

1 KAMALA D. HARRIS  
Attorney General of California  
2 ANNE MICHELLE BURR  
Supervising Deputy Attorney General  
3 KAREN W. YIU  
Deputy Attorney General  
4 State Bar No. 230710  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 879-1245  
Fax: (510) 622-2270  
7 E-mail: Karen.Yiu@doj.ca.gov  
*Attorneys for Applicant*  
8 *Insurance Commissioner of the State of California*

9 ROBERT N. NUNNALLY, JR.  
State Bar Number 134151  
10 WISENER NUNNALLY ROTH, LLP  
245 Cedar Sage Drive, Suite 240  
11 Garland, Texas 75040  
12 Telephone: (972) 530-2200  
Facsimile: (972) 530-7200  
13 *Attorneys for Applicant*  
14 *Insurance Commissioner of the State of California*

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

18 **INSURANCE COMMISSIONER OF THE**  
19 **STATE OF CALIFORNIA,**  
20 Applicant,  
21 v.  
22 **WESTERN EMPLOYERS INSURANCE**  
23 **COMPANY,**  
24 Respondent.

Case No. CPF-97-984281

**INSURANCE COMMISSIONER OF THE**  
**STATE OF CALIFORNIA'S NOTICE OF**  
**MOTION TO SET DATE FOR**  
**LIQUIDATION OF CONTINGENT AND**  
**UNDETERMINED CLAIMS FOR**  
**PURPOSES OF DISTRIBUTION**

Hearing Date: December 15, 2016  
Time: 9:30 a.m.  
Dept: 302  
Judge The Hon. Harold Kahn  
Reservation #: 10141215-15

27 PLEASE TAKE NOTICE that on December 15, 2016 at the hour of 9:30 a.m., or as  
28 soon thereafter as the matter may be heard in Department 302 of the San Francisco County

**ELECTRONICALLY**  
**FILED**  
*Superior Court of California,*  
*County of San Francisco*  
**10/17/2016**  
**Clerk of the Court**  
BY: JUDITH NUNEZ  
Deputy Clerk

1 Superior Court, located at 400 McAllister St., Third Floor, San Francisco, CA 94102, the  
2 Insurance Commissioner as Liquidator of Western Employers Insurance Company will move for  
3 an Order setting the last date by which all unliquidated and contingent claims (other than  
4 administrative claims) must be liquidated and definitely determined, pursuant to Insurance Code  
5 section 1025. This motion will seek to set April 28, 2017 as the last date for liquidation of claims  
6 pursuant to Insurance Code section 1025, and July 3, 2017 as the last day for claimants, other  
7 than administrative claimants, to file claims updates forms with the Insurance Commissioner as  
8 Liquidator showing their claims were liquidated and definitely determined as of April 28, 2017.

9 This motion is and will be based upon this notice, the memorandum of points and  
10 authorities filed in support thereof, the Declaration of John Battle filed in support thereof, the  
11 previous orders, pleadings and papers on file in this action, and upon any oral argument of the  
12 parties at the hearing.

13 Dated: October 14, 2016

Respectfully Submitted,

14  
15 KAMALA D. HARRIS  
Attorney General of California  
16 ANNE MICHELLE BURR  
Supervising Deputy Attorney General

17  
18 /s/ KAREN W. YIU  
KAREN W. YIU  
Deputy Attorney General  
19 *Attorneys for Applicant*  
20 *Insurance Commissioner of the State of*  
21 *California*

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4 State Bar No. 230710  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
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Fax: (510) 622-2270  
7 E-mail: Karen.Yiu@doj.ca.gov  
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245 Cedar Sage Drive, Suite 240  
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21 v.  
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23 **COMPANY,**

24 Respondent.

Case No. CPF-97-984281

**INSURANCE COMMISSIONER OF THE**  
**STATE OF CALIFORNIA'S MOTION**  
**TO SET DATE FOR LIQUIDATION OF**  
**CONTINGENT AND UNDETERMINED**  
**CLAIMS FOR PURPOSES OF**  
**DISTRIBUTION**

Hearing Date: December 15, 2016  
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*Superior Court of California,*  
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**10/17/2016**  
**Clerk of the Court**  
BY: JUDITH NUNEZ  
Deputy Clerk

1 **INTRODUCTION**

2 Applicant Insurance Commissioner of the State of California (“Insurance Commissioner”),  
3 in his capacity as Liquidator of Western Employers Insurance Company, files this motion to take  
4 another step toward closing this estate. Western Employers Insurance Company (“WEIC”) has  
5 been in liquidation since April 19, 1991. This Court previously set the proof of claim deadline at  
6 November 15, 1991. Thereafter, this Court set August 31, 2010 as the deadline by which all  
7 holders of claims, other than workers’ compensation claims, which include contingent and  
8 undetermined claims, had to submit detailed claims updates. Now the Insurance Commissioner  
9 asks the Court to set the date by which claimants with open proofs of claim (other than  
10 administrative claims) seeking unliquidated and contingent claims have to liquidate and make  
11 definite their claims, and a deadline by which the claimants must file a form detailing the  
12 liquidated claims.

