



FILED
Superior Court of California
County of San Francisco

AUG 04 2023

CLERK OF THE COURT

BY: Basellia H. Thompson
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

AHMED MONEIM, D.D.S.; CHARINA
BAILON, D.D.S.; JOYCE TSE, D.D.S.
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

DELTA DENTAL OF CALIFORNIA,
a California Corporation,

Defendant.

Case No. CGC-18-565581

ORDER GRANTING PLAINTIFFS'
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT

Plaintiffs Ahmed Moneim, D.D.S., Charina Bailon, D.D.S., Joyce Tse, D.D.S. (“Plaintiffs”) and Defendant Delta Dental of California (“Delta Dental”) (collectively the “Parties”) have entered into a settlement subject to this Court’s approval. The terms of the settlement, including releases of claims, are set forth in the Parties’ Amended Settlement Agreement and Releases (“Amended Settlement Agreement”), attached as Exhibit A. Plaintiffs moved for final approval of the settlement, and the motion came on for hearing on August 4, 2023. Appearances are as noted in the record.

On March 10, 2023, the Court issued an Order Granting Renewed Unopposed Motion for Preliminary Approval of Class Action Settlement in which the Court did the following (unless otherwise indicated, capitalized terms correspond with those set forth in the Amended Settlement Agreement): conditionally certified the Settlement Class; granted preliminary approval of the settlement; appointed The Goldman Law Firm as Class Counsel for settlement purposes; appointed Ahmed Moneim, D.D.S.,

1 Charina Bailon, D.D.S., and Joyce Tse, D.D.S. as Class Representatives for the Settlement Class for
2 settlement purposes; appointed Defendant to act as the Class Administrator; ordered notice of the
3 settlement be given to the Class Members; set forth appropriate procedures and deadlines with respect to
4 responding to the notice and obtaining final approval of the settlement; and set the final approval hearing.

5 Having considered the papers filed in support of Plaintiffs' motion for final approval and the oral
6 arguments of counsel, and good cause appearing, the Court finds and orders as follows:

- 7 1. The Court approves the settlement as fair, reasonable, and adequate.
- 8 2. The Court certifies, for settlement purposes only, a Settlement Class consisting of:

9
10 All Delta Dental of California participating dentists, from four years prior
11 to the date of filing of the initial complaint (April 16, 2014) up to March
12 10, 2023, who had claims submitted, approved and paid by Delta Dental
more than 365 days before Delta Dental sent an initial written request or
demand for reimbursement of alleged overpayment of such claims.

13 5. For the reasons set forth in the Court's order granting preliminary approval, the Court finds that
14 the applicable requirements of California Code of Civil Procedure section 382 and California Rule of
15 Court 3.769 have been satisfied for the purposes of this settlement in that common questions of law and
16 fact predominate, the Settlement Class is so numerous that a class action is superior to other available
17 means for the fair and efficient adjudication of the controversy, Plaintiffs' claims are typical of those in
18 the Settlement Class, and Plaintiffs have fairly and adequately represented and protected the interests of
19 the Settlement Class.

20 6. The Court appoints Plaintiffs Ahmed Moneim, D.D.S., Charina Bailon, D.D.S., and Joyce Tse,
21 D.D.S. as representatives of the Settlement Class.

22 7. The Court appoints The Goldman Law Firm as Class Counsel.

23 8. No Class Member objected to the settlement.

24 9. Two Class Members opted out of the settlement. The Court finds that (1) James Dennis Powell
25 D.D.S. and Hongbo Xu, D.D.S. have excluded themselves from the Settlement Class and shall not be
26 bound by the Amended Settlement Agreement of the Judgment, and any claims they may have are not
27 released.

28 10. The manner and form of the notice as previously approved and Ordered by the Court in its

1 Order granting preliminary approval was reasonably calculated to fully and accurately inform members of
2 the Settlement Class of all material elements of the settlement and of their opportunity to object or
3 comment thereon or to exclude themselves from the Settlement Class, was the best notice practicable
4 under the circumstances, was valid, due, and sufficient notice to Class Members, and complied fully with
5 California law and due process. A full opportunity has been afforded to all Class Members to participate
6 in the final approval hearing. The manner of providing notice substantially complied with the Court's
7 Order granting preliminary approval.

8 11. Defendant shall pay the monetary settlement amount into a Qualified Settlement Fund as set
9 forth in Appendix 5 of the Settlement Agreement attached as Exhibit A. The total monetary settlement
10 amount is \$2,800,000.00. After payment of (1) the class representative awards of \$3,500.00 each
11 (\$10,500.00), (2) payment to Class Counsel of attorney fees approved by the Court of \$933,333.00, and
12 (3) payment to Class Counsel in reimbursement of expenses advanced in the litigation and approved by
13 the court of \$67,246.00, the balance to be distributed to Class Members pursuant to the Amended
14 Settlement Agreement is \$1,788,921.00.

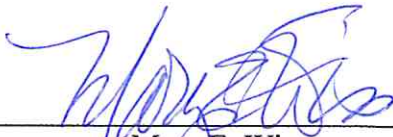
15 12. Each party is to bear their own attorney fees and costs except as otherwise expressly provided
16 in the Order Granting Motion for an Award of Attorney Fees and Costs.

17 13. The Court sets a Compliance Hearing for March 8, 2023 at 9:00 in Department 305 of this
18 Court. No later than March 1, 2023, Settlement Class Counsel and the Class Administrator shall submit a
19 summary accounting, identifying distributions made as ordered herein, the amount of any remaining
20 settlement funds to be distributed pursuant *cy pres*, the status of any unresolved issues, and any other
21 matters appropriate to bring to the Court's attention.

22 14. Notice of entry of this Order shall be given to Class Members by posting a copy of the Order
23 Granting Final Approval of Class Action Settlement, the Order Granting Approval of attorney fees and
24 costs and class representative enhancement award, and the Judgment on the settlement website at
25 deltadentalins.com/dentists no later than five court days after they are entered by the Court.

26 IT IS SO ORDERED.

27 Dated: August 4, 2023

28 

Mary E. Wiss
Judge of the Superior Court

EXHIBIT A

AMENDED SETTLEMENT AGREEMENT AND RELEASE

Subject to the preliminary and final approval of the Court, and as further set forth below, this Amended Settlement Agreement¹ is made and entered into as of February 27, 2023, provided the Court grants preliminary approval of this agreement on, by or after that date. It is fully executed by all parties by and between, on the one hand, (a) Delta Dental of California (“Delta Dental”), and, on the other hand, (b) named plaintiffs Ahmed Moneim, D.D.S., Charina Bailon, D.D.S., and Joyce Tse, D.D.S. (the “Class Representatives”), individually and on behalf of a class of all Delta Dental participating dentists who had claims submitted, approved and paid by Delta Dental more than 365 days before Delta Dental sent an initial written request or demand for reimbursement of alleged overpayment of such claims at any time from April 6, 2014 to the date of the Court’s Order Granting Preliminary Approval of this Amended Settlement Agreement in the action captioned *Ahmed Moneim, D.D.S., et al. v. Delta Dental of California*, San Francisco Superior Court Case No. CGC-18-565581 (the “Litigation”). Delta Dental and the Class Representatives are collectively referred to herein as the “Settling Parties.”

WHEREAS, 28 C.C.R. § 1300.71 limits certain health care plan provider reimbursement requests or demands to claims initially paid no more than 365 days prior to the reimbursement request itself (*see* 28 C.C.R. § 1300.71(b)(5));

WHEREAS, the Class Representatives, on behalf of themselves and the Class, have challenged certain conduct of Delta Dental as alleged in their Second Amended Complaint filed in the Litigation on October 19, 2018, including but not limited to, that:

1. Delta Dental issued requests or demands for reimbursement of allegedly overpaid claims more than 365 days after the initial dates of payment of those claims;

¹ Capitalized terms are defined either in the text of this Amended Settlement Agreement or in the Definitions Section below.

2. Delta Dental allegedly did not in its initial written requests or demands for reimbursement clearly allege that the alleged overpayments were caused in whole or in part by fraud or misrepresentation on the part of the provider;

3. Delta Dental's conduct, acts and omissions allegedly constitute a breach of the covenant of good faith and fair dealing and/or a violation of California's Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*; and

4. Class Members are entitled to all appropriate declaratory, injunctive, and monetary relief caused by the alleged wrongful conduct of Delta Dental;

WHEREAS, on December 21, 2020, the Court issued its Phase I decision in the Litigation in which the Court ruled that the Regulation's 365-day rule applied to the initial written requests or demands for reimbursement that Delta Dental sent to the three Class Representatives;

WHEREAS, Delta Dental disagrees with the Phase I decision, sought its reconsideration and its interlocutory review, and reserves its arguments about it;

WHEREAS, Delta Dental has denied and continues to deny the allegations made by the Class Representatives in the Litigation, that it engaged in any wrongdoing of any kind, or that it violated or breached any law, regulation or duty owed to any Class Representative or Class Member, and further denies that it is liable to, or owes any form of compensation, damages or restitution to anyone with respect to the alleged facts or causes of action asserted in the Litigation;

WHEREAS, the Settling Parties have engaged in more than four years of hard-fought and costly litigation, engaged in extensive motion practice, conducted discovery, engaged experts and contested major factual and legal contentions in the Litigation;

WHEREAS, the Settling Parties thereafter engaged in lengthy arm's-length negotiations with the assistance of a neutral mediator, Mark LeHocky of ADR Services, Inc.,

in an effort to resolve the Litigation, during which the basic terms of this Amended Settlement Agreement were debated and negotiated, and the Settling Parties reached an agreement to resolve all such claims (the “Mediation”);

WHEREAS, based on their analysis of the merits of the claims and the impact of the Amended Settlement Agreement on Class Members, including but not limited to the issues that were the subject of the Mediation described above, and an evaluation of a number of factors including the substantial risks of continued litigation and the possibility that if not settled now the Litigation might result in no relief to the Class whatsoever or might result in a recovery that is less favorable than this Amended Settlement Agreement, the Class Representatives and Class Counsel believe that it is in the interest of all Class Members to resolve finally and completely the potential claims that they may have against Delta Dental based on, arising from, or relating directly to the facts alleged in the Second Amended Complaint and that the terms of the Amended Settlement Agreement are in the best interests of the Class and are fair, reasonable, and adequate to all Class Members;

WHEREAS, Delta Dental is entering into this Amended Settlement Agreement on the terms set forth herein in recognition of and to avoid the risks, burdens, distractions, expense, uncertainties and diversion of resources arising from the Litigation, and to resolve and put to final rest claims based on, arising from, or relating directly to the facts alleged in the Litigation without any admission of liability or wrongdoing whatsoever;

WHEREAS, the Settling Parties have agreed upon: (1) the form of a proposed Long-Form Class Notice (Appendix 1); (2) the form of a proposed Short-Form Class Notice (Appendix 2); (3) a proposed Plan of Allocation and Distribution (Appendix 3); (4) a Class Notice Plan (Appendix 4); (5) the establishment of a qualified settlement fund (Appendix 5), if necessary; and (6) a summary table of dates reflected in this Agreement (Appendix 6);

NOW, THEREFORE, in consideration of the promises, agreements, covenants, representations, and warranties set forth herein, and other good and valuable consideration provided for herein, the Settling Parties agree to a full, final and complete settlement of the Litigation on the following terms and conditions.

I. DEFINITIONS

For purposes of this Amended Settlement Agreement, in addition to terms identified and defined elsewhere in this Amended Settlement Agreement, the following terms shall have the meanings set forth below.

1. “Attorney’s Fees and Expenses” means Class Counsel’s attorney’s fees, expenses, costs, expert fees and costs, and other expenses incurred in connection with the Litigation as described in Section VI.

2. “Class” means “all Delta Dental of California participating dentists, from four years prior to the date of filing of the initial complaint (April 6, 2014) up to [the time the class is preliminarily certified], who had claims submitted, approved and paid by Delta Dental more than 365 days before Delta Dental sent an initial written request or demand for reimbursement of alleged overpayment of such claims.”

3. “Class Counsel” means Ronald P. Goldman, J.E.B. Pickett and Andrew J. Goldman of the Goldman Law Firm.

4. “Class Member” means any person who is a member of the Class.

5. “Class Notice” means the Notice of Class Action Amended Settlement Agreement and Final Approval Hearing. The proposed Long-Form Class Notice, which is attached as Appendix 1, shall be mailed to Class Members, and the proposed Short-Form Class Notice, which is attached as Appendix 2, shall be published on Delta Dental’s website as approved by the Court as set forth in Section II.C below.

6. “Class Administrator” means Delta Dental, which the Settling Parties selected to provide and administer the Class Notice, process objections and opt-out requests and make settlement distributions.

7. “Class Notice Plan” means the plan for sending Class Notices to Class Members, as well as follow up efforts for long-form Class Notices that are returned as undeliverable, including publication notice of the Amended Settlement Agreement, as approved by the Court. A copy of the Class Notice Plan is attached hereto as Appendix 4.

8. “Court” means the Superior Court of California, County of San Francisco.

9. “Days” means calendar days unless otherwise provided.

10. “Delta Dental” means Delta Dental of California and its past and present direct and indirect parents, subsidiaries, divisions, affiliates, members, officers, directors, partners, insurers, employees, agents, attorneys, accountants, all other persons, partnerships or corporations with which any of the former have been, or are now, affiliated and any of the legal representatives of the foregoing (and the predecessors, successors, purchasers, and assigns of each of the foregoing).

11. “Delta Dental’s Counsel” means the law firm of Dechert LLP.

12. “Final Approval” means the occurrence of all of the following events:

a. This Amended Settlement Agreement is finally approved in all respects by the Court;

b. The Court enters a Final Approval Order and Judgment; and

c. The clerk of the Court enters the judgment and a notice of entry of judgment as provided pursuant to California Rule of Court 3.771.

13. “Final Approval Hearing” means the hearing at which the Court will consider the motion for Final Approval of the Amended Settlement Agreement and Judgment.

14. “Final Approval Order and Judgment” means an order granting Final Approval of the Amended Settlement Agreement and entering Judgment.

15. “Objection Deadline” means the date by which a Class Member must submit to the Class Administrator any objection to this Amended Settlement Agreement, which shall be a period of 45 days after the date Class Notice is mailed or such other time as may be set and approved by the Court.

16. “Opt Out Deadline” means the date by which a Class Member must submit to the Class Administrator any request for exclusion from this Settlement, which shall be a period of 45 days after the date Class Notice is mailed or such other time as may be set and approved by the Court.

17. “Opt-Out Thresholds” means the thresholds at which Delta Dental may exercise its right to terminate this Amended Settlement Agreement, as set forth in Section II.E.5 of this Agreement. The Opt-Out Thresholds are (i) 100 or more Class Members who made reimbursement to Delta Dental in whole or in part or (ii) Class Members whose reimbursements (as defined in Appendix 3) amount in total to more than \$720,000.

