners of Public Investors Life Insurance Company, Inc., Public Investors, Inc., Midwest Life Insurance Company and their affiliates were allowed to divert funds, causing the Plaintiffs to lose their investments and sustain other damages. The lawsuit has been certified as a class action by Chief Judge Donald Johnson of the 19th Judicial District Court for the State of Louisiana and is known as *Abshire, et al., v. State of Louisiana, et al.*, Case No. 377,713 c/w 412,265 (“Lawsuit”). The named Defendants other than OFI and DOI are alleged to have issued policies of insurance to the State of Louisiana that cover all or part of the losses sustained by the Plaintiffs. Defendants deny that they are liable for Plaintiffs’ losses and the Defendant insurers further deny that the policies of insurance they issued provide coverage for the Plaintiffs’ claims.

SETTLEMENT WITH ALL DEFENDANTS AND YOUR RIGHTS TO PARTICIPATE AND OBJECT

Proposed Settlement. This Court has preliminarily approved a proposed settlement of the litigation (the “Settlement”) between the Class and each of the Defendants. The Settlement provides for the payment of a total amount of \$5.81 Million (“Settlement Fund”) to the court-appointed Claims Administrator, Rust Consulting, with the settlement funds allocated to the Defendants as follows:

- Three million and three hundred thousand dollars and no/100 (\$3,300,000.00) to be paid by the State of Louisiana;
- Six hundred thousand dollars and no/100 (\$600,000.00) to be paid by Admiral Insurance Company;
- Three hundred and sixty thousand dollars and no/100 (\$360,000.00) to be paid by Westchester Fire Insurance Company;
- One million and four hundred thousand dollars and no/100 (\$1,400,000.00) to be paid collectively by Lexington Insurance Company and National Union Fire Insurance Company of Pittsburgh, Pa.; and
- One hundred and fifty thousand dollars (\$150,000.00) to be paid by American Excess Insurance Association and its members.

The Settlement Fund shall be used for reimbursement of litigation expenses, for payment of attorneys’ fees, and for distribution to the members of the Class, as may be approved by the Court. **This settlement fully resolves the claims between the Class and all Defendants to this litigation.**

Deadline for Submission of Claims. COMPLETED CLAIM FORMS MUST BE SUBMITTED TO THE CLAIMS ADMINISTRATOR, RUST CONSULTING, NO LATER THAN **June 14, 2019**. For your convenience, a claim form is enclosed with this notice. Claim forms and other settlement-related information are available for review and download at www.ssrlp.com and/or can be obtained by contacting class counsel as described below. **IF YOU FAIL TO TIMELY SUBMIT A VALID CLAIM FORM AS DESCRIBED HEREIN, YOUR CLAIM WILL BE DISMISSED WITH PREJUDICE AND YOU WILL NOT BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT.**

Hearing Regarding Settlement. The Court has scheduled a hearing to consider final approval of the Settlement on April 29, 2019 at 9:30 a.m. (Central Standard Time), to be held before the Honorable Richard “Chip” Moore at the 19th Judicial District Courthouse in Baton Rouge, Louisiana. Class Counsel is required to file any application for attorneys’ fees or reimbursement of expenses no later than March 21, 2019. All such filings, when made, will be available on Class Counsel’s website at www.ssrlp.com or can be obtained by contacting class counsel as described below.

Plan of Administration. The Court has approved an allocation plan whereby each Class member who submits a valid claim will receive a proportionate share of the Net Settlement Fund³ based on the value of the instrument(s) at issue in the litigation, as determined by Plaintiffs’ accounting expert, Harold Asher of the accounting firm AsherMeyers, LLC in New Orleans, Louisiana, based on: (1) the policy and/or instrument documents; (2) the valuation of the policies and/or instruments by the Louisiana Office of Receivership and court liquidation and/or bankruptcy distribution orders, and (3) any additional valuation information provided by Class members in connection with the submission of claims. The valuation

² American Excess Insurance Association and its members include and are limited to: (1) Travelers Casualty and Surety Company, formerly known as The Aetna Casualty and Surety Company; (2) American Home Assurance Company; (3) Continental Casualty Company; (4) Federal Insurance Company; (5) The Continental Insurance Company; (6) United States Fire Insurance Company; (7) General Star National Insurance Company; (8) The Home Insurance Company; (9) Insurance Company of North America; (10) Maryland Casualty Company; (11) NAC Reinsurance Company; (12) Royal Insurance Company of America; (13) The Travelers Indemnity Company; and (14) Zurich American Insurance Company, as successor in interest to Zurich Insurance Company, U.S. Branch.

³ The Net Settlement Fund is the total Settlement Fund amount less litigation expenses and attorneys’ fees approved by the Court.

of instruments at issue will take into account any credits for liquidation and/or bankruptcy distributions and any other known payments. Subject to the Court's approval, the Net Settlement Fund will be held by Rust Consulting and disbursed after final approval of the settlement by the Court.

