

**East Palestine Train Derailment**  
**Plan of Distribution**

**Appeals of Claim Determinations**

- This Supplement to the Plan of Distribution is intended to outline and to clarify the process whereby Class Members may appeal their final claim determination issued by the Settlement Administrator. The appeal process outlined herein sets forth the general framework of any such appeals. At each phase, the Settlement Administrator, Special Master<sup>1</sup> or Court may establish its own processes, procedures or requirements to ensure the fair and efficient consideration and disposition of any appeals.
- Class Members appealing a final claim determination must comply with each step of this appeal process sequentially and within the timeframes established below before seeking further review.
- The failure to comply with this process or the timeframes set forth herein shall be considered a waiver of the right to further appeal a final claim determination.
- While a Class Member’s appeal of a final claim determination is pending, the Settlement Administrator shall not issue any payment on such claim. For any claim subject to an appeal, the Settlement Administrator shall only issue payment upon the earlier of (a) the completion of the appeal process or (b) the expiration of any of the timeframes for continuing the appeal process.

*Phase I – Reconsideration by the Settlement Administrator*

- Any Class Member may request the Settlement Administrator reconsider its final claim determination within ten (10) days of the date the final claim determination is issued.
- Subject to any additional processes, procedures or requirements established by the Settlement Administrator<sup>2</sup>, the request for reconsideration to the Settlement Administrator shall, at a minimum, specify each reason for which reconsideration has been

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<sup>1</sup> The Special Master authorized by this process shall be the Hon. Layn R. Phillips (Ret.) of Phillips ADR Enterprises (“PADRE”) or any such member of PADRE Judge Phillips should designate to assist him in such duties including, but not limited to, Mark B. Helm, Esquire and Niki Mendoza, Esquire.

<sup>2</sup> To the extent the Settlement Administrator establishes any such processes, procedures or requirements, the same shall be provided to Class Members with their final claim determinations and made available on the Settlement website at [eastpalestinetrainsettlement.com](http://eastpalestinetrainsettlement.com).

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requested and include all supporting documentation or evidence<sup>3</sup> the Class Member believes the Settlement Administrator should consider in reviewing the final claim determination. However, nothing in this section shall be construed as limiting the Settlement Administrator's ability to request additional or different information or evidence from a Class Member seeking reconsideration of a final claim determination.

- In reviewing a request for reconsideration of a final claim determination, the Settlement Administrator shall consider only whether the final claim determination is clearly erroneous under, or inconsistent with, the Plan of Distribution as applied to all other similarly situated Class Members.
- Within thirty (30) days of receipt of any request for reconsideration of a final claim determination, the Settlement Administrator shall issue (a) a revised final claim determination; (b) a notice affirming the original final claim determination; or (c) a request for additional or different information or evidence necessary to reconsider the final claim determination.

*Phase 2 – Appeal to the Special Master*

- Any Class Member who requested reconsideration by the Settlement Administrator and received either (a) a revised final claim determination or (b) a notice affirming the original final claim determination may appeal to the Special Master by advising the Settlement Administrator of their appeal in writing within seven (7) days of the date of issue.
  - Class Members who abandoned or withdrew their request for reconsideration either affirmatively or through unreasonable failure to respond to the Settlement Administrator's request for additional or different information or evidence shall not be permitted to take an appeal to the Special Master.
- Upon receipt of written notice from the Class Member of their intention to appeal to the Special Master, the Settlement Administrator shall forward all documentation and correspondence associated with the Class Member's claim to the Special Master.
- The Special Master shall thereafter consider the Class Member's appeal pursuant to any such processes, procedures or requirements it may establish, considering only whether the final claim determination is clearly erroneous under, or inconsistent with, the Plan of Distribution as applied to all other similarly situated Class Members. Nothing in this section shall be construed as limiting the Special Master's ability to request additional or different information or evidence from either the Class Member or Settlement Administrator in connection with the appeal of a final claim determination.

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<sup>3</sup> Documentation or evidence that could have been submitted during the original Claims Process will not be considered by the Settlement Administrator or Special Master on reconsideration or appeal.

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- Following their review and consideration of the appeal, the Special Master shall issue (a) a revised final claim determination or (b) a notice affirming the original final claim determination.
- In order to prevent the unnecessary expenditure of Class funds, should the Special Master determine that a Class Member's appeal was frivolous, baseless or otherwise submitted in bad faith, the Special Master may adjust the Class Member's final claim determination to deduct the value of the Special Master's time (computed as hourly rate times the number of hours expended) and any expense incurred in the review and consideration of any such appeal.

*Phase 3 – Appeal to the Court*

- Any Class Member who appealed their final claim determination to the Special Master and received either (a) a revised final claim determination or (b) a notice affirming the original final claim determination may appeal to the Court by advising the Settlement Administrator of their appeal in writing within seven (7) days of the date of issue.
  - Class Members who abandoned or withdrew their request for reconsideration or appeal either affirmatively or through unreasonable failure to respond to the Settlement Administrator or Special Master's request for additional or different information or evidence shall not be permitted to take an appeal to the Court.
- Upon receipt of written notice from the Class Member of their intention to appeal to the Court, the Settlement Administrator shall forward all documentation and correspondence associated with the Class Member's claim to Class Counsel for filing pursuant to a process to be established by the Court.
- The Court exercising its continuing jurisdiction over the Settlement may thereafter consider any appeal filed by the Class Member employing whatever standards, processes or procedures it deems appropriate in its sound discretion. The Court's disposition of any such appeal shall be a full, final and binding determination of the Class Member's claim to be effectuated by the Settlement Administrator, with no further appeals permitted.