18. “Plan of Allocation and Distribution” means Class Counsel’s proposed procedure and mechanism by which payments from the Settlement Amount will be allocated and distributed, as provided in Appendix 3, subject to the Court’s approval.

19. “Preliminary Approval Order” means an order granting the Court’s preliminary approval of this Amended Settlement Agreement.

20. “Providers” means Delta Dental of California participating dentists.

21. “Regulation” means 28 C.C.R. § 1300.71 and its parts and subparts.

22. “Released Claims” means those claims specified in Section IV of this Amended Settlement Agreement.

23. “Releasees” and “Released Parties” means Delta Dental and its past and present direct and indirect parents, subsidiaries, divisions, affiliates, members, officers, directors, partners, insurers, employees, agents, attorneys, accountants, all other persons, partnerships or corporations with which the former have been, or are now, affiliated and any of the legal representatives of the foregoing (and the predecessors, heirs, executors, administrators, successors, purchasers, and assigns of each of the foregoing). The term “Releasees” and “Released Parties” includes each individual Releasee or Released Party.

24. “Second Amended Complaint” means the Second Amended Complaint filed in the Litigation on October 19, 2018.

25. “Amended Settlement Agreement,” “Settlement” and “Agreement” refer to this Amended Settlement Agreement and its Appendices.

26. “Amended Settlement Agreement Effective Date” means 61 days after notice of entry of judgment has been provided pursuant to California Rule of Court 3.771. If a notice of appeal is timely filed, the Amended Settlement Agreement Effective Date shall be the date that the Final Approval Order and Judgment has been affirmed in its entirety by the court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review.

27. “Settlement Amount” means a total amount of two million and eight hundred thousand dollars (\$2,800,000) that Delta Dental shall pay to settle the Litigation as described in Section III.C of this Agreement (including to pay Attorney’s Fees and Expenses and Class Representative service awards as directed by the Court), and which shall be administered and distributed pursuant to this Amended Settlement Agreement, the Plan of Allocation and Distribution set forth in Appendix 3, as approved by the Court, and any other applicable orders of the Court.

28. “Settlement Class” means Class Members who do not opt out of this Amended Settlement Agreement in a timely and valid manner, as provided in Section II.E of this Amended Settlement Agreement.

29. “Settlement Class Member” means each member of the Settlement Class on his or her own behalf and on behalf of any person or entity who claims to possess, or who asserts or attempts to assert in a direct, indirect, derivative or representative capacity any of the Settlement Class Member’s Released Claims.

II. COURT APPROVAL OF SETTLEMENT AGREEMENT AND CLASS NOTICE

A. Confirmation of Certification of the Provisional Class and Appointment of the Class Representatives, Class Counsel and the Class Administrator

1. The Settling Parties agree to seek certification of the Class (as defined above) for settlement purposes only pursuant to California Code of Civil Procedure Section 382 and California Rule of Court 3.769(d).

2. The Settling Parties agree to seek confirmation of the appointment of the Class Representatives (as defined above).

3. The Settling Parties agree to seek an order confirming the appointment of Class Counsel (as defined above).

4. The Settling Parties agree to seek confirmation of the appointment of Delta Dental as the Class Administrator (as defined above).

B. Motion for Preliminary Approval

1. The Settling Parties, Class Counsel and Delta Dental’s Counsel agree to use reasonable and good faith efforts to seek and obtain the Court’s preliminary approval of this Amended Settlement Agreement, including filing necessary motion papers and scheduling any necessary hearings for dates and times that are convenient for the Court.

2. A Motion for Preliminary Approval of this Amended Settlement Agreement shall be filed, pursuant to California Rule of Court 3.769(c), as soon as reasonably possible after this Amended Settlement Agreement is signed by each of the Settling Parties. The Motion shall be filed with this Amended Settlement Agreement (including its Appendices), together with such other materials as may be requested by the Court in connection with its decision regarding preliminary approval of this Amended Settlement Agreement.

3. The Motion for Preliminary Approval will request that the Court enter a Preliminary Approval Order that will:

- a. Preliminarily approve this Amended Settlement Agreement as being within the range of possible final approval, and consistent with due process;
- b. Confirm the definition of the Class and the appointments of the Class Representatives, Class Counsel and the Class Administrator as provided in Section II.A above;
- c. Confirm the provisional certification of the Class for settlement purposes only pursuant to California Rule of Court 3.769(d), and declare that in the event of termination of this Amended Settlement Agreement, certification of the Class shall be automatically vacated and Delta Dental and any Released Party may fully contest certification of any litigation class as though no Class had been certified, and the case shall be restored on the Court's docket in the same procedural and substantive posture that existed immediately preceding the filing of the Motion for Preliminary Approval;
- d. Approve the method of notice to be provided to the Class in substantially the form described in the Class Notice Plan, including using the Long-Form Class Notice and the Short-Form Class Notice in substantially the forms attached as Appendices 1 and 2;

e. Approve the procedures in substantially the form described in the Class Notice Plan and below for Class Members to object to or to opt out of this Amended Settlement Agreement;

f. Approve the Plan of Allocation and Distribution of the Settlement Amount (Appendix 3);

g. Schedule a Final Approval Hearing, in accordance with California Rules of Court 3.769(e)-(g), for a time and date convenient for the Court, at which the Court will conduct an inquiry into the fairness, reasonableness and adequacy of this Amended Settlement Agreement and consider and address any objections to it, and determine whether this Amended Settlement Agreement and the Plan of Allocation and Distribution should be finally approved, whether to approve the Class Representatives' and Class Counsel's request for Attorney's Fees and Expenses pursuant to Section VI, and whether to approve the Class Representatives' request for service awards; and

h. Stay all further proceedings in the Litigation.

C. Class Notice

1. If the Court preliminarily approves this Amended Settlement Agreement, the Class Administrator shall undertake to send the Class Notice to Class Members in accordance with the Class Notice Plan (Appendix 4), California Rules of Court 3.766(d) and 3.769(f) and as ordered by the Court.

2. The Class Administrator will perform the steps required in the Plan of Allocation and Distribution and will cooperate reasonably with Class Counsel and Delta Dental's Counsel to ensure that distributions of the Settlement Amount are made in the manner provided by this Amended Settlement Agreement.

3. The Class Administrator, through Delta Dental's Counsel, has signed and agreed to be bound by the Protective Order entered in the Litigation, shall treat information it

receives or generates in connection with the Class Notice as confidential, and shall use such information solely for the purposes of sending, tracking, administering and providing reports regarding the Class Notice, objections, and opt outs except as otherwise ordered by the Court.

4. Delta Dental shall bear the reasonable fees and expenses associated with serving as the Class Administrator relating to this Amended Settlement Agreement (other than fees and expenses incurred in connection with a Qualified Settlement Fund (Appendix 5), if required, which shall be paid from that fund), and neither Class Counsel nor the Class Representatives shall have any responsibility for these fees and expenses.

D. Objections

1. Any Class Member may object to this Amended Settlement Agreement by submitting to the Class Administrator a written objection that is delivered to the Class Administrator at the address indicated in the Class Notice or mailed and postmarked no later than the Objection Deadline. Instructions for sending an objection will be provided in the Class Notice. For an objection to be considered by the Court, the written objection submitted to the Class Administrator must include the following:

- a. the name of this Litigation;
- b. the Class Member's full name, address, telephone number and Dental Board of California license number;
- c. the date on which the Class Member believes he or she received an initial written request or demand for reimbursement of allegedly overpaid claims based on available records or, if records are not available, to the best of his or her recollection;
- d. a description of the nature of the objection and the grounds for the objection, accompanied by any legal or factual support for the objection known to the Class Member or his or her counsel, if represented by counsel;

e. the identity of counsel who represent the Class Member in connection with the Litigation, if represented by counsel; and

f. the Class Member's signature or the Class Member's counsel's signature, if represented by counsel, and the date of the signature.

2. The right to object must be exercised by a Class Member personally pursuant to the procedure set forth above.

3. The Class Representatives, Class Counsel, Delta Dental, and Delta Dental's Counsel shall not solicit or encourage any Class Member to object to this Settlement.

4. Within ten (10) calendar days after the Objection Deadline, the Class Administrator shall provide to Class Counsel and Delta Dental's Counsel all objections that it has received, a list of Class Members who objected, and a summary of the objections suitable for filing with the Court. Within five (5) calendar days after receiving this information, Class Counsel will file with the Court all objections received from the Class Administrator.

E. Requests to Opt Out or to Be Excluded From this Settlement

1. Any Class Member may opt out of this Amended Settlement Agreement by submitting to the Class Administrator a written request to opt out that is delivered to the Class Administrator at the address indicated in the Class Notice or mailed and postmarked no later than the Opt-Out Deadline. To be effective, the written opt-out request submitted to the Class Administrator must:

a. state the name of the Litigation;

b. state the Class Member's full legal name, address, telephone number and Dental Board of California license number;

c. state the date on which the Class Member believes he or she received an initial written request or demand for reimbursement of allegedly overpaid

claims based on available records or, if records are not available, to the best of his or her recollection;

d. state that the Class Member opts out of this Amended Settlement Agreement; and

e. be signed and dated by the Class Member or his or her counsel, if represented by counsel.

2. The right to opt out must be exercised by a Class Member personally pursuant to the procedure set forth above.

3. Within ten (10) calendar days after the Opt-Out Deadline, the Class Administrator shall provide to Class Counsel and Delta Dental's Counsel all opt-out requests that it has received, a list of Class Members who opted out, and a summary of the opt-out requests suitable for filing with the Court. Class Members who validly and timely opt out are not entitled to any payment or other benefits provided in this Amended Settlement Agreement.

4. Within five (5) calendar days after receiving the information specified in Section II.E.3 above, Class Counsel will file with the Court a list of all Class Members who have opted out of the Settlement.

5. Delta Dental, in its sole discretion, may terminate this Amended Settlement Agreement if either of the Opt-Out Thresholds is exceeded. Within five (5) calendar days after receiving the information specified in Section II.E.3 above, Delta Dental's Counsel and Class Counsel will cooperate in good faith to determine whether either or both of these thresholds have been exceeded. If Delta Dental wishes to terminate the Settlement pursuant to this Section, it shall do so by giving written notice setting forth the basis for its decision to Class Counsel within fifteen (15) calendar days after the Opt-Out Deadline.

6. The Class Representatives, Class Counsel, Delta Dental, and Delta Dental's Counsel shall not solicit, advise or encourage any Class Member to opt out of this Amended Settlement Agreement.

F. Appearance at Final Approval Hearing

1. Any Settlement Class Member who does not opt out or request exclusion, as provided in Section II.E above, may address the Court at the Final Approval Hearing. If a Settlement Class Member seeks to make a substantive objection to the Amended Settlement Agreement or any portion of it at the Final Approval Hearing, he or she must submit a written objection as set forth in Section II.D above.

G. Motion for Final Approval and Judgment

1. Upon the Court's entry of the Preliminary Approval Order, the Settling Parties, Class Counsel, and Delta Dental's Counsel agree to use reasonable and good faith efforts to obtain the Court's Final Approval Order and Judgment, including filing the necessary motion papers and scheduling any necessary hearings for dates and times that are convenient for the Court.

2. Within thirty (30) calendar days after the Objection and Opt-Out Deadlines, Class Counsel shall file with the Court a motion for a Final Approval Order and Judgment that, among other things, will:

a. Determine that the Court has jurisdiction over the Class Representatives and the Settlement Class;

b. Determine that the Amended Settlement Agreement and its terms are fair, reasonable and adequate and satisfy the requirements of California Code of Civil Procedure Section 382, California Rule of Court 3.769(g), the Local Rules of the Superior Court for the County of San Francisco, and any other rules that may be applicable;

- c. Determine that the Class Notice (a) constituted reasonable and the best practicable notice; (b) constituted notice that was reasonably calculated to apprise Class Members of the pendency of this action, the terms of this Amended Settlement Agreement, the right to object to this Amended Settlement Agreement, the right to appear at the Final Approval Hearing, and the right to opt out of this Amended Settlement Agreement; (c) constituted due, adequate and sufficient notice to all persons entitled to receive such notice; and (d) met the requirements of due process, the California Code of Civil Procedure, the California Rules of Court, and any other applicable law or rules of court;
- d. Incorporate the Amended Settlement Agreement;
- e. Set forth the method for allocating and distributing the Settlement Amount as provided in the Plan of Allocation and Distribution approved by the Court;
- f. Direct payment of Attorney's Fees and Expenses as provided in Section VI;
- g. Direct the payment of service awards to the Class Representatives as provided in Section III.C.2.a;
- h. Incorporate the release of the Released Claims as binding and effective as to the Class Representatives and all Settlement Class Members, permanently enjoining the Class Representatives and all Settlement Class Members from asserting any of the Released Claims, and forever discharging the Released Parties from the Released Claims;
- i. Reserve for the Court exclusive and continuing jurisdiction over the administration, consummation and enforcement of this Amended Settlement Agreement, including all proceedings both before and after the Amended Settlement Agreement Effective Date, pursuant to California Rule of Court 3.769(h); and
- j. Direct that the Final Approval Order and Judgment be entered.

3. If the Court executes a Final Approval Order and Judgment, the Settling Parties will take all necessary steps to ensure that notice of entry of judgment is provided as ordered by the Court pursuant to California Rule of Court 3.771.

4. The Settling Parties may, but are not required to, accept revisions to this Amended Settlement Agreement required by the Court in order to obtain Final Approval of the Settlement.

5. The Class Administrator's affidavit or declaration of compliance with the Class Notice Plan shall be filed with the motion seeking entry of the Final Approval Order and Judgment.

III. CONSIDERATION FOR SETTLEMENT

A. Consideration for Release

1. As consideration for this Amended Settlement Agreement, and in full, complete and final settlement of all Released Claims against Delta Dental and the other Released Parties, Delta Dental agrees to provide the consideration set forth in Sections III.B and III.C below.