Object to the Settlement. If you do not like the Settlement or any of its provisions, you may tell the Court that you object to the Settlement, the attorneys' fee request, or any other aspect of the relief requested, and the Court will consider your views. To object, you must send a letter by first-class U.S. Mail to the Court and also to legal counsel for the Class, postmarked on or before **April 5, 2019**. The Court's address is Clerk of Court, East Baton Rouge Parish, 222 St. Louis St., Baton Rouge, LA 70802. Be sure to include the case information located in the caption at the top of this notice. If you have submitted a written objection, you may (but do not have to) attend the Court hearing about the Settlement and present your objection to the Court. You may attend the hearing even if you do not file a written objection, but you will only be allowed to speak at the hearing if you file written comments in advance of the hearing.

Getting More Information. For more detailed information about this litigation, please refer to the papers on file in this litigation, which may be inspected at the Office of the Clerk of Court of the 19th Judicial District Court, 19th JDC Courthouse, 300 North Boulevard, Baton Rouge, LA 70801 during normal business hours. If you have any other questions or need additional information, please contact Co-Lead Class Counsel as set forth below:

John Gregory Odom
Stuart E. Des Roches
Odom & Des Roches, LLP
Suite 2020, Poydras Center
650 Poydras Street
New Orleans, LA 70130
Telephone: (504) 522-0077
Facsimile: (504) 522-0078
jodom@odrlaw.com
stuart@odrlaw.com

David P. Smith
Smith, Segura & Raphael, LLP
3600 Jackson Street, Suite 111
Alexandria, LA 71303
Telephone: (318) 445-4480
Facsimile: (318) 487-1741
draphael@ssrllp.com
dsmith@ssrllp.com

PLEASE DO NOT WRITE OR CALL THE COURT OR THE CLERK'S OFFICE FOR INFORMATION

IMPORTANT LEGAL MATERIALS



- UAA - <<SequenceNo>>

<<Name 1>>
<<Name 2>>
<<Name 3>>
<<Name 4>>
<<Address 1>>
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<<City>> <<State>> <<Zip 10>>
<<CountryName>>

FOR OFFICIAL USE ONLY
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Notice ID Number: <<RustID>>

**Your claim must
Be postmarked by:
June 14, 2019**

**19TH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA**

PROOF OF CLAIM

**Donald Abshire, et al.
v.
State of Louisiana, et al.**
Case No. 377,713 c/w
Case No. 412,265

INTRODUCTION

On December 27, 2019, the Court in this Action approved separate settlements totaling \$5.81 million reached between the plaintiff class (the "Class") and all defendants in the case. The notice of class action settlement dated March 8, 2019, which was mailed to you, summarizes both the litigation and terms of the settlements. You may review a copy of that notice on the website www.ssrlp.com. The purpose of this Proof of Claim Form is to ensure that you are able to participate in the distribution of the settlement funds from the above-referenced settlements, net of attorneys' fees, service awards to Class Representatives, and other costs awarded by the Court (the "Net Settlement Funds"). In order for the Claims Administrator to make the proper calculation of your pro rata share of the Net Settlement Funds, please either (a) verify the accuracy of the claim values identified in Part II.A and Exhibit A of this Proof of Claim Form, which are derived from the records of the Public Investors Life Insurance Company, Inc. liquidation proceeding in this Court, the Midwest Life Insurance Company liquidation proceeding in this Court, the Public Investors, Inc. bankruptcy proceeding in the United States Bankruptcy Court for the Eastern District of Louisiana, and plaintiff policy and/or instrument documents, or (b) submit the data required in Part II.B of this Proof of Claim Form.

PART I: CLAIMANT IDENTIFICATION

Please provide this information. In addition, if you are filing this Proof of Claim Form on behalf of an original claimant who has died, please include documentation of your legal right to recover on behalf of that original claimant.

Your Social Security Number: XXX - XX - _____

Your Name: _____

Street Address 1: _____

Street Address 2: _____

City: _____ State: _____ Zip: _____

Person to contact if there are questions regarding this claim:

First Name: _____ MI: _____ Last Name: _____

Daytime Phone Number: (____) _____-____ Email Address: _____





PART II: CLASS MEMBER INSTRUMENT/CLAIM VALUES

A. Class plaintiffs' forensic accounting expert, AsherMeyers, LLC, has calculated the value of the financial instruments at issue in the case, and has provided an initial estimate of the share of the Net Settlement Funds allocable to each instrument, based on the pro-rata distribution methodology approved by the Court. These valuations are shown on the attached Exhibit A. These calculations were based on the records of the Public Investors Life Insurance Company, Inc. liquidation proceeding in this Court, records of the Midwest Life Insurance Company liquidation proceeding in this Court, records of the Public Investors, Inc. bankruptcy proceeding in the United States Bankruptcy Court for the Eastern District of Louisiana, and plaintiff policy and/or instrument documents. The valuations take into account credits for liquidation and/or bankruptcy distributions. Your *pro rata* calculation may change as a result of the total number of claims received and/or other information submitted during the claims administration process.