13 Insurance Code section 1025 requires that while unliquidated and contingent claims may be  
14 filed, such claims do not share in any distribution to creditors until these claims are “definitely  
15 determined, proved and allowed.”<sup>1</sup> WEIC underwrote lines of business which could result in  
16 reporting long after the policy period—termed “long-tailed policies.” However, this estate has  
17 been open since 1991, providing many years of opportunity to permit claims to be liquidated and  
18 determined. The time has now come to set a deadline for claims to be liquidated and determined,  
19 so that this estate may process its final proof of claims and move toward closing. Accordingly,  
20 the Insurance Commissioner requests that this Court order claimants with open proofs of claim  
21 (other than administrative claims) seeking unliquidated and contingent claims to liquidate and  
22 make definite their claims by April 28, 2017, and file a proof of claims update form with the  
23 Insurance Commissioner as Liquidator by July 3, 2017, in which the claimants detail and support  
24 their liquidated claims.

25  
26  
27 \_\_\_\_\_  
28 <sup>1</sup> All further statutory references to the Insurance Code will be by section number only.

1 **FACTS**

2 WEIC is a California insurance company that has been in liquidation since April 19, 1991.  
3 (Declaration of John Battle, (“Battle Dec.”) ¶ 6.) WEIC was originally a New York-domiciled  
4 insurer known as Leatherby Insurance Company, and was re-domesticated to California in the  
5 late 1970's. (Battle Dec., ¶ 5.) After four years of being in run-off liquidation, WEIC determined  
6 it could no longer continue the run-off without the assistance of the California Department of  
7 Insurance. (Battle Dec., ¶ 6.)

8 WEIC primarily wrote workers' compensation and general liability insurance. (Battle Dec.,  
9 ¶ 7.) The workers' compensation business consists of business which is covered by state guaranty  
10 associations pursuant to statute. The general liability business includes claims which are covered  
11 by guaranty associations, claims which are not covered by guaranty associations, and a large  
12 number of claims which are partially covered by guaranty associations. (Battle Dec., ¶ 7.) The  
13 general liability claims include a substantial number of claims for coverage for toxic tort matters,  
14 such as asbestos and environmental claims. (Battle Dec., ¶ 8.) Because WEIC wrote coverage on  
15 very long-tail exposures (asbestos, tobacco, etc.), its policyholders have been subject to extensive  
16 litigation associated with claims that exceeded state guaranty fund limits or were altogether not  
17 covered. (Battle Dec., ¶ 8.)

18 The initial claims bar date for proofs of claim to be filed against the WEIC estate was  
19 November 15, 1991. (Battle Dec., ¶ 9.) The Insurance Commissioner, acting as Liquidator of  
20 WEIC, received 9,608 proofs of claim by the claims bar date, of which 4966 were in lines of  
21 business other than workers' compensation. (Battle Dec., ¶ 9.)

22 On February 2, 2010, this Court ordered that those claimants who filed contingent and  
23 unliquidated proofs of claims update their proofs of claims to advise the liquidator of the current  
24 status of their claims by August 31, 2010. (Battle Dec., ¶ 11.) To further advance the closing of  
25 the estate, the Insurance Commissioner now seeks to take the next step in the process by setting  
26 the last date by which all claims (other than administrative claims) which seek unliquidated and  
27 contingent claims must be liquidated. (Battle Dec., ¶ 10.)

28

1 **I. ARGUMENT**

2 **A. THE COURT SHOULD SET DEADLINES BY WHICH**  
3 **UNDETERMINED AND UNLIQUIDATED CLAIMS MUST BE**  
4 **DETERMINED AND VALUED**

5 Section 1023 requires the filing of sworn proofs of claims. The statute also provides that a  
6 “claim must set forth, under oath, on the form prescribed by the commissioner . . . (f) such other  
7 data or supporting documents as the commissioner requires.” (§ 1023, subd. (f).) Section 1025  
8 states that claims “founded upon unliquidated or undetermined demands . . . shall not share in any  
9 distribution to creditors . . . until such claims have been definitely determined, proved and  
10 allowed.” (§ 1025.) Section 1037 delegates to the Insurance Commissioner broad authority to  
11 take such steps as may be necessary to complete the liquidation, while section 1020 of the  
12 Insurance Code grants this Court authority to enter orders to prevent interference with the  
13 Insurance Commissioner in the performance of his duties as Liquidator.

14 The Insurance Commissioner as Liquidator and the Court establish approval and oversight  
15 procedures that are reasonable and make sense given the particular needs of each insolvent  
16 insurer estate, and that facilitate the Court's assessment of whether the Insurance Commissioner is  
17 properly exercising his broad discretion as statutory liquidator. (See, e.g., *In re Executive Life*  
18 *Ins. Co.* (1995) 32 Cal.App.4th 344, 358 [court reviews liquidator's decisions under the abuse of  
19 discretion standard of review].) The Insurance Commissioner’s ultimate duty is to collect the  
20 assets and distribute them ratably among creditors. (*W.J. Jones & Sons v. Independence* (1942) 52  
21 Cal.App.2d 374, 378-379.)