B. Declaratory Relief

1. In connection with future written reimbursement request or demand letters to California Providers:

a. If Delta Dental intends to allege Provider fraud or misrepresentation regarding claims initially paid more than 365 days prior to the request or demand, Delta Dental shall so clearly indicate, including by using the word(s) "fraud" and/or "misrepresentation" in one or more of the first three paragraph(s) of the letter;

b. If Delta Dental intends to allege Provider fraud or misrepresentation regarding claims initially paid more than 365 days prior to the request or demand, Delta Dental shall not merely refer to "administrative or bookkeeping

deficiencies” or the like; notwithstanding the above, Delta Dental has the right to refer to such deficiencies in addition to making express allegations of fraud and/or misrepresentation in a single reimbursement request or demand;

c. In its initial reimbursement request or demand, Delta Dental shall inform the Provider how to access its dispute resolution mechanism and shall inform the Provider of the name and address to which the dispute should be submitted and a statement that Section 1371.1 of the California Health and Safety Code requires a Provider to reimburse the plan for an overpayment within 30 working days of receipt by the Provider of the notice of the overpayment unless the Provider contests the overpayment within 30 working days (*see* C.C.R. § 1371.1(b)(2));

d. In its initial reimbursement request or demand, Delta Dental shall include a statement that if the Provider does not make reimbursement of an uncontested overpayment within 30 working days after receipt of the notice, interest shall accrue at a rate of 10 percent per annum (*see* C.C.R. § 1371.1(b)(2)); and

e. Notwithstanding subsections III.B.1(c) and (d) above, at Delta Dental’s discretion it may give Providers more time to contest an overpayment than required by C.C.R. § 1371.1(b)(2)) so long as Delta Dental informs the Provider of the longer period in its initial reimbursement request or demand.

C. Monetary Relief

1. Relinquishment of Certain Outstanding Reimbursement Claims

Delta Dental shall relinquish its right to collect, and shall not collect or attempt to collect, any and all amounts from Settlement Class Members that (a) it has not yet collected, (b) were first sought in connection with a written reimbursement request or demand issued more than 365 days after the initial claim(s) was/were paid and (c) were not expressly alleged to be the result of Provider fraud or misrepresentation in the initial reimbursement request or

demand up to the date of preliminary approval. Notwithstanding the above, if in any given initial written reimbursement request or demand Delta Dental also sought the reimbursement of claims paid within 365 or fewer days, Delta Dental shall not relinquish its right to collect and shall not be required to refrain from collecting or attempting to collect those amounts. The Parties agree that the monetary value of the relinquishment of all outstanding reimbursement claims is approximately \$8,445,213.

Delta Dental further agrees that it will not use the fact that a request for reimbursement had been made to any of the Settlement Class Members in order to deny, hinder or alter any of the membership rights of any of the Settlement Class Members including the right to recredentialing as a Delta Dental Member. Notwithstanding the preceding sentence, Delta Dental shall have the right, in connection with any membership or recredentialing decisions, to take into account the facts or alleged facts underlying any reimbursement request.

2. Settlement Payments

The Settlement Amount to be allocated as set forth in this Amended Settlement Agreement is two-million and eight-hundred thousand dollars (\$2,800,000.00). The Settlement Amount will be used to pay for Attorney's Fees and Expenses as approved by the Court (Section VI) and Class Representative service awards (Section III.C.2.a) as approved by the Court. The remaining balance ("Remaining Balance") shall be allocated and distributed in accordance with the Plan of Allocation and Distribution attached to this Amended Settlement Agreement as Appendix 3.

a. From the Settlement Amount, Delta Dental shall pay a service award to each Class Representative in an amount to be determined by the Court, but in no event greater than three thousand five hundred dollars (\$3,500) per each Class Representative.

b. From the Settlement Amount, Delta Dental shall pay Attorney's Fees and Expenses as approved by the Court pursuant to Section VI below.

c. Delta Dental shall make payments to Settlement Class Members totaling in the aggregate no more than the Remaining Balance pursuant to the Plan of Allocation and Distribution approved by the Court.

d. Under no circumstances shall Class Counsel, the Class Representatives or any Settlement Class Member be permitted to seek any payments from Delta Dental or any Released Party in excess of the amounts provided in Section III.C.2, and under no circumstances shall Delta Dental or any Released Party be required to pay more than the amounts provided in Section III.C.2, for any reason under this Amended Settlement Agreement, including without limitation the operation and administration of a Qualified Settlement Fund, if required (Appendix 5).

3. **Allocation of the Settlement Amount to Class Members**

a. Class Counsel and Delta Dental's Counsel, working with their expert(s) as appropriate, shall determine the allocation of the Settlement Amount to Class Members and the manner in which it will be distributed pursuant to the Plan of Allocation and Distribution contained in Appendix 3. Counsel for the Settling Parties will confer in good faith to confirm the accuracy of these calculations.

4. **Distribution of the Settlement Amount's Remaining Balance**

a. Distribution of the Settlement Amount's Remaining Balance shall be made pursuant to the Plan of Allocation and Distribution (Appendix 3).

b. Class Members who opt out of the Settlement shall not receive any distribution from the Settlement Amount.

c. Delta Dental may make the Settlement payments in the form of checks or electronic payments. Distributions shall be completed within 120 calendar days

after the Final Approval Order unless the Settling Parties otherwise agree or the Court so orders upon good cause shown.

d. The Settling Parties agree that they and their counsel have not provided any guidance, advice or opinion regarding the taxability of payments made pursuant to this Amended Settlement Agreement and the Plan of Allocation and Distribution approved by the Court. Neither Delta Dental nor any other Released Party shall have any liability, obligation or responsibility to pay any taxes owed by Settlement Class Members for amounts received pursuant to this Amended Settlement Agreement and the Plan of Allocation and Distribution approved by the Court.

e. Delta Dental's payments pursuant to this Amended Settlement Agreement and the Plan of Allocation and Distribution shall constitute full and complete satisfaction of its obligations under Section III.C.4 to make payments to Settlement Class Members. Settlement Class Members shall not under any circumstances be entitled to any further payment from Delta Dental or any Released Party with respect to any Released Claims.

5. Settlement Amount *Cy Pres* Distribution

a. Any payment from the Settlement Amount that is returned as undeliverable, or which is not cashed or redeemed within 90 days of the date of the payment, shall be treated as a residual of the Settlement Amount. A stop payment order shall be issued for all such checks, and the total funds associated with each such check shall be paid to La Clinica de La Raza, www.laclinica.org, for the provision of dental services. The payment of the *cy pres* award shall be made as soon as reasonably practicable after Delta Dental makes final payments to Settlement Class Members and the Court orders the payment of the *cy pres* award to be made.

6. Administration Fees and Expenses

a. Delta Dental shall be responsible for the payment of fees and expenses relating to administration of the Settlement Amount, unless a Qualified Settlement Fund is established pursuant to Section V of this Amended Settlement Agreement. As provided in Section V below, in the event of an appeal, Delta Dental shall establish a Qualified Settlement Fund, as provided in Appendix 5, into which the Settlement Amount shall be deposited. If a Qualified Settlement Fund is established, as provided in Appendix 5, all fees and expenses relating to the operation and administration of the Qualified Settlement Fund (including but not limited to fees and expenses for any claims administrator and fees and expenses relating to the distribution of the Settlement Amount), currently estimated to be less than \$50,000, shall be paid from the Qualified Settlement Fund and neither Delta Dental, Delta Dental's Counsel, the Class Representatives, nor Class Counsel shall have any responsibility for those fees and expenses.

IV. RELEASE

1. In addition to and not in lieu of the effect of any final judgment entered in accordance with the Amended Settlement Agreement, and in consideration of Delta Dental's agreement to pay the Settlement Amount and for other valuable consideration provided by the Amended Settlement Agreement, each Settlement Class Member hereby expressly and irrevocably waives, and fully, finally, and forever settles, discharges, and releases the Released Parties, from any and all manner of claims, demands, actions, suits, and causes of action, whether individual, class, derivative, representative, or otherwise in nature, for damages (whether compensatory, consequential, special, statutory or punitive), restitution, interest, costs, expenses, attorneys' fees, fines, civil or other penalties, or other payment of money, or for injunctive, declaratory, or other equitable relief, whether directly, indirectly,

derivatively, or otherwise, whether known or unknown, suspected or unsuspected, in law or in equity, that are based on, arise from or relate directly to Delta Dental's conduct, acts or omissions alleged in the Second Amended Complaint including without limitation allegations in connection with written requests or demands for reimbursement that (a) Delta Dental's reimbursement requests or demands were time-barred, in whole or in part, including without limitation by the Regulation, (b) Delta Dental requested or demanded that Providers reimburse for claims initially paid more than 365 days prior to Delta Dental's initial reimbursement requests or demands, (c) Delta Dental's initial reimbursement requests or demands did not clearly allege fraud or misrepresentation, (d) Delta Dental did not actually or subjectively believe that Providers committed fraud or misrepresentation, and (e) Delta Dental did not lawfully or appropriately determine that it believed Providers committed fraud or made misrepresentations, including by allegedly employing or using non-California dentists to make such determinations, in whole or in part, or by not reporting Providers to law enforcement officials, the National Practitioner Data Bank or equivalent regardless of when such claims accrue or accrued, for the period through the date the Class is preliminarily certified (the "Release Date") as provided herein (the "Released Claims"). Settlement Class Members shall not, after the Release Date, seek to establish liability against the Released Parties based on, arising from or relating directly to the conduct, acts or omissions asserted in the Second Amended Complaint. Settlement Class Members and the Released Parties agree that the Amended Settlement Agreement may be pleaded as a bar to a lawsuit, arbitration demand or administrative claim, and an injunction may be obtained, preventing any action from being initiated or maintained in any lawsuit, arbitration or administrative proceeding sought to be prosecuted by or on behalf of Settlement Class Members with respect to the Released Claims.

2. In addition to the provisions of Section IV.1, above, each Settlement Class Member expressly agrees that, upon the Release Date, he, she or it waives and forever releases only with respect to the Released Claims defined in Section IV.1 above, any and all provisions, rights and benefits conferred by either (a) Section 1542 of the California Civil Code, which reads:

Section 1542. General release; extent.

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

or (b) any law of the United States or any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. Each Settlement Class Member acknowledges that he, she or it may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the Released Claims, but each Settlement Class Member hereby expressly waives and fully, finally, and forever settles and releases, upon the Release Date, any known or unknown, suspected or unsuspected, contingent or non-contingent claim based on, arising from or relating directly to the conduct, acts or omissions alleged in the Second Amended Complaint, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

V. NOTICE OF APPEAL

1. If a valid notice of appeal of the Court's Final Approval Order and Judgment is timely filed, Delta Dental shall establish a Qualified Settlement Fund into which it shall deposit the Settlement Amount. The procedures to establish any such Qualified Settlement Fund are provided in Appendix 5, subject to the approval of the Court.

VI. ATTORNEY'S FEES AND EXPENSES

1. Class Counsel and the Class Representatives will, no later than fourteen (14) calendar days before the Objection and Opt-Out Deadlines, file a motion seeking the Court's approval of an award of Attorney's Fees and Expenses to Class Counsel in the amount One Million Five Hundred and Seventy-Nine dollars (\$1,000,579.00) consisting of attorney's fees in the amount of \$933,333.00 and expenses in the amount of \$67,246.00 to be paid from the Settlement Amount. Delta Dental agrees not to oppose and to pay an award of Attorney's Fees and Expenses up to the amount set forth above if approved by the Court. Class Counsel, the Class Representatives, and Settlement Class Members agree that the Court's award of Attorney's Fees and Expenses, regardless of the amount awarded, fully satisfies any and all claims for attorney's fees and expenses (including for experts) against Delta Dental or any Released Party, and that they will not seek attorney's fees and expenses (including for experts) in excess of this amount, subject to their right, if any, to challenge on appeal an award of less than the requested amount. Delta Dental also agrees to pay any award of Attorney's Fees and Expenses within sixty (60) days after entry of the Final Approval Order.

2. Upon payment of the Attorney's Fees and Expenses, Class Counsel, the Class Representatives, and Settlement Class Members hereby irrevocably and unconditionally release, acquit, and forever discharge any claim that they may have against Delta Dental or any Released Party for attorney's fees and expenses (including for experts) associated with the Litigation or Class Counsel's representation of Class Representatives and/or the Class.

VII. TERMINATION OF THIS AMENDED SETTLEMENT AGREEMENT

1. This Amended Settlement Agreement may be terminated by either Delta Dental or Class Counsel by serving on counsel for the opposing party and filing with the

Court a written notice of termination within fourteen (14) days after any of the following occurrences:

- a. The Court requires a modification, amendment or revision to the Settlement;
- b. the Court declines to preliminarily or finally approve the Settlement;
- c. an appellate court reverses the Preliminary Approval Order or the Final Approval Order and Judgment, and the Settlement is not reinstated without a modification, amendment or revision by the Court on remand;
- d. any court incorporates into, or deletes or strikes from, or modifies, amends, or revises, the Preliminary Approval Order, the Final Approval Order and Judgment, or the Settlement in any way; or
- e. any other ground for termination provided for elsewhere in this Amended Settlement Agreement arises.

2. If this Amended Settlement Agreement does not become effective for any reason, then (a) this Amended Settlement Agreement shall be null and void and of no force and effect (other than the “No Waiver” provision in Section VIII.C, the “Reservation of Rights” provision in Section VIII.E, and the “No Admission” provision in Section VIII.P); (b) Delta Dental shall be relieved of making any payments to the Class Representatives, Settlement Class Members and Class Counsel; (c) if Delta Dental has transferred any funds into the Qualified Settlement Fund those funds shall be returned to Delta Dental with any accrued interest less expenses paid; and (d) any release in this Amended Settlement Agreement shall be of no force or effect. The Litigation will proceed as if no settlement has been attempted, and the Settling Parties shall be returned to their respective procedural postures, *i.e.*, the posture that existed immediately preceding the filing of the Motion for

Preliminary Approval, and the Litigation may proceed as though the parties had not entered into settlement discussions. In such circumstances, Delta Dental expressly retains the right to contest whether the Litigation can or should be maintained as a class action, collective action or representative action, and to contest the merits of claims that have been or may be asserted.

VIII. MISCELLANEOUS

A. Reasonable Efforts

1. The Settling Parties, Class Counsel and Delta Dental's Counsel shall undertake reasonable efforts to timely obtain any required approvals or consents to execute and proceed with this Amended Settlement Agreement and shall execute all documents and perform any additional acts reasonably necessary and proper to effectuate the terms of this Amended Settlement Agreement.

B. Public Statements

1. The Settling Parties will agree on a joint statement concerning the Litigation and the Settlement to be issued when the Motion for Preliminary Approval is filed unless they agree to a different date. The Settling Parties, Class Counsel and Delta Dental's Counsel retain their right to comment on the Litigation and/or respond to inquiries regarding the Litigation but agree to support the Settlement in all public statements, including all statements in court and all statements to the news media.

C. No Waiver

1. Nothing in this Amended Settlement Agreement is intended to waive any right to assert that any information or material is protected from discovery by reason of any individual or common interest privilege, attorney-client privilege, work product protection, or other privilege, protection, or immunity, or is intended to waive any right to contest any such claim of privilege, protection, or immunity.

2. This Section VIII.C shall survive the termination of this Amended Settlement Agreement.

D. Stay of Proceedings

1. The Settling Parties will seek a stay or continued stay of the Litigation while seeking preliminary and final approval of this Amended Settlement Agreement.

