

1 Marc I. Machiz  
R. Joseph Barton – CA SBN 212340  
2 **Cohen, Milstein, Hausfeld & Toll, P.L.L.C.**  
1100 New York Ave., NW, Suite 500  
3 Washington, DC 20005-3964  
Telephone: (202) 408-4600  
4 Facsimile: (202) 408-4699

5 Jeffrey Lewis – CA SBN 66587  
Vincent Cheng – CA SBN 230827  
6 **Lewis, Feinberg, Lee Renaker & Jackson, P.C.**  
1330 Broadway, Suite 1800  
7 Oakland, CA 94612  
Telephone: (510) 839-6824  
8 Facsimile: (510) 839-7839

9 Attorneys for Plaintiff and the Class

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

13 **JAMES W. SIMPSON**, individually and  
14 on behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 **FIREMAN’S FUND INSURANCE**  
18 **COMPANY** et al.,

19 Defendant.

Case No. C05-00225 CW

**[PROPOSED] ORDER APPROVING  
FINAL DISTRIBUTION OF  
SETTLEMENT FUND AND  
APPLICATION FOR CLAIMS  
ADMINISTRATOR’S FEES AND  
EXPENSES**

Date: [no request for hearing]  
Time: [no request for hearing]  
Place: Courtroom 2, 4th Floor

**Hon. Claudia Wilken**

22  
23 This comes before the Court upon Plaintiff’s Unopposed Motion Approval for Final  
24 Distribution of Settlement Fund and Application for Claims Administrator’s Fees and Expenses.  
25 After review of the Motion and the pertinent parts of the record, IT IS HEREBY ORDERED as  
26 follows:

27 1. That to the extent defined in the Settlement Agreement attached hereto as Exhibits  
28 A and B and incorporated herein by reference, the terms in this Order shall have the meanings set

1 forth therein.

2 2. That Plaintiff's counsel shall transfer the Gross Settlement Fund, including all  
3 interest earned thereon, to the Berdon Claims Administration LLC ("Berdon"), the Claims  
4 Administrator, within 15 days of the date of this Order;

5 3. That Berdon shall place in a Gross Settlement Fund transferred in an account until  
6 final distribution.

7 4. That out of the Gross Settlement Fund transferred, Berdon shall be paid (a)  
8 \$10,000.00 for claims administration fee, and (b) \$2,223.57 for current and future out-of-pocket  
9 expenses, plus (c) \$7000.00 for a future fee to be incurred for tax return preparation.

10 5. That by no later than 45 days of the date of this Order, and in accordance with the  
11 distribution formula set forth in the Plan of Allocation (D.E. #85-10) and the Class Notice (D.E.  
12 85-4) approved by the Court, Berdon shall distribute the balance of the Gross Settlement Fund,  
13 that is, the Net Settlement Fund, on a *pro rata* basis to the ninety-two (92) Authorized Claimants  
14 with Recognized Claims listed in Exhibit C to the Declaration of Michael Rosenbaum in Support  
15 of Plaintiff's Unopposed Motion for an Order Authorizing Distribution of Settlement Fund.

16 6. That the checks for distribution to the Authorized Claimants shall bear the notion  
17 "Non-Negotiable After 90 Days of the Check Date";

18 7. That Berdon shall set aside a reserve of an appropriate amount for possible federal  
19 income taxes on the net interest income earned by the Gross Settlement Fund, if any, and to pay  
20 any applicable taxes as they become due from the reserve;

21 8. That at the earlier of the time that all checks issued have been cashed or one year  
22 after the initial distribution of the Net Settlement Fund to Authorized Claimants, Berdon shall  
23 return any remaining monies in the reserve to Defendant FFIC;

24 9. That one (1) year after the initial distribution of the Net Settlement Fund to the  
25 Authorized Claimants, Berdon shall destroy all claim forms and related correspondence and that  
26 Berdon shall retain all administrative records, including its computer database of all claimants in

27 //

28 //

1 this action for a period of three (3) years after the distribution of the Net Settlement Fund.

2

3 **IT IS SO ORDERED.**

4

5 Dated: \_\_\_\_\_, 2008

\_\_\_\_\_  
Claudia Wilken  
United States District Court Judge

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28