UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

CHRISTOPHER JAMES WALKER, KIM STERLING, and ERNIE FISHER on behalf of themselves and all others similarly situated, **Plaintiff,** **v.** **HIGHMARK BCBSD HEALTH OPTIONS, INC.; COTIVITI, INC.** **Defendant.**	Civil Case No.: 20-cv-1975 Hon. Christy Criswell Wiegand

PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTELEMENT AND CERTIFICATION OF SETTLEMENT CLASS

Plaintiffs Christopher Walker, Kim Sterling, and Ernie Fisher ("Plaintiffs"), by and through their undersigned counsel, Jeremy M. Glapion, respectfully submit this Motion for Preliminary Approval of Class Action Settlement and Certification of Settlement Class. Plaintiffs consulted with counsel for Defendants Highmark BCBSD Health Options Inc. and Cotiviti Inc. ("Defendants") and the Motion is unopposed. The grounds for this Motion are set forth in Plaintiffs' Memorandum in Support and accompanying exhibits, all filed contemporaneously herewith. A Proposed Order is attached.

Dated: November 18, 2022

s/ Jeremy M. Glapion
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

CHRISTOPHER JAMES WALKER, KIM STERLING, and ERNIE FISHER, on behalf of themselves and all others similarly situated, Plaintiffs, v. **HIGHMARK BCBSD HEALTH OPTIONS, INC.; COTIVITI INC.** Defendant.	Civil Case No.: 20-cv-1975 Hon. Christy Criswell Wiegand

[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION TO CERTIFY THE SETTLEMENT CLASS FOR SETTLEMENT PURPOSES AND FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

WHEREAS, the Parties in the above-captioned litigation have advised the Court that they have settled the litigation, the terms of which have been memorialized in a proposed settlement agreement ("Settlement Agreement");

WHEREAS, Plaintiff has applied to this Court through an unopposed motion for an order (1) certifying a proposed Settlement Class for settlement purposes; (2) granting preliminary approval of the Settlement Agreement resolving all claims in the above-captioned matter, (3) directing notice to the Settlement Class, and (4) setting a fairness hearing; and

WHEREAS, the Court has read and considered Plaintiffs' unopposed Motion to Certify the Settlement Class for Settlement Purposes and for Preliminary Approval of Class Action Settlement ("Motion"), the points and authorities and exhibits submitted therewith, the Settlement Agreement, and all of the supporting documents; and good cause appearing:

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. This Order incorporates by reference the definitions in the Settlement Agreement and all terms defined therein shall have the same meaning in this Order as set forth in the Settlement Agreement.

2. Plaintiffs' Motion is **GRANTED**. It appears to this Court on a preliminary basis that the Settlement Agreement satisfies the elements of Fed. R. Civ. P. 23 and is fair, adequate, and reasonable.

3. The proposed Settlement Class is hereby preliminarily certified pursuant to Fed. R. Civ. P. 23(a) and (b)(2) for purposes of settlement. The Settlement Class is defined as:

A. During the Class Period, all persons within the United States who are subscribers or primary users of a cellular telephone number to which Defendant Highmark BCBSD Health Options Inc. placed (or had placed on its behalf by Defendant Cotiviti, Inc.) a telephone call using a pre-recorded or artificial voice,

1) when such a call to that telephone number had previously resulted in (a) a "WRONG_NUMBER" disposition or (b) a "MSG_DECLINED" disposition without a subsequent disposition of "CORRECT_PERSON" or "MSG_HUMAN" and

2) when at least one subsequent call to that telephone number had the disposition "WRONG_NUMBER", "MSG_MACHINE", "CORRECT_PERSON", "MSG_HUMAN", "HANGUP", "NO_CONTINUE", or "MSG_DECLINED".

B. Excluding those persons who *only* received calls as part of a COVID Campaign, as well as Defendants and any entities in which Defendants have a controlling interest; Defendants' agents and employees; any Judge and Magistrate Judge to whom this action is assigned and any member of their staffs and immediate families.

4. The Court finds that Plaintiffs Christopher James Walker, Ernie Fisher, and Kim Sterling will fairly and adequately protect the interests of the Settlement Class. As a result, the Court appoints and designates the aforementioned Plaintiffs as representatives of the Settlement Class.

5. The Court finds that attorney Jeremy M. Glapion of Glapion Law Firm is experienced and competent counsel who will continue to fairly and adequately protect the interests of the Settlement Class. As a result, the Court appoints and designates attorney Glapion as Class Counsel for the Settlement Class.

6. The Court finds that the Claim Form (Exhibit A to the Settlement Agreement), Class Notice documents (Exhibit B to the Settlement Agreement), and related notice plan (outlined in Section VII of the Settlement Agreement) meet the requirements for due process, the requirements of Rules 23(c)(2) and 23(e) of the Federal Rules of Civil Procedure, and ensure notice is well calculated to reach representative class members. The notice plan and documents are hereby approved.

7. As soon as practicable, but no later than forty-five (45) days after the Court's entry of a Preliminary Approval order (the "Notice Deadline"), the Settlement Administrator shall

a. Cause Class Notice to be disseminated to Settlement Class Members;

b. Cause the claims form to be sent to identified members of the Settlement Class;

c. Cause the Class Notice to be published on, and make the following documents filed in the Action available for download on, the Settlement Website, located at https://www.hhotcpasettlement.com

i. the operative class action complaint;

ii. Plaintiffs' motion to certify class for settlement purposes and for preliminary approval of class action settlement, and supporting documents; and

iii. the Court's preliminary approval orders, as well as any supporting memorandum.

8. No less than fifteen (15) days before the fairness hearing scheduled in the Action, Plaintiffs shall file a declaration from Claims Administrator that summarizes the work the administrator performed, proof of notice, and the list of exclusions (if any). The list of exclusions may be filed under seal.

9. Within fourteen (14) days of the Notice Deadline, Plaintiffs shall move for reasonable attorneys' fees and costs, as well as any service awards, if requested.

10. Within forty-five (45) days of the Notice Deadline, any Settlement Class Member may object to the Settlement Agreement by filing written objections with the Clerk of the Court ("Objection Deadline") in accordance with Section 9.02 of the Settlement Agreement. Only such objecting Settlement Class Members shall have the right, and only if they expressly seek it in their objection, to present objections orally at the Fairness Hearing.

11. Within fourteen (14) days after the Objection Deadline defined above, the Parties may respond to any timely-filed objections.

12. Class Members may submit claims for ninety (90) days after the Notice Deadline.

13. A final approval hearing shall be held before this Court no earlier than one hundred and twenty (120) days after the Notice Deadline. The Court hereby sets this hearing for _____ at _____ EST in the United States District Court for the Western District of Pennsylvania, located at Joseph F. Weis, Jr. U.S. Courthouse, 700 Grant Street, Courtroom 9B, Pittsburgh, PA 15219, to determine whether the Settlement Agreement shall be granted final approval, and to address any related matters. No less than fifteen (15) days before this date, Plaintiffs shall file their Motion for Final Approval.

14. The Fairness Hearing may, from time to time and without further notice to the Settlement Class members (except those who have filed timely objections or entered appearances), be continued or adjourned by order of the Court.

15. Counsel for the Parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Settlement Agreement which are not materially inconsistent with either this Order or the terms of the Settlement Agreement.

ORDERED this _____ day of _____, 2022.

_____

Hon. Christy C. Wiegand
United States District Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

CHRISTOPHER JAMES WALKER, KIM STERLING, and ERNIE FISHER on behalf of themselves and all others similarly situated, **Plaintiff,** **v.** **HIGHMARK BCBSD HEALTH OPTIONS, INC.; COTIVITI, INC.** **Defendant.**	Civil Case No.: 20-cv-1975 Hon. Christy Criswell Wiegand

PLAINTIFFS' MEMORANDUM IN SUPPORT OF UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND CERTIFICATION OF SETTLEMENT CLASS

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I. INTRODUCTION

Plaintiffs Christopher Walker, Kim Sterling, and Ernie Fisher ("Plaintiffs") respectfully move the Court for preliminary approval of the class action settlement ("Settlement" or "Settlement Agreement")[1], filed herewith, between Plaintiffs and Defendant Highmark BCBSD Health Options Inc. ("Highmark") and Defendant Cotiviti, Inc. ("Cotiviti"; collectively, "Defendants"). The proposed Settlement resolves all class claims in this matter.

Under the Settlement, Defendants have agreed to pay $1,850,000 into a settlement fund ("Settlement Fund") for a class of 7,403 individuals who received 143,043 pre-recorded calls on their cellular telephone numbers after having allegedly given Defendants some indication that those calls were wrong number calls. Eligible claimants will receive a *pro rata*, per-call payment from this Settlement Fund, which after estimated administrative costs, and requested attorneys' fees, costs, and service awards, would pay approximately $70.69 per call at an assumed claims rate covering ten percent of calls.[2] No money will revert to Defendants.

II. BACKGROUND

A. Plaintiffs' Allegations and Procedural History

On November 30, 2020, Plaintiff Walker filed a complaint in the Court of Common Pleas, Allegheny County, Pennsylvania, alleging that, throughout 2020, Defendant Highmark repeatedly called his cell phone using a prerecorded or artificial voice. [Dkt. 1-1, Complaint, ¶¶ 19-30.] The calls appeared to be for someone else with whom Plaintiff Walker has no association, and Plaintiff Walker had never been Defendant's customer. [*Id.*] Accordingly, Plaintiff Walker alleged that the

[1] Unless otherwise specified, capitalized terms carry with them the same definitions contained in the Settlement Agreement.

[2] This would mean the estimated total recovery for a class member with the average number of calls—19—would be just over $1,300.

prerecorded calls were made to Plaintiff without his consent and violated the Telephone Consumer Protection Act's ("TCPA"), 47 U.S.C. § 227(b), prohibition on prerecorded telephone calls to cell phones without the consent of the recipient. The TCPA provides for statutory damages of $500 per call in violation, or up to $1500 per call for knowing or willful violations.

On December 21, 2020, Defendant Highmark removed the case to this Court. [Dkt. 1.] On January 26, 2021, Defendant Highmark moved to dismiss. [Dkt. 10.] On January 27, Plaintiff moved to remand on Article III standing grounds. [Dkt. 12.] On February 4, 2021, the Court denied Plaintiff's Motion to Remand, finding Article III standing present on the face of the complaint. [Dkt. 22.] The Court denied Defendant's Motion to Dismiss on May 14, 2021. [Dkt. 28.] After initial waves of discovery and an extension of deadlines, Plaintiff amended his complaint to add Defendant Cotiviti, Inc. on December 1, 2021. [Dkt. 71, Second Amended Complaint ("SAC").] Defendant Cotiviti was the entity with whom Defendant Highmark contracted to make the calls at issue.

On January 28, 2022 Defendant Cotiviti moved to Dismiss for Lack of Personal Jurisdiction and Improper Venue. [Dkt. 78.] On June 3, 2022, the Court denied this Motion. [Dkt. 90.]

On July 18, 2022, Plaintiff's counsel was retained by two additional individuals—Plaintiff Fisher and Plaintiff Sterling—whose allegations Plaintiffs contend are similar to Plaintiff Walker's. Notably, however, Plaintiff Fisher and Plaintiff Sterling received pre-recorded calls as part of different campaigns[3] than Plaintiff Walker. This is significant because of arguments Defendants had made and intended to make concerning the propriety of representing persons who

[3] Each of Defendants' calls were made as part of a "campaign"—i.e. a group of calls made to deliver information regarding a particular topic. Defendants had dozens of campaigns. Defendants' records indicate which calls were part of which "campaign."

received calls as part of campaigns that did not include calls to Plaintiff Walker, and about whether the calls to Plaintiff Walker fell under the "emergency purpose" or other exceptions. Plaintiffs Fisher and Sterling thus not only potentially brought in more calls and campaigns should Defendant's former argument be adopted, but some of the calls to Plaintiff Fisher and Sterling—such as survey calls—were arguably less likely to qualify under the emergency purpose or other exceptions than other calls such as those to Plaintiff Walker.

