



FILED
ALAMEDA COUNTY

OCT 31 2008

CLERK OF THE SUPERIOR COURT

By _____ Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY ALAMEDA

ALESSANDRO N. LATORA, on behalf
of himself and all other similarly situated

Plaintiff,

vs.

UNITRIN DIRECT INSURANCE
COMPANY

Defendant.

Case No. VG 06275384

Hon. Steven A. Brick

**ORDER CONDITIONALLY
CERTIFYING SETTLEMENT CLASS,
PRELIMINARILY APPROVING
SETTLEMENT AND APPROVING
FORM OF NOTICE AND DIRECTING
NOTICE TO BE SENT TO THE
SETTLEMENT CLASS**

Plaintiff Alessandro N. Latora ("Plaintiff") and Defendant Unitrin Direct Insurance Company ("Defendants") have entered into a Settlement Agreement and Release dated October 8, 2008 (the "Settlement Agreement") to settle the above-captioned action ("Action") and have filed a Joint Motion for Preliminary Approval of the Proposed Settlement (the "Motion for Preliminary Approval"). The Settlement Agreement, together with the documents and exhibits incorporated herein, sets forth the terms and conditions for a proposed settlement and dismissal with prejudice of the Action.

Having reviewed the Settlement Agreement and exhibits, the Motion for Preliminary Approval, the pleadings and other papers on file in this action, and statements of counsel, the Court finds that the Motion for Preliminary Approval should

**ORDER CONDITIONALLY CERTIFYING SETTLEMENT CLASS, PRELIMINARILY
APPROVING SETTLEMENT AND APPROVING FORM OF NOTICE AND
DIRECTING NOTICE TO BE SENT TO THE SETTLEMENT CLASS**

1 be GRANTED and that this Order should be entered. The Court hereby gives its
2 preliminary approval to the Settlement Agreement, subject to the Fairness Hearing for
3 purposes of deciding whether to grant final approval to the settlement. Terms and
4 phrases used in this Order shall have the same meaning ascribed to them in the
5 Settlement Agreement.
6

7 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

8 1. The Court conditionally certifies for settlement purposes only the
9 following Settlement Class: "All California policyholders of Unitrin who filed a claim
10 between June 20, 2002 and December 31, 2007, where the claim was paid by Unitrin
11 subject to a betterment adjustment." Excluded from this Settlement Class is each
12 policyholder who would otherwise be a Class Member except for the timely and proper
13 exclusion from the Settlement Class. The Court expressly reserves the right to determine,
14 should the occasion arise, whether the above-captioned Action may be certified as a class
15 action for purposes other than settlement. The Court also recognizes Unitrin's right to
16 assert that the above-captioned Action may not be certified as a class action except for
17 settlement purposes.
18

19 2. The Court hereby appoints the Plaintiff, Alessandro N. Latora, as
20 representative of the Settlement Class.
21

22 3. The Court hereby appoints the Law Offices of William E. Kennedy to act
23 as class counsel.

24 4. The Court preliminarily approves the settlement as sufficiently fair,
25 reasonable and adequate to allow dissemination of notice of the proposed settlement to
26 the members of the Settlement Class. This determination permitting notice to the
27

1 Settlement Class is not a final finding, but a determination that there is probable cause to
2 submit the proposed Settlement Agreement to the Settlement Class members and to hold
3 a Fairness Hearing to consider the fairness, reasonableness, and adequacy of the proposed
4 Settlement.

5
6 5. The Court approves the form of the Notice of Proposed Class Action
7 Settlement, and Release of Claims ("Mailed Notice") without material alteration from the
8 form of Exhibit 2 to Settlement Agreement. A finalized version of the Mailed Notice is
9 attached to this Order as Exhibit A. The Court directs the Parties to cause the
10 Administrator to mail the Mailed Notice on or before December 5, 2008, unless extended
11 by Order of this Court, to all persons whose names and last known addresses are
12 reasonably and reliably ascertainable from Unitrin's computer or electronic databases as
13 persons who fall within the definition of the Settlement Class set forth in Paragraph 1.
14 The Court further directs the Parties to cause the Administrator to promptly remail any
15 notices returned by the Postal Service with forwarding addresses that are received by the
16 Administrator.
17 Administrator.