E. Reservation of Rights

1. The Settling Parties expressly reserve all of their rights, claims and defenses if this Amended Settlement Agreement does not become final and effective in accordance with the terms of this Amended Settlement Agreement.

2. The Settling Parties, Class Counsel and Delta Dental's Counsel agree that this Amended Settlement Agreement, whether or not it shall become effective, and any and all negotiations, documents and discussions associated with it shall not be deemed or construed to be an admission or evidence of any violation of any statute or law, of any liability or wrongdoing by Delta Dental or any Released Party, or of the truth of any of the claims or allegations contained in the complaints in the Litigation, or any pleading or document; and evidence thereof shall not be discoverable or used directly or indirectly, in any way, whether in the Litigation or any other action or proceeding. The Settling Parties, Class Counsel and Delta Dental's Counsel further acknowledge and agree that this Amended Settlement Agreement supersedes any and all negotiations and discussions that led to this Amended Settlement Agreement, and that all such negotiations and discussions are inadmissible in any proceeding, and are fully protected from disclosure by the Settling Parties' agreement governing the Mediation, California Evidence Code Sections 1119 and 1152, Federal Rule of Evidence 408, and any other comparable statute, law, regulation or local rule of court.

3. Class Counsel, the Class Representatives, Class Members, Delta Dental, and Delta Dental's Counsel agree not to cite, in connection with any motion or argument for or against certification of a litigation class or in support of any other representative action against any Released Party, or any other proceedings in this case other than an action to enforce this Amended Settlement Agreement, materials generated or provided in connection with the Mediation or this Amended Settlement Agreement and its Appendices. Each Settling Party, Released Party and Class Member expressly preserves and does not waive any of its, his or her rights or arguments to oppose or support certification of a class and nothing in this Amended Settlement Agreement shall be construed otherwise.

4. This Section VIII.E shall survive any termination of this Amended Settlement Agreement.

F. No Assignment

1. Class Counsel, the Class Representatives, and each Settlement Class Member represents and warrants that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the Litigation or other action.

G. Binding Effect

1. This Amended Settlement Agreement shall be binding upon, and inure to the benefit of, the Settling Parties, each Settlement Class Member and each Released Party. Without limiting the generality of the foregoing, each and every covenant and agreement herein by the Class Representatives and Class Counsel shall be binding upon all Settlement Class Members.

H. Advice of Counsel

1. The Settling Parties and Settlement Class Members represent and warrant that they have not relied upon or been induced by any representation, statement or disclosure of the other Settling Parties or their attorneys or agents, but have relied upon their own knowledge and judgment and upon the advice and representation of their own counsel in entering into this Agreement. Each Settling Party and Settlement Class Member warrants that it/he/she has carefully read this Amended Settlement Agreement, knows its contents, and has freely entered into it. Each Settling Party, by execution of this Agreement, represents that it/he/she has been represented by independent counsel of its/his/her choice throughout all negotiations preceding the execution of this Amended Settlement Agreement.

I. Integrated Agreement

1. This Amended Settlement Agreement and its Appendices contain the entire, complete, and integrated agreement, and contain each and every term and provision of the Settlement, between and among the Class Representatives and Settlement Class Members, and Delta Dental and the Released Parties. All of the Appendices to this Amended Settlement Agreement are material and integral parts of it and are incorporated by reference as if fully set forth herein. This Amended Settlement Agreement shall not be modified or amended except by a writing signed by the Class Representatives and Delta Dental and approved by the Court. This Amended Settlement Agreement supersedes the Settlement Agreement between and among the Parties dated November 1, 2022 in its entirety.

J. Headings

1. The headings used in this Amended Settlement Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Amended Settlement Agreement.

K. No Drafting Presumption

1. Class Counsel and Delta Dental's Counsel have materially participated in the drafting of this Amended Settlement Agreement. No Settling Party shall be considered to be the drafter of this Amended Settlement Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

L. Choice of Law

1. All terms of this Amended Settlement Agreement shall be governed by and interpreted according to the substantive laws of the State of California without regard to its choice of law or conflict of laws principles.

M. Consent to Jurisdiction and Choice of Exclusive Forum

1. Any and all disputes arising from or related to the Settlement, the Amended Settlement Agreement, or claims administration, including Attorneys' Fees and Expenses, must be brought exclusively in the Civil Division of the Superior Court of California, County of San Francisco (the "Civil Division"). Delta Dental, Class Representatives and each Settlement Class Member hereby irrevocably submits to the exclusive and continuing jurisdiction of the Civil Division for any suit, action, proceeding or dispute arising out of or relating to this Amended Settlement Agreement or the applicability or interpretation of this Amended Settlement Agreement, including, without limitation any suit, action, proceeding or dispute relating to the release provisions herein, except that this paragraph shall not prohibit (a) any Released Party from asserting in the forum in which a claim is brought that the release herein is a defense, in whole or in part, to such claim, or (b) in the event that such a defense is asserted in that forum and the Civil Division determines that it cannot bar the claim, the determination of the merits of the defense in that forum.

N. Enforcement of Settlement

1. Nothing in this Amended Settlement Agreement prevents Delta Dental or any Released Party from enforcing or asserting any release in the Amended Settlement Agreement. Notwithstanding any other provision of this Amended Settlement Agreement, this Amended Settlement Agreement and the releases contained herein may be pleaded as a full and complete defense to any action, suit or other proceeding that has been or may be instituted, prosecuted or attempted by or on behalf of any Class Representative or other Settlement Class Member with respect to any Released Claims and may be filed, offered and received into evidence and otherwise used for such defense. In any action to enforce this Amended Settlement Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees and expenses.

O. Severability

1. The terms of this Amended Settlement Agreement are not severable, but are interdependent and have been agreed to only as a whole by the Settling Parties, Class Counsel, and Delta Dental's Counsel. If one or more of the provisions of this Amended Settlement Agreement shall for any reason be held to be illegal, invalid or unenforceable in any respect, such illegality, invalidity or unenforceability shall terminate the Amended Settlement Agreement unless the Settling Parties mutually agree in writing to proceed as if such illegal, invalid, or unenforceable provision had never been included in the Amended Settlement Agreement, or the Settling Parties mutually agree to modify or amend the Amended Settlement Agreement as provided in Section VIII.I above.

P. No Admission

1. Nothing in this Amended Settlement Agreement shall be construed as an admission in any action or proceeding of any kind whatsoever, whether civil, criminal or otherwise, before any court, administrative agency, regulatory body or any other body or

authority, at any time, by Delta Dental, any Released Party, Class Representatives, or Class Members, including without limitation that Delta Dental or any Released Party has engaged in any conduct or practices that violate any state or federal statute or other law. Delta Dental denied and continues to deny all allegations in the Litigation that it engaged in any wrongdoing of any kind, or that it violated or breached any law, regulation or duty owed to any Class Representative or Class Member, and further denies that it is liable to, or owes any form of compensation or damages to, anyone with respect to the alleged facts or causes of action asserted in the Litigation.

2. This Section VIII.P shall survive any termination of this Amended Settlement Agreement.

Q. Execution in Counterparts

1. This Amended Settlement Agreement may be executed in counterparts. Facsimile or PDF signatures shall be considered as valid signatures as of the date hereof.

R. Notice

1. Any notice, request, instruction or other document to be given under this Amended Settlement Agreement shall be in writing and (a) shall be delivered personally or (b) sent by overnight delivery and email to the following or their designee:

Class Representatives:

Ronald P. Goldman, Esq.
J.E.B. Pickett, Esq.
Andrew J. Goldman, Esq.
The Goldman Law Firm
Merchant Bank Building
55 Main Street
Tiburon, CA 94920
415-435-5500
[snakebit@goldmanlawfirm.net](mailto:sakebit@goldmanlawfirm.net)
jpickett@goldmanlawfirm.net
sundance@goldmanlawfirm.net

Class Counsel:

Ronald P. Goldman, Esq.
J.E.B. Pickett, Esq.
Andrew J. Goldman, Esq.
The Goldman Law Firm
Merchant Bank Building
55 Main Street
Tiburon, CA 94920
415-435-5500
[snakebit@goldmanlawfirm.net](mailto:sakebit@goldmanlawfirm.net)
jpickett@goldmanlawfirm.net
sundance@goldmanlawfirm.net

Delta Dental of California:

Michael Hankinson, Esq.
Galen Sorrells, Esq.
Delta Dental
560 Mission Street, Suite 1300
San Francisco, CA 94105
(415) 972-8300
mhankinson@delta.org
gsorrells@delta.org

Delta Dental's Counsel:

Howard M. Ullman, Esq.
Dechert LLP
1 Bush Street, Suite 1600
San Francisco, CA 94104
Howard.ullman@dechert.com

Russell Cohen, Esq.
Dechert LLP
1 Bush Street, Suite 1600
San Francisco, CA 94104
Russ.cohen@dechert.com

IN WITNESS WHEREOF, the Settling Parties hereto have agreed to this Amended Settlement Agreement on the date first herein above written.

ACCEPTED AND AGREED:

Dated: February __, 2023

By: _____
Ahmed Moneim, D.D.S.

Dated: February __, 2023


By: _____
Charina Bailon, D.D.S.

Dated: February __, 2023

By: _____
Joyce Tse, D.D.S.

Dated: February 27, 2023

THE GOLDMAN LAW FIRM

By: 
Ronald P. Goldman
Attorneys for the Plaintiff Class and
for Ahmed Moneim, D.D.S., Charina
Bailon, D.D.S. and Joyce Tse, D.D.S.
individually and as Class
Representatives

Dated: February __, 2023

Delta Dental of California

By: _____
Sarah Chavarria, President

Delta Dental's Counsel:

Howard M. Ullman, Esq.
Dechert LLP
1 Bush Street, Suite 1600
San Francisco, CA 94104
Howard.ullman@dechert.com

Russell Cohen, Esq.
Dechert LLP
1 Bush Street, Suite 1600
San Francisco, CA 94104
Russ.cohen@dechert.com

IN WITNESS WHEREOF, the Settling Parties hereto have agreed to this Amended Settlement Agreement on the date first herein above written.

ACCEPTED AND AGREED:

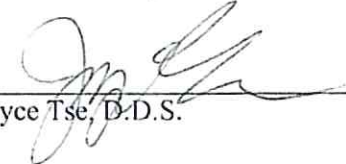
Dated: February __, 2023

By: _____
Ahmed Moneim, D.D.S.

Dated: February __, 2023

By: _____
Charina Bailon, D.D.S.

Dated: February 22, 2023

By: 
Joyce Tse, D.D.S.

Dated: February __, 2023

THE GOLDMAN LAW FIRM

By: _____
Ronald P. Goldman
Attorneys for the Plaintiff Class and
for Ahmed Moneim, D.D.S., Charina
Bailon, D.D.S. and Joyce Tse, D.D.S.
individually and as Class
Representatives

Dated: February __, 2023

Delta Dental of California

By: _____
Sarah Chavarria, President

Delta Dental's Counsel:


Howard M. Ullman, Esq.
Dechert LLP
1 Bush Street, Suite 1600
San Francisco, CA 94104
Howard.ullman@dechert.com

Russell Cohen, Esq.
Dechert LLP
1 Bush Street, Suite 1600
San Francisco, CA 94104
Russ.cohen@dechert.com

IN WITNESS WHEREOF, the Settling Parties hereto have agreed to this Amended Settlement Agreement on the date first herein above written.

ACCEPTED AND AGREED:

Dated: February 17, 2023

By: 
Ahmed Moneim, D.D.S.

Dated: February __, 2023

By: _____
Charina Bailon, D.D.S.

Dated: February __, 2023

By: _____
Joyce Tse, D.D.S.

Dated: February __, 2023

THE GOLDMAN LAW FIRM

By: _____
Ronald P. Goldman
Attorneys for the Plaintiff Class and
for Ahmed Moneim, D.D.S., Charina
Bailon, D.D.S. and Joyce Tse, D.D.S.
individually and as Class
Representatives

Dated: February __, 2023

Delta Dental of California

By: _____
Sarah Chavarria, President

Delta Dental's Counsel:

Howard M. Ullman, Esq.
Dechert LLP
1 Bush Street, Suite 1600
San Francisco, CA 94104
Howard.ullman@dechert.com

Russell Cohen, Esq.
Dechert LLP
1 Bush Street, Suite 1600
San Francisco, CA 94104
Russ.cohen@dechert.com

IN WITNESS WHEREOF, the Settling Parties hereto have agreed to this Amended Settlement Agreement on the date first herein above written.

ACCEPTED AND AGREED:

Dated: February __, 2023

By: _____
Ahmed Moneim, D.D.S.

Dated: February 27, 2023

By: Charina K. Bailon
Charina Bailon, D.D.S.

Dated: February __, 2023

By: _____
Joyce Tse, D.D.S.

Dated: February __, 2023

THE GOLDMAN LAW FIRM

By: _____
Ronald P. Goldman
Attorneys for the Plaintiff Class and
for Ahmed Moneim, D.D.S., Charina
Bailon, D.D.S. and Joyce Tse, D.D.S.
individually and as Class
Representatives

Dated: February __, 2023

Delta Dental of California

By: _____
Sarah Chavarria, President

Delta Dental's Counsel:

Howard M. Ullman, Esq.
Dechert LLP
1 Bush Street, Suite 1600
San Francisco, CA 94104
Howard.ullman@dechert.com

Russell Cohen, Esq.
Dechert LLP
1 Bush Street, Suite 1600
San Francisco, CA 94104
Russ.cohen@dechert.com

IN WITNESS WHEREOF, the Settling Parties hereto have agreed to this Amended Settlement Agreement on the date first herein above written.

ACCEPTED AND AGREED:

Dated: February __, 2023

By: _____
Ahmed Moneim, D.D.S.

Dated: February __, 2023

By: _____
Charina Bailon, D.D.S.

Dated: February __, 2023

By: _____
Joyce Tse, D.D.S.

Dated: February __, 2023

THE GOLDMAN LAW FIRM

By: _____
Ronald P. Goldman
Attorneys for the Plaintiff Class and
for Ahmed Moneim, D.D.S., Charina
Bailon, D.D.S. and Joyce Tse, D.D.S.
individually and as Class
Representatives

Dated: February 27, 2023

Delta Dental of California

By: Sarah Chavarria
Sarah Chavarria, President

Dated: February 27, 2023

DECHERT LLP

By: Howard M. Ullman
Howard M. Ullman
Attorneys for
Defendant Delta
Dental of California

Appendix 1: Long-Form Class Notice

**Notice of Class Action Amended Settlement Agreement and Final Approval
Hearing**

***Ahmed Moneim, D.D.S., et al. v. Delta Dental of California,*
San Francisco County Superior Court, No. CGC-18-565581**

c/o

**Delta Dental of California
Class Administrator
560 Mission Street, Suite 1300
San Francisco, CA 94105
1-800-XXX-YYYY**

Superior Court for the City and County of San Francisco

Important Information – Read Carefully

IF YOU HAVE BEEN A PROVIDER IN CALIFORNIA WHO RECEIVED A DELTA DENTAL OF CALIFORNIA INITIAL WRITTEN REQUEST OR DEMAND FOR REIMBURSEMENT OF ALLEGED OVERPAYMENT OF CLAIMS AT ANY TIME FROM APRIL 6, 2014 TO _____, 2023, PLEASE READ THIS NOTICE CAREFULLY.