While Plaintiff Fisher and Plaintiff Sterling were not formally added to this case until recently, Defendants were aware of Plaintiff Fisher and Plaintiff Sterling's participation prior to the July 27 mediation, and Plaintiffs believe that their participation was vital to its success.

B. Discovery

Discovery in this matter was bifurcated. Discovery related to class certification was scheduled to end on February 21, 2022, but due to the December 2021 addition of Cotiviti and its Motion to Dismiss, the Court stayed all pending deadlines.

Prior to this stay, discovery was lengthy, thorough, and often contentious. Plaintiff served more than 60 requests for production and 19 interrogatories. [4] The Court was also called upon to review numerous distinct discovery disputes. Plaintiff received and reviewed thousands of pages of production, including a calls database which necessitated hiring third-party database experts to parse and review. Plaintiffs' counsel was able to narrow this database to unique telephone numbers that, Plaintiffs contend, were likely wrong number calls, and later, in conjunction with Defendants' counsel, to about 7,403 unique telephone numbers that were likely cellular telephone numbers.

C. Mediation

Shortly after the Court denied Defendant Cotiviti's Motion to Dismiss, the Parties agreed

[4] The singular "Plaintiff" is generally used throughout to refer to Plaintiff Walker and the parts of the case prior to the addition of Plaintiffs Fisher and Sterling.

to participate in a private mediation with Terrence White of Upchurch Watson White & Max (the "Mediation"). The Mediation was held on July 27, 2022. With the help of Mr. White, the Parties were able to reach the Settlement Agreement.

D. The Settlement

1. Defined Class

The proposed Settlement Class is defined as follows:

A. During the Class Period, all persons within the United States who are subscribers or primary users of a cellular telephone number to which Defendant Highmark BCBSD Health Options Inc. placed (or had placed on its behalf by Defendant Cotiviti, Inc.) a telephone call using a pre-recorded or artificial voice,

   1) when such a call to that telephone number had previously resulted in (a) a "WRONG_NUMBER" disposition or (b) a "MSG_DECLINED" disposition without a subsequent disposition of "CORRECT_PERSON" or "MSG_HUMAN" and

   2) when at least one subsequent call to that telephone number had the disposition "WRONG_NUMBER", "MSG_MACHINE", "CORRECT_PERSON", "MSG_HUMAN", "HANGUP", "NO_CONTINUE", or "MSG_DECLINED".

B. Excluding those persons who *only* received calls as part of a COVID Campaign, as well as Defendants and any entities in which Defendants have a controlling interest; Defendants' agents and employees; any Judge and Magistrate Judge to whom this action is assigned and any member of their staffs and immediate families.

Settlement Agreement, § 2.32. The Settlement Class consists of approximately 7,403 persons who received 143,043 calls.

2. Monetary Relief

The Settlement Agreement requires Defendant to create a non-reversionary fund of $1,850,000. Settlement Agreement §§ 2.31, 2.35, 3.02. This fund will be used to provide cash awards to eligible claimants who file an Approved Claim, as well as cover all administrative costs and attorneys' fees and attorneys' costs. *Id.* at § 3.04. Each claimant who files an Approved Claim will receive a *pro rata* per-call amount based on the number of Eligible Calls made to that claimant.

Id. §§ 8.01-8.04.

To submit a claim, Settlement Class Members will need to fill out and submit a claim form. This can be done electronically through the Settlement Website or via U.S. mail, including through a postage-paid claims form to be included with the notice. *Id.* § 8.02. Checks will be mailed to those submitting Approved Claims within thirty (30) days of the Effective Date.[5] *Id.* § 6.03(b). These checks will be valid for 180 days. *Id.* § 8.05.

Class Members will receive an award of approximately $70.69 at a claims rate covering ten percent of Eligible Calls, after deducting estimated fees, costs, and Plaintiffs' incentive awards.

3. Redistribution and Cy Pres

Should checks remain uncashed after 210 days of the first distribution, and the amount of uncashed checks result in an amount of $1.00 per Eligible Call or more, this remaining amount will be distributed to those who previously filed an Approved Claim and cashed their check. *Id.* § 6.03(e). In the event the amount uncashed is less than $1.00 per Eligible Call, the amount will be distributed *cy pres* to Delaware Nemours. *Id.* § 6.03(f). Unless final approval is not granted or is granted but reversed, no amount may revert to Defendants.

4. Release

[5] "Effective Date" means the date on which the judgment becomes final. Settlement Agreement, §§ 2.20, 12.01.

Upon the Effective Date, members of the Settlement Class who do not opt out will have released all Released Claims[6] against each and every one of the Released Parties.[7] *Id.* § 12.03. Plaintiffs and the Settlement Class members further agree not to sue any of the Released Parties with respect to any of the Released Claims, and agree to be forever barred from doing so in any court of law or equity, arbitration proceeding, or any other forum. *Id.* § 12.04.

5. Service Awards

The Settlement reflects that Plaintiff Walker will seek a $10,000 service award and Plaintiffs Fisher and Sterling will each request a service award of $2,500. *Id.* § 4.03. Any such award will be paid out of the Settlement Fund. *Id.* This award is subject to this Court's approval, and the Settlement is not conditioned on the Court awarding the requested service awards (or any service award). *Id.*

6. Attorneys' Fees and Costs

Class Counsel intends to apply to the Court for an award of attorneys' fees and costs. *Id.* § 4.02. As will be addressed in more detail in Class Counsel's forthcoming Motion for Attorneys'

[6] Defined as "any and all claims, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses and attorneys' fees of any nature whatsoever, whether based on any federal law, state law, common law, territorial law, foreign law, contract, rule, regulation, any regulatory promulgation (including, but not limited to, any opinion or declaratory ruling), common law or equity, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory, that existed as of the date of the Final Approval Order, that relate to or arise out of any Call or attempted Call to any Settlement Class Members, by or on behalf of Defendants or the Released Parties. For the avoidance of doubt, "Released Claims" include, but are not limited to, claims relating to or arising out of the equipment or method used to contact or attempt to contact Settlement Class Members by telephone. *Id.* at § 12.01.

[7] Defined as "Defendants, their predecessors (including but not limited to Eliza Corporation), successors, assigns, parent companies (including but not limited to Highmark BCBSD, Highmark Inc., and Highmark Health), subsidiaries, affiliates, divisions, and holding companies, and each of their employers, agents, employees, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, managers, members, attorneys, accountants, financial and other advisors, investment bankers, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, and successors in interest." *Id.* § 2.30.

Fees, to be filed on the schedule set by the Court, Class Counsel intends to ask for $616,666.67 in fees, which is one third of the Fund, and reflects a multiplier of approximately 3.5 on Counsel's lodestar. Both numbers are well within Third Circuit precedent and are appropriate to compensate Class Counsel for achieving the relief described herein. Class Counsel further intends to seek recovery of approximately $16,000 in costs. The Settlement is not contingent upon the Court's approval of attorneys' fees or costs, and the notice to class members will inform the class members that Class Counsel intends to seek up to $616,666.67 and costs.

7. Administration and Notice

Subject to the Court's approval, the Claims Administrator will be Epiq Class Action & Claims Solutions, Inc. ("Epiq"). All costs of notice and administration shall be paid from the Settlement Amount. *Id.* §§ 2.34, 3.04. The Claims Administrator shall administer the Settlement, which includes, but is not limited to, performing lookups to ascertain the identities of certain members of the Class, processing claims, disseminating notice pursuant to the plan submitted herewith, maintaining records, providing reports to Class Counsel and Defendants' counsel, creating the settlement website, establishing and maintaining the toll-free telephone number, and issuing all payments contemplated herein. Epiq estimates that the Settlement will cost approximately $108,000 to $175,000 to administer. Declaration of Cameron R. Azari ("Azari Decl."), ¶ 31.

To identify Class Members, the Administrator will perform a reverse lookup to identify the owner(s) of the telephone number during the time of the calls. Settlement Agreement, § 7.01, 7.02; Azari Decl. 22.

No later than forty-five (45) days after Preliminary Approval Order is issued, the Administrator will provide mailed notice, with a claim form and prepaid return method, to those persons identified. *Id.* § 7.03. This claim form will, among other things, request the name of the

Settlement Class Member, the name of the subscriber and primary user of the associated telephone number (if different than the Settlement Class member), current mailing address, current telephone number, and email address, if available. *Id.* § 8.02. It will also ask that Settlement Class Members affirm that the telephone number was theirs (in full or in part) during the Class Period and that they recall receiving Calls from Defendants.

In the event of a deficient claim, the Claims Administrator will provide the deficient claimant with a deficient claims notice. *Id.* § 7.03(e).

In the event of multiple owners or users claiming for the same telephone number (*e.g.*, due to multiple owners during the Class Period), it will be handled in accordance with section 8.03 of the Settlement Agreement. In short, in a multiple claimant situation, the Claims Administrator will contact each such claimant for additional information, such as the time period each claimant used the telephone number at each. Each claimant will then get their full *pro rata* share for Eligible Calls during the period for which they are the sole claimant, and split the *pro rata* share for Eligible Calls during the period for which there are multiple claimants.[8] *Id.* § 8.03.

III. DISCUSSION

A. Legal Standard for Preliminary Approval[9]

"The claims, issues, or defenses of a certified class—or a class proposed to be certified for purposes of settlement—may be settled . . . only with the court's approval." Fed. R. Civ. P. 23(e). Furthermore, where the settlement would bind class members, "the court may approve

[8] Counsel anticipates this process will be required very infrequently. It applies only when a Class Member was receiving wrong number calls and indicated to Defendants accordingly, and then this phone number was reassigned one or more times to other persons who also received these wrong number calls, and then all such persons chose to file claims. With a class of "only" 7403 persons, and with a TCPA claims rate typically well below ten percent, it is unlikely this will occur with any regularity.

[9] The following is taken from this Court's recent breakdown of the standard as written in *Douglass v. Optavia LLC*, 2022 U.S. Dist. LEXIS 163525, *2-6 (W.D. Pa. Sept. 12, 2022) (Wiegand, J.).

[the settlement] only after a hearing and only on finding that it is fair, reasonable, and adequate." Fed. R. Civ. P. 23(e)(2). Accordingly, "when a district court is presented with a class settlement agreement, the court must first determine that the requirements for class certification under Rule 23(a) and (b) are met, and must separately determine that the settlement is fair to the class under [Rule] 23(e)." *In re NFL Players Concussion Injury Litig.* ("*NFL II*"), 775 F.3d 570, 581 (3d Cir. 2014) (quoting *Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 319 (3d Cir. 2011) (internal quotations omitted)).

Courts in the Third Circuit generally follow a two-step process for approval of class settlements. First, "the parties submit the proposed settlement to the court, which must make 'a preliminary fairness evaluation.'" *In re NFL Players' Concussion Injury Litig*. ("*NFL I"*), 961 F. Supp. 2d 708, 713–14 (E.D. Pa. 2014) (quoting *Manual for Complex Litigation (Fourth)* § 21.632 (2004) ("*MCL"*)). At the preliminary approval stage,

> the bar to meet the "fair, reasonable and adequate" standard is lowered, and the court is required to determine whether "the proposed settlement discloses grounds to doubt its fairness or other obvious deficiencies such as unduly preferential treatment of class representatives or segments of the class, or excessive compensation of attorneys, and whether it appears to fall within the range of possible approval."