22 The claimants against the WEIC estate include a substantial number of claimants whose  
23 general liability claims were not yet fully developed at the time of the filing of the proof of claim.  
24 In some instances, claimants had been named in litigation arising from toxic tort matters, but the  
25 litigation had not concluded or been resolved. In other cases, the claimants held excess policies  
26 whose coverage may not have attached as of the date of liquidation. (Battle Dec., ¶ 9.)  
27 Policyholders are permitted to file "contingent and unliquidated" claims in California.  
28 (*Garamendi v. Mission* (1993) 15 Cal.App.4th 1277, 1286.) This allows them to preserve the  
"tail" coverage on their policies.

1           Contingent and unliquidated claims must be valued and made certain within the meaning  
2 of the Insurance Code. (*Quackenbush v. Mission Ins. Co.* (1996) 46 Cal.App.4th 458, 467.) In that  
3 Mission Insurance Company liquidation, the Insurance Commissioner proposed an Amended  
4 Final Liquidation Dividend Plan. This plan provided for claimants to provide claims updates to  
5 the Insurance Commissioner as liquidator. The plan also provided that at some point, the  
6 Insurance Commissioner would apply for an order which set the Insurance Code section 1025  
7 valuation date. This plan has been upheld by the Court of Appeal. (*Quackenbush v. Mission*  
8 *Insurance Company* (1998) 62 Cal.App.4th 797.)

9           This case has followed the same procedure. On the Insurance Commissioner's motion, this  
10 Court set a date of August 31, 2010 by which those claimants who filed contingent and  
11 unliquidated proofs of claims should have updated their proofs of claims. Now, the time has come  
12 to set a section 1025 valuation date. The Insurance Commissioner proposes contingent and  
13 unliquidated claims must be liquidated and definitely determined by April 28, 2017, and a  
14 deadline of July 3, 2017 by which claims updates forms must be filed by those claimants who  
15 assert that their contingent and unliquidated claims have been made certain and liquidated.

16           This requested Order will have the effect of denying any such claim not liquidated and  
17 made definite within the meaning of section 1025 as of April 28, 2017, the right to share in any  
18 distribution as to the unliquidated or contingent portion of the claim. The requested Order will  
19 not operate to fix the deadline for any claim by an injured worker or insured under a workers'  
20 compensation insurance policy covered by an insurance guarantee association to make a claim  
21 against the insurance guarantee association. Moreover, the requested Order shall not prevent  
22 approval of a proof of claim as to damages liquidated by the designated liquidation date, even if  
23 the approval happens subsequent to the date set by the Court.

24           WEIC has been in liquidation over twenty-five years, and nearly six years have passed  
25 since this Court's order requiring claimants to update their claims. This procedure strikes a  
26 reasonable balance between the need to close the case and the need to permit insureds and third  
27 party claimants to liquidate as many claims as possible. The Court applies an abuse of discretion  
28 standard to the Insurance Commissioner's actions in this regard. (*Low v. Golden Eagle Ins. Co.*

1 (2002) 104 Cal.App.4th 306, 316.) In this case, the requested deadline is not an abuse of  
2 discretion. Although the order may affect some creditors, the order is appropriate given the age of  
3 this proceeding.

4 The Insurance Commissioner and the Court must balance the need to permit all claims to be  
5 liquidated with the need to achieve final closure of the estate. The Insurance Commissioner's  
6 selection as the time for liquidation of claims is an appropriate use of discretion.

7 **CONCLUSION**

8 Accordingly, the Court is requested to grant this motion, and issue an order that:

- 9 1. Sets April 28, 2017 as the last date for liquidation of claims pursuant to section 1025;  
10 2. Sets July 3, 2017 as the last day for claimants, other than administrative claimants, to  
11 file completed claims updates forms with the Insurance Commissioner as Liquidator showing  
12 their claim was liquidated and definitely determined as of April 28, 2017, using the forms  
13 prescribed by the Liquidator and attached to the proposed Order as Exhibit A;  
14 3. Authorizes the Insurance Commissioner to take such other steps to accomplish the  
15 foregoing as he may deem appropriate and consistent with this motion.

16  
17 Dated: October 14, 2016

Respectfully Submitted,

18 KAMALA D. HARRIS  
19 Attorney General of California  
20 ANNE MICHELLE BURR  
Supervising Deputy Attorney General

21 /s/ KAREN W. YIU  
22 KAREN W. YIU  
23 Deputy Attorney General  
24 *Attorneys for Applicant*  
25 *Insurance Commissioner of the State of*  
26 *California*



1 KAMALA D. HARRIS  
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4 State Bar No. 230710  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
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6 Telephone: (510) 879-1245  
Fax: (510) 622-2270  
7 E-mail: Karen.Yiu@doj.ca.gov  
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9 ROBERT N. NUNNALLY, JR.  
State Bar Number 134151  
10 WISENER NUNNALLY ROTH, LLP  
245 Cedar Sage Drive, Suite 240  
11 Garland, Texas 75040  
12 Telephone: (972) 530-2200  
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22 **WESTERN EMPLOYERS INSURANCE**  
23 **COMPANY,**

24 Respondent.

Case No. CPF-97-984281

**DECLARATION OF JOHN BATTLE IN  
SUPPORT OF INSURANCE  
COMMISSIONER OF THE STATE OF  
CALIFORNIA'S MOTION TO SET  
DATE FOR LIQUIDATION OF  
CONTINGENT AND UNDETERMINED  
CLAIMS FOR PURPOSES OF  
DISTRIBUTION**

Hearing Date: December 15, 2016

Time: 9:30 a.m.