18 6. The Court finds that dissemination of the Mailed Notice in the manner set
19 forth herein and in the Settlement Agreement meets the requirements of due process and
20 California law. The Court further finds that the Mailed Notice is reasonable, and
21 constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; is
22 the best practicable notice; and is reasonably calculated, under the circumstances, to
23 apprise members of the Settlement Class of the pendency of the Action and of their right
24 to object or to exclude themselves from the proposed settlement.
25
26

1 all evidence the member of the Settlement Class wishes to introduce in support of his or
2 her objection, or be forever barred from objection.

3 11. Any attorney hired by a member of the Settlement Class at the Settlement
4 Class member's expense for the purpose of objecting to the Settlement Agreement or to
5 the proposes settlement, or to the attorneys' fee award, must provide the Administrator
6 (who shall forward it to Plaintiff's Counsel and Unitrin's Counsel) and file with the Clerk
7 of the Court a notice of appearance no later than February 3, 2009.

9 12. Any member of the Settlement Class who files and serves a timely written
10 objection and who intends to make an appearance the Fairness Hearing, either in person
11 or through personal counsel hired at the Settlement Class member's expense, must
12 provide the Administrator (who shall forward it to Plaintiff's Counsel and Unitrin's
13 Counsel) and file with the Court a notice of intention to appear no later than February 3,
14 2009.

16 13. The Administrator shall promptly furnish Plaintiff's Counsel, Unitrin's
17 Counsel and any counsel for member's of the Settlement Class with copies of any and all
18 objections, written requests for exclusion, notices of intention to appear, or other
19 communications that come into its possession (except as expressly provided in the
20 Settlement Agreement).

22 14. A Fairness Hearing shall be held on February 19, 2009 at 3:00 p.m. before
23 the undersigned for the purposes of determining (a) whether the proposed settlement is
24 fair, reasonable, and adequate and should be finally approved by the Court; (b) whether to
25 issue a Final Order and Judgment without material alteration from Exhibit 3 to the
26 Settlement Agreement; and (c) whether to approve the Attorneys Fee Award to Plaintiff's

1 Counsel and incentive award to Alessandro N. Latora as set forth in the Settlement
2 Agreement.

3
4 15. The Court reserves the right to adjourn or continue the Fairness Hearing,
5 or any further adjournment or continuance thereof, without further notice other than
6 announcement at the Fairness Hearing or at any adjournment or continuance thereof, and
7 to approve the settlement with modifications, if any, consented to by Plaintiffs Counsel
8 and Defendant without further notice.

9
10 Dated: 10/31/2008



11 _____
12 Judge Steven A. Brick

EXHIBIT A

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY ALAMEDA

ALESSANDRO N. LATORA, on behalf
of himself and all other similarly situated

Plaintiff,

vs.

UNITRIN DIRECT INSURANCE
COMPANY

Defendant.

Case No. VG 06275384

Hon. Steven A. Brick

**NOTICE OF PROPOSED CLASS
ACTION SETTLEMENT AND
RELEASE OF CLAIMS**

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY ALAMEDA

If you have been a policyholder of Unitrin Direct Insurance Company and made a claim for damage to your car, and if you were paid less than the estimated amount it cost to repair your car, then you could get payment from a class action settlement.

A California State Court authorized this notice. This is not a solicitation from a lawyer.

- The settlement will provide approximately \$168,000 as a whole to reimburse Unitrin auto policy holders for prior adjustments to their claims for auto damage.
- To qualify, you must be a Unitrin policyholder and have sustained damage to your car, and you must have received less than the estimated amount it cost to repair your car because of Unitrin's practice of adjusting claims for damage based on the actual physical condition prior to the loss (a "betterment adjustment").
- Your legal rights are affected whether you act or don't. Read this notice carefully.

<u>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</u>	
DO NOTHING	Receive settlement payment. Give up rights to sue in another lawsuit about the legal claims in this case.
EXCLUDE YOURSELF	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against Unitrin, about the legal claims in this case.
OBJECT	Write to the Court about why you don't like the settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.

- These rights and options - **and the deadlines to exercise them** - are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

QUESTIONS? CALL 1-800-894-1679 TOLL FREE, OR VISIT www.Latora-settlement.com

BASIC INFORMATION

1. Why did I get this notice package?

You may have purchased a Unitrin auto insurance policy, and sustained loss to your vehicle. When you filed a claim for damage, Unitrin may have adjusted the amount of your claim due to the age or physical condition of your car before the loss. The practice of adjusting for the age and/or physical condition of a car is called "betterment."