NFL I, 961 F.Supp.2d at 714. According to the United States Court of Appeals for the Third Circuit, there is "an initial presumption of fairness when the court finds that (1) the negotiations occurred at arm's length; (2) there was sufficient discovery; (3) the proponents of the settlement are experienced in similar litigation; and (4) only a small fraction of the class objected." *In re GMC Pick-Up Truck Fuel Tank Prods. Liab. Litig*., 55 F.3d 768, 785 (3d Cir. 1995).[10]

[10] At the final approval stage, a more demanding test applies, requiring the Court to examine the so-called *Girsh* factors:

> (1) the complexity and duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings; (4) the risks of establishing liability; (5) the

Even though there is a "strong presumption" in favor of class settlements, *Ehrheart v. Verizon Wireless*, 609 F.3d 590, 595–96 (3d Cir. 2010), "preliminary approval is not simply a judicial 'rubber stamp' of the parties' agreement." *NFL I*, 961 F. Supp. 2d at 714 (citation omitted). As such, "[j]udicial review must be exacting and thorough," *id.* (quoting *MCL* § 21.61), such that "[p]reliminary approval is appropriate where the proposed settlement is the result of the parties' good faith negotiations, there are no obvious deficiencies and the settlement falls within the range of reason." *Zimmerman v. Zwicker & Assocs., P.C.*, No. 09-3905 (RMB/JS), 2011 U.S. Dist. LEXIS 2161, at *7 (D.N.J. Jan. 10, 2011) (citation omitted); *see also*, *In re Warfarin Sodium Antitrust Litig.*, 391 F.3d 516, 534 (3d Cir. 2004) ("In cases such as this, where settlement negotiations precede class certification, and approval for settlement and certification are sought simultaneously, we require district courts to be even 'more scrupulous than usual' when examining the fairness of the proposed settlement.").

If approval of the proposed class settlement is sought contemporaneously with certification of the class—that is, when the parties agree to a class-wide settlement "before the district court has issued a certification order under Rule 23(c)"—"'the certification hearing and preliminary fairness evaluation can usually be combined.'" *NFL II*, 775 F.3d at 582 (quoting *MCL* § 21.632). When doing so,

> [t]he judge should make a preliminary determination that the proposed class satisfied the criteria set out in Rule 23(a) and at least one of the subsections of Rule 23(b) … If there is a need for subclasses, the judge must define them and appoint counsel to represent them. The judge must make a preliminary determination on the fairness, reasonableness, and adequacy of the settlement terms and must direct

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> risks of establishing damages; (6) the risks of maintaining a class action; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement in light of the best recovery; and (9) the range of reasonableness of the settlement in light of all the attendant risks of litigation.

In re GMC, 55 F.3d at 785 (citing *Girsh v. Jepson*, 521 F.2d 153, 157 (3d Cir. 1975)).

> the preparation of notice of the certification, proposed settlement, and date of the final fairness hearing.

Id. (quoting *MCL* § 21.632) (internal citation omitted). Thus, a district court may preliminarily certify a class under Rule 23(e) to facilitate notice to absent class members, fairly and efficiently resolve litigation, and preserve the resources of the court and the litigants, "allow[ing] the parties to forgo a trial on the merits, which often leaves more money for the resolution of claims." *Id.* at 583.

Under Rule 23(e)(1)(B), the Court "must direct notice in a reasonable manner to all class members who would be bound by the proposal," if such notice is justified by a showing that the Court will "will likely be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal."[11] Rule 23(e)(2) does not "displace any factor," discussed above, "but rather . . . focus[es] the court and the lawyers on the core concerns of procedure and substance that should guide the decision whether to approve the proposal." Fed. R. Civ. P. 23(e)(2), Advisory Committee Note.

B. The Settlement meets the *GMC* factors

As noted, in determining preliminary approval of the proposed settlement, the Court begins with the *GMC* factors discussed above.

1. The Settlement is the product of arm's length negotiations.

[11] Under Rule 23(e)(2), a Court may approve a settlement proposal that would bind class members "only after a hearing and only on finding that it is fair, reasonable, and adequate after considering whether: (A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm's length; (C) the relief provided for the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney's fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3); and (D) the proposal treats class members equitably relative to each other." Fed. R. Civ. P. 23(e)(2).

The Settlement discussed herein was reached after nearly two years of litigation, extensive and contentious discovery, several dispositive motions, and mediation before Terrence White of Upchurch Watson White & Max. The mediation lasted a full day and was, as much of this litigation has been, cordial but contentious. The Parties aggressively asserted their positions and began the day far apart on material terms, before ultimately arriving at the Settlement Agreement submitted for preliminary approval herewith. "Settlements that are achieved with the assistance and under the supervision of a neutral mediation are presumed to have occurred at arm's length and to be free from collusion." *Roth v. Geico Gen. Ins. Co.*, 2021 U.S. Dist. LEXIS 23105, *21 (S.D. Fla. Feb. 8, 2021) (citing McLaughlin on Class Actions § 6:7 (12th ed.) ("A settlement reached after a supervised mediation receives a presumption of reasonableness and the absence of collusion."); *see also Alves v. Main*, 2012 U.S. Dist. LEXIS 171773, *73-74 (D.N.J. Dec. 4, 2012) ("The participation of an independent mediator in settlement negotiations virtually insures that the negotiations were conducted at arm's length and without collusion between the parties.") *aff'd* 559 Fed. App'x 151 (3d Cir. 2014); *Turner v. NFL*, 301 F.R.D. 191, 198 (E.D. Pa. 2014) (collecting cases).

Accordingly, the Settlement was thus reached after arm's-length negotiations, and there was no collusion.

2. There was thorough investigation.

This case was filed nearly two years ago. Since then, it was litigated thoroughly. Discovery was detailed and often contentious. Plaintiff served more than 60 requests for production and 19 interrogatories. The Court was also called upon to review numerous distinct discovery disputes. Plaintiff received and reviewed thousands of pages of production. This production included, but was not limited to, documents showing the call scripts and purposes for all of Defendants' calling campaigns (allowing Plaintiffs to evaluate the strength of Defendants' anticipated "emergency

purpose" defense), Defendants' policies and procedures for honoring and documenting do-not-call requests, and a list of all calls and dispositions and their meaning (allowing Plaintiffs to determine which dispositions were indicative of a wrong number call).

This discovery also included the production and review of a calls database, which necessitated hiring third-party database experts to parse and review. Plaintiff's counsel was able to narrow this database to unique telephone numbers that were likely wrong number calls, and later, in conjunction with Defendants' counsel, to about 7,403 unique telephone numbers that were likely cellular telephone numbers.

The Parties also fully briefed (and the Court ruled upon) two Motions to Dismiss and one Motion to Remand. This matter did not resolve until after the Court's ruling on the second of these Motions to Dismiss.

3. The proponents are experienced in similar litigation.

Attorney Glapion has extensive experience litigating TCPA matters individually and on a class-wide basis. Since 2015, Attorney Glapion has been appointed co-lead counsel in *Willis et al. v. IHeartMedia, Inc.*, Case No. 16-CH-02455 (Cook County, Feb. 19, 2016), a TCPA class action in which the court approved an $8.5 million non-reversionary class action settlement, which was successfully administered. In 2017, Attorney Glapion was appointed as sole lead counsel in *Allard et al. v. SCI Direct, Inc.*, a TCPA class action in which the Court approved a $15 million non-reversionary class action settlement, which was successfully administered. Case No. 17-cv-4692 (N.D. Illinois). In 2018, Attorney Glapion was also appointed co-lead counsel in *Griffith v. ContextMedia, Inc.*, Case No. 16-cv-2900 (N.D. Illinois), a TCPA class action in which the Court approved a $2.9 million non-reversionary settlement, which was successfully administered. Attorney Glapion has also recovered over $1 million for clients in more than 100 individual TCPA cases. *See* Declaration of Jeremy M. Glapion.

4. Objections

Because a class has not yet been certified and notice has not yet been provided, this factor cannot yet be evaluated. *See Douglass*, 2022 U.S. Dist. LEXIS 163525 at *7.

C. The Settlement meets the *Zimmerman* factors.

After considering the *GMC* factors, the Court also considers the *Zimmerman* factors, which ensure that the settlement falls within the range of reason, and that there no other obvious deficiencies such as unduly preferential treatment of class representatives, segments of the class, or excessive compensation of attorneys. *NFL I*, 961 F. Supp. 2d at 714.

1. The results are exceptional relative to other TCPA settlements, putting it well within range of possible approval.

At an anticipated claims rate of ten percent, each Settlement Class Member will receive approximately $70.69 per Eligible Call. For the average Settlement Class Member, this will result in an award of more than $1,300. This is an exceptional result for several reasons.

First, it significantly exceeds the award in many other approved TCPA class action settlements. For example, the Northern District of Illinois granted final approval to a strong TCPA class settlement in which each claimant would be paid $89 *total* on a 6.9% claims rate. *Ossola et al. v. American Express Company, et al.*, Case No. 13-cv-4836 (N.D. Ill.) (Dkt. 368.). If 6.9% of text messages were claimed here, the Settlement would pay each claimant over $100 *per call*. For the average Class Member, this would be nearly $2,000. The Settlement similarly exceeds the relief in most other TCPA settlements, a sampling of which is shown in the following chart[12]:

Case	Per Claimant Recovery
Walker v. Highmark	$1,300* (estimated, 10% claims)
Couser v. Comenity Bank	

[12] This chart uses the per-claimant amounts listed in the corresponding opinion, but not all used a ten percent estimate. Several, for example, used a five percent estimate. At a five percent claims rate, the average class member here would receive more than $2,900.

125 F. Supp. 3d 1034 (S.D. Cal. 2015)	$50
Wright v. Nationstar Mortg., LLC, No. 14-cv-10457 2016 U.S. Dist. LEXIS 115729 (N.D. Ill. Aug. 29, 2016)	$45
Gehrich v. Chase Bank 316 F.R.D. 215 (N.D. Ill. 2016)	$52.50
Williams v. Bluestem Brands, Inc., No. 17-cv-1971 2019 U.S. Dist. LEXIS 56655 (M.D. Fla. Apr. 2, 2019)	$25-75

The list of TCPA settlements that achieve a worse per-class member result than the relief obtained here could go on for pages, while the list of settlements that exceed the anticipated per-Class Member relief obtained here is short (one of which was a previous case Plaintiff's counsel litigated). *See Griffith v. ContextMedia, Inc.*, Case No. 16-cv-2900 (N.D. Illinois).

Second, while the Settlement does not provide full statutory relief, this "does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved." *City of Detroit v. Grinnell*, 495 F.2d 448, 455 n.2 (2d Cir. 1974). This is particularly true here. While 47 U.S.C. § 227(b) mandates a *minimum* of $500 per call or text in violation of the statute, which could amount to $70 million here, obtaining such a judgment is far from guaranteed. Class certification in wrong number TCPA cases is doable, but is vigorously contested and, on occasion, denied. *See Head v. Citibank, N.A.*, 340 F.R.D. 145, 152-54 (D. Ariz. 2022) (noting the split of decisions on certifying a wrong number class but certifying the proposed wrong number class). A denied class certification motion, of course, means the Settlement Class would get nothing absent their own lawsuits. Should Plaintiffs successfully certify a class, that also does not mean it would be certified at the same size and scope of the Settlement Class. For example, Defendants have argued that Plaintiffs can only represent persons who received calls as part of the same campaigns as those that called them. If adopted, this narrower certification would cut out tens of thousands of calls and hundreds of Settlement Class Members.