Dept: 302

Judge The Hon. Harold Kahn

Reservation #: 10141215-15

**ELECTRONICALLY  
FILED**  
*Superior Court of California,  
County of San Francisco*  
**10/17/2016**  
**Clerk of the Court**  
BY: JUDITH NUNEZ  
Deputy Clerk

1 I, John Battle, declare:

2 1. I am employed by the Insurance Commissioner of the State of California's  
3 Conservation and Liquidation Office ("CLO") as its Chief Claims Officer. I have personal  
4 knowledge of the facts set forth herein and if called upon as a witness, I would testify as set forth  
5 below.

6 2. As the Chief Claims Officer, I supervise the CLO's Claims Department, and have  
7 done so for the past twelve years. I oversee the administration of all claims submitted by  
8 policyholders and creditors of the insolvent insurers being liquidated or conserved by the  
9 Insurance Commissioner.

10 3. I have 48 years experience in handling claims, primarily in a workers compensation  
11 and general liability environment. Prior to my employment with the CLO, I was employed in  
12 various management capacities since 1975, and later as the Vice President for Claims for the  
13 Superior National Insurance Group, Inc. and its subsidiary companies which liquidated in 2000. I  
14 have worked in a liquidation environment exclusively since Superior National's liquidation.

15 4. I am familiar with the documents and files maintained by the CLO pertinent to the  
16 liquidation of Western Employers Insurance Company ("WEIC").

17 5. WEIC was originally a New York-domiciled insurance company known as Leatherby  
18 Insurance Company. The company was re-domesticated in California in the 1970s. The company  
19 was licensed to transact insurance in 38 states.

20 6. After four years of being run-off outside a formal court liquidation process, WEIC  
21 determined that it could no longer be run-off without the assistance of the California Department  
22 of Insurance. On April 2, 1991, the Orange County Superior Court issued an order of  
23 Conservation and appointed the Insurance Commissioner as Conservator of WEIC, and  
24 subsequently Liquidator of WEIC on April 19, 1991, pursuant to Insurance Code sections 1011  
25 and 1016. The case was later transferred to this Court under Insurance Code section 1040.

26 7. WEIC primarily underwrote workers' compensation business and general liability  
27 business. The workers' compensation business consists of business which, by state statute, is  
28 largely covered by state insurance guarantee associations. The general liability business is in

1 some instances covered in whole or in part by state insurance guarantee associations, but in other  
2 instances is uncovered. The general liability business includes claims which are covered by  
3 guaranty associations, claims which are not covered by guaranty associations, and a large number  
4 of claims which are partially covered by guaranty associations.

5 8. WEIC wrote coverage on very long-tail exposures (asbestos, tobacco, etc.) and its  
6 policyholders have been subject to extensive litigation associated with claims that exceed state  
7 guaranty fund limits or were altogether not covered. The general liability claims include a  
8 substantial number of claims for coverage for toxic tort matters, such as asbestos and  
9 environmental claims.

10 9. The initial bar date for proofs of claims against WEIC was November 15, 1991. The  
11 Insurance Commissioner received 9,608 proofs of claim, of which 4,966 were in lines of business  
12 other than workers' compensation. The claimants against the WEIC estate include a substantial  
13 number of claimants whose general liability claims were not yet fully developed. In some  
14 instances, claimants had been named in litigation arising from toxic tort matters, but the litigation  
15 had not concluded or been resolved. In other cases, the claimants held excess policies whose  
16 coverage may not have attached as of the date of liquidation.

17 10. The Insurance Commissioner has collected substantial assets which may be utilized to  
18 make distributions, and has made substantial progress in adjusting the outstanding proofs of  
19 claims. In addition, the Insurance Commissioner has, with court approval, made early access  
20 distributions to guarantee associations and an interim distribution to claimants. The Insurance  
21 Commissioner has also obtained a release from super-priority claims from the United States  
22 Department of Justice. To further advance the closing of the estate, the Insurance Commissioner  
23 now seeks to take the next step in the process by setting the last date by which all claims (other  
24 than administrative claims) which seek unliquidated and contingent claims must be liquidated and  
25 made certain.

26 11. On February 2, 2010, the Court ordered that those claimants who filed contingent and  
27 unliquidated proofs of claims update their proofs of claims to advise the Insurance Commissioner  
28 of the current status of their claims by August 31, 2010.



1 KAMALA D. HARRIS  
Attorney General of California  
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4 State Bar No. 230710  
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Oakland, CA 94612-0550  
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Case No. CPF-97-984281

**EXHIBIT A TO DECLARATION OF  
JOHN BATTLE IN SUPPORT OF  
INSURANCE COMMISSIONER OF THE  
STATE OF CALIFORNIA'S MOTION  
TO SET DATE FOR LIQUIDATION OF  
CONTINGENT AND UNDETERMINED  
CLAIMS FOR PURPOSES OF  
DISTRIBUTION**

Hearing Date: December 15, 2016

Time: 9:30 a.m.

