



State Of California
Business, Transportation And Housing Agency
DEPARTMENT OF CORPORATIONS
California's Investment and Financing Authority

www.corp.ca.gov

Arnold Schwarzenegger
Governor

Preston DuFauchard
California Corporations Commissioner

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NOTIFICATION UNDER THE CLASS ACTION FAIRNESS ACT OF 2005

This Release provides guidance for notifying the Department of Corporations of pending class action settlements under the Class Action Fairness Act of 2005 (CAFA) (28 U.S.C. Sections 1332(d), 1453, and 1711 – 1715).

CAFA – In General

Enacted by Congress during 2005, CAFA changes class action practice in state and federal courts throughout the United States. One of CAFA's provisions requires that governmental officials be notified of pending class actions within a specified period of time.

Specifically, within 10 days of filing a proposed class action settlement in court, each defendant must serve appropriate federal and state officials in any state where one class member resides.

Appropriate State Official Under CAFA

“Appropriate state official” under CAFA means the person in the state who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in that state, if some or all of the matters alleged in the class action are subject to regulation by that person. (28 U.S.C. Section 1715(a)(2).)

The California Corporations Commissioner currently has administrative and enforcement authority in the following state laws:

- Bucket Shop Law (Corporations Code Section 29000 et seq.)
- California Commodity Law of 1990 (Corporations Code Section 29500 et seq.)
- California Deferred Deposit Transaction Law (Financial Code Section 23000 et seq.)
- California Finance Lenders Law (Financial Code Section 22000 et seq.)

- California Financial Information Privacy Act (Financial Code Section 4050 et seq.)
- California Residential Mortgage Lending Act (Financial Code Section 50000 et seq.)
- Capital Access Company Law (Corporations Code Section 28000 et seq.)
- Check Sellers, Bill Payers and Proraters Law (Financial Code Section 12000 et seq.)
- Corporate Securities Law of 1968 (Corporations Code Section 25000 et seq.)
- Covered Loan Law (Financial Code Section 4970 et seq.)
- Escrow Law (Financial Code Section 17000 et seq.)
- Franchise Investment Law (Corporations Code Section 31000 et seq.)
- Securities Depository Law (Financial Code Section 30000 et seq.)
- Insurance Code Section 1280.7 relating to physician indemnity arrangements

When to Notify the Department of Corporations Pursuant to CAFA

If the pending class action settlement involves a matter that is within the Department of Corporations' regulatory or licensing authority and at least one class member resides in California, each defendant must serve the Department of Corporations within 10 days of filing a proposed class action settlement. (28 U.S.C. Section 1715(b).)

What to Provide to the Department of Corporations

The Department of Corporations must be given a notice of proposed settlement that includes:

1. A copy of the complaint, any materials filed with the complaint, and any amended complaints (except when the materials are made electronically available through the Internet and the notice includes instruction on how to electronically access this material);
2. Notice of any scheduled judicial hearing;
3. Any proposed or final notification to class members of their rights to opt out or a statement that no such right exists;
4. Any proposed or final settlement;
5. Any settlement or other agreement contemporaneously made between class counsel and defendants' counsel;
6. Any final judgment or notice of dismissal;
7. If feasible, the names of class members residing in each state and their proportionate share of the settlement or, if not feasible, a reasonable estimate of the number of class members in each state and their proportionate share of the settlement, as specified; and
8. Any written judicial opinion related to material in numbers 3 through 6, above.

(See 28 U.S.C. Section 1715(b)(1)-(8).)

Where to Serve the Department of Corporations

Send the above information to:

California Corporations Commissioner
Department of Corporations
Attention: Office of Legislation and Policy
1515 K Street, Suite 200
Sacramento, California 95814-4052
Phone: (916) 322-3553
Fax: (916) 322-5875

Preston DuFauchard
California Corporations Commissioner

By _____
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(916) 322-3553