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13 *Trust and the Class (Additional Counsel not listed)*

14  
15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 COUNTY OF SAN FRANCISCO

17 UFCW & Employers Benefit Trust, on behalf  
of itself and all others similarly situated  
18  
19 Plaintiffs,  
20 vs.  
21 Sutter Health, et al.,  
22 Defendants.

Case No. CGC 14-538451  
Consolidated with  
Case No. CGC-18-565398

**DECLARATION OF MATTHEW RUAN IN  
SUPPORT OF PLAINTIFFS' COUNSEL'S  
MOTION TO EXCUSE TARDINESS OF  
OTHERWISE VALID LATE CLAIMS**

23 People of the State of California, ex rel.  
Xavier Becerra,  
24  
25 Plaintiff,  
26 vs.  
27 Sutter Health,  
28 Defendant.

Date: November 5, 2021  
Time: 11:00 a.m.  
Dept.: 304  
Judge: Hon. Anne-Christine Massullo

Action Filed: April 7, 2014

1 I, Matthew W Ruan, declare as follows:

2 I am an attorney admitted to practice before this Court. I am Of Counsel at Cohen Milstein  
3 Sellers & Toll PLLC (“CMST”), attorneys of record for Plaintiff UFCW & Employers Benefit  
4 Trust and the Plaintiff Class. I have personal knowledge of the facts set forth below and, if called  
5 as a witness, I could and would competently testify to the matters stated herein. I make this  
6 declaration in support of Plaintiffs’ Counsel’s Motion to Excuse Tardiness of Otherwise Valid  
7 Late Claims.

8 1. Class counsel have received 45 claim forms that were submitted online or  
9 postmarked after the May 28, 2021 deadline. Based on Class Counsel’s review, only seven of the  
10 45 claim forms establish the claimant’s membership in the Class. The latest of these seven claim  
11 forms was submitted on August 25, 2021.

12 2. Attached as Exhibit 1 is a list of the Doc\_ID numbers (unique identifiers Class  
13 Counsel and the Claims Administrator have assigned to each claimant) associated with the seven  
14 claimants that submitted an otherwise valid claim form after the May 28, 2021 deadline. I am  
15 submitting Doc\_ID numbers instead of entity names as at least one claimant has indicated that it  
16 does not wish to have its name revealed in a public filing. Exhibit 1 also indicates when each  
17 claim form was received and describes the reasons provided to me by each claimant as to why the  
18 claim form was submitted after the May 28, 2021 deadline.

19 3. After the Court indicated its intention to grant final approval to the Settlement, but  
20 prior to receiving the Court’s August 27, 2021 Order granting final approval, Class Counsel, in an  
21 effort to process claim forms expeditiously, informed these seven claimants that their claims were  
22 accepted. However, if this Court decides not to excuse the tardiness of their claims, Class Counsel  
23 will so advise them.

24 4. Accepting the seven late claims would not delay the processing of the timely claim  
25 forms.

26 5. While claims processing is ongoing, claim forms submitted by 415 other entities  
27 already have been accepted, such that the seven claims would constitute a tiny fraction of the total  
28 accepted claims.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 1st day of October 2021, in Brooklyn, New York.

  

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Matthew W Ruan

# **EXHIBIT 1**

LIST OF ENTITIES SUBMITTING LATE-FILED CLAIMS

<u>Doc ID</u>	<u>Date Claim Form Postmarked / Received</u>	<u>Reason Provided For Late Filing</u>
344	<p>Postmarked 6/2/2021</p> <p>Received 6/7/2021</p>	<p>Claimant insists a claim form was submitted online prior to expiration of the May 28, 2021 deadline and that the mailed claim form, postmarked June 2, 2021, was merely a backup for our records.</p> <p>However, the Claims Administrator has no record of the submission and claimant did not receive the electronically generated confirmation email sent to all entities submitting claim forms through the online module.</p>
351	<p>Received (email) 7/8/2021</p>	<p>“[Claimant 351] is a class member of the UFCW &amp; Employers Benefit Trust v. Sutter Health Class Action Lawsuit, but [Claimant 351] did not receive a class notice or claim form that we had been waiting for. We are now sending the attached Proof of Claim and Releases form.”</p> <p>– Email from Claimant 351 received July 8, 2021</p>
353	<p>Postmarked 7/16/2021</p> <p>Received 7/20/2021</p>	<p>“Due to the pandemic, closure of our office, layoffs, staff shortages and mail routing errors our claim paperwork was misplaced.</p> <p>I sincerely apologize for the delay in filing and appreciate your efforts to approve our claim.”</p> <p>– Email from Claimant 353 received September 29, 2021</p>
354	<p>Postmarked 7/19/2021</p> <p>Received 7/21/2021</p>	<p>“The company has a complicated merger and acquisition history with multiple subsidiaries. Although notice was mailed to the company, it was not received by the personnel with authority to act on it and the notice was not directed to the appropriate subsidiary. Thus, the company only recently learned that it was eligible to make a claim. Given that the company has proceeded in good faith to submit a claim as quickly as possible and other class members are not prejudiced, the company respectfully requests its claim be approved and processed.”</p>

LIST OF ENTITIES SUBMITTING LATE-FILED CLAIMS

		<p>– Email from Outside Counsel for Claimant 354 received September 30, 2021</p>
355	<p>Received (email) 7/16/2021</p>	<p>“I understand the stated deadline to submit a claim form was May 28, 2021, however, the Notice of Proposed Settlement was not sent to my attention and I did not receive a copy of the claim form until this week.”</p> <p>– Email from Claimant 355 received July 16, 2021</p>
356	<p>Received (email) 8/25/2021</p>	<p>“This confirms [Claimant 356] has been diligently following the Sutter class action lawsuit since it was first notified that it may qualify as a class member on April 17, 2018. Since then, [Claimant 356] has continued to receive notices related to the class action, and Plan counsel has continued to periodically check to see if there are any required actions of [Claimant 356].</p> <p>On March 9, 2021, [Claimant 356] and counsel checked again whether there are any required actions after hearing about the settlement reached between the parties. At that time, [Claimant 356] was informed that the settlement still needs to be approved by the courts before any notices will go out to class members about filing claims. Unfortunately, we don’t recall ever receiving the claim form, and there are no [Claimant 356] or counsel records showing receipt of same. As a result, [Claimant 356] was not able to file its claim by the May 28, 2021 deadline.</p> <p>On August 24, 2021, [Claimant 356] counsel follow-up with your office to confirm the status of the settlement, and it was at that time that we were first made aware of the May 28, 2021 filing deadline. Once it was informed, [Claimant 356] completed the claim form immediately and submitted it the next day. We are requesting acceptance of the claim form based on the lack of notice, which may be attributable in part to the wide-spread mailing issues that we’ve been experiencing during the Covid pandemic, as well as remote working for the majority of our staff.”</p> <p>– Email from Claimant 356 received September 30, 2021</p>

LIST OF ENTITIES SUBMITTING LATE-FILED CLAIMS

800002102	Submitted online 5/29/2021	<p>“Unfortunately, I missed the deadline because I forgot. It was on my to do list to complete but the pandemic has significantly increased my work load and I addressed other work priorities first. It was an error on my part that we missed the filing deadline. I’m very sorry for the hassle this has caused. There’s really no other explanation for being a day late.”</p> <p>– Email from Claimant 800002102 received September 29, 2021</p>
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