THE SAN FRANCISCO COUNTY SUPERIOR COURT HAS DIRECTED THAT THIS NOTICE BE SENT TO YOU. THIS IS NOT A SOLICITATION FROM A LAWYER.

The San Francisco County Superior Court has preliminarily approved a proposed Settlement Agreement (“Proposed Settlement”) of a class action lawsuit brought on behalf of Delta Dental of California participating dentists who received a Delta Dental of California (Delta Dental”) initial written request or demand for reimbursement of alleged overpayment of claims at any time during the period April 6, 2014 to _____, 2023 (the date of preliminary approval of the Amended Settlement Agreement) (the “Class Period”) in connection with claims submitted, approved and paid by Delta Dental more than 365 days earlier. The Proposed Settlement resolves the claims asserted against Delta Dental in a lawsuit entitled *Ahmed Moneim, D.D.S., et al. v. Delta Dental of California*, San Francisco County Superior Court Action No. CGC-18-565581 (the “Lawsuit”).

The purpose of this Notice is to inform you of the terms of the Proposed Settlement, and to advise you of your legal rights and options with respect to it and the deadline by which they must be exercised.

Please read this Notice carefully.

**SUMMARY OF THE PROPOSED
SETTLEMENT**

- The Lawsuit was brought by Class Representatives Drs. Ahmed Moneim, Charina Bailon and Joyce Tse. The Lawsuit challenges certain conduct of Delta Dental beginning April 6, 2014.
- Plaintiffs allege that Delta Dental collected approximately \$7.6 million in reimbursement from Class Members and that approximately \$8,4 million in pending claims remains to be collected.
- As a part of the Proposed Settlement, Delta Dental will pay an amount to Settlement Class Members who made reimbursements as detailed below.
- Further, as a part of the Proposed Settlement, in connection with future written reimbursement request or demand letters to providers, if Delta Dental intends to allege provider fraud or misrepresentation regarding claims initially paid more than 365 days prior to an initial written request or demand for reimbursement of allegedly overpaid claims, Delta Dental shall so clearly indicate, including by using the word(s) “fraud” and/or “misrepresentation” in one or more of the first three paragraph(s) of the letter. Delta Dental shall also inform the provider how to access its dispute resolution mechanism and that uncontested reimbursement requests or demands shall incur interest charges.
- Further, as a part of the Proposed Settlement, Delta Dental will relinquish its right to collect, and shall not collect or attempt to collect, any and all amounts from Settlement Class Members that (a) it has not yet collected, (b) were first sought in connection with a written reimbursement request or demand issued more than 365 days after the initial claim(s) was/were paid and (c) were not expressly alleged to be the result of provider fraud or misrepresentation in the initial reimbursement request or demand up to the date of preliminary approval. The Parties agree that the monetary value of the relinquishment of all outstanding reimbursement claims is approximately \$8,445,213. Delta Dental will not use the fact that a request for reimbursement had been made to any of the Settlement Class Members in order to deny, hinder or alter any of the membership rights of any of the Settlement Class Members including the right to recredentialing as a Delta Dental Member. Notwithstanding the preceding sentence, Delta Dental shall have the right, in connection with any membership or recredentialing decisions, to take into account the facts or alleged facts underlying any reimbursement request.
- Of the amount of reimbursements collected to date, Delta Dental will pay a total of \$2,800,000 (the “Settlement Amount”) to Settlement Class Members who received initial written requests or demands for reimbursement of allegedly overpaid claims from April 6, 2014 to _____, 2023 and reimbursed Delta Dental, in whole or in part, after deducting (i) an award of attorney’s fees and expenses to Class Counsel up to \$1,000,579.00, which will be subject to approval by the Court, and (ii) up to \$3,500 to each of the individual named plaintiffs for their service as Class Representatives. The balance of the Settlement

Amount will be allocated and distributed to Settlement Class Members in proportion to the amount of reimbursement that they paid. A motion seeking approval of the attorney's fees and service awards will be filed no later than two weeks before the Objection and Opt-Out Deadlines.

- **Class Members do not need to file a proof of claim or present records of reimbursement payments in order to be allocated a portion of the Settlement Amount.** Class Counsel and experts working for the Class will determine the allocation of the Settlement Amount among Class Members based on Delta Dental's available records. In general, the amount allocated to each Class Member will be a share of the Settlement Amount that will be proportionate to the Class Member's reimbursement amount when compared to the total reimbursements made by the entire Class. Allocations will be made based on the best data available. There will be no allocation of the Settlement Amount to Class Members who did not make reimbursements or distributions from the Settlement Amount to Class Members who opt out of the Proposed Settlement.
- The distribution of the allocations of the Settlement Amount will be made in accordance with the process described in Section II.2 of this Notice. Allocations not relating to a Settlement Class Member's reimbursements to Delta Dental paid by a group practice will be distributed directly to the Settlement Class Member. In connection with allocations relating to a Settlement Class Member's reimbursements to Delta Dental paid by a group practice in the normal course of business, the Class Member and the group practice will receive a notice informing them that unless either party objects the distribution will be made to the group practice. If either party objects, the payment will be held until the disagreement is resolved by agreement or a court order. Once the allocations and distributions have been determined, they will be deemed final and not subject to legal challenge.
- If approved by the Court, the Proposed Settlement will be a legally binding resolution of known and unknown claims based on, arising from, or relating directly to the conduct, acts and omissions alleged in the Second Amended Complaint. Individual disputes with Delta Dental concerning other matters that are not based on conduct, acts or omissions alleged in the Lawsuit will not be released. In addition, no claim based on conduct, acts or omissions of Delta Dental after the Release Date will be released by the Proposed Settlement.
- The Proposed Settlement will become effective only after the Court enters a Final Approval Order and Judgment of the Proposed Settlement following a public hearing to determine the fairness of the Proposed Settlement, and, if necessary, the resolution of any appeal should anyone seek to challenge the Court's Final Approval Order and Judgment.

<p style="text-align: center;">YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</p>
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Please review this Notice in its entirety. You have the following legal rights and options, which must be exercised in the manner described in this Notice within 45 days from the date of this Notice. The deadline by which you must act is _____, 2023.

<p>Participate in this Proposed Settlement</p>	<p>If you wish to participate in the Proposed Settlement, you do not need to do anything. If the Court determines that the Proposed Settlement is fair, adequate and reasonable, you will be entitled to the benefits of and be bound by the Proposed Settlement. You may be eligible to receive a payment from the Settlement Amount pursuant to the terms of the Proposed Settlement. No claim form will be required for you to receive a payment. You will release certain claims against Delta Dental as described in the Proposed Settlement.</p>
<p>Exclude Yourself (or “Opt Out”) from the Proposed Settlement</p>	<p>If you do not wish to participate in this Proposed Settlement, you must “opt out” or exclude yourself from it. If you opt out, you will not be considered a party to the Lawsuit, you will relinquish any eligibility to receive a payment from the Settlement Amount and you will not release any claims you may have against Delta Dental. You will not be represented by Class Counsel after you submit a timely and valid request to opt out of the Proposed Settlement. To exclude yourself or opt out of the Proposed Settlement, you must submit a written Request for Exclusion as provided in Section III.2 of this Notice, postmarked or delivered to the Class Administrator no later than _____, 2023.</p>
<p>Object to the Proposed Settlement</p>	<p>If you wish to participate in the Proposed Settlement but have an objection to one or more aspects of it, you may submit a written objection to the Proposed Settlement as provided in Section III.3 of this Notice, postmarked or delivered to the Class Administrator no later than _____, 2023.</p>
<p>Go to the Final Approval Hearing to State Your Views</p>	<p>The Court will hold a public hearing to determine whether the Proposed Settlement is fair, reasonable and adequate to the Class (the “Final Approval Hearing”) in San Francisco Superior Court, Department 305, on _____, 2023. Anyone can attend the Final Approval Hearing, but if you wish to address the Court at this hearing, you must not have opted out of the Proposed Settlement. It is possible the hearing date will change, so please check the website for this Lawsuit and Proposed Settlement, deltadentalins.com/dentists, to confirm the date of the Final Approval Hearing.</p>

WHAT THIS NOTICE CONTAINS

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I. **BASIC INFORMATION**

1. **Why did I get this Notice?**

The Proposed Settlement resolves claims in the Lawsuit, *Ahmed Moneim, D.D.S., et al. v. Delta Dental of California*, San Francisco Superior Court Action No. CGC-18-565581. The Superior Court has provisionally approved a Class for settlement purposes only described as follows:

“[A]ll Delta Dental of California participating dentists, from four years prior to the date of filing of the initial complaint (April 6, 2014) up to [the time the class is certified], who had claims submitted, approved and paid by Delta Dental more than 365 days before Delta Dental sent an initial written request or demand for reimbursement of alleged overpayment of such claims.”

You are receiving this Notice because Delta Dental’s records indicate that you meet this definition and, therefore, are a Class Member. As a Class Member, your rights may be affected by, and you may receive a payment under, the Proposed Settlement if you do not opt out.

2. **Who are the Class Representatives?**

The Class Representatives are Drs. Ahmed Moneim, Charina Bailon and Joyce Tse. Each of the individual class representatives is a Class Member because he or she received an initial written request for reimbursement of allegedly overpaid claims (at least some of which were initially paid more than 365 days earlier) during the Class Period.

3. **What is the Lawsuit about and what claims are being asserted on behalf of Class Members?**

The Lawsuit asserts claims for breach of the covenant of good faith and fair dealing, violations of California Business and Professions Code Sections 17200, *et seq.*, and declaratory relief based on the conduct, acts or omissions alleged in the Second Amended Complaint. The Lawsuit challenges, among other things, Delta Dental’s issuance of initial written requests or demands for reimbursement of allegedly overpaid claims that were initially paid more than 365 days earlier and alleges that such requests or demands were untimely under 28 C.C.R. § 1371.1(b)(2). The claims are contained in the Second Amended Complaint filed in the case, which is available for review at deltadentalins.com/dentists.

4. **What are Delta Dental’s responses to the claims being asserted?**

Delta Dental denies each and every claim asserted against it. Delta Dental contends, among other things, that (1) the 365-day rule does not apply to written requests or demands for reimbursement untethered to auto-recoupment (automatic deductions from future provider claims payments) which is not at issue in this case, (2) it clearly alleged fraud or misrepresentation in its written requests or demands for reimbursement such that the 365-day rule did not apply, and (3) the issues involving each provider are individualized. Delta Dental’s agreement to settle the Lawsuit is not an admission of liability or that it engaged in any wrongdoing or unlawful conduct of any kind.

5. Has the Court decided who is right?

The Court has issued no decision on the merits of the Lawsuit and has not decided who is right or wrong. In a Phase I decision, the Court did decide that the Regulation's 365-day rule as set forth in 28 C.C.R. § 1300.71(b)(5) applied to the initial written requests or demands for reimbursement that Delta Dental sent to the three Class Representatives.

6. Why is this Lawsuit a class action and who is included in the Class?

The Class Representatives initially filed this Lawsuit on behalf of the Class.

After extensive litigation regarding initial challenges to the Lawsuit, the parties agreed to engage a professional mediator, Mark LeHocky, of ADR Services, Inc. In May 2022, the parties reached an agreement in principle. This Notice is being sent to Class Members pursuant to the Court's Order to advise you of the Proposed Settlement and the Final Approval Hearing at which the Court will consider whether to grant final approval of it.

7. Why is there a Proposed Settlement?

As described above in Section I.3, this Lawsuit challenges, among other things, Delta Dental's initial written requests or demands for reimbursement of allegedly overpaid claims and the timeliness thereof. There are many complex issues that are raised by these claims as well as disputes over the relevant facts. While Class Counsel believes that the claims have merit, Delta Dental believes that it will prevail on all claims. Litigation is inherently unpredictable and there is no guarantee that either party will ultimately prevail or that any monetary damages will be awarded. It would likely take years to resolve the issues raised in the Lawsuit, including any appeals, and there can be no certainty of the outcome. It would be several years, therefore, before any relief could be granted, if Class Members are entitled to any relief.

In an attempt to resolve their differences, Class Counsel and Delta Dental's Counsel engaged in the lengthy mediation before a professional mediator, which is described above in Section I.6. That mediation, coupled with the additional negotiations of the parties, resulted in the Proposed Settlement. While there were many factors that led to the Proposed Settlement, some of the most significant were:

- The Settlement Amount of \$2,800,000 to be paid to eligible Settlement Class Members and as attorney's fees and Class Representative service payments (if approved by the Court), which is in addition to the benefits described above, will provide monetary compensation within a reasonable time for providers who made reimbursements to Delta Dental during the Class Period.
- Delta Dental contends that the Knox-Keene Act permits a health care service plan like Delta Dental to issue written requests or demands for reimbursement for claims paid more than 365 days earlier if the plan does not seek to auto-recoup reimbursements from future claims payments (which Delta Dental did not do with respect to Class Members).
- Delta Dental contends that its requests or demands for reimbursement to Class Members clearly and adequately alleged that providers committed fraud or made

misrepresentations and that its requests/demands therefore fell within an express regulatory exemption to the 365-day rule.

- The outcome of continued litigation was uncertain and not knowable. Given the above arguments, among others, it was possible that, absent a settlement, plaintiffs might not obtain any relief whatsoever after years of expensive litigation.
- The Settling Parties recognized that the only mechanism to reach a settlement that would provide relief to all Class Members and provide closure on the disputed issues is through a class action, which subjects the Proposed Settlement to the Court's review to ensure that it is fair, reasonable and adequate for Class Members and also affords Class Members the opportunity to object to, or opt out of, the Proposed Settlement.

Considering the benefits that will accrue under the Proposed Settlement and all of the risks, time and expense that would be required for continued litigation, Class Counsel and the Class Representatives have concluded that the Proposed Settlement is fair, reasonable and adequate.

8. Can I participate in the Proposed Settlement, and if I do how are my rights affected?

The Class Period is from April 6, 2014 to _____, 2023. If you were a Delta Dental of California participating dentist and at any time during this period received an initial written request or demand for reimbursement of allegedly overpaid claims that were paid more than 365 days earlier, you are a Class Member. Unless you decide to opt out of the Proposed Settlement in accordance with the instructions contained in this Notice, you will receive benefits under the Proposed Settlement on the same basis as other providers who are Class Members and also do not opt out, and you will be bound by the terms of the Proposed Settlement, including the release of claims.

