

**NOTICE OF PENDENCY OF CLASS ACTION**

*A court authorized this notice. This is not a solicitation from a lawyer.  
Jason Mass, et al., v. the Regents of the University of California, et al.  
Alameda County Superior Court Case No. RG17-879223*

ABC1234567890

Claim Number 1111111



JOHN Q CLASSMEMBER  
123 MAIN ST  
APT 1  
ANYTOWN, ST 12345

- **This is a class action notice relating to the rights of certain members of the University of California Retirement Plan (“UCRP”).**
- Two former employees have sued The Regents of the University of California (“Regents”) and the University President, Janet Napolitano, and the Administrator of the UCRP, Dwaine B. Duckett, (the “Defendants”), alleging that Defendants “have a policy of treating retirement benefits as being permanently forfeited for every month that they remain unclaimed after age 60”; that “Defendants have concealed the fact that, under their policy, postponing a claim for retirement benefits past age 60 will result in a forfeiture of benefits . . . during the period during which benefits were not yet claimed”; and that Defendants breached a fiduciary duty to Plaintiffs by adopting and implementing the alleged policy. Defendants contend there is no such policy; that the law requires each Plaintiff to take responsibility for selecting his or her own Retirement Date; and that Defendants complied with the terms of the UCRP without committing any misrepresentation, concealment, or violation of a fiduciary duty.
- The Court has certified this case as a class action lawsuit for the breach of fiduciary duty claim.
- The Court has already decided that the Defendants did not breach any of the terms of the UCRP with respect to the payment of earned benefits, but has not ruled on whether Defendants breached a fiduciary duty. The Court has not decided that the University did anything wrong. This Notice does not express any opinion of the Court about the merits of the case.
- The class consists of all 1976 Tier or Multi-Tier members of the University of California Retirement Plan (“UCRP”) who: (1) have reached the age of 60; (2) have separated from employment with a UCRP-participating employer; (3) at the time of separation, met the requirements of Plan Section 3.08 and became an Inactive Member; and (4) either (a) submitted a claim for Retirement Income or a Lump Sum Cash-Out after their 60th birthday and no earlier than October 18, 2013, or (b) have not yet submitted a claim to receive Retirement Income or a Lump Sum Cash-Out.
- **Your legal rights may be affected by this lawsuit. You have a choice to make now.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
<b>DO NOTHING REMAIN A MEMBER OF THE CLASS</b>	<b>Stay in this lawsuit. Await the outcome. Give up certain rights.</b> By doing nothing, you keep the possibility of getting benefits that may come from a trial or settlement of the claim against Defendants for breach of a fiduciary duty. But, you give up any rights to sue the University separately about the same legal claim.
<b>EXCLUDE YOURSELF FROM THE LAWSUIT</b>	<b>Get out of this lawsuit. Get nothing from the lawsuit. Keep the right to file your own lawsuit.</b> If you ask to be excluded and benefits are later awarded in connection with the lawsuit, you won’t share in those. But you keep any rights to sue the University separately about the same fiduciary duty claim in this lawsuit. <b>IF YOU WANT TO BE EXCLUDED, YOU MUST ACT NO LATER THAN NOVEMBER 16, 2020.</b>
<b>WHETHER YOU CHOOSE TO BE EXCLUDED OR INCLUDED IN THE LAWSUIT</b>	Regardless of whether you choose to be included or excluded, this lawsuit will not affect your retirement status with the University. Each UCRP Member must comply with the terms of the UCRP, including the submission of a written application electing a retirement date in order to receive retirement benefits, generally before reaching age 70½ or 72 (depending on your birthdate), when payment is mandated by law.

- The Plaintiffs must prove the claim against the University. If you are a member of the Class and a judgment is obtained against the University or the Parties reach a settlement, you will be notified about how to participate.
- **Any Questions? Read all of this notice.**

## **PURPOSE OF THIS NOTICE**

This Notice is given pursuant to California’s Rules of Civil Procedure and an Order of the Court, dated May 5, 2020. The purpose of this Notice is to inform you that this class action will affect the rights of all members of the Class (the “Class Members”). This Notice describes your legal rights and what steps you may take in relation to this action. This Notice is not an expression of any opinion by the Court as to the merits of any claims or defenses asserted by Plaintiffs or the University Defendants.

## **BACKGROUND INFORMATION**

### **1. Why did I get this notice?**

The University’s records show that you were employed by the University of California and you meet the criteria of the class definition. This notice explains that the Court has allowed, or “certified,” a class action lawsuit that may affect you. The Court directed that this notice be sent to you because you may be a member of the class, and Class Members have a right to know about the lawsuit and about their options. This Notice describes the lawsuit and the legal rights of all Class Members and the deadlines to exercise these rights.

### **2. What is this lawsuit about?**

Two former employees, Jason Mass and Karen Graf, filed a case against the University Defendants on behalf of themselves and all other similarly situated UCRP members, in Alameda County Superior Court, Case No. RG17-879223. Superior Court Judge Winifred Smith is the judge overseeing the case. The persons who filed the lawsuit are called “Plaintiffs.” The Regents of the University of California and the other individuals being sued (Janet Napolitano and Dwaine Duckett) are called the “Defendants.”

The Plaintiffs in this case submitted written applications for retirement income in 2015, after they reached age 60, and then requested retroactive benefits to age 60. Plaintiffs contended that the terms of the UCRP entitled them to payment of monthly retirement income for months before they had submitted their applications, i.e., “retroactive benefits.” The Court has determined that the UCRP does not provide for payment of retroactive benefits.

The remainder of this lawsuit is about Plaintiffs’ breach of fiduciary duty claim. As stated in the second bullet point of this notice, Plaintiffs allege that Defendants “have a policy of treating retirement benefits as being permanently forfeited for every month that they remain unclaimed after age 60”; that “Defendants have concealed the fact that, under their policy, postponing a claim for retirement benefits past age 60 will result in a forfeiture of benefits . . . during the period during which benefits were not yet claimed”; and that Defendants breached a fiduciary duty to Plaintiffs by adopting and implementing the alleged policy. Defendants contend there is no such policy; that the law requires each Plaintiff to take responsibility for selecting his or her own Retirement Date; and that Defendants complied with the terms of the UCRP without committing any misrepresentation, concealment, or violation of a fiduciary duty.

### **3. Why is this lawsuit a class action?**

In a class action, one or more people (called “Class Representatives”) sue on behalf of all people who have similar claims. The people who have similar claims are the “Class” or “Class Members.” The Class Representatives in this case are Jason Mass and Karen Graf. Typically, the Court resolves the common issues for all members of the Class—except for those people who choose to exclude themselves from the Class. Class actions are frequently brought when many people have been affected in the same or similar ways, and litigating each claim individually would be impractical.

### **4. Has the Court decided who is right?**

The Court has not decided whether the Plaintiffs or the University are correct with respect to Plaintiffs’ allegation of a breach of fiduciary duty. By establishing the Class and issuing this Notice, the Court is not suggesting that the Plaintiffs will win or lose this case. To win, Plaintiffs must prove their claims at a hearing or trial.

## 5. What are the Plaintiffs asking for?

The Plaintiffs are asking for what is known as “equitable” relief. Plaintiffs contend that “equitable” relief could take the form of a Court order requiring the University to modify its disclosures to Class Members regarding their retirement benefits, and to provide an opportunity for Class Members to claim benefits that they would have received if they had previously made a claim for such benefits by age 60. Defendants contend that the Court may not award relief that is inconsistent with the terms of the UCRP, which do not provide for retroactive payment of benefits, or for different or additional disclosures than those that Defendants already provided. The precise nature of this relief, if any, will be determined by the Court if Plaintiffs establish the existence and breach of a fiduciary duty.

## 6. Is there any money available now?

No money or benefits are available now. The Court has not yet decided whether the University did anything wrong and there has been no settlement of the case. There is no guarantee that Plaintiffs will win or that any relief will be granted by the Court. If any relief is obtained, you will be notified about how to obtain any relief you are entitled to.

## WHO IS IN THE CLASS?

### 7. Am I part of the Class?

If you receive this notice by mail, it is because The University’s records indicate that you are a member of the Class. You are a part of this class if:

- (1) have reached the age of 60;
- (2) have separated from employment with a UCRP-participating employer;
- (3) at the time of separation, met the requirements of Plan Section 3.08 and became an Inactive Member; and
- (4) either (a) submitted a claim for Retirement Income or a Lump Sum Cash-Out after their 60th birthday and no earlier than October 13, 2013, or (b) have not yet submitted a claim to receive Retirement Income or a Lump Sum Cash-Out.

### 8. What if I am still not sure if I am included in the Class?

If you are not sure whether you are included, you can get free help by calling or writing to the lawyers for the Class (“Class Counsel”). Contact information for Class Counsel is listed in Q&A 12 below.

## YOUR RIGHTS AND OPTIONS

You have to decide whether to stay in the Class or ask to be excluded. You have to make this decision on or before **November 16, 2020**.

### 9. What happens if I do nothing at all?

You do not have to do anything now. By doing nothing, you are staying in the Class as a Class Member in the case alleging that the Defendants breached a fiduciary duty to you. If you stay in the Class and the Plaintiffs prevail as a result of a trial or if the parties reach a settlement, you will be notified about how to receive what you are entitled to receive. If you do nothing now, regardless of whether the Plaintiffs win or lose, you will not be able to file your own lawsuit, or continue to pursue a lawsuit you have already filed against the University asserting the same claim, and the claim for breach of fiduciary duty that has been certified by the Court will be decided by the Court. You will also be legally bound by all of the Orders the Court and any judgment issued by the Court with regard to the breach of fiduciary duty claim. If you stay in the Class, you will be represented by the attorneys for the named Plaintiffs.

### 10. Why would I ask to be excluded?

If you already have your own lawsuit against the University for breach of fiduciary duty regarding failure to disclose information relating to UCRP benefits, or if you plan to file such a lawsuit and want to continue with it, you must ask to be excluded from the Class (opt out) now. If you exclude yourself from the Class (opt out), you will not be bound by any orders of the Court in the case and will not be entitled to any relief obtained by the Class. However, you will retain the right to pursue your own lawsuit against the University for breach of fiduciary duty. If you file your own lawsuit after you exclude yourself (opt out), you may have to hire your own lawyer, and you will have to prove your claims separate and apart from what the Plaintiffs prove.

## 11. How do I ask the Court to exclude me from the Class?

To exclude yourself from the Class, you must complete and mail a copy of the enclosed Opt-Out Form, postmarked no later than **November 16, 2020**. Be sure to include your name, address, telephone number, and signature.

### THE LAWYERS IN THE CASE

## 12. Do I have a lawyer in this case?

The Court decided that (1) the Nichols Kaster firm and (2) Renaker Hasselman Scott, LLP, will represent all Class Members. Together these law firms are called “Class Counsel.” They are experienced in handling similar cases. More information about these law firms, their practices, and their lawyers’ experience is available at [www.nka.com](http://www.nka.com), and [www.renakerhasselman.com](http://www.renakerhasselman.com). Their contact information is as follows:

Daniel Brome  
dbrome@nka.com  
Nichols Kaster, LLP  
235 Montgomery St., Suite 810  
San Francisco, CA 94104  
Tel: 415-277-7234

Kai Richter  
krichter@nka.com  
Nichols Kaster, PLLP  
4700 IDS Center  
80 South 8th St.  
Minneapolis, MN 55402  
Tel: 612-256-3200

Margo Hasselman Greenough  
margo@renakerhasselman.com  
Renaker Hasselman Scott LLP  
505 Montgomery St., Suite 1125  
San Francisco, CA 94111  
Tel: 415-653-1733

## 13. Should I get my own lawyer?

You do not need to hire your own lawyer. The lawyers for the Class (“Class Counsel”) are working on your behalf. However, if you want your own lawyer, or you want to file a lawsuit acting as your own lawyer, you should do so promptly. You can ask your own lawyer to appear in Court for you if you want to be represented by someone other than Class Counsel, but you will need to make your own financial arrangements with your own lawyer.

## 14. How will the lawyers be paid?

If Plaintiffs win or settle the case and obtain a judgment or settlement for the Class, then Class Counsel may ask the Court to award them attorneys’ fees and expenses. You will not have to pay these attorneys’ fees and expenses. If the Court grants a request for attorney’s fees, these fees and expenses could be deducted from any Class recovery, or paid separately by the University.

### GETTING MORE INFORMATION

**If you have any questions about this Class Action or this Notice, contact Class Counsel at their above addresses and telephone numbers.**

**PLEASE DO NOT CALL THE COURT**