Dept: 302

Judge The Hon. Harold Kahn

Reservation #: 10141215-15

EXHIBIT A

### Our Mission

On behalf of the Insurance Commissioner, the CLO acts to rehabilitate and/or liquidate, under Court supervision, troubled Insurance enterprises. The CLO operates as a fiduciary for the benefit of claimants, handling the property of the failed enterprises in a prudent, cost-effective, fair, timely, and expeditious manner.



P.O. Box 26894  
San Francisco, California  
94126-0894  
Tel: 415.676.5000  
Fax: 415.676.5002  
www.cacllo.org

## CONSERVATION & LIQUIDATION OFFICE

### Western Employers Insurance Company Proof of Claim Update Form

**Deadline to Make Contingent and Unliquidated Claims Liquidated and Definitely Determined within the meaning of California Insurance Code Section 1025: APRIL 28, 2017**

**Deadline to file Completed Proof of Claim Update Form with the Liquidator for Western Employers Insurance Company: JULY 3, 2017**

To each insured or claimant who has an open and unresolved Proof of Claim against Western Employers Insurance Company:

This is the form that claimants with open and unresolved claims against Western Employers Insurance Company must use to report and document their liquidated claim(s). This form must be filed with the liquidator no later than **July 3, 2017**.

All claims must be liquidated and definitely determined within the meaning of California Insurance Code Section 1025 by **April 28, 2017**. California Insurance Code Section 1025 states:

#### *Unliquidated Claims*

*Claims founded upon unliquidated or undetermined demands must be filed within the time limit provided in this article for the filing of claims, but claims founded upon such demands shall not share in any distribution to creditors of a person proceeded against under section 1016 until such claims have been definitely determined, proved and allowed. Thereafter, such claims shall share ratably with other claims of the same class in all subsequent distributions.*

*An unliquidated or undetermined claim or demand within the meaning of this article shall be deemed to be any such claim or demand upon which a right of action has accrued at the date of the order of liquidation and upon which the liability has not been determined or the amount thereof liquidated.*

The Court has ordered that each insured or claimant, other than a workers' compensation claimant, who has filed Proof of Claim with Western Employers Insurance Company in Liquidation must file a claims update with the Liquidator for Western Employers Insurance Company by **July 3, 2017**. A failure to file an update may result in disallowance of all or part of your claim.

Please set forth the amount of proof of claim and other pertinent information below:

Proof of Claim Number	
Policy Number	
Policy Limit	
Claimant Name	
Paid Losses	
Paid Expenses	
Reserves for loss and expenses in connection with outstanding known claims	

Please attach additional sheets in which you set forth the current status of your proof of claim. Include in your answer all details of your claim, including but not limited to:

- The dollar amount of your claim(s)
- A detail of the liquidated amounts and a detailed description of the method in which you calculated the liquidated amount. If any court proceedings or settlement agreements are involved, please set forth the details.
- If you are an assignee of an original claimant, please attach a copy of the written assignment
- If you are represented by counsel in this matter please provide the name, address and telephone number of your law firm.
- Please attach to your update all documentation of the nature, amount and supporting documentation for your claim. Please attach all relevant documentation to support your claim, including but not limited to settlement agreements, pleadings, coverage charts and a detailed discussion of the nature of the claims. Forms and documentation may be mailed, faxed or emailed.
- Pursuant to the Court's order, you are required to make all claims certain and definitely determined by **April 28, 2017**. Please attach to this form the documentation that shows that your claim was made certain and definitely determined as of **April 28, 2017**.



- The materials you provide will be used in determining whether you are entitled to approval of a claim. Should you omit materials necessary to prove your claim, then your claim may be disallowed in whole or in part.

Please provide a current address, email address and telephone number and contact information in the signature block below.

UNLESS NOTED HEREIN, I ALONE AM ENTITLED TO FILE THIS CLAIM UPDATE; NO OTHERS HAVE AN INTEREST THEREIN; THE CLAIM IS UNSECURED; NO PAYMENTS HAVE BEEN MADE THEREON, AND THE SUM CLAIMED IS JUSTLY OWING AND THERE IS NO OFFSET. I ACKNOWLEDGE THAT ANY PAYMENT ON THIS CLAIM WILL BE MADE PAYABLE TO THE PERSON OR ENTITY TO WHOM THIS PROOF OF CLAIM IS ADDRESSED SUBJECT TO ANY CORRECTION SHOWN BELOW OR ANY ADDRESS CORRECTIONS PROVIDED TO THE INSURANCE COMMISSIONER AS LIQUIDATOR FROM TIME TO TIME. I CERTIFY THAT ALL SUPPORTING DATA AND DOCUMENTS SUBMITTED HEREWITH ARE TRUE AND CORRECT.