II. THE PROPOSED SETTLEMENT'S BENEFITS

1. What steps does the Proposed Settlement require Delta Dental to take?

In connection with future written reimbursement request or demands letters to providers, if Delta Dental seeks reimbursement of claims initially paid more than 365 days earlier, the Proposed Settlement requires Delta Dental to clearly indicate that the provider allegedly committed fraud or made misrepresentations. In addition, Delta Dental would be required to inform providers how to access Delta Dental's dispute resolution mechanism, provide notice of the right to dispute a request within 30 working days and inform providers that interest shall accrue on uncontested overpayments.

- As part of the settlement, Delta Dental will also relinquish its right to collect, and shall not collect or attempt to collect, any and all amounts from Settlement Class Members that (a) it has not yet collected, (b) were first sought in connection with a written reimbursement request or demand issued more than 365 days after the initial claim(s) was/were paid and (c) were not expressly alleged to be the result of provider fraud or misrepresentation in the initial reimbursement request or demand up to the date of preliminary approval. Delta Dental will not use the fact that a request for reimbursement had

been made to any of the Settlement Class Members in order to deny, hinder or alter any of the membership rights of any of the Settlement Class Members including the right to recredentialing as a Delta Dental Member. Notwithstanding the preceding sentence, Delta Dental shall have the right, in connection with any membership or recredentialing decisions, to take into account the facts or alleged facts underlying any reimbursement request.

2. **Am I entitled to receive money under this Proposed Settlement and if so, how will the amount be determined?**

The Plan of Allocation and Distribution of the Settlement Amount is set forth in Appendix 3 to the Proposed Amended Settlement Agreement, which is available at deltadentalins.com/dentists. In summary, if you do not opt out of the Proposed Settlement, you will be a Settlement Class Member and you may be allocated and entitled to receive a *pro rata* portion of the Settlement Amount.

Distributions will be made pursuant to the Plan of Allocation and Distribution, which is Appendix 3 to the Amended Settlement Agreement. In sum, allocations not relating to a Settlement Class Member's reimbursements to Delta Dental made by a group practice will be distributed directly to the Settlement Class Member. In connection with allocations relating to a Settlement Class Member's reimbursements to Delta Dental paid by a group practice in the normal course of business, within 20 days after Final Approval the Settlement Class Member and the group practice will be told the amount of the Settlement Class Member's allocation associated with the group practice and that the distribution will be made to the group practice unless an objection is made within 30 days after the notice is sent. If no written objection is received within 30 days, then the distribution will be made to the group practice. If an objection is made, the distribution will be held for a maximum of 60 days to allow the Settlement Class Member and the group practice to reach an agreement. If no agreement is reached within that period, the distribution shall be deposited in a Qualified Settlement Fund established pursuant to the Amended Settlement Agreement (Appendix 5), and thereafter paid either in accordance with instructions agreed upon by the Settlement Class Member and the group practice or a final, non-appealable court order directing how payment shall be made. Once the distribution has been determined, it will be deemed final and not subject to legal challenge. To the extent feasible, recipients of a distribution from the Settlement Amount will receive a Form 1099-MISC.

3. **What is the range of recovery for Settlement Class Members?**

Based on current calculations and available data, and assuming that Class Counsel's request for attorney's fees and expenses of \$1,000,579.00 is approved and that Class Representative service awards of \$3,500 for each Class Representative are approved, it is currently estimated that approximately 448 Class Members will be allocated a portion of the \$2,800,000 Settlement Amount (or approximately \$1,788,921). The allocated amounts are expected to range from approximately \$5 to approximately \$49,497. The average allocation from the Settlement Amount is currently estimated to be approximately \$4,016. Settlement Class members who did not make payment to Delta Dental, or who did not pay the full amount demanded by Delta Dental pursuant to a demand or demands issued by Delta Dental for reimbursement of an allegedly overpaid claim shall have all such debt cancelled which amounts to approximately \$8,445,213.

4. **Am I required to file a claim form or any documentation in order to be allocated money under this Proposed Settlement?**

No. It will not be necessary for you to file a claim form in order to be allocated and entitled to receive a portion of the Settlement Amount, and your eligibility for a payment does not depend on your ability to document fee submissions that you have made. Delta Dental maintains documents and databases that will be used to make the calculations for allocations and payments under the Proposed Settlement. The allocations and payments will be based on Delta Dental's record and determined in the manner described above. It is anticipated that all payments from the Settlement Amount will be completed within 120 calendar days after the Proposed Amended Settlement Agreement becomes effective. Any payments from the Settlement Amount that remain outstanding (*i.e.*, checks that are issued but are returned as undeliverable, or which are not cashed or redeemed within 90 days after being mailed) will be paid to La Clinica de La Raza, www.laclinica.org, for the provision of dental services.

5. **What is the effect of the Proposed Settlement on my rights if I do not opt out?**

If you decide to remain a Class Member and do not opt out of the Proposed Settlement, you will receive its benefits as described in this Notice and it will be binding on you. You will also be bound by the "Release of Claims" included in the Proposed Amended Settlement Agreement, which provides as follows:

[1] In addition to and not in lieu of the effect of any final judgment entered in accordance with the Amended Settlement Agreement, and in consideration of Delta Dental's agreement to pay the Settlement Amount and for other valuable consideration provided by the Amended Settlement Agreement, each Settlement Class Member hereby expressly and irrevocably waives, and fully, finally, and forever settles, discharges, and releases the Released Parties, from any and all manner of claims, demands, actions, suits, and causes of action, whether individual, class, derivative, representative, or otherwise in nature, for damages (whether compensatory, consequential, special, statutory or punitive), restitution, interest, costs, expenses, attorneys' fees, fines, civil or other penalties, or other payment of money, or for injunctive, declaratory, or other equitable relief, whether directly, indirectly, derivatively, or otherwise, whether known or unknown, suspected or unsuspected, in law or in equity, that are based on, arise from or relate directly to Delta Dental's conduct, acts or omissions alleged in the Second Amended Complaint including without limitation allegations in connection with written requests or demands for reimbursement that (a) Delta Dental's reimbursement requests or demands were time-barred, in whole or in part, including without limitation by the Regulation, (b) Delta Dental requested or demanded that Providers reimburse for claims initially paid more than 365 days prior to Delta Dental's initial reimbursement requests or demands, (c) Delta Dental's initial reimbursement requests or demands did not clearly allege fraud or misrepresentation, (d) Delta Dental did not actually or subjectively believe that Providers committed fraud or misrepresentation, and (e) Delta Dental did not lawfully or appropriately determine that it believed Providers committed fraud or made misrepresentations, including by allegedly employing or using non-California dentists to make such determinations, in whole or in part, or by not reporting Providers to law enforcement officials, the National Practitioner Data Bank or equivalent regardless of when such claims accrue or accrued, for the period through

the date the Class is preliminarily certified (the "Release Date") as provided herein (the "Released Claims"). Settlement Class Members shall not, after the Release Date, seek to establish liability against the Released Parties based on, arising from or relating directly to the conduct, acts or omissions asserted in the Second Amended Complaint. Settlement Class Members and the Released Parties agree that the Amended Settlement Agreement may be pleaded as a bar to a lawsuit, arbitration demand or administrative claim, and an injunction may be obtained, preventing any action from being initiated or maintained in any lawsuit, arbitration or administrative proceeding sought to be prosecuted by or on behalf of Settlement Class Members with respect to the Released Claims.

[2] In addition to the provisions . . . above, each Settlement Class Member expressly agrees that, upon the Release Date, he, she or it waives and forever releases only with respect to the Released Claims defined in Section [5.1] above any and all provisions, rights and benefits conferred by either (a) Section 1542 of the California Civil Code, which reads:

Section 1542. General release; extent.

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

or (b) any law of the United States or any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. Each Settlement Class Member acknowledges that he, she or it may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the Released Claims, but each Settlement Class Member hereby expressly waives and fully, finally, and forever settles and releases, upon the Release Date, any known or unknown, suspected or unsuspected, contingent or non-contingent claim based on, arising from or relating directly to the conduct, acts or omissions alleged in the Second Amended Complaint, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

6. Who is paying the costs associated with the Proposed Settlement?

Delta Dental will bear the costs of administering the Settlement Amount. However, under certain circumstances, Delta Dental will establish a Qualified Settlement Fund ("QSF") as provided in the Proposed Amended Settlement Agreement, into which the Settlement Amount, or a portion of it, and any award of attorney's fees and expenses and service awards shall be deposited. In that event, the costs and expenses for the operation and administration of the QSF, if one is established, including but not limited to fees and expenses for any claims administrator fees and expenses relating to the distribution of the Settlement Amount, which are currently estimated to be less than \$50,000, will be paid out of the QSF.

III. WHAT ARE MY OPTIONS?

1. What should I do if I want to be part of the Proposed Settlement?

If you want to participate in the Proposed Settlement, you do not need to do anything. You automatically will be included in the Settlement Class, may be eligible to receive a payment from the Settlement Amount, and will be bound by the terms of the Proposed Settlement, including the release of claims as provided in the Proposed Amended Settlement Agreement. You do not need to file a claim form or take any other action. The Class Administrator will provide notice through the settlement website if the Court enters an order granting final approval of the Proposed Settlement and a judgment. Any payment will be made within 120 calendar days after final approval of the Proposed Amended Settlement Agreement, unless otherwise ordered by the Court. It is possible that this date may be postponed if there is any appeal of the Court's order. In that case, payments will be made after all appeals have been resolved and the Proposed Settlement is upheld on appeal.

2. What should I do if I want to opt out or exclude myself from the Proposed Settlement, and what are the consequences of opting out?

You have the right to be excluded from this Proposed Settlement, which is also referred to as "opting out". If you want to opt out of the Proposed Settlement, you must do so on your own behalf. To opt out of the Proposed Settlement, you must submit to the Class Administrator a written request to opt out of the Proposed Settlement that is delivered to the Class Administrator or postmarked no later than _____, 2023. The Class Administrator's address is provided below in Section VI.

To be effective, your opt-out request must:

- (1) State the name of this Lawsuit, *Ahmed Moneim, D.D.S., et al. v. Delta Dental of California*, San Francisco Superior Court Action No. CGC-18-565581;
- (2) State your full legal name, address, telephone number and Dental Board of California license number;
- (3) State the date on which you believe that you received an initial written request or demand for reimbursement of alleged overpayment of claims based on available records or, if records are not available, to the best of your recollection;
- (4) State that you are opting out of the Proposed Settlement; and
- (5) be signed and dated by you or your counsel if you are represented by counsel.

Opt-out requests that are not postmarked or received by the Class Administrator by _____, 2023, or which fail to include the information outlined above, will be of no force or effect. Delta Dental has an option to terminate the Proposed Settlement if total opt outs exceed certain thresholds.

If you decide to opt out of the Proposed Settlement, you will not be eligible to receive any payment from the Settlement Amount, you will not release any claim you may have against Delta Dental, and you will no longer be represented by Class Counsel. You will be free to pursue any claim you believe you may have against Delta Dental on your own.

3. What should I do if I object to the Proposed Settlement, and is objecting the same as “opting out”?

If you decide to participate in and do not opt out of the Proposed Settlement, you still have the right to object in writing to all or any part of it, should you wish to do so. If you want to object to any aspect of the Proposed Settlement, you must do so on your own behalf. To object to the Proposed Settlement or any part of it, you must submit a written objection to the Class Administrator that is delivered or postmarked no later than _____, 2023. The Class Administrator’s address is provided below in Section VI. For an objection to be considered by the Court, the objection must:

- (1) State the name of this Lawsuit, *Ahmed Moneim, D.D.S., et al. v. Delta Dental of California*, San Francisco Superior Court Action No. CGC-18-565581;
- (2) State your full name, address, telephone number and Dental Board of California license number;
- (3) State the date on which you believe that you received an initial written request or demand for reimbursement of alleged overpayment of claims based on available records or, if records are not available, to the best of your recollection;
- (4) Include a description of the nature of your objection and the grounds for your objection, accompanied by any legal or factual support for the objection known to your or your counsel if you are represented by counsel;
- (5) State the identity of counsel who represent you in connection with this matter, if you are represented by counsel; and
- (6) Include your signature or your counsel’s signature, if you are represented by counsel, and the date of the signature.

Objections that are not postmarked or received by the Class Administrator by _____, 2023, or which fail to include the information outlined above, will not be considered by the Court.

Objecting to the Proposed Settlement is not the same as opting out of the Proposed Settlement. You may object to the Proposed Settlement and still participate in it if you don’t opt out. If you opt out of the Proposed Settlement, however, you will have no right to object to it or to speak at the Final Approval Hearing because it will no longer affect your rights.

IV. THE COURT’S FINAL APPROVAL HEARING

1. When and where will the Court decide whether to finally approve the Proposed Settlement?

Under California law, the Court, after considering any valid objections to the Proposed Settlement, must make a final determination as to whether it is fair, adequate and reasonable for Class Members. A formal “Final Approval Hearing” is conducted by the Court in order to determine whether the Proposed Settlement is fair, adequate and reasonable.

The Final Approval Hearing is currently scheduled for _____, 2023 in Courtroom 305, San Francisco County Superior Court, 400 McAllister Street, San Francisco, California 94102. It is possible that the date and time of this hearing will be postponed if the Court determines this is necessary. If this occurs, the revised date and time for this hearing will be posted on the website for this Proposed Settlement, deltadentalins.com/dentists. A separate written notice of the rescheduled hearing date will not be mailed to Class Members. If you wish to attend the Final Approval Hearing, therefore, please consult this website to confirm the date and time for the hearing.

2. **Do I have to attend the Final Approval Hearing to participate in the Proposed Settlement?**

No, attendance is not required and whether you do or do not attend will not affect your right to participate in the Proposed Settlement. Attendance at the Final Approval Hearing is entirely optional.

3. **Do I have the right to speak at the Final Approval Hearing?**

You may attend the Final Approval Hearing regardless of whether you objected to the Proposed Settlement. If you do not opt out or request exclusion, as provided in Section III.2 above, you may address the Court at the Final Approval Hearing. If you want to make a substantive objection to the Proposed Settlement or any portion of it at the Final Approval Hearing, you must submit a written objection as set forth in Section III.3 above.

