

DONALD W. ABSHIRE, ET AL.

19TH JUDICIAL DISTRICT COURT

-versus-

CIV. ACTION NO. 377713, SEC. 26

THE STATE OF LOUISIANA, ET AL.

**EAST BATON ROUGE PARISH
STATE OF LOUISIANA**

CONSOLIDATED WITH

ARTHUR A. LEWIS, ET AL.

19TH JUDICIAL DISTRICT COURT

-versus-

CIV. ACTION NO. 412265, SEC. 26

THE STATE OF LOUISIANA, ET AL.

**EAST BATON ROUGE PARISH
STATE OF LOUISIANA**

**UNOPPOSED MOTION FOR DEPOSIT OF UNCLAIMED SETTLEMENT FUNDS
INTO THE REGISTRY OF THE COURT**

NOW INTO COURT, through undersigned counsel ("Class Counsel"), comes the Plaintiff Class¹ ("Plaintiffs or the "Class") who moves this Court for an order directing the deposit of remaining unclaimed settlement funds into the registry of the Court for the reasons set forth in the Memorandum of Points and Authorities incorporated herein.

¹The Plaintiff Class is defined in the Court's Order granting class certification dated September 14, 2016 as follows:

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., 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.*);

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, Inc., 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.*);

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 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.*);

Excluded from the Class are 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.

All defendants in this case were dismissed without prejudice by order of this Court dated April 29, 2019.² As a result, this motion is unopposed.

This Motion will be available on the date of filing for review by Class members and any other Claimants at the website of Class Counsel Smith Segura Raphael & Leger, LLP: <http://www.ssrlp.com/abshire-class-action-information.html>.

MEMORANDUM OF POINTS AND AUTHORITIES

On April 29, 2019, this Court entered a Final Approval Order approving a \$5.81 million global settlement between the Plaintiff Class and the Defendants. Thereafter, on January 29, 2020, this Court entered an Order for the Distribution of Net Settlement Fund (the "Distribution Order"), which approved the Accepted Claims submitted the Rust Consulting ("Rust"), the Court-appointed claims administrator, and ordered Rust to distribute to each approved claimant.

As can be seen by reference to the Declaration of Amy Fringer, Senior Project Manager at Rust, filed herewith, on April 14, 2020 Rust mailed 436 checks to the individuals or entities who submitted court-approved claims in amounts determined in accordance with the Distribution Order. Of those issued checks, all have now cleared except for one, namely a check in the amount of \$2,123.66 issued to John Lonnie Myer, whose approved claim provided the mailing address 10900 East Taylor Rd Apt 159D Gulfport, MS 39503. *See* Fringer Decl. at ¶4. The claim check mailed to this address was not returned undeliverable, however subsequent efforts to locate the claimant have been unsuccessful. *See* Fringer Decl. at ¶5.

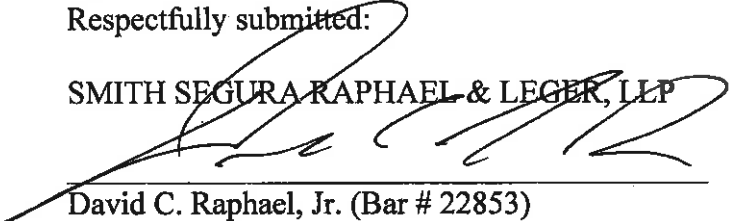
Given that the distribution of the settlement fund is now complete with the exception of the unclaimed proceeds belonging to John Lonnie Myer, and in order to avoid incurring additional administrative costs in excess of the amounts approved in the Distribution Order and available from the litigation fund, Class Counsel respectfully seeks an order directing Rust to pay the unclaimed proceeds into the registry of the Court, with said funds to be distributed to John Lonnie Myer or his successors only upon further order of the Court.

² The named defendants ("Defendants") were the State of Louisiana by and through its Department of Insurance, Office of Risk Management, and Office of Financial Institutions, Admiral Insurance Company, Westchester Fire Insurance Company, Lexington Insurance Company, National Union Fire Insurance Company of Pittsburgh, Pa., and American Excess Insurance Association and each of its members ("AEIA").

April 21, 2021

Respectfully submitted:

SMITH SEGURA RAPHAEL & LEGER, LLP



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been served on all counsel of record via-mail transmission on this 21ST day of APRIL, 2021.



David C. Raphael, Jr.

DONALD W. ABSHIRE, ET AL
VS
THE STATE OF LOUISIANA, ET AL

19TH JUDICIAL DISTRICT COURT
CIV. ACTION NO. 377, 713, DIV. "M"
EAST BATON ROUGE PARISH
STATE OF LOUISIANA

CONSOLIDATED WITH

ARTHUR A. LEWIS, ET AL
VS
THE STATE OF LOUISIANA, ET AL

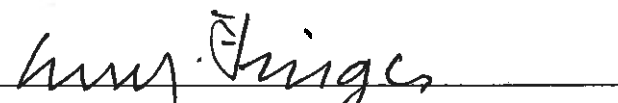
19TH JUDICIAL DISTRICT COURT
CIV. ACTION NO. 412, 265, DIV. "M"
EAST BATON ROUGE PARISH
STATE OF LOUISIANA

**DECLARATION OF AMY FRINGER REGARDING
PLAINTIFFS' UNOPPOSED MOTION FOR DEPOSIT OF UNCLAIMED FUNDS INTO
THE REGISTRY OF THE COURT**

I, Amy Fringer, declare as follows:

1. I am a Senior Project Manager at Rust Consulting ("Rust"). Rust serves as the Court-approved Claims Administrator pursuant to Paragraph 4 of this Court's order dated September 6, 2018. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.
2. I submit this declaration in order to provide the Court and the parties with information about the administration of the Settlement Fund.
3. On April 14, 2020 Rust mailed 436 checks to the individuals or entities who submitted court-approved claims in amounts determined in accordance with this Court's January 29, 2020 Order for the Distribution of Net Settlement Fund dated January 29, 2020 (the "Distribution Order").
4. All of the checks that Rust mailed have now cleared the litigation fund account except for one, namely a check in the amount of \$2,123.66 issued to John Lonnie Myer, whose approved claim provided the mailing address 10900 East Taylor Rd Apt 159D Gulfport, MS 39503.
5. The claim check mailed to this address was not returned undeliverable however, subsequent efforts to locate the claimant have been unsuccessful.

I declare under penalty of perjury under the laws of the United States and the State of Louisiana that the foregoing statements are true and correct. This declaration was executed on April 20th, 2021 in Edina, Minnesota.



Amy Fringer