The Court sent you this notice because you have a right to know about a proposed settlement of a class action lawsuit, and about your options, before the Court decides whether to approve the settlement. If the Court approves it and after objections and appeals are resolved, an administrator appointed by the Court will make the payments the settlement allows. You will be informed of the progress of the settlement.

This package explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of this case is the Superior Court of the State of California, in and for Alameda County, and the case is known as *Latora v. Unitrin Direct Insurance Company*, Case No. VG 06275384. The person who sued is called the Plaintiff, and the company he sued, Unitrin, is called the Defendant.

2. What is the lawsuit about?

The Plaintiff claims that Unitrin's application of betterment adjustments constitutes a: (1) breach of contract; (2) breach of the covenant of good faith and fair dealing; and (3) a violation of California's Business and Professions Code § 17200, *et. seq.*

The Plaintiff asked the Court to order Unitrin to pay back to each class member the total amount of betterment adjustment Unitrin applied, plus interest and punitive damages. Unitrin denies the Plaintiff's allegations; denies that it has engaged in any wrongdoing; and maintains that it consistently has acted in accordance with its insurance policies and all governing laws.

3. Why is this a class action?

In a class action, one or more people, called Class Representatives (in this case Alessandro N. Latora), sue on behalf of people who have similar claims. All these people are a Class or Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. Judge Steven A. Brick is in charge of this class action.

4. Why is there a settlement?

The Court did not decide in favor of the Plaintiff or Defendant. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial, and the people affected will get compensation. The Class Representative and his attorney think the settlement is best for everyone who is part of the Class.

QUESTIONS? CALL 1-800-894-1679 TOLL FREE, OR VISIT www.Latora-settlement.com

WHO IS IN THE SETTLEMENT

This notice is sent to people who Unitrin believes are class members according to its records.

5. How do I know if I am part of the Settlement?

Judge Brick decided that everyone who fits this description is a Class Member: *All California policyholders of Unitrin who filed a claim between June 20, 2002 and December 31, 2007, where the claim was paid by Unitrin subject to a betterment adjustment.*

THE SETTLEMENT BENEFITS - WHAT YOU GET AND WHAT YOU GIVE UP

6. What does the settlement provide?

If the proposed settlement is given final approval by the Court, Class Members will receive a payment from Unitrin in the amount of ninety-five percent (95%) of all betterment adjustments Unitrin applied, for the period from June 20, 2002 through December 31, 2007. Class Members will not receive interest or punitive damages. The total monetary value of this benefit to the Class as a whole is presently approximately \$168,000.

7. What am I giving up to get a payment or stay in the Class?

Unless you exclude yourself, you are staying in the Class, and that means that you can't sue, continue to sue, or be part of any other lawsuit against Unitrin about the legal issues in *this* case. It also means that all of the Court's orders will apply to you and legally bind you. By failing to exclude yourself from the class you also give up any right you may have to interest and punitive damages.

HOW YOU GET PAYMENT

8. How can I get payment?

You do not need to do anything in order to receive payment. If this settlement is approved you will receive a check from the plan administrator.

9. When would I get my payment?

The Court will hold a hearing on **February 19, 2009**, to decide whether to approve the settlement. If Judge Brick approves the settlement after that, there may be appeals. It's always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Please be patient.

EXCLUDING YOURSELF FROM THE SETTLEMENT

QUESTIONS? CALL 1-800-894-1679 TOLL FREE, OR VISIT www.Latora-settlement.com

If you want to keep the right to sue or continue to sue Unitrin, on your own, about the legal issues in this case, then you must take steps to get out. This called excluding yourself - or is sometimes referred to as opting out of the settlement Class.

10. How do I get out of the settlement?

To exclude yourself from the settlement, you must send a letter by mail saying that you want to be excluded from *Latora v. Unitrin*. Be sure to include: (i) your name, address, and telephone number; (ii) a statement to the effect that: "I request to be excluded from the settlement class. I understand that this exclusion means that I will not receive any monetary benefit available under the proposed settlement."; and (iii) if known, the policy number of any policies you have or had with Unitrin that are part of the proposed settlement. You must mail your exclusion request postmarked no later than **February 3, 2009 (ten (10) court days prior to the Fairness Hearing)**, to:

COURT	SETTLEMENT ADMINISTRATOR
Clerk of the Court Department 17 Alameda County Superior Court Administration Building 1221 Oak Street Oakland, California 94612	Settlement Administrator P.O. Box 91186 Seattle, Washington 98111-9286

You can't exclude yourself on the phone or by email. If you ask to be excluded, you will not get any settlement payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) Unitrin in the future about the issues in this case.