I DECLARE UNDER PENALTY OF PERJURY, UNDER THE LAWS OF THE STATE OF CALIFORNIA, THAT THE ABOVE INFORMATION IS TRUE AND CORRECT. EXECUTED THIS

\_\_\_\_\_  
 (DAY)      (MONTH)      (YEAR)      (CITY)      (STATE)

\_\_\_\_\_  
 Claimant's Signature

\_\_\_\_\_  
 Print Name and Title (if any)

\_\_\_\_\_  
 Claimant's Telephone Number

\_\_\_\_\_  
 Social Security/Tax Identification Number

**NOTE: THE DEADLINE FOR FILING THIS FORM IS  
 JULY 3, 2017**

**Completed forms and supporting documents to may be mailed to:**

**Western Employers Insurance Company  
 c/o Conservation & Liquidation Office  
 P.O. Box 26894  
 San Francisco, CA 94126-0894  
 Attention: Michele Vass**

**Completed forms and supporting documents may be faxed to:  
(415) 676-5007 Attention: Michele Vass**

**Completed forms and supporting documents may be emailed to:  
[WEICupdate@caclo.org](mailto:WEICupdate@caclo.org)**

Our Mission

The CLO, on behalf of the Insurance Commissioner, rehabilitates and/or liquidates, under Court supervision, troubled insurance enterprises domiciled in the State of California. In addition the CLO provides Special Examination Services, with Commissioner and Board oversight. As a fiduciary for the benefit of all claimants, the CLO handles the property of troubled or failed enterprises in a prudent, cost-effective, fair, timely, and expeditious manner.



P.O. Box 26894  
San Francisco, CA  
94126-6894  
Tel: 415-676-5000  
Fax: 415-676-5002

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Conservation & Liquidation Office

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**Western Employers Insurance Company  
GUARANTY ASSOCIATION UPDATE FORM**

**Deadline to Make Contingent and Unliquidated Claims Liquidated and Definitely Determined within the meaning of**

**California Insurance Code Section 1025: APRIL 28, 2017**

**Claims Update Deadline: July 3, 2017**

TO EACH GUARANTY ASSOCIATION WHICH HAS FILED A PROOF OF CLAIM AGAINST WESTERN EMPLOYERS INSURANCE COMPANY:

THE COURT HAS ORDERED THAT EACH GUARANTY ASSOCIATION WHICH FILED A PROOF OF CLAIM WITH THE WESTERN EMPLOYERS INSURANCE COMPANY MUST FILE A FINAL CLAIMS UPDATE BY **JULY 3, 2017**.

This is the form that guaranty associations with open and unresolved claims against Western Employers Insurance Company must use to report and document their liquidated claim(s). This form must be filed with the liquidator no later than **July 3, 2017**.

All claims must be liquidated and definitely determined within the meaning of California Insurance Code Section 1025 by **April 28, 2017**. California Insurance Code Section 1025 states:

*Unliquidated Claims*

*Claims founded upon unliquidated or undetermined demands must be filed within the time limit provided in this article for the filing of claims, but claims founded upon such demands shall not share in any distribution to creditors of a person proceeded against under section 1016 until such claims have been definitely determined, proved and allowed. Thereafter, such claims shall share ratably with other claims of the same class in all subsequent distributions.*

*An unliquidated or undetermined claim or demand within the meaning of this article shall be deemed to be any such claim or demand upon which a right of action has accrued at the date of the order of liquidation and upon which the liability has not been determined or the amount thereof liquidated.*

The Court has ordered that each insured or claimant, other than a workers' compensation claimant, who has filed Proof of Claim with Western Employers Insurance Company in Liquidation must file a claims update with the Liquidator for Western Employers Insurance Company by **July 3, 2017**. A failure to file an update may result in disallowance of all or part of your claim.

Please set forth the amount of each here:

Paid losses:	
Paid expenses:	
Reserves for loss and expense in connection with outstanding known claims:	
Reserves for further development (including actuarial calculations) for other claims against the trusts:	
Administrative expense:	
Grand Total:	

Along with your update, please submit each of the following: a listing of the insured name, policy number, claim number, liquidator number, amount paid in loss and expense, and claimant name for each paid loss which you have paid; the insured name, policy number, claim number, liquidator number, outstanding reserve, nature of the loss and claimant name for each open case which you maintain. In addition, any actuarial or other calculations of further loss development, which may occur for your guaranty association, should be included with your filing, including detail and actuarial support pertinent to the calculation of this claim.

UNLESS NOTED HEREIN, I ALONE AM ENTITLED TO FILE THIS CLAIM; NO OTHERS HAVE AN INTEREST THEREIN; THE CLAIM IS UNSECURED; NO PAYMENTS HAVE BEEN MADE THEREON, AND THE SUM CLAIMED IS JUSTLY OWING AND THERE IS NO OFFSET. I ACKNOWLEDGE THAT ANY PAYMENT ON THIS CLAIM WILL BE MADE PAYABLE TO THE PERSON OR ENTITY TO WHOM THIS PROOF OF CLAIM IS ADDRESSED SUBJECT TO ANY CORRECTION SHOWN BELOW OR ANY ADDRESS CORRECTION PROVIDED TO THE INSURANCE COMMISSIONER AS LIQUIDATOR FROM TIME TO TIME. I CERTIFY THAT ALL SUPPORTING DATA AND DOCUMENTS SUBMITTED HEREWITH ARE TRUE AND CORRECT.

I DECLARE, UNDER PENALTY OF PERJURY, UNDER THE LAWS OF THE STATE OF CALIFORNIA, THAT THE ABOVE INFORMATION IS TRUE AND CORRECT, EXECUTED THIS

\_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_ AT \_\_\_\_\_  
 (DAY) (MONTH) (YEAR) (CITY) (STATE)

\_\_\_\_\_  
 CLAIMANT'S SIGNATURE

\_\_\_\_\_  
 PRINT NAME AND TITLE

Please contact John Battle at (415)676-2102 or [battlej@caclo.org](mailto:battlej@caclo.org) should you have any questions.