Even if Plaintiffs survive class certification unscathed, Defendants' primary defense to liability—that most, if not all, of the calls are exempt from the TCPA as "emergency purpose" calls—is all or nothing. If Defendants prevailed on this argument, the value of the case would approach $0. This argument is by no means a sure thing for either side. As far as Plaintiffs know, it would be an issue of first impression in the Third Circuit. Courts elsewhere have decided this question with conflicting results. *Compare, e.g. Coleman v. Rite Aid of Georgia, Inc.*, 284 F. Supp. 3d 1343, 1346-47 (N.D. Ga. 2018) (concluding the emergency purpose exception cannot apply where the recipient has informed the caller it had the wrong number or the calls were unwanted) *with Roberts v. Medco Health Solutions*, 2016 U.S. Dist. LEXIS 97177, *3 (E.D. Mo. July 26, 2016) (applying emergency purpose exception to wrong number calls).

Third, this Settlement allows for real relief much sooner than would come in its absence. A trial date has not yet been set, and with class certification and additional discovery still to come, it is likely trial was, at best, a year away. Subsequent appeals may add additional years. Guaranteeing a sizable settlement to the Class now far outweighs the potential benefit of proceeding to trial and verdict.[13]

Accordingly, the compromise amount of $1,850,000 is within the range of approval.

2. There is no unduly preferential treatment for class representatives, segments of the class, or class counsel.

All class members are treated identically. Each receives the same *pro rata* amount per call as every other class member. Those who received more calls receive more compensation and those

[13] This risk is especially pronounced with the TCPA constantly under siege legally and politically. While there does not appear to be anything imminent, multiple aspects of the TCPA have been seriously curtailed within the past few years, disrupting ongoing cases. For example, just last year, the Supreme Court all but eliminated TCPA actions based on autodialers, shutting down countless otherwise "winning" cases that existed well before the Court granted cert on the issue presented. *See Facebook, Inc. v. Duguid*, 141 S. Ct. 1163 (2021).

who received fewer receive less.

The proposed Class Representatives are subject to the same *pro rata* distribution discussed herein. The only difference between the proposed Class Representatives and the Settlement Class is in their requests for service awards.[14] While the amount of any such service award will be subject to final approval, the existence of such awards do not pose an issue to approval of the Agreement itself. Service awards are both permitted and routinely approved in the Third Circuit. *See, e.g. Sullivan*, 667 F.3d at 333, n.65 (en banc) (rejecting an objection to incentive awards, and noting such awards are "not uncommon in class action litigation … particularly where … a common fund has been created for the benefit of the entire class."). A $10,000 service award has been found to be fair and reasonable in the TCPA context in the Third Circuit. *See, e.g. Landsman & Funk, P.C. v. Skinder-Strauss Assocs.*, 2015 U.S. Dist. LEXIS 64987, *22-23 (D.N.J. May 18, 2015). The awards are warranted here. Plaintiff Walker has worked with Class Counsel to advance the case for nearly two years and has been extremely cooperative and communicative. Plaintiff timely responded to Defendant's discovery requests and remained involved at every step of the way. He remained dedicated to the Class and at no point sought to settle individually, even though it is possible he could have obtained a better individual settlement for himself, financially speaking (even with the requested service award). He provided valuable and responsive input and feedback into the case, and his contribution to the litigation served the interest of the Class members. Glapion Decl., ¶¶ 24-27.

While Plaintiffs Fisher and Sterling were involved in this case for a shorter period, their participation was vital. One of Defendants' primary expected defenses was that the calls to Plaintiff Walker were made for emergency purposes, in which case they would potentially be exempt from

[14] The Settlement Agreement calls for a $10,000 incentive award to Plaintiff Walker and $2,500 each to Plaintiffs Fisher and Sterling.

the TCPA. While the Parties disagreed on the viability of this argument, it was not without some support. If all of Plaintiff Walker's claims were made for emergency purposes, then Plaintiff Walker could not proceed, nor could he represent a class. Plaintiff Fisher and Plaintiff Sterling, however, received calls as part of campaigns for which Defendants' emergency purpose argument would arguably be more attenuated, such as satisfaction survey calls and reward program calls. As such, their presence in this case in the weeks leading up to the mediation helped break through what would certainly have been a roadblock during settlement negotiations, and their participation contributed significantly to the excellent value obtained at the mediation. It is Plaintiffs' counsel's belief that this matter would not have resolved—or would not have resolved as favorably—without the participation of Plaintiffs Fisher and Sterling. Glapion Decl., ¶¶ 28-36.

Plaintiff Fisher and Plaintiff Sterling, like Plaintiff Walker, at no point expressed a desire to settle individually. They asked questions and were invested in the case from the beginning. They were and remain responsive to requests for information from counsel and have proved to be valuable additions to this case.

Finally, there is no unduly preferential treatment for Class Counsel. Class Counsel intends to ask, on a briefing schedule set by the Court, for one third of the $1,850,000 Settlement Fund ($616,666.67) plus costs (approximately $16,000). Settlement Agreement, § 4.02. "The percentage of fund recovery method is generally favored in common fund cases…." *Kirsch v. Delta Dental of New Jersey*, 534 Fed. App'x 113, 115 (3d Cir. 2015). Plaintiff counsel's forthcoming request for one-third of the common fund comports with fee awards in litigated common fund cases in the Third Circuit. *Vista Healthplan, Inc. v. Cephalon, Inc.*, 2020 U.S. Dist. LEXIS 69614, *88 (E.D. Pa. Apr. 20, 2020) ("[R]easonable fee awards in percentage-of-recovery cases generally range from nineteen to forty-five percent of the common fund."); *see also, e.g. In re Merck & Co., Inc.*

Vytorin Erisa Litig., 2010 U.S. Dist. LEXIS 12344 (D.N.J. Feb. 9, 2010) (reviewing 289 settlements and finding that the average attorney's fee percentage was 31.71% with a median value of one third); *Shelton v. Agentra*, 2021 U.S. Dist. LEXIS 144659, *49-52 (W.D. Pa. Aug. 3, 2021) (awarding one third of TCPA common fund for 292 hours of work in the action). While no ruling on the specific amount is necessary now, Plaintiff Counsel's forthcoming request for fees and costs is within the range of reasonable, so should not preclude preliminary approval of the Settlement.

IV. Provisional Certification of the Settlement Class is appropriate.

Plaintiffs respectfully request that the Court provisionally certify the class defined in the Settlement Agreement to allow Settlement Class Members to be provided notice of the Settlement and their rights thereunder. Defendants have agreed to provisional certification of the defined Settlement Class for the purposes of settlement. For reference, the Settlement Class is defined as:

A. During the Class Period, all persons within the United States who are subscribers or primary users of a cellular telephone number to which Defendant Highmark BCBSD Health Options Inc. placed (or had placed on its behalf by Defendant Cotiviti, Inc.) a telephone call using a pre-recorded or artificial voice,

    1) when such a call to that telephone number had previously resulted in (a) a "WRONG_NUMBER" disposition or (b) a "MSG_DECLINED" disposition without a subsequent disposition of "CORRECT_PERSON" or "MSG_HUMAN" and

    2) when at least one subsequent call to that telephone number had the disposition "WRONG_NUMBER", "MSG_MACHINE", "CORRECT_PERSON", "MSG_HUMAN", "HANGUP", "NO_CONTINUE", or "MSG_DECLINED".

B. Excluding those persons who *only* received calls as part of a COVID Campaign, as well as Defendants and any entities in which Defendants have a controlling interest; Defendants' agents and employees; any Judge and Magistrate Judge to whom this action is assigned and any member of their staffs and immediate families.

A. Rule 23(a) is Satisfied.

Rule 23(a) requires (i) that the proposed class is so numerous that joinder of all individual class members is impracticable (numerosity); (ii) that there are common questions of law and fact

amongst class members (commonality); (iii) that the proposed representative's claims are typical of those of the class (typicality); and (iv) that both the named-representative and his or her counsel have and will continue to adequately represent the interests of the class (adequacy). Fed. R. Civ. P. 23(a).

Numerosity. In the Third Circuit, the numerosity requirement is generally satisfied when the number of class members exceeds 40. *Mielo v. Steak 'N Shake Operations, Inc.*, 897 F.3d 467, 486 (3d Cir. 2018). Numerosity is met for the proposed class. The proposed class has approximately 7,403 members. This 7,403 number was derived by starting with the database of all persons to which Defendants placed pre-recorded calls, filtering those down to only those telephone numbers with the dispositions and temporal requirements of (A)(1) and (2) of the Settlement Class definition, and then filtering those telephone numbers to identify which of those telephone numbers are cellular telephone numbers.

Commonality. Rule 23(a)(2) requires that there be questions of law or fact common to the class. "What matters to class certification … is not the raising of common questions—even in droves—but rather, the capacity of a class-wide proceeding to generate common answers apt to drive the resolution of the litigation." *Ferreras v. Am. Airlines, Inc.*, 946 F. 3d 178, 185 (3d Cir. 2019). Rule 23(a)'s commonality requirement is met if "the named plaintiffs share at least one question of fact or law with the grievances of the prospective class." *Baby Neal v. Casey*, 43 F.3d 48, 56 (3d Cir. 1994). Commonality is met for the class because there are numerous common questions, such as (i) whether Defendants placed pre-recorded voice calls to class members; (ii) whether Defendants had in place any policies, procedures, or processes to filter out wrong numbers from receiving pre-recorded voice calls or to permit revocation of consent; (iii) whether Defendants placed calls to class members who informed or otherwise put Defendants on notice

that Defendants had the wrong number or revoked consent and (iv) whether the "emergency purposes" or another exception still applies to wrong number calls. These questions are all susceptible to generalized proof and would drive the resolution of the matter for the Class as a whole.

Typicality. Rule 23(a)(3) requires that the class representatives' claims be "typical of the claims … of the class." The Third Circuit has set a low threshold for typicality. *In re NFL* ("*NFL III*"), 821 F.3d 410, 428 (3d Cir. 2016). Typicality is found "where there is a strong similarity of legal theories or whether the claim arises from the same practice or course of conduct." *Id.* Plaintiffs' claims are typical of the Settlement Class claims. Plaintiffs received pre-recorded telephone calls intended for someone else. Each Plaintiff indicated to Defendant that it had the wrong number and received a "WRONG_NUMBER" disposition or had a "MSG_DECLINED" disposition without a subsequent "CORRECT_PERSON" or "MSG_HUMAN" disposition. Each Plaintiff nevertheless continued to receive pre-recorded calls after receiving a disposition putting Defendants on notice that a wrong number was reached. Each Plaintiff maintains the same legal theory, namely that Defendants' pre-recorded calls after it knew or should have known it was calling a wrong number are unlawful under the TCPA. Finally, all calls to Plaintiffs fall within the defined Class period.

Adequacy. Rule 23(a)(4) requires the representative parties to fairly and adequately protect the interests of the Class. The adequacy requirement is met here. With respect to the proposed class representatives, this inquiry "serves to uncover conflicts of interest between the named parties and the class they seek to represent." *Amchem Prods. v. Windsor*, 521 U.S. 591, 625 (1997). "A class representative must be part of the class and possess the same interest and suffer the same injury as the class members." *Id.* at 625-26. This requirement tends to merge with the commonality

and typicality inquiries, "which serve as guideposts for determining whether . . . maintenance of a class action is economical and whether the named plaintiff's claim and the class claims are so interrelated that the interests of the class members will be fairly and adequately protected in their absence." *Id.* at 626, n.20 (quotations and citations omitted). This requirement is easily met where class representatives "closely follow[] the litigation, authorize the filing of the Class Action complaint, and approv[e] the final settlement."*NFL III*, 821 F.3d at 430.