V. **THE LAWYERS FOR THE CLASS**

1. **Who represents me?**

The Class is represented by attorneys at the Goldman Law Firm at the address below:

Ronald P. Goldman, Esq.
J.E.B. Pickett, Esq.
Andrew J. Goldman, Esq.
The Goldman Law Firm
Merchant Bank Building
55 Main Street
Tiburon, CA 94920
415-435-5500
snakebit@goldmanlawfirm.net
jpickett@goldmanlawfirm.net
sundance@goldmanlawfirm.net

2. **How will Class Counsel be paid?**

Pursuant to the Proposed Settlement and subject to Court approval, Delta Dental will pay Class Counsel up to \$1,000,579.00 in attorney's fees and expenses. Class Counsel will file a motion for approval of this payment, which will be decided by the Court at the Final Approval Hearing. In addition, if approved by the Court, each individual class representative will receive a service award of up to \$3,500 to reimburse him or her for the time and effort he or she has devoted to this case as a Class Representative. The basis for this award will be included in the motion for attorney's fees and service awards and considered at the Final

Approval Hearing. These service awards, if approved by the Court, will also be paid by Delta Dental. The attorney's fees and expenses and the service awards, if approved, will reduce the Settlement Amount payable to Settlement Class Members.

Class Counsel's motion for approval of attorney's fees and expenses and service awards will be filed no later than _____, 2023, or at least two weeks before the Objection and Opt-Out Deadlines set by the Court. If you wish to object to the motion for approval of attorney's fees and service awards, you must submit your written objection to the Class Administrator, which must be delivered or postmarked no later than _____, 2023.

VI. GETTING MORE INFORMATION

1. Can I get more information from the Class Administrator?

If you desire more information regarding this Notice, the Proposed Settlement, or the Lawsuit, please visit the website that the Class Administrator has established: deltadentalins.com/dentists.

All significant pleadings, notices and documents, including a copy of the Proposed Settlement, are available on the website. Notice of hearings and any changes in hearing dates, including for the Final Approval Hearing, also will be posted at this website.

The Court's docket may be accessed at www.sfsuperiorcourt.org. Click Online Services, then Case Query and fill in the case number CGC-18-565581.

If you still have any questions regarding the information provided in the Proposed Settlement or this Notice, including the amount you may be eligible to receive under the Proposed Settlement (subject to appropriate confidentiality limitations), you may contact the Class Administrator at the following:

Ahmed Moneim, D.D.S., et al. v. Delta Dental of California c/o

**Delta Dental of California
Class Administrator
560 Mission Street, Suite 1300
San Francisco, CA 94105
1-800-XXX-YYYY**

If you still have questions that you believe have not been adequately answered by the Class Administrator, you may contact Class Counsel at the address provided above.

PLEASE DO NOT CONTACT THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS PROPOSED SETTLEMENT OR THE BENEFITS UNDER IT.

Appendix 2: Short-Form Class Notice

Notice of Class Action Amended Settlement Agreement and Final Approval Hearing

Ahmed Moneim, D.D.S. et al. v. Delta Dental of California,
San Francisco County Superior Court, No. CGC-18-565581

If You Were a Delta Dental of California Provider from April 6, 2014 to _____ You May Be Eligible for Benefits from a Class Action Lawsuit

A Proposed Settlement has been reached in a class action lawsuit brought on behalf of Delta Dental of California participating dentists against Delta Dental of California (“Delta Dental”) who had claims submitted, approved, and paid by Delta Dental more than 365 days before Delta Dental sent an initial written request or demand for reimbursement of alleged overpayment of such claims from four years prior to the date of the filing of the initial complaint (April 6, 2014) up to [the time the class is preliminarily certified]. The lawsuit claims that Delta Dental issued reimbursement requests or demands to providers in connection with claims paid more than 365 days earlier without expressly alleging that the provider committed fraud or made misrepresentations to Delta Dental in alleged violation of 28 C.C.R. § 1371.1(b)(5). Delta Dental denies all wrongdoing.

Who are the Class Representatives?

The lawsuit was brought by the following class representatives: Ahmed Moneimi, D.D.S., Charina Bailon, D.D.S. and Joyce Tse, D.D.S. Each of the individual representatives is a member of the Class.

Am I included in the Proposed Settlement?

If you were a Delta Dental of California participating dentist and between April 6, 2014 and _____ you received an initial written request or demand for reimbursement of alleged overpayment of claims for claims submitted, approved and paid by Delta Dental more than 365 days before the initial request or demand, you are a member of the Class. The lawsuit does not involve, and the Class does not include patients who are or were enrollees in dental plans offered by Delta Dental of California.

What does the Proposed Settlement provide?

In connection with future written reimbursement request or demand letters to providers, if Delta Dental seeks reimbursement of claims initially paid more than 365 days earlier, the Proposed Settlement requires Delta Dental to clearly indicate that the provider allegedly committed fraud or made misrepresentations. In addition, Delta Dental would be required to inform providers how to access Delta Dental’s dispute resolution mechanism, provide notice of the right to dispute a request within 30 working days and inform providers that interest shall accrue on uncontested overpayments.

As part of the settlement, Delta Dental will also relinquish its right to collect, and shall not collect or attempt to collect, any and all amounts from Settlement Class Members that (a) it has not yet collected, (b) were first sought in connection with a written

reimbursement request or demand issued more than 365 days after the initial claim(s) was/were paid and (c) were not expressly alleged to be the result of provider fraud or misrepresentation in the initial reimbursement request or demand up to the date of preliminary approval. Delta Dental will not use the fact that a request for reimbursement had been made to any of the Settlement Class Members in order to deny, hinder or alter any of the membership rights of any of the Settlement Class Members including the right to recredentialing as a Delta Dental Member. Notwithstanding the preceding sentence, Delta Dental shall have the right, in connection with any membership or recredentialing decisions, to take into account the facts or alleged facts underlying any reimbursement request. Class members who did not make payment to Delta Dental, or who did not pay the full amount demanded by Delta Dental pursuant to a demand or demands issued by Delta Dental for reimbursement of an allegedly overpaid claim shall have all such debt cancelled which amounts to approximately \$8,445,213.

In addition, Delta Dental will pay a total of \$2,800,000 (the "Settlement Amount"). Assuming the Court approves Class Counsel's request for attorney's fees and expenses of \$1,000,579.00 and approves the Class Representative service awards of \$3,500 each, a balance of \$1,788,921 would remain for distribution to Settlement Class Members.

How will the Settlement Amount be allocated among Class Members?

In general, the amount allocated to each Class Member will be a share of the Settlement Amount that is proportionate to the reimbursement amount(s) made by the Class Member, based on determinations using available data, when compared to the total reimbursement amounts paid by Class. Once determined, the allocations will be deemed final and not subject to legal challenge.

Based on current calculations and available data, it is currently estimated that approximately 448 Class Members will be allocated the \$1,788,921 portion of the Settlement Amount. Assuming that Class Counsel's request for attorney's fees and expenses of \$1,000,579.00 is approved and that the Court approves the Class Representative service awards of \$3,500 each, these amounts are estimated to range from \$5 to approximately \$49,497. The average allocation from the Settlement Amount is currently estimated to be approximately \$4.016. Recipients of distributions from the Settlement Amount will be sent a Form 1099-MISC. Class Members who did not make reimbursements during this period will not receive any portion of the Settlement Amount.

Allocations not relating to a group practice's reimbursement to Delta Dental will be distributed directly to the Settlement Class Member. In connection with allocations relating to a group practice's reimbursement for a Settlement Class Member, the Settlement Class Member and the group practice will receive a notice informing them that unless either party objects the distribution will be made to the group practice. If either party objects, the payment will be held until the disagreement is resolved by agreement or a court order. Once the allocations and distributions have been determined, they will be deemed final and not subject to legal challenge.

Distributions from the Settlement Amount will be made within 120 calendar days from the date that the Proposed Settlement receives final approval. Any distributions from the Settlement Amount that remain outstanding (*e.g.*, checks that are uncashed) for more than 90 days after being mailed will be paid to La Clinica de La Raza, www.laclinica.org, for the provision of dental services.

Delta Dental will bear the costs of administering the Settlement Amount. However, under certain circumstances, Delta Dental will establish a Qualified Settlement Fund (“QSF”) as provided in the Proposed Settlement, into which the Settlement Amount, or a portion of it shall be deposited. Costs and expenses for the operation and administration of the QSF, if one is established, including but not limited to fees and expenses for any claims administrator fees and expenses relating to the distribution of the Settlement Amount, which are currently estimated to be less than \$50,000, will be paid out of the QSF.

How do I get benefits?

You do **not** need to file a claim to participate in the Proposed Settlement. The Settlement Amount will be allocated and distributed in the manner described above, using the information that is available in Delta Dental’s records.

What are my other rights?

Remain in the Proposed Settlement: If you do nothing, you will remain in the Proposed Settlement and will remain a Settlement Class Member. You will be bound by the terms of the Proposed Settlement and give up your right to sue Delta Dental about the claims in this case. You may be eligible to receive a distribution or benefits as described in this Notice.

Object to the Proposed Settlement: If you stay in the Proposed Settlement but still wish to object to it, you must submit a written objection to the Class Administrator at the address below by _____. The Court will consider only written objections.

Opt Out of the Proposed Settlement: If you do not want to be legally bound by the Proposed Settlement and want to retain your right to sue, you must exclude yourself by _____ by sending an opt-out request to the Class Administrator at the address below. If you opt out, you will not receive any distribution from the Settlement Amount and will not be represented by Class Counsel. However, your status as a Delta Dental Premier Dentist will not be affected.

Attend the Hearing: The Court will hold a hearing on _____ at ____ p.m. to determine whether to grant final approval to the Proposed Settlement. The Court will also consider the application for attorney’s fees and service awards at this hearing. Anyone can attend this hearing and any Class Member who has not opted out may address the Court at the Final Approval Hearing. Substantive objections must be submitted in writing to the Class Administrator by _____.

The complete Proposed Amended Settlement Agreement, long-form Class Notice, and other documents pertinent to the Proposed Settlement can be accessed at deltadentalins.com/dentists or by contacting the Class Administrator, Delta Dental, at:

**Delta Dental of California
560 Mission Street, Suite 1300
San Francisco, CA 94105
(415) XXX-YYYY
1-800-XXX-YYYY**

**Re: *Ahmed Moneim, D.D.S. et al. v. Delta Dental of California,*
San Francisco County Superior Court, No. CGC-18-565581**

The Court's docket may be accessed at www.sfsuperiorcourt.org. Click Online Services, then Case Query and fill in the case number CGC-18-565581.

Appendix 3: Plan of Allocation and Distribution of Settlement Amount

Allocation of the Settlement Amount to Class Members pursuant to the Amended Settlement Agreement Section III.C.3 and distribution of the Settlement Amount's Remaining Balance to Settlement Class Members pursuant to the Amended Settlement Agreement Section III.C.4 will be made as follows:

Allocation

1. The allocation of the Settlement Amount will be determined according to the financial effect of Delta Dental's initial written requests or demands for reimbursement of allegedly overpaid claims on each Class Member as set forth below.
2. Based on information disclosed by Delta Dental, the Class Administrator will identify, to the maximum extent that the data will permit, each Class Member's reimbursement payments to Delta Dental in response to an initial written request or demand for reimbursement of allegedly overpaid claims during the period from April 6, 2014 to _____, 2023.
3. Each Class Member's *pro rata* share of the Settlement Amount will initially be determined based on the proportion of his/her reimbursement payments to the total Class reimbursements, using the data described in Section 2, *supra*. In some cases, the available data require judgments to be made by Class Counsel, working with experts retained on behalf of the Class, as to the amount of the reimbursements, which will be made consistently in an effort to make the most accurate allocations possible. If a Class Member practiced in more than one office or location and/or with more than one Tax Identification Number, his or her reimbursement payments will be aggregated into a single reimbursement amount attributable to that Class Member.
4. If a Class Member's reimbursement payment is determined to be zero, then he/she will not be allocated any portion of the Settlement Amount and will receive no payment under the Amended Settlement Agreement.
5. The allocation to Class Members for whom the Section 3, *supra*, *pro rata* share of the Settlement Amount is non-zero will be determined as follows. Each such Class Member will be allocated a share of the Settlement Amount. To calculate this share, the reimbursement payments of the Class Member paid to Delta Dental will be the numerator and the total reimbursements of all Class Members will be the denominator. The resulting percentage will be applied to the Remaining Balance to determine the amount of the Settlement Amount to be allocated to the Class Member. This methodology will be applied uniformly for all Class Members whose reimbursement payment is not zero. In the event any Class Members opt out of the Settlement, their *pro rata* share of the Settlement Amount shall revert to the total Class reimbursement.

Distribution

1. Distribution of the Settlement Amount's Remaining Balance to Settlement Class Members shall be made pursuant to the allocation plan set forth above and be completed within the time period set forth in Section III.C.4 of the Amended Settlement Agreement, subject to the provisions of Section V.1 of the Amended Settlement Agreement and Sections 2-4 below.
2. In situations in which a Settlement Class Member's reimbursement(s) were made by a group practice in the normal course of business, then no later than twenty (20) days after the Court enters an order granting Final Approval of the Amended Settlement

Agreement a written notice will be mailed by the Class Administrator to the Settlement Class Member and the group practice informing both (i) of the amount of the Settlement Class Member's allocation associated with reimbursements paid by the group practice in the normal course of business and (ii) that the distribution of the settlement allocation so associated will be made to the group practice absent written objection received pursuant to the procedure below. The group practice will thereafter be responsible for determining any further distribution of the settlement allocation, subject to the following:

- a. If a Settlement Class Member or a group practice submits an objection in writing to the Class Administrator within 30 days of the date the above information is mailed, distribution of that Settlement Class Member's allocation will not be made to the group practice but will be deferred for a maximum of 60 days after the date the above information is mailed to allow the group practice and the Settlement Class Member to come to an agreement on how the payment should be made. If no agreement is reached within that period, allocations subject to unresolved objections shall be deposited in a Qualified Settlement Fund established pursuant to the Amended Settlement Agreement (Appendix 4), and thereafter paid either in accordance with instructions agreed upon by the group practice and the Settlement Class Member or a final, non-appealable court order directing how payment shall be made. Reasonable additional costs incurred by the Class Administrator in making the payment in this manner may be deducted from the payment, provided that any interest that is earned on the funds while in the QSF will be added to the payment. Once funds are deposited in the Qualified Settlement Fund, the Settling Parties, Delta Dental's Counsel and Class Counsel shall have no further obligation or responsibility with respect to the allocation or distribution of such funds.
- b. If no written objection is received within 30 days of the date the above information is mailed, then the distribution of the Settlement Class Member's allocation associated with claims submitted by or on behalf of, or paid to, the group practice will be made to the identified group practice.
- c. Nothing contained herein is intended to affect the legal rights of either a Settlement Class Member or a group practice with respect to such payments. In following the provisions of this Plan of Allocation and Distribution, the Class Representatives, Class Counsel, Delta Dental, Delta Dental's counsel, and the Class Administrator shall have no responsibility or liability for any allocation or distribution of payments between or among a dental group practice and/or the group's members.