Mail the completed form and supporting documents to:

John Battle, Chief Claims Officer

Western Employers Insurance Company c/o Conservation & Liquidation Office

P.O. Box 26894 San Francisco, CA 94126-0894

1 KAMALA D. HARRIS  
Attorney General of California  
2 ANNE MICHELLE BURR  
Supervising Deputy Attorney General  
3 KAREN W. YIU  
Deputy Attorney General  
4 State Bar No. 230710  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 879-1245  
Fax: (510) 622-2270  
7 E-mail: Karen.Yiu@doj.ca.gov  
*Attorneys for Applicant*  
8 *Insurance Commissioner of the State of California*

9 ROBERT N. NUNNALLY, JR.  
State Bar Number 134151  
10 WISENER NUNNALLY ROTH, LLP  
245 Cedar Sage Drive, Suite 240  
11 Garland, Texas 75040  
12 Telephone: (972) 530-2200  
Facsimile: (972) 530-7200  
13 *Attorneys for Applicant*  
14 *Insurance Commissioner of the State of California*

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

19 **INSURANCE COMMISSIONER OF THE**  
20 **STATE OF CALIFORNIA,**  
21 Applicant,  
22 v.  
23 **WESTERN EMPLOYERS INSURANCE**  
24 **COMPANY,**  
25 Respondent..

Case No. CPF-97-984281

**INSURANCE COMMISSIONER OF THE**  
**STATE OF CALIFORNIA'S NOTICE OF**  
**PAYMENT FOR COURT REPORTER'S**  
**FEES**

Date: December 15, 2016  
Time: 9:30 a.m.  
Dept: 302  
Reservation No. **10141215-15**

27 PLEASE TAKE NOTICE THAT Applicant Insurance Commissioner of the State of  
28 California Dave Jones, in his capacity as Liquidator of Western Employers Insurance Company,

1 is responsible for paying the court reporter's fees for the December 15, 2016 hearing on his  
2 Motion to Set Date for Liquidation of Contingent and Undetermined Claims for Purposes of  
3 Distribution.

4 However, the Insurance Commissioner is exempt from paying the fees, pursuant to  
5 Government Code section 6103.

6  
7 Dated: October 14, 2016

Respectfully Submitted,

8 KAMALA D. HARRIS  
9 Attorney General of California  
10 ANNE MICHELLE BURR  
Supervising Deputy Attorney General

11 /s/ KAREN W. YIU  
12 KAREN W. YIU  
13 Deputy Attorney General  
14 *Attorneys for Applicant*  
*Insurance Commissioner of the State of*  
*California*

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2 ANNE MICHELLE BURR  
Supervising Deputy Attorney General  
3 KAREN W. YIU  
Deputy Attorney General  
4 State Bar No. 230710  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 879-1245  
Fax: (510) 622-2270  
7 E-mail: Karen.Yiu@doj.ca.gov  
*Attorneys for Applicant*  
8 *Insurance Commissioner of the State of California*

9 ROBERT N. NUNNALLY, JR.  
State Bar Number 134151  
10 WISENER NUNNALLY ROTH, LLP  
245 Cedar Sage Drive, Suite 240  
11 Garland, Texas 75040  
12 Telephone: (972) 530 2200  
Facsimile: (972) 530 7200  
13 *Attorneys for Applicant*  
14 *Insurance Commissioner of the State of California*

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

18 **INSURANCE COMMISSIONER OF THE**  
19 **STATE OF CALIFORNIA,**  
20 Applicant,  
21 v.  
22 **WESTERN EMPLOYERS INSURANCE**  
23 **COMPANY,**

24 Respondent.

Case No. CPF-97-984281

**[PROPOSED] ORDER GRANTING THE  
INSURANCE COMMISSIONER OF THE  
STATE OF CALIFORNIA'S MOTION  
TO SET DATE FOR LIQUIDATION OF  
CONTINGENT AND UNDETERMINED  
CLAIMS FOR PURPOSES OF  
DISTRIBUTION**

Hearing Date: December 15, 2016  
Time: 9:30 a.m.  
Dept: 302  
Judge The Hon. Harold Kahn  
Reservation #: **10141215-15**

1 The Insurance Commissioner as Liquidator of Western Employers Insurance Company  
2 has moved for an order (1) setting the deadline by which all claims against Western Employers  
3 Insurance Company, other than Class 1 administrative claims, must be liquidated and definitely  
4 determined, and (2) setting a deadline by which each claimant who has filed a claim which is in  
5 any respect unliquidated or uncertain must file a detailed claims update.