Plaintiffs here have remained diligent and involved throughout this litigation. Plaintiffs and their counsel are in frequent communication about all aspects of the case. For his part, Plaintiff Walker timely responded to Defendants' discovery requests, asked pertinent and insightful questions throughout the case (including about the instant settlement), and remained available as needed to assist in the prosecution of all aspects of this case. As discussed previously, while Plaintiffs Fisher and Sterling were involved in this case for a shorter period of time, their participation was vital to the results achieved. Further, they too have remained readily available, promptly responding to any issues or concerns raised. Each Plaintiff authorized the filing of the contemporaneously filed amended complaint, and each Plaintiff approved the settlement submitted here. Plaintiffs have fulfilled, and will continue to fulfill, their duties as representatives of the Class.

When analyzing class counsel for adequacy, courts must ensure that class counsel "(1) possessed adequate experience; (2) vigorously prosecuted the action; and (3) acted at arm's length from the Defendant." *NFL III*, 821 F.3d at 429. Plaintiff's counsel also satisfies the

As discussed, Attorney Glapion has extensive experience litigating TCPA matters individually and on a class-wide basis. Since founding The Glapion Law Firm in May 2015, Attorney Glapion has been appointed co-lead counsel in *Willis et al. v. IHeartMedia, Inc.*, Case

No. 16-CH-02455 (Cook County, Feb. 19, 2016), a TCPA class action in which the court approved an $8.5 million non-reversionary class action settlement, which was successfully administered. In 2017, Attorney Glapion was appointed as sole lead counsel in *Allard et al. v. SCI Direct, Inc.*, a TCPA class action in which the Court approved a $15 million non-reversionary class action settlement, which was successfully administered. Case No. 17-cv-4692 (N.D. Illinois). In 2018, Attorney Glapion was also appointed co-lead counsel in *Griffith v. ContextMedia, Inc.*, Case No. 16-cv-2900 (N.D. Illinois), a TCPA class action in which the Court approved a $2.9 million non-reversionary settlement, which was successfully administered. Attorney Glapion has also recovered over $1 million for clients in dozens of individual TCPA cases. While class actions are procedurally more complex, Attorney Glapion's familiarity with the underlying law has and will continue to serve the Class well. *See* Glapion Decl. Attorney Glapion has never been found to be inadequate counsel.

Attorney Glapion has also diligently litigated this case. The case was initially filed in the Court of Common Pleas, Allegheny County, Pennsylvania, on November 30, 2020. It was removed on December 21, 2020. On January 26, 2021, Defendant Highmark moved to dismiss, which Plaintiff, through Attorney Glapion, opposed. This Motion was denied in full by the Court on May 14, 2021. On January 27, 2021, Plaintiff Walker, through Attorney Glapion, strategically moved to remand to state Court, which was denied in full on February 4, 2021. This Motion forced the issue of Article III standing earlier in the case than might otherwise be practicable. Thus, while the Motion to Remand was denied, it was denied on grounds favorable to the future of the case, i.e. on the ground that Article III standing was present on the face of the complaint. Defendant Cotiviti was added to the case on December 1, 2021, and moved to dismiss on January 28, 2022. Plaintiff, through Attorney Glapion, opposed, and the Court denied this Motion on June 3, 2022. Glapion

Decl., ¶¶ 10-13.

Plaintiff, through Attorney Glapion, served more than 60 requests for production and 19 interrogatories. The Court was also called upon to review numerous distinct discovery disputes. Attorney Glapion received and reviewed thousands of pages of production, including a database consisting of more than 160,000 telephone numbers and 4 million calls which necessitated hiring third party database experts to parse and review. Attorney Glapion was also able to strategically identify key witnesses and was retained by two additional persons who became aware of the pending case and wanted to participate. Glapion Decl., ¶¶ 14, 28-36.

In short, at all phases, this case was hard fought, vigorously prosecuted, and done at arm's length from Defendants. Accordingly, adequacy is met.

B. Rule 23(b)(3) is Satisfied.

To certify a class under Rule 23(b)(3), there must be questions of law or fact common to the proposed class members, which predominate over any questions affecting only individual members, and the class mechanism must be superior to other available methods for fairly and efficiently adjudicating the controversy. Fed. R. Civ. P. 23(b)(3). In the settlement certification context, manageability of a trial need not be considered. *See Amchem*, 521 U.S. at 620 (writing "a district court need not inquire whether the case, if tried, would present intractable management problems" in the context of settlement-only class certification.)

Predominance. Under Rule 23(b)(3), a class may be maintained if "the court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members." This "tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation." *NFL III*, 821 F.3d at 434. Courts are "more inclined to find the predominance test met in the settlement context." *Id.* (citing *Sullivan*, 667 F.3d at 304 n.29 (en banc)). The case here presents almost entirely common questions. The relevant TCPA provision

requires that Defendants have placed pre-recorded calls to cellular telephone numbers without the consent of the called party. A recipient of a wrong number call, by definition, did not consent. As such, these calls violate the TCPA, unless an exception applies.

Each part of this analysis implicates class wide questions that drive class-wide, rather than individual, resolutions. Is informing Defendants that they had the wrong person—as indicated by a WRONG_NUMBER or MSG_DECLINED disposition—sufficient to put Defendants on notice that they had the wrong number or lacked consent to place a call to those numbers? Did Defendants place pre-recorded calls to those numbers anyway? Did Defendants' calls qualify under any exception? Does any such exception still apply in the wrong number context? Each of these questions is capable of a class-wide resolution and predominates over any individual questions. Even the most obvious individual question—damages—is easily resolved through a simple formula multiplying the number of calls received by the statutory damages (or, in this case, by the *pro rata* amount). "Ultimately, the basic questions in this case are the same for all class members: Did [Defendants] call a putative class member without authorization? And, did a prerecorded or artificial voice play during the call? If the answer to both questions is yes … recovery is appropriate…. [T]hese questions can be litigated as a class." *Head*, 340 F.R.D. at 154. Accordingly, predominance is met.

Superiority. Rule 23(b)(3) "asks the court to balance, in terms of fairness and efficiency, the merits of a class action against those of alternative available methods of adjudication." *NFL III*, 821 F.3d at 434. If a class action potentially avoids thousands of duplicative lawsuits and enables fast processing of a multitude of claims, this factor is met. *See id.* It is met here. Absent class treatment in this case, each individual member of the proposed class would be required to present the same or essentially the same legal and factual arguments, in separate and duplicative

proceedings across the country, the result of which would be a multiplicity of trials conducted at significant expense to both the judicial system and the litigants. Such a result would be neither efficient nor fair to anyone, including Defendant. Moreover, there is no indication that class members have a strong interest in individual litigation, let alone any incentive to pursue their claims individually. Indeed, no one else has sued Defendant over its calling practices. Permitting this settlement class will allow all such persons to obtain compensation in one fell swoop. Fairness, efficiency, and finality favor treating this as a class action. *See Susinno v. Work Out World, Inc.*, 333 F.R.D. 354, 363 (D.N.J. 2019).

C. Similar Settlement Classes are Routinely Certified.

Should the Court provisionally certify the proposed settlement class, it would be in good company. Similar class action settlements involving wrong number calls are routinely certified nationwide. *See, e.g. Swaney v. Regions Bank*, 2020 U.S. Dist. LEXIS 101215 (N.D. Ala. June 9, 2020) (certifying settlement class of persons who received calls after informing defendant it had the wrong number; $548 per claimant); *Cook v. Palmer*, 2019 U.S. Dist. LEXIS 136690 (M.D. Fla. May 17, 2019) (certifying settlement class of all persons called after the number was added to defendant's wrong number list; $957 per claimant at a ten percent claims rate); *Williams v. Bluestem Brands, Inc.*, 2019 U.S. Dist. LEXIS 56655 (M.D. Fla. Apr. 2, 2019) (certifying settlement class of all persons called after defendant's records contain a wrong number notation); *Reid v. I.C. Sys.*, 2017 U.S. Dist. LEXIS 43770 (D. Ariz. Mar. 24, 2017) (certifying settlement class of all persons called after the number was coded as a wrong number in defendant's records; $76.09-$152.18 per claimant on a three percent claims rate).

V. The Notice Program Should be Approved.

A court is required to "direct notice in a reasonable manner to all class members who would be bound by [a proposed settlement, voluntary dismissal, or compromise]." Fed. R. Civ. P.

23(e)(1). The notice must be "reasonably calculated … to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). Here, Class Counsel proposes a robust notice program that should reach most Class Members.

First, counsel for the Parties have prepared a master list of all telephone numbers meeting the criteria of the Settlement Class definition, as well as all Eligible Calls (and dates of those calls) made to those telephone numbers.

Second, upon preliminary approval, this master list will be provided to Epiq to perform a reverse lookup to identify all owner or owner(s) of each telephone number during the Class Period. Epiq estimates it will be able to identify and otherwise reach approximately 90% of class members. Azari Decl., ¶ 33. This is "well above levels deemed adequate in other class actions." *Turner*, 301 F.R.D. at 203.

***Third*,** once the names and addresses of Class Members who can reasonably be located and identified through the above-described processes are known, Epiq will send a claim form, attached as Exhibit A to the Settlement Agreement, notice, attached as Exhibit B to the Settlement Agreement, and a pre-paid return method, via U.S. mail. This notice will provide extensive information to Class Members on the terms of the Settlement, and their rights, obligations, and responsibilities under the Settlement. The notice will define the Class, describe the options and deadlines for taking action, describe the terms of the proposed Settlement, disclose the sought attorneys' fees and requested service awards, provide information on the time and place of the final fairness hearing as well as information on how to object or opt out, explain the procedures for distributing the settlement funds, and prominently display the address and phone number of the involved attorneys, as well as a toll-free number for making inquiries, and the Settlement

website. The notice will also provide information sufficient to enable prospective class members to easily determine if they are members of either Class. The claim form will request, among other things, the name of the Settlement Class Member, the name of the subscriber and primary user of the associated telephone number (if different than the Settlement Class member), current mailing address, current telephone number, and email address, if available. *Id.* § 8.02. It will also ask that the Settlement Class Member affirm that the telephone number was her number (in full or in part) during the Class Period and 2) she recalls receiving Calls from Defendants.

Fourth, if there are any deficiencies to a filed claim or if there are multiple claimants to the same phone number, the Administrator will send a deficient claim notice or a multiple claimant notice requesting additional information to cure the deficiency or properly distribute settlement funds, respectively.

Class Members will be able to file a claim via a claims form, using a prepaid envelope included with the mailed notice, via a claim form that can be requested through the website or from the administrator, and directly through the Settlement website. Drafts of the claim form and the proposed notice are attached as Exhibits A and B to the Settlement Agreement.