3. If it is determined that a Settlement Class Member who is entitled to an allocation of the Settlement Amount has passed away, that distribution shall be held while the Class Administrator makes a reasonable effort to contact the personal representative of decedent's estate or the trustees of decedent's trust, if any, or if none, the Class Member's successor in interest. If any dispute arises regarding the payment of this allocation, Delta Dental shall hold the allocation and payment shall thereafter be made either in accordance with instructions agreed upon by the personal representative of decedent's estate or the trustees of decedent's trust, if any, or if none, the Class Member's successor in interest, or a final, non-appealable court order directing how payment shall be made.

4. To the extent feasible and consistent with tax law and regulation, Delta Dental will send a Form 1099-MISC to either Settlement Class Members or group practices who receive a distribution from the Settlement Amount. No Form 1099-MISC will be sent by Delta Dental to either Settlement Class Members or group practices with respect to funds deposited into a Qualified Settlement Fund. Neither the Settling Parties, Delta Dental's Counsel nor Class Counsel shall have any further obligation or responsibility with

respect to the allocation or distribution of funds deposited into the Qualified Settlement Fund.

General

1. In order to avoid the need for the filing of claims and/or substantiating documentation by Class Members, to make allocation and distribution of the Settlement Amount Remaining Balance in a reasonably prompt manner, and to treat each Class Member in a fair and equal manner, the allocation and distribution determinations made pursuant to this Plan of Allocation and Distribution shall be final and conclusive for all purposes, including the making of the payments called for under the Amended Settlement Agreement. In no event shall the Class Administrator, the Settling Parties or counsel for the Settling Parties have any liability for a payment or lack of a payment made pursuant to this Plan of Allocation and Distribution.

2. Class Members who make a timely and valid election to opt out of the Amended Settlement Agreement will not receive a distribution from the Settlement Amount.

3. The amounts allocated and/or paid to Class Members shall, to the extent consistent with law, be maintained as confidential and not disclosed publicly. Notwithstanding the foregoing, if an issue arises as to whether an allocation should be distributed to an individual Settlement Class Member or to a group practice of which he or she was or is a member, the amount(s) at issue will be disclosed to the Settlement Class Member and relevant group practice.

Appendix 4: Class Notice Plan

1. The Class consists of members who are current or former Delta of Dental of California participating dentists who received an initial written request or demand for reimbursement of allegedly overpaid claims (paid more than 365 days earlier) from Delta Dental during the period April 6, 2014 to the date the Court enters the Preliminary Approval Order.

2. The Class Administrator has contact information for these dentists that it maintains in the ordinary course of business, including name, last known address, and Dental Board of California license number, which Delta Dental uses to communicate with providers and provide payment for services for which they submit claims. The Class Administrator also has access to a list of licensed dentists in California that is generated by the Dental Board of California. The Class Administrator will use these data sets to create a single mailing list designed to reach all Class Members for whom address information is available. The Settling Parties, by and through counsel, agree to cooperate reasonably to update this mailing list to correct any addresses that are found to be incorrect.

3. The long-form Class Notice approved by the Court will be sent by U.S. first class mail to all Class Members for whom address information is available no later than twenty-one (21) calendar days after the Court enters the Preliminary Approval Order and at least forty-five (45) calendar days before the Objection and Opt-Out Deadlines set by the Court. Prior to mailing, the Class Administrator will update class member address information using the National Change of Address (NCOA) system maintained by the United States Postal Service (USPS). The NCOA system contains new addresses of people and businesses that have moved over the past 48 months and notified USPS of their new addresses.

4. Notices that are returned by the USPS as undeliverable will be processed as follows. If the Notice is returned with a new address from the USPS, the Class Administrator will send a Notice to the updated address. If the Notice is returned without a new address from the USPS, the Class Administrator will use an address tracing service and if an updated address is available, a Notice will be sent to the updated address.

5. The Class Administrator will also publish the Short-Form Notice approved by the Court to present the key facts and details of the settlement and administration plan to Class Members in a transparent, easily understood format. The publication will run for one day in the California edition of *USA Today* and will be published at least 45 calendar days before the Objection and Opt-Out Deadlines set by the Court. This Short-Form Notice will lay out deadlines and any action required by Class Members, including how Class Members can access documents associated with the Settlement at the settlement website discussed below.

6. Delta Dental maintains a website, deltadentalins.com/dentists, that allows dentists to communicate with Delta Dental about their contracts, claims and other information. The Class Administrator will create a page or area on the Delta Dental website that includes key settlement information such as case status, settlement documents, and FAQs for easy access to information regarding the settlement. The settlement website will also include the Long-Form and Short-Form Notices. The Class Administrator will post to the

settlement website any updates approved by counsel or ordered by the Court regarding the status of the settlement and any court documents that the parties or the Court ask to be posted. The Class Administrator shall provide Class Counsel and Delta Dental's Counsel a copy of any material to be posted on the website at least five (5) calendar days before the date it is posted. The settlement website will be referenced in both the Long-Form and Short-Form Notices and through the toll-free phone number, discussed below.

7. The Class Administrator will provide a toll-free phone number to allow Class Members to call the Class Administrator. The toll-free phone number may be the same toll-free number available to providers who wish to contact Delta Dental about other issues. The Class Administrator will ensure that one or more call center representatives are familiar with the Settlement and will route questions about it to them during regular business hours.

8. The Class Administrator will also receive and process all written correspondence from Class Members, including all objections and requests for exclusion. As part of this process, the Class Administrator will establish a post office box or a specific mailing location as the return address for all mail. All objections and requests for exclusion received by the Class Administrator will be processed and provided to Class Counsel and Delta Dental's Counsel within five calendar days of receipt. Class Counsel will be responsible for filing objections and opt-out information with the Court.

9. The Class Administrator shall maintain through at least the Amended Settlement Agreement Effective Date the website, mailing address and toll-free telephone number noted above.

10. The Class Administrator will prepare a declaration for the final approval motion that summarizes the work that it has performed and relevant statistics related to this notice process, including opt outs and objections.

Appendix 5: Qualified Settlement Fund

1. As provided in Section V of the Amended Settlement Agreement, if a valid notice of appeal of the Court's Final Approval Order or Judgment is timely filed, Delta Dental shall establish an escrow account into which it shall deposit the Settlement Amount (hereinafter the "Settlement Fund"), to be administered in accordance with the provisions herein (the "Escrow Account"). The Settling Parties will cooperate to execute an appropriate escrow agreement within thirty (30) days after a valid notice of appeal is timely filed. Alternatively, if the conditions precedent to the establishment of a Qualified Settlement Fund as set forth in the Plan of Allocation and Distribution (Appendix 3) are satisfied, then the Settlement Fund shall consist of those amounts specified in the Plan of Allocation and Distribution.

2. The Escrow Account shall be established at a bank or such other financial institution or entity agreed upon by the Settling Parties, with such bank, other institution or other entity serving as the Escrow Agent ("Escrow Agent") subject to escrow instructions mutually acceptable to Class Counsel and Delta Dental's counsel. The Escrow Account shall be administered under the Court's continuing supervision and control.

3. Delta Dental's transfer of the Settlement Fund to the Escrow Agent shall constitute full and complete satisfaction of its obligations relating to the payment of the Settlement Amount pursuant to Section III.C.2 of the Amended Settlement Agreement.

4. The Escrow Agent shall cause the Settlement Fund deposited in the Escrow Account to be invested in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, or money market funds invested substantially in such instruments, and shall reinvest any income from these instruments and proceeds from these instruments as they mature in similar instruments at their then current market rates.

5. The Settlement Fund and any interest thereon held in the Escrow Account shall be deemed and considered to be in legal custody of the Court and shall remain subject to the jurisdiction of the Court, until the Fund is distributed pursuant to the Amended Settlement Agreement, the Plan of Allocation and Distribution, and/or further order(s) of the Court.

6. Any accrued interest earned on the Settlement Fund shall remain with the balance of the Settlement Fund and be distributed pursuant to the Plan of Allocation and Distribution, and other order(s) of the Court.

7. Releasors shall look solely to the Settlement Fund for settlement and satisfaction against Delta Dental and other Releasees of all the Released Claims and shall have no recovery of damages, Attorney's Fees and Expenses, costs or other relief except as expressly provided in the Amended Settlement Agreement.

8. In the event any Settlement Funds remain as residue in the Escrow Account following all distribution efforts approved by the Court, except as provided in paragraph 15 hereof, Class Counsel shall seek from the Court an order disposing of all such Settlement Funds in the form of a *cy pres* distribution pursuant to Section III.C.5 of the Amended Settlement Agreement.

9. For the purposes of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder ("Section 468B"), the Settling Parties agree to treat

the Settlement Fund in the Escrow Account as being at all times a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1 and to refrain from taking any action inconsistent with such treatment. The “administrator” within the meaning of Treas. Reg. § 1.468B-2(k)(3) shall be the Escrow Agent who shall promptly take all steps necessary so that the Settlement Fund qualifies as a “qualified settlement fund.” In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions herein, including the “relation-back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. The Escrow Agent shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including without limitation the returns described in Treas. Reg. § 1.468B-2(k)(1)). Such returns shall be consistent with treatment of the Settlement Fund as a qualified settlement fund, and in all events shall reflect that all Taxes, as defined below (including any estimated Taxes, interest or penalties), on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein. The Escrow Agent shall have the responsibility to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

10. For the purposes of Section 468B, Delta Dental shall be the “transferor” to the qualified settlement fund within the meaning of Treas. Reg. § 1.468B-1(d)(1) with respect to the Settlement Amount or any other funds transferred to the qualified settlement fund pursuant to the Amended Settlement Agreement.

11. All of the following shall be paid out of the Settlement Fund: (i) taxes (including any withholding or estimated taxes, interest, or penalties) arising with respect to the income earned by or payments from the Settlement Fund, including any taxes or tax detriments that may be imposed upon Delta Dental with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a qualified settlement fund for federal or state income tax purposes (“Taxes”); and (ii) expenses and costs incurred in connection with the administration, operation and implementation of the Settlement Fund and Escrow Account (including, without limitation, fees of the Escrow Agent, costs and expenses of administering and distributing settlement payments, expenses of attorneys and/or accountants, and mailing and distribution costs and expenses relating to filing (or failing to file) tax returns) (“QSF Expenses”).

12. Neither Delta Dental nor any other Releasee nor their respective counsel shall have any liability or responsibility for any Taxes or QSF Expenses associated with the Settlement Fund or Escrow Account, nor for maintaining or securing any desired tax status for the Settlement Fund or Escrow Account, nor for any negligence, fraud, or malfeasance regarding the Settlement Fund or Escrow Account. Further, Taxes and QSF Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund, and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court, and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to any claimants authorized by the Court any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and QSF Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(l)(2)). The Settling Parties agree to cooperate with the Escrow Agent, each other, and their attorneys and accountants to the extent reasonably necessary to carry out the provisions relating to the Settlement Fund and the Escrow Account.

13. The Settling Parties, Class Counsel and Delta Dental’s Counsel shall have no liability, obligation or responsibility with respect to the investment, disbursements, settlement payment distributions, or other administration or oversight of the Settlement Fund or Escrow

Account and shall have no liability, obligation or responsibility with respect to any liability, obligation or responsibility of the Settlement Fund or Escrow Account.

14. Prior to the Escrow Agent's distribution of settlement payments from the Escrow Account, Class Counsel and Delta Dental's Counsel shall meet and confer to determine whether any adjustments are required in light of any increase or decrease in the Settlement Fund due to the accrual of interest or distributions from the Settlement Fund such as, for example, Taxes, QSF Expenses, or other fees or costs incurred in connection with the administration or operation of the Escrow Account.

15. If the Amended Settlement Agreement does not receive the Court's final approval as described in the Amended Settlement Agreement or the Court's Final Approval Order or Judgment is reversed or vacated on appeal, the Settlement Fund (less Taxes, QSF Expenses and other fees or costs expended) shall be promptly returned to Delta Dental from the Escrow Account by the Escrow Agent along with any interest accrued thereon.

Appendix 6: Summary Table of Agreement Dates²

Date	Action	Amended Settlement Agreement Reference
TBD by Court	Preliminary Approval Order	I.19
<=21 days after Preliminary Approval Order	Class Notice mailed	I.5, II.C.1
>=45 days before Objection and Opt-Out Deadlines	Class Notice mailed, short-form Class Notice published	I.15, I.16, Appendix 4
>=5 days prior to website posting	Class Administrator to provide Class Counsel copies of materials to be posted to website	Appendix 4
<=30 days after Notice returned as undeliverable	Class Administrator to take additional and reasonable steps to determine valid address / complete mailing	Appendix 4
<=14 days before Objection and Opt-Out Deadlines	Motion for an award of Attorney's Fees and Expenses	VI.1
TBD by Court	Objection and Opt-Out Deadlines	I.15, I.16
<=10 days after Objection and Opt-Out Deadlines	Class Administrator provides full list of objections and opt-outs to Class Counsel and Delta Dental's Counsel	II.D.4, II.E.3
<=5 days after receipt of objection and opt-out information	Class Counsel files with Court all opt-out requests and objections	II.D.4, II.E.4
<=5 days after receipt of objection and opt-out information	Delta Dental's Counsel and Class Counsel confer re Opt-Out Thresholds	II.E.5

² For reference purposes only; in the event of a discrepancy between this table and the text of the Agreement, the text of the Agreement controls.

Date	Action	Amended Settlement Agreement Reference
<= 15 days after Objection and Opt-Out Deadlines	Deadline for Delta Dental to exercise option to provide notice of termination due to Opt-Out Threshold(s) being exceeded	II.E.5
<=30 days after Objection and Opt-Out Deadlines	Class Counsel files Motion for Final Approval	II.G.2
TBD by Court	Final Approval Order and Judgment	I.14
<= 60 days after Final Approval Order and Judgment	Payment of award of Attorney's Fees and Expenses (as approved by Court)	VI.1
>= 61 days after Final Approval Order and Judgment	Class Administrator maintains website, mailing address and toll-free telephone number	I.26, II.C.3, Appendix 4
<= 120 days after Final Approval Order and Judgment	Settlement payments made	III.C.4.c
> 90 days after payment returned or not cashed or redeemed	Stop orders issued, payment to be treated as residual and paid as a <i>cy pres</i> distribution (subject to Order from Court)	III.C.5.a

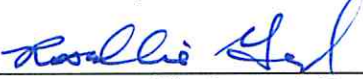
CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.260(g))

I, Rosallie Gumpal, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On August 4, 2023, I electronically served the **ORDER GRANTING PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT** via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: August 4, 2023

Brandon E. Riley, Court Executive Officer

By:  _____
Rosallie Gumpal, Deputy Clerk