6 Good cause appearing, IT IS HEREBY ORDERED that:

- 7 1. All claims against Western Employers Insurance Company, other than Class 1  
8 administrative claims, must be liquidated and definitely determined by April 28,  
9 2017. This order shall not fix the deadline for any claim by an injured worker or  
10 insured under a workers' compensation insurance policy covered by an insurance  
11 guarantee association to make a claim against the insurance guarantee association.
- 12 2. Each claimant who has filed a claim which is in any respect unliquidated or uncertain  
13 must file a detailed claims update form with the Insurance Commissioner as  
14 Liquidator for Western Employers Insurance Company by July 3, 2017 at 5:00 p.m.  
15 Pacific time on the applicable form attached as Exhibit "A" to this Order showing the  
16 claim was liquidated and definitely determined as of April 28, 2017.
- 17 3. The unliquidated and uncertain portion of those claims not fully determined and  
18 liquidated by April 28, 2017 shall not be entitled to share in distributions from the  
19 Western Employers liquidation estate. However, the Insurance Commissioner as  
20 Liquidator may continue to issue determinations as to claims which were liquidated  
21 or definitely determined prior to April 28, 2017, even if the Liquidator's  
22 determinations are made after July 3, 2017. The deadlines set forth herein require the  
23 claimants in Classes 2 and below to both make the claims liquidated and definitely  
24 determined and to file detailed documentation demonstrating that they have done so.  
25 The consequence of failing to do either will be the disallowance of the claimant's  
26 unliquidated claim or of that portion of the claimant's claim which remains  
27 unliquidated or undetermined. This order shall not fix the deadline for any claim by  
28 an injured worker or insured under a workers' compensation insurance policy covered



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by an insurance guarantee association to make a claim against the insurance guarantee association.

4. The Insurance Commissioner is authorized to take any and all action necessary to accomplish the purposes of the Order prayed for herein.

Dated: \_\_\_\_\_, 2016.

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Judge of the Superior Court

1 KAMALA D. HARRIS  
Attorney General of California  
2 ANNE MICHELLE BURR  
Supervising Deputy Attorney General  
3 KAREN W. YIU  
Deputy Attorney General  
4 State Bar No. 230710  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 879-1245  
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State Bar Number 134151  
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15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 COUNTY OF SAN FRANCISCO  
17 CIVIL DIVISION  
18

19 **INSURANCE COMMISSIONER OF THE**  
20 **STATE OF CALIFORNIA,**  
21 Applicant,  
22 v.  
23 **WESTERN EMPLOYERS INSURANCE**  
24 **COMPANY, ET AL.**  
25 Respondent.

Case No. CPF-97-984281

**SUPPLEMENTAL DECLARATION OF  
SERVICE RE INSURANCE  
COMMISSIONER OF THE STATE OF  
CALIFORNIA'S MOTION TO SET  
DATE FOR LIQUIDATION OF  
CONTINGENT AND UNDETERMINED  
CLAIMS FOR PURPOSES OF  
DISTRIBUTION**

Hearing Date: December 15, 2016  
Time: 9:30 A.M.  
Dept: 302  
Judge The Hon. Harold Kahn  
Reservation #: **10141215-15**

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DECLARATION OF SERVICE

Case Name: Insurance Commissioner of the State of California v. Western Employers Insurance Company, et al.

No.: CPF-97-984281

I declare:

I am employed in this county by McCall Staffing Services, 111 Pine Street #1200, San Francisco, CA 94111 and am currently on assignment at the Conservation and Liquidation Office, 100 Pine Street 26<sup>th</sup> Floor, San Francisco, CA94111. I am 18 years of age or older and not a party to this matter. I am readily familiar with the Conservation and Liquidation Office's practice for collection and processing of correspondence for mailing with the United States Postal Service

On November 10, 2016 I served the attached:

**INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA'S NOTICE OF MOTION TO SET DATE FOR LIQUIDATION OF CONTINGENT AND UNDETERMINED CLAIMS FOR PURPOSES OF DISTRIBUTION;**

**INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA'S MOTION TO SET DATE FOR LIQUIDATION OF CONTINGENT AND UNDETERMINED CLAIMS FOR PURPOSES OF DISTRIBUTION;**

**DECLARATION OF JOHN BATTLE IN SUPPORT OF INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA'S MOTION TO SET DATE FOR LIQUIDATION OF CONTINGENT AND UNDETERMINED CLAIMS FOR PURPOSES OF DISTRIBUTION**

**EXHIBIT A TO THE DECLARATION OF JOHN BATTLE IN SUPPORT OF INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA'S MOTION TO SET DATE FOR LIQUIDATION OF CONTINGENT AND UNDETERMINED CLAIMS FOR PURPOSES OF DISTRIBUTION;**

**INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA'S NOTICE OF PAYMENT FOR COURT REPORTER'S FEES; and**

**[PROPOSED] ORDER GRANTING THE INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA'S MOTION TO SET DATE TO LIQUIDATION OF CONTINGENT AND UNDETERMINED CLAIMS FOR PURPOSES OF DISTRIBUTION**

**DECLARATION OF SERVICE RE INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA'S MOTION TO SET DATE FOR LIQUIDATION OF CONTINGENT AND UNDETERMINED CLAIMS FOR PURPOSE OF DISTRIBUTION**

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by placing the envelope for collection and mailing on the date and the place shown in the

ATTACHED SERVICE LIST

following our ordinary business practices at the Conservation and Liquidation Office. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on November 10, 2016, at San Francisco, California.

MYRNA E. TORRES

Declarant

*Myrna E. Torres*

Signature