11. If I don't exclude myself, can I sue Unitrin for the same thing later?

No. Unless you exclude yourself, you give up the right to sue Unitrin for the claims that this settlement resolves. If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately. You must exclude yourself from this Class to continue your own lawsuit. Remember, the exclusion deadline is **February 3, 2009 (ten (10) court days prior to the Fairness Hearing)**.

12. If I exclude myself, can I get money from this settlement?

No. If you exclude yourself, you will not receive any money from this settlement. But, you may sue, or continue to sue, or be part of a different lawsuit against Unitrin.

QUESTIONS? CALL 1-800-894-1679 TOLL FREE, OR VISIT www.Latora-settlement.com

THE LAWYER REPRESENTING YOU

13. Do I have a lawyer in this case?

The Court asked the Law Office of William E. Kennedy to represent you and other Class Members. They are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

14. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys' fees and expenses up to \$155,000, and a payment of \$7,500 to the Class Representative Alessandro N. Latora. The Court may award less than these amounts. Unitrin will separately pay the fees and expenses that the Court awards. These amounts will not come out of the fund for payments to Class Members. Unitrin has agreed not to oppose these fees and expenses. Unitrin will also separately pay the costs to administer the settlement.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you don't agree with the settlement or some part of it.

15. How do I tell the Court that I don't like the settlement?

If you're a Class Member, you can object to the settlement if you don't like some or all of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to *Latora v. Unitrin*. Be sure to include: (i) your name, address, and telephone number, and (ii) if known, the policy number of any policies you have or had with Unitrin that are part of the proposed settlement. You must also include specific reasons, including any legal support or evidence you wish to bring to the attention of the Court. Mail the objection to these two different places postmarked no later than **February 3, 2009 (ten (10) court days prior to the Fairness Hearing)**:

COURT	SETTLEMENT ADMINISTRATOR
Clerk of the Court	Settlement Administrator
Department 17	P.O. Box 91186
Alameda County Superior Court	Seattle, Washington 98111-9286
Administration Building	
1221 Oak Street	
Oakland, California 94612	

16. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

QUESTIONS? CALL 1-800-894-1679 TOLL FREE, OR VISIT www.Latora-settlement.com

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak according to the instructions below, but you don't have to.

17. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at **3:00 p.m. on Thursday, February 19, 2009**, at the Superior Court of the State of California, in and for Alameda County, Administration Building, 1221 Oak Street, Oakland, California 94612. At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Brick will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel and how much to award to Alessandro N. Latora. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

18. Do I have to come to the hearing?

No. Class Counsel will answer questions Judge Brick may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

19. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *Latora v. Unitrin*." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked no later than **February 3, 2009 (ten (10) court days prior to the Fairness Hearing)**, and be sent to the Clerk of the Court and the Settlement Administrator, at the two addresses on page 5, in question 15. You cannot speak at the hearing if you excluded yourself.

IF YOU DO NOTHING

20. What happens if I do nothing at all?

If you do nothing, you will receive a payment consisting of 95% of any betterment adjustment Unitrin previously made to claims submitted for damage to your car. You will not receive any interest on this money, nor punitive damages. Unless you exclude yourself, you won't be able to start a lawsuit, continue a lawsuit, or be part of any other lawsuit against Unitrin about the legal issues in this case, ever again.

QUESTIONS? CALL 1-800-894-1679 TOLL FREE, OR VISIT www.Latora-settlement.com

GETTING MORE INFORMATION

21. Are there more details about the settlement?

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by writing to P.O. Box 91186, Seattle, Washington 98111-9286, or by visiting www.Latora-settlement.com.

22. How do I get more information?

You can call 1-800-894-1679 toll free; write to P.O. Box 91186, Seattle, Washington 98111-9286, or by visiting www.Latora-settlement.com, where you will find answers to common questions about the settlement.

Dated: _____

Judge Steven A. Brick

QUESTIONS? CALL 1-800-894-1679 TOLL FREE, OR VISIT www.Latora-settlement.com