Each class member should verify the accuracy of valuations of their instruments set forth on Exhibit A. **If you agree that the instrument valuations computed for your instruments are accurate, you should check the box at the end of this section (on the bottom of page 2), sign the last page of this Proof of Claim Form, and mail it to the Claims Administrator postmarked no later than June 14, 2019.** If you verify the accuracy of the amounts set forth on Exhibit A, you will not be required to produce any additional documentation of your claim value as part of the claims administration process, but you will be waiving the right to challenge or appeal the Claims Administrator's determination regarding your *pro rata* distribution amount on the basis that the distribution amount would have been different had it been calculated using your own records. **If you believe that your instrument valuations on Exhibit A are not accurate, you may submit information and documentation of the correct value of your claim as described in Part II.B below.**

If you are filing a claim on behalf of someone else, you will have to submit documentation of your right to assert a claim with respect to those instruments.

In order to have a valid claim, you must be a member of the plaintiff class, i.e., persons or entities who filed suit against the State of Louisiana and/or its Department of Insurance or Office of Financial Institutions for damages caused by the State's conduct in connection with the failure of Public Investors Life Insurance Company, Inc., Public Investors, Inc., and/or Midwest Life Insurance Company, and whose claim was consolidated into Civil Action No. 377,713 or No. 412,265 (captioned Donald W. Abshire, et al., vs. The State of Louisiana, et al.).

The following were excluded from the class: any persons or entities to the extent their claims in Civil Action No. 377,713 or No. 412,265 have been resolved by a final, unappealable judgment, including those claims dismissed as a result of the rulings of the United States District Court, Western District of Louisiana, No. 06-1368.

The Court's preliminary approval order provides that it is fair and reasonable that the Net Settlement Funds be allocated and distributed among claimants who submit valid claims pro rata based on the net value of the instruments at issue in the litigation. Upon the expiration of the deadlines to submit valid claims, Class Counsel will move for distribution of the net settlement fund consistent with this provision of the preliminary approval order.

Please note that related documents and the Court order approving the plan of allocation are available at <http://www.ssrlp.com>. All orders relating to settlement approval, allocation, or distribution will be available at <http://www.ssrlp.com> as soon as such orders are issued by the Court and received by Class Counsel.

If you accept and verify that the figures set forth on Exhibit A for the value of your instruments are correct, please check here.

B. To the extent that you do not elect to rely upon the calculation of your net purchase instrument values determined by AsherMeyers, LLP as set forth in Exhibit A, please identify all instruments and provide information regarding the instrument value and payments received in liquidation and bankruptcy or other proceedings on the chart below. Please include any supporting documentation with your claim form. If you received payments/distributions from a non-Louisiana state guaranty association, you are obliged to provide documentation of such payments to the Claims Administrator.

Issuing Company	Instrument Number	Name of Claimant	Instrument Value as Reflected on Exhibit A	Claimed Instrument Value



- <<SequenceNo>>

C. Heirs/Substitutes/Assignments.

Please check here if you are filing this claim on behalf of a claimant other than yourself.

If you are submitting a claim on behalf of an original claimant and you inherited or otherwise obtained the right to all or part of the claim, please identify the claim with particularity here. Please also attach documentation in support your right to participate in the claim, including death certificates if the claimant is deceased, succession or other records establishing your interest in the claim, and any information relating to the extent of your interest and the identity of other co-heirs or co-legatees. Please note that the Claims Administrator may require additional information and documents for any claim made based on an inheritance or assignment.

Multiple horizontal lines for providing details about the claim.

PART III: SUBMISSION TO JURISDICTION OF THE COURT

By signing below, you are submitting to the jurisdiction of the Nineteenth Judicial District Court for the Parish of Baton Rouge, State of Louisiana with respect to the claim you are making as a Class Member/Claimant.

PART IV: VERIFICATION

I declare under penalty of perjury under the laws of the United States of America that the foregoing information provided by the undersigned is true and correct and that this proof of claim was executed

this _____, day of _____, 2019 in _____, _____, _____
(Day) (Month) (City) (State, Country)

Sign your name here: _____ Date: _____

Type/Print your name here: _____

RETURN YOUR COMPLETED PROOF OF CLAIM TO:

Public Investors Lawsuit Claims Administrator
C/O Rust Consulting, Inc.-6150
P.O. Box 44
Minneapolis, MN 55440-0044

Questions? Contact the Claims Administrator at administrator@publicinvestorslawsuit.com or Co-Lead Class Counsel at (318) 445-4480 or (504) 522-0077.

Remember, your signed Proof of Claim must be mailed and postmarked by **June 14, 2019**.