VI. CONCLUSION

Plaintiffs respectfully requests that the Court 1) preliminarily approve the proposed Settlement; 2) conditionally certify the proposed Class; 3) appoint Plaintiff's attorney Jeremy M. Glapion of Glapion Law Firm as Class Counsel; 4) approve the proposed Notice and Claims program; 5) direct that Notice be provided pursuant to the terms of the Settlement Agreement; 6) establish procedures for members to object to the Settlement or exclude themselves from the Settlement Class; 7) set the deadlines for objections or exclusions at 45 days after the Notice deadline; 8) stay all proceedings except those related to effectuating the Settlement; 9) schedule a final approval hearing; and 10) set any other dates and deadlines the Court deems necessary,

including deadlines for Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards. Specifically, Plaintiffs propose the following schedule:

45 days after Preliminary Approval granted	Deadline for Notice to be Provided
14 days after Notice Deadline	Deadline for Fee Petition
45 days after notice deadline	Deadline to file objections or request exclusion
90 days after notice deadline	Deadline for Members to Submit a Claim
105 days after notice deadline	Deadline to file the list of exclusions, proof of notice, and final approval motion and memorandum.
120 days after notice deadline	Final Approval Hearing

Dated: November 18, 2022

/s/ Jeremy M. Glapion

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SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Settlement Agreement") is entered into by and between Plaintiffs Christopher Walker ("Walker"), Kim Sterling ("Sterling"), and Ernie Fisher ("Fisher") (collectively, "Plaintiffs"), for themselves and the Settlement Class Members (as defined below), on the one hand, and Highmark BCBSD Health Options Inc. ("Highmark Health Options") and Cotiviti, Inc. ("Cotiviti") (collectively, "Defendants"), on the other hand. This Settlement Agreement is intended to resolve the claims and defenses in *Walker v. Highmark BCBSD Health Options Inc.; Cotiviti, Inc.*, Case No. 20-cv-1975 (United States District Court, Western District of Pennsylvania) (the "Action"). Plaintiffs and Defendants in this Settlement Agreement may be referred to individually as a "Party" and collectively as the "Parties."

I. RECITALS

1.01 On November 30, 2020, Walker filed a one-count putative Class Action Complaint in the Court of Common Pleas, Allegheny County, Pennsylvania, alleging violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* ("TCPA"), arising from certain calls allegedly made by, or on behalf of, Highmark Health Options. Highmark Health Options removed the case to the Western District of Pennsylvania, and Walker subsequently amended his pleadings, including by filing the Second Amended Class Action Complaint, adding Cotiviti, on December 1, 2021, and the Third Amended Class Action Complaint adding Sterling and Fisher, on November 16, 2022 (the "Complaint").

1.02 The Parties have engaged in significant in-person, telephonic, and written arms-length settlement negotiations, including at a full-day mediation on July 27, 2022 through which the Parties reached the instant settlement.

1.03 Based on their investigation and negotiations, which included Class Counsel's

extensive review of data produced by Defendants during discovery and consideration of the sharply contested issues involved; the risks, uncertainty and cost of further prosecution of this litigation; and the substantial benefits to be received by Settlement Class Members pursuant to this Settlement Agreement, Class Counsel and Plaintiffs have concluded that a settlement with Defendants on the terms set forth herein is fair, reasonable, adequate and in the best interests of the Settlement Class Members.

1.04 Defendants deny all material allegations in the Complaint and specifically dispute that they violated the TCPA in any respect, including but not limited to the application of the exemptions or exceptions to the TCPA and Plaintiffs and putative class members' entitlement to any relief. Nevertheless, given the risks, uncertainties, burden, and expense of continued litigation, Defendants have agreed to settle this litigation on the terms set forth in this Settlement Agreement, subject to Court approval.

1.05 The Parties understand, acknowledge, and agree that the execution of this Settlement Agreement constitutes the settlement and compromise of disputed claims. This Settlement Agreement is inadmissible as evidence against any Party except to enforce the terms of the Settlement Agreement and is not an admission of wrongdoing or liability on the part of any Party to this Settlement Agreement. The Parties desire and intend to effect a full, complete and final settlement and resolution of all existing disputes and claims as set forth herein.

1.06 The terms of this Settlement Agreement are subject to preliminary approval and final approval by the Court. The Parties intend this Settlement Agreement to fully, finally and forever resolve, discharge and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof.

II. DEFINITIONS

2.01 "Action" means the action described by the Complaint (and all prior versions of the Complaint) filed by Plaintiffs in the Western District of Pennsylvania, captioned *Walker v. Highmark BCBSD Health Option Inc.; Cotiviti, Inc.*, Case No. 20-cv-1975.

2.02 "Agreement" or "Settlement Agreement" means this Settlement Agreement and Release, including any exhibits or attachments.

2.03 "Approved Claims" means claims that have been validly completed, timely submitted, and approved for payment.

2.04 "CAFA Notice" refers to the notice requirements imposed by 28 U.S.C. § 1715(b).

2.05 "Call" or "Calls" means outbound calls made by Highmark Health Options, or on its behalf by Cotiviti, to Settlement Class Members as part of any calling campaign for which Defendants used an artificial or prerecorded voice, except a COVID Campaign (defined below).

2.06 "Cash Award" means a cash payment to an eligible Settlement Class Member.

2.07 "Claim Form" means the claim form substantially in the form attached hereto as Exhibit A.

2.08 "Claims Deadline" means ninety (90) days from the Class Notice Date.

2.09 "Claims Period" means the 90-day period that begins on the Class Notice Date.

2.10 "Claims Administrator" means Epiq Global, subject to Court approval.

2.11 "Class Counsel" means Jeremy M. Glapion of The Glapion Law Firm, LLC.

2.12 "Class Member Calls List" means the list of all telephone numbers to which, during the Class Period, Highmark Health Options placed (or had placed on its behalf by Cotiviti) a telephone call using a pre-recorded or artificial voice (1) when such a call to that telephone number had previously resulted in (a) a "WRONG_NUMBER" disposition or (b) a "MSG_DECLINED"

disposition without a subsequent disposition of "CORRECT_PERSON" or "MSG_HUMAN" and (2) when at least one subsequent call to that telephone number had the disposition "WRONG_NUMBER", "MSG_MACHINE", "CORRECT_PERSON", "MSG_HUMAN", "HANGUP", "NO_CONTINUE", or "MSG_DECLINED". The Class Member Calls List will also include the total number of telephone calls placed to each telephone number from the first instance of "WRONG_NUMBER", "MSG_MACHINE", "CORRECT_PERSON", "MSG_HUMAN", "HANGUP", "NO_CONTINUE", or "MSG_DECLINED" through the end of the Class Period, and the dates of each such calls, excluding any COVID Campaign calls.

Plaintiffs and their counsel agree that they: (a) will use and/or disclose the numbers in the Class Member Calls List only for the administration of the Settlement of this suit; (b) will not use and/or disclose any other telephone number, call result information, or any other call data, information, or documents produced in discovery of this action for any other purpose; and (c) will destroy all records of all other phone numbers, names, addresses, and other personally identifiable information produced in discovery in this action.

2.13 "Class Notice" means the notice specified in Section VII of this Settlement Agreement. Class Notice shall be substantially in the form attached hereto collectively as Exhibit B, subject to the Court's approval.

2.14 "Class Notice Date" means forty-five (45) days after a Preliminary Approval Order is issued.

2.15 "Class Period" means November 30, 2016, through Preliminary Approval.

2.16 "Class Representatives" means Plaintiffs Walker, Sterling, and Fisher.

2.17 "Complaint" means the Third Amended Class Action Complaint, filed on November 16, 2022.

2.18 "Court" means the United States District Court for the Western District of Pennsylvania.

2.19 "COVID Campaign" means a campaign identified in Defendants' records as

(a) HHO_COVIDVAC_SP;

(b) HHO_COVIDVAC_PEDI_SP;

(c) HHO_COVIDVAC_REM_ADULT_SP;

(d) HHO_COVIDVAC_REM_PEDI_SP; or

(e) HHO_RM_CALL_SP.

2.20 "Effective Date" means the date on which the Judgment becomes final as provided in Section 11.01.

2.21 "Eligible Call" means a Call, as defined above, that Defendant Highmark BCBSD Health Options Inc. placed (or which Defendant Cotiviti, Inc. placed on its behalf) to a member of the Settlement Class using a pre-recorded or artificial voice, and resulting in a "WRONG_NUMBER", "MSG_MACHINE", "CORRECT_PERSON", "MSG_HUMAN", "HANGUP", "NO_CONTINUE", or "MSG_DECLINED" disposition, after a Call resulting in a "WRONG_NUMBER" or "MSG_DECLINED" had been made to the same telephone number.

2.22 "Escrow Account" means a non-interest-bearing account established at a financial institution, by the Claims Administrator, into which monies shall be deposited as set forth by this Settlement Agreement.

2.23 "Final Approval Hearing" means the hearing held by the Court to determine whether to finally approve the Settlement Agreement as fair, reasonable, and adequate.

2.24 "Final Approval Order" means the order to be submitted to the Court in connection with the Final Approval Hearing.

2.25 "Final Distribution Date" means the earlier of (1) the date as of which all the checks for Cash Awards have been cashed, or (2) 210 days after the date on which the last check for a Cash Award was issued.

2.26 "Objection Deadline" means forty-five (45) days from the Class Notice Date.

2.27 "Opt-Out Deadline" means forty-five (45) days from the Class Notice Date.

2.28 "Preliminary Approval Order" means the order by the Court granting preliminary approval to this Settlement.

2.29 "Released Claims" means the releases identified in Section XII.

2.30 "Released Parties" means Defendants, their predecessors (including but not limited to Eliza Corporation), successors, assigns, parent companies (including but not limited to Highmark BCBSD, Highmark Inc., and Highmark Health), subsidiaries, affiliates, divisions, and holding companies, and each of their employers, agents, employees, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, managers, members, attorneys, accountants, financial and other advisors, investment bankers, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, and successors in interest.

2.31 "Settlement Amount" means $1,850,000 (one million eight-hundred and fifty thousand dollars).

2.32 "Settlement Class" means all persons meeting the following criteria:

A. During the Class Period, all persons within the United States who are subscribers or primary users of a cellular telephone number to which Defendant Highmark BCBSD Health Options Inc. placed (or had placed on its behalf by Defendant Cotiviti, Inc.) a telephone call using a pre-recorded or artificial voice

   1) when such a call to that telephone number had previously resulted in (a) a "WRONG_NUMBER" disposition or (b) a "MSG_DECLINED" disposition without a subsequent disposition of "CORRECT_PERSON" or "MSG_HUMAN" and

2) when at least one subsequent call to that telephone number had the disposition "WRONG_NUMBER", "MSG_MACHINE", "CORRECT_PERSON", "MSG_HUMAN", "HANGUP", "NO_CONTINUE", or "MSG_DECLINED".

B. Excluding those persons who *only* received calls as part of a COVID Campaign, as well as Defendants and any entities in which Defendants have a controlling interest; Defendants' agents and employees; any Judge and Magistrate Judge to whom this action is assigned and any member of their staffs and immediate families.

2.33 "Settlement Class Members" or "Class Members" means those persons who are members of the Settlement Class as defined above who do not timely and validly request exclusion from the Settlement Class.

2.34 "Settlement Costs" means all costs incurred by Plaintiffs, and their attorneys, including but not limited to Plaintiffs' attorneys' fees, costs of suit, Plaintiffs' expert or consultant fees, any incentive payments paid to the Class Representatives, notice costs, costs of claims administration, costs incurred by the Claims Administrator, and all other costs of administering the Settlement Agreement (including but not limited to administration costs associated with any website, notice, toll-free telephone number, or any other cost associated with this Settlement Agreement).

2.35 "Settlement Fund" means the non-reversionary Settlement Amount less any amounts drawn by the Claims Administrator to pay settlement costs in accordance with Section 3.03.

2.36 "Settlement Website" means the Internet website operated by the Claims Administrator as described in Section 7.02.

2.37 "TCPA" means the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.*, and any regulations or rulings promulgated under it.

III. SETTLEMENT TERMS AND BENEFITS TO THE SETTLEMENT CLASS

3.01 Confirmatory Discovery: The Parties have engaged in confirmatory discovery and

have agreed upon the Class Member Calls List.

3.02 Monetary Consideration. In consideration of the releases, covenants, and other agreements set forth in this Settlement Agreement, Defendants will pay or cause to be paid the Settlement Amount.

3.03 Defendants will pay the Settlement Amount into the Escrow Account within forty-five (45) days after entry of Preliminary Approval, provided that the Claims Administrator has first provided Defendants with: (1) a W-9 for the Escrow Account, and (2) the wire or check mailing instructions for payment to the Escrow Account. The Claims Administrator may draw from the Escrow Account to pay for costs associated with administering the settlement (including notice costs, costs incurred by the Claims Administrator, and all other costs of administering the Settlement Agreement (including but not limited to administration costs associated with any website, notice, toll-free telephone number, or any other cost associated with this Settlement Agreement)), subject to authorization from the Parties, which authorization shall not be unreasonably withheld. The monies in the Escrow Account shall be held until the Effective Date, at which time the remaining funds will be deposited into the Settlement Fund. In the event that Final Approval of the settlement is not granted, or is granted but reversed on appeal, the amounts in the Escrow Account will revert to Defendants in proportion to the amounts originally deposited by same.

3.04 This Settlement Fund will be used to pay all monies, including Approved Claims and any Settlement Costs (as referenced above, and including but not limited to any incentive fee to Plaintiffs, any awarded attorneys' fees and costs, and any costs associated with the administration of this settlement). Under no circumstances shall Defendants be required to pay, or cause to be paid, any amount in excess of the Settlement Amount in order to resolve the Action or

obtain releases from Plaintiffs and Settlement Class Members. Claims will not be paid until after the Effective Date, as defined above, and will be paid in accordance with the procedures set forth in Sections VI and VIII below.

3.05 Eligibility for Cash Awards. Each Settlement Class Member shall be entitled to make one claim for a Cash Award. Cash Awards shall be made to eligible Settlement Class Members with Approved Claims. The formula for calculating the amount to be paid per claim is set forth in Section 8.03 below.

IV. ATTORNEYS' FEES, COSTS AND PAYMENT TO CLASS REPRESENTATIVES

4.01 Class Representative and Class Counsel Appointment. For settlement purposes, and subject to Court approval, Walker, Sterling, and Fisher are appointed as the Class Representatives for the Settlement Class, and Jeremy M. Glapion of The Glapion Law Firm, LLC is appointed as Class Counsel for the Settlement Class.

4.02 Attorneys' Fees and Costs. Class Counsel shall move the Court for an award of attorneys' fees to be paid from the Settlement Fund, not to exceed 1/3 of the Settlement Fund, plus Class Counsel's actual expenses, to also be paid from the Settlement Fund. Class Counsel shall be entitled to payment of the fees awarded by the Court out of the Settlement Fund as set forth in Section 6.03. In addition, no interest will accrue on such amounts at any time. Any award of attorneys' fees and costs shall be paid from the Settlement Fund.

4.03 Incentive Payment to Class Representative. Class Counsel will ask the Court to award an incentive payment, not to exceed $10,000, to Plaintiff Walker for the time and effort he has personally invested in the Action on behalf of the Settlement Class, and incentive payments not to exceed $2,500 to Plaintiffs Sterling and Fisher, as their involvement in the case substantially contributed to the Settlement. Within thirty (30) days of the Effective Date, and after receiving a

W-9 form from the Class Representatives, the Claims Administrator shall pay to Class Counsel the amount of the incentive payment awarded by the Court, and Class Counsel shall disburse such funds. Any incentive payment made under this section shall be paid from the Settlement Fund.

4.04 Settlement Independent of Award of Fees, Costs and Incentive Payments. The payment of attorneys' fees, costs and any incentive payment set forth in the above Sections 4.02 and 4.03 are subject to and dependent upon the Court's approval of the Settlement Agreement as fair, reasonable, adequate and in the best interests of Settlement Class Members. However, this Settlement Agreement is not dependent or conditioned upon the Court approving Plaintiffs' requests for such payments or awarding the particular amounts sought by Plaintiffs. In the event the Court declines Plaintiffs' requests or awards less than the amounts sought, this Settlement Agreement shall continue to be effective and enforceable by the Parties.

V. PRELIMINARY APPROVAL

5.01 Order of Preliminary Approval. As soon as practicable after the execution of this Agreement, Plaintiffs shall move the Court for a Preliminary Approval Order. Pursuant to the motion for preliminary approval, Plaintiffs will request that:

a. the Court, for settlement purposes only conditionally certify the Settlement Class, appoint Plaintiffs as the Class Representatives of the Settlement Class, and appoint Class Counsel as counsel for the Settlement Class;

b. the Court preliminarily approve the Settlement Agreement as fair, adequate and reasonable, and within the reasonable range of possible final approval;

c. the Court approve the form(s) of Notice and find that the notice program set forth herein constitutes the best notice practicable under the circumstances, and satisfies due process and Rule 23 of the Federal Rules of Civil Procedure;

d. the Court set the date and time for the Final Approval Hearing, which may be continued by the Court from time to time without the necessity of further notice; and,

e. the Court set the Claims Deadline, the Objection Deadline and the Opt-Out Deadline.

VI. ADMINISTRATION AND NOTIFICATION PROCESS

6.01 Third-Party Claims Administrator. The Parties agree to propose Epiq Global to the Court for approval as the Claims Administrator. The Claims Administrator shall be responsible for all matters relating to the administration of this Settlement Agreement, as set forth herein. Those responsibilities include, but are not limited to, creation of the Escrow Account, giving notice, obtaining new addresses for returned mail, setting up and maintaining the Settlement Website and toll-free telephone number, fielding inquiries about the Settlement Agreement, processing claims, acting as a liaison between Settlement Class Members and the Parties regarding claims information, approving claims, rejecting any Claim Form where there is evidence of fraud or noncompliance, directing the mailing of Cash Awards to Settlement Class Members, and any other tasks reasonably required to effectuate the foregoing. The Claims Administrator will provide the Parties the right to review and approve the Website page content and Website URL at least thirty (30) days prior to the Website go-live date. The Claims Administrator will provide updates every two weeks on the claims status to counsel for all Parties.

6.02 Notice Database. To facilitate the notice and claims administration process, no later than fifteen (15) days after entry of the Preliminary Approval, the Parties will provide to the Claims Administrator, in an electronically searchable and readable format, the Class Member Calls List. The Parties will provide additional contact and identifying information for Class Members, to the extent that it is obtained. Any personal information relating to members of the Settlement Class

provided to the Claims Administrator pursuant to this Settlement Agreement shall be provided solely for the purpose of providing notice to the Settlement Class Members and allowing them to recover a Cash Payment under this Settlement Agreement; shall be used in accordance with Section 2.13, and shall be kept in strict confidence; shall be used only for purposes of this Settlement Agreement; and shall not be disclosed to any third party.

6.03 Distribution of the Settlement Fund. The Claims Administrator shall distribute the funds in the Settlement Fund in the following order and within the time period set forth with respect to each such payment:

a. first, no later than thirty (30) days after the Effective Date, the Claims Administrator shall pay to Class Counsel the attorneys' fees, costs, and expenses ordered by the Court as set forth in Section 4.02;

b. next, no later than thirty (30) days after the Effective Date, the Claims Administrator shall pay to the Class Representative any incentive awards ordered by the Court, as described in Section 4.03;

c. next, no later than thirty (30) days after the Effective Date, the Claims Administrator shall mail the Cash Awards to eligible Settlement Class Members pursuant to Section VIII;

d. next, no later than sixty (60) days after the Effective Date, the Claims Administrator shall be paid for any unreimbursed costs of administration incurred;

e. next, if checks that remain uncashed after 210 days of the first *pro rata* distribution yield an amount that, after any additional administration costs, feasibly allow a second *pro rata* distribution to the qualifying claimants, the Claims Administrator shall distribute any such funds on a *pro rata* basis to Settlement Class Members who cashed settlement checks. If net

uncashed proceeds exceed $1.00 per Eligible Call, a second distribution will be considered administratively feasible.

f. finally, if a second pro rata distribution is not made, or if checks remain uncashed 210 days after the second distribution, the uncashed amount will be paid to a mutually agreeable *cy pres* recipient, subject to Court approval. The parties jointly agree to propose Delaware Nemours as the *cy pres* recipient.

VII. NOTICES

7.01 Preparation of Notice List. Within twenty (20) days of receipt of the Class Member Calls List, the Claims Administrator shall conduct a reasonable search to locate the address and/or name associated with the cellular phone numbers included in the Class Member Calls List during the time period of qualifying calls, using various publicly and privately accessible databases.. The Claims Administrator estimates it will be able to obtain names and addresses for, and reach, approximately 90% of Class Members through this method.

7.02 Master List. The Claims Administrator shall then, within thirty (30) days of the receipt of the Class Member Calls List, prepare a master list of addresses/names believed to be associated with all telephone numbers on the Class Member Calls List, and advise the Parties of the amount of the same. This master list will consist of (1) Class Member information already known; and (2) Class Member information obtained via searches. In the event multiple name(s) and/or address(es) are associated with a telephone number on the Class Member Calls List during the period of calls to that telephone number, each unique address and name will be included on the Master List.

7.03 Timing of Class Notice. Class Notice shall be provided within forty-five days following entry of the Preliminary Approval Order, as follows:

a. Mail Notice/Address Confirmation. For those Class Members for which an address has been located, the Claims Administrator shall send the Class Notice via first class mail, containing a pre-paid claims form, to such address. The last known address of persons in the Settlement Class will be subject to confirmation or updating as follows: (1) the Claims Administrator will check each address against the United States Post Office National Change of Address Database before the initial mailing; (2) the Claims Administrator will conduct a reasonable search to locate an updated address for any person in the Settlement Class whose Class Notice is returned as undeliverable; (3) the Claims Administrator shall update addresses based on any forwarding information received from the United States Post Office; and (4) the Claims Administrator shall update addresses based on any requests received from persons in the Settlement Class.

b. Re-Mailing of Returned Class Notices. The Claims Administrator shall promptly re-mail any Class Notices that are returned as non-deliverable with a forwarding address to such forwarding address. For all returned mail, the Claims Administrator will perform data searches and other reasonable steps to attempt to obtain better contact information on the Settlement Class Member. All costs of such research will be considered Settlement Costs and deducted from the Settlement Fund.

c. Settlement Website. By the Class Notice Date, the Claims Administrator shall maintain and administer a dedicated Settlement Website containing case information and related documents, along with information necessary to file a claim, and an electronic version of the Claim Form that Settlement Class Members can download, complete, and submit electronically. At a minimum, such documents shall include the Settlement Agreement and attached exhibits, Class Notice, Preliminary Approval Order, a downloadable Claim Form for anyone wanting to print and

mail in a hard copy of the Claim Form, the Complaint, and, when granted, the Final Approval Order. The Settlement Website shall remain operative until at least the date of the *cy pres* distribution.

d. Toll-Free Telephone Number. By the Class Notice Date, the Claims Administrator shall set up a toll-free telephone number for receiving toll-free calls related to the Settlement Agreement. That telephone number shall be maintained until thirty (30) days after the Claims Deadline. After that time, and for a period of ninety (90) days thereafter, a recording will advise any caller to the toll-free telephone number that the Claims Deadline has passed and the details regarding the Settlement Agreement may be reviewed on the Settlement Website.

e. Deficient Claims Notice. On an ongoing basis, the Claims Administrator will review claims for material deficiencies, defined as a deficiency that makes it difficult or impossible to confirm the claimant is an eligible claimant, that lacks any required signatures or affirmations, that makes it difficult or impossible to provide payment, or that has indicia of fraud or other wrongdoing. In such a circumstance, the Claims Administrator will mail a letter informing the claimant of the deficiency or deficiencies and request appropriate corrections. A completed deficient claim form that results in an Approved Claim will be treated as timely so long as the deficient claim form is received within thirty (30) days of the Claims Deadline.

7.04 Costs Considered Settlement Costs. All costs of address confirmation, skip tracing, and re-mailing of returned Class Notices, and any other part of the notice program, will be considered Settlement Costs and deducted from the Settlement Fund

7.05 CAFA Notice. The Claims Administrator, working with Defendants' counsel, shall be responsible for serving the Class Action Fairness Act ("CAFA") notice required by 28 U.S.C. § 1715 within ten (10) days of the filing of Plaintiffs' motion for preliminary approval.

VIII. CLAIMS PROCESS

8.01 Potential Claimants. Each member of the Settlement Class who does not timely and validly request exclusion from the Settlement as required in this Settlement Agreement shall be a Settlement Class Member and entitled to make a claim. Each Settlement Class Member shall be entitled to make one claim per unique cell phone number on which they received Calls, regardless of the number of times the Settlement Class Member was called on a particular cell number. The calculation of the Cash Award will be based on a per-Call, pro rata basis, as discussed herein.

8.02 Conditions for Claiming Cash Award. To make a claim, Settlement Class Members must submit by the Claims Deadline a valid and timely Claim Form by U.S. mail (such as through a pre-paid claims form to be included with the notice) or through the Settlement Website, which shall contain the information set forth in Exhibit A hereto, including the Settlement Class Member's (1) name; (2) the name of the subscriber and primary user of the associated cellular telephone number (if different from the Settlement Class Member); (3) current mailing address; (4) current telephone number (if different than the associated cellular telephone number); and (5) email address, if available. The Claim Form will also ask the claiming Settlement Class Member to affirm that: (1) the telephone number associated with her claim was her number during the Class Period (in full or in part) and (2) she recalls receiving Calls from Defendants. The Claims Administrator will notify claimants who submit a first incomplete or incorrect claim form of the deficiency, and provide them the opportunity to submit a corrected form.

8.03 Amount Paid per Claim. Each Settlement Class Member who makes a valid and timely claim shall receive a Cash Award. Subject to 8.03(a), the amount of each Cash Award shall be determined by the following formula: (Settlement Fund – Settlement Costs) ÷ (Total Number of Eligible Calls Made to Claiming Class Members as reflected on the Class Member Calls List)

= Cash Award Per Call. The Cash Award for each Settlement Class Member who makes a valid and timely claim is the Settlement Class Member's *pro rata* share of the total payments to Settlement Class Members, based on a *pro rata* share of Eligible Calls received by that Settlement Class Member.

EXAMPLE 1: If there is $1,000,000 in the Settlement Fund after Settlement Costs, and there are 1,000 Settlement Class Members who make valid and timely claims, whose combined total number of Eligible Calls equaled 20,000 Calls, the *pro rata* share would be $50 per Call (*i.e.*, $1,000,000 ÷ 20,000).

EXAMPLE 2: If one of the 1,000 Settlement Class Members described in Example 1 had received 20 Eligible Calls, that Settlement Class Member would receive a payment of $1,000 (*i.e.*, 20 calls at $50 per call).

(a) In the event multiple persons make a claim for the same unique cell phone number, the Claims Administrator will contact each claimant, using the contact mailing address and email address provided on the Claims Form, to obtain the approximate month and year of when said claimant was the subscriber or primary user of that telephone number. Claimants who are contacted for their usage dates shall have until the Claims Deadline or 14 days from the Claims Deadline, whichever is later, to provide their usage dates.

(i) If each of the persons making a claim for the same unique cell phone number provides dates of use and there is no overlap between the claimants, then each person shall be entitled to a Cash Award only for those Eligible Calls placed during their respective dates of use. If Eligible Calls were placed outside of any Claimant's time period, the Cash Award for such Eligible Calls will be shared evenly among all Claimants for that telephone number.

EXAMPLE 3: The Cash Award for each call is $50, and 12 Eligible Calls were placed to a certain number. Claimant A claims the year 2018 and Claimant B claims the year 2019. If 10 Eligible Calls were placed in 2018 and 2 Eligible Calls were placed in 2019, then Claimant A is entitled to $500 (*i.e.*, 10 calls at $50 per call) and Claimant B is entitled to $100 (*i.e.*, 2 calls at $50 per call).

EXAMPLE 4: The Cash Award for each Eligible Call is $50, and 12 Eligible Calls were placed to a certain number. Claimant A claims the year 2018 and Claimant B claims the year 2019. If 8 Eligible Calls were placed in 2018, 2 Eligible Calls were placed in 2019, and 1 Eligible Call was placed in 2020, then Claimant A is entitled to $425 (*i.e.*, 8 calls at $50 per Eligible Call plus an even share of the $50 for the 2020 Eligible Call) and Claimant B is entitled to $125 (*i.e.*, 2 Eligible Calls at $50 per Eligible Call plus an even share of the $50 for the 2020 Eligible Call).

(ii) If none of the multiple claimants responds (or their responses are untimely), each will be entitled to an even share of the total *pro rata* payment for that number.

EXAMPLE 5: The Cash Award for each Eligible Call is $50, and 12 Eligible Calls were placed to a certain number during the Class Period. If three people submit claims for that number but none of them provided timely responses, each will receive $200 (*i.e.*, an even share of the $600 Cash Award associated with the 12 Eligible Calls at $50 per Eligible Call).

(iii) In the event fewer than all claimants for a single telephone number respond as to their usage dates (or fewer than all provide timely responses), any responding Claimant shall be entitled to full credit for Eligible Calls during their submitted time period

(subject to (8.03(a)(iv)) below), and the other claimants shall split payment for Eligible Calls outside of that period.

EXAMPLE 6: The Cash Award for each Eligible Call is $50, and 12 Eligible Calls were placed to a certain number during the Class Period. Three people submit claims for the number, but only Claimant A provides dates of usage, and claims the years 2018 and 2019. If 10 Eligible Calls were placed from 2018-2019, and 2 Eligible Calls placed in 2020, then Claimant A will be entitled to $500 (*i.e.*, 10 Eligible Calls at $50 per Eligible Call) and Claimants B and C will each be entitled to $50 (*i.e.*, an even share of 2 unclaimed Eligible Calls, at $50 per Eligible Call).

(iv) In the event the dates of claimed usage overlap, the Cash Award for any Eligible Call that occurred during a period of overlap will be shared equally among such Claimants.

8.04 **EXAMPLE 7**: The Cash Award for each Eligible Call is $50, and 12 Eligible Calls were placed to a certain number during the Class Period. Two people submit claims for the number. Claimant A claims the years 2018 and 2019, and Claimant B claims the years 2019 and 2020. If 6 Eligible Calls were placed in 2018, 3 Eligible Calls in 2019 and 3 Eligible Calls in 2020, then Claimant A would be entitled to the full $300 Cash Award for the 6 Eligible Calls in 2018 to which Claimant A was the only Claimant (*i.e.*, 6 Eligible Calls at $50 per Eligible Call) plus $75 for the Eligible Calls in 2019 (*i.e.*, an even share of 3 Eligible Calls at $50 per Eligible Call). Claimant B would be entitled to the full $150 Cash Award for the 3 Eligible Calls in 2020 to which Claimant B was the only Claimant (*i.e.*, 3 Eligible Calls at $50 per Eligible Call) plus $75 for the Eligible Calls in 2019 (*i.e.*, an even share of 3 Eligible Calls at $50 per Eligible Call).

8.05 Mailing of Settlement Checks. Settlement checks shall be sent to qualified Class

Members by the Claims Administrator via U.S. mail in accordance with Section 6.03 above. Each settlement check will be negotiable for one hundred eighty (180) days after it is issued.

IX. OPT-OUTS AND OBJECTIONS

9.01 Opting Out of the Settlement. Any Settlement Class Members who wish to exclude themselves from the Settlement Class must advise the Claims Administrator in writing of that intent, and their opt-out request must be postmarked no later than the Opt-Out Deadline. The Claims Administrator shall provide the Parties with copies of all opt-out requests it receives in weekly status reports to the Parties, and shall provide a list of all Settlement Class Members who timely and validly opted out of the Settlement in its declaration filed with the Court, as required by Section 10.01. The declaration shall include the names of persons who have excluded themselves from the Settlement, but it shall not include their addresses or any other personal identifying information. A Settlement Class Member who opts out of the Settlement may not object to the fairness of this settlement. A Settlement Class Member who opts out of the Settlement may opt back in so long as the opt-in request is received prior to the Claims Deadline. Settlement Class Members who do not properly and timely submit an opt-out request will be bound by this Agreement and the judgment, including the releases in Section XII.

a. In the written request for exclusion, the Settlement Class Member must state his or her full name, address, telephone number, and the telephone number(s) called by Defendants. Further, the Settlement Class Member must include a statement in the written request that he or she wishes to be excluded from the Settlement Agreement. The request must be signed by the Settlement Class Member.

b. Any Settlement Class Member who submits a valid and timely request for exclusion will not be a Settlement Class Member and shall not be bound by the terms of this

Agreement.

c. "Mass" or "class" opt-outs filed by third parties on behalf of a "mass" or "class" of Settlement Class Members, when not signed by each Settlement Class Member, will not be valid.

9.02 Objections. Any Settlement Class Member who intends to object to the fairness of this Settlement must file a written objection with the Court by the Objection Deadline. In the written objection, the Settlement Class Member must state (1) his or her full name, address and telephone number; (2) the telephone number(s) called by Defendants (if different); (3) the reasons for his or her objection; (4) the name of counsel representing the Class Member for the objection (if any); (5) information sufficient to identify all prior objections the objector or his or her counsel have made in other class action cases in the last four (4) years; and (6) whether he or she intends to appear at the Final Approval Hearing on his or her own behalf or through counsel. Any documents supporting the objection must also be attached to the objection. The Parties will have the right to issue discovery to or depose any objector as to the basis and circumstances of his or her objection, and to assess whether the objector has standing. A Settlement Class Member who objects to the Settlement may withdraw that objection. A Settlement Class Member may not both opt out of the Settlement and object. If a Settlement Class Member submits both a request for exclusion and objection, the request for exclusion will control.

9.03 Any Settlement Class Member who objects may appear at the Final Approval Hearing, either in person or through an attorney hired at the Settlement Class Member's own expense, to object to the fairness, reasonableness, or adequacy of this Agreement or the Settlement.

X. FINAL APPROVAL AND JUDGMENT ORDER

10.01 No later than fourteen (14) calendar days prior to the Final Approval Hearing, the

Claims Administrator shall serve on counsel for all Parties a declaration stating that the Notice required by the Agreement has been completed in accordance with the terms of the Preliminary Approval Order and listing the names of the Settlement Class Members who have opted out of the Settlement, in accordance with Section 9.01. Class Counsel shall within three (3) business days thereafter file that declaration with the Court.

10.02 If the Settlement Agreement is approved preliminarily by the Court, and all other conditions precedent to the Settlement have been satisfied, no later than fourteen (14) calendar days prior to Final Approval Hearing:

a. Plaintiffs shall file, and Defendants will not oppose, a motion requesting that the Court enter the Final Approval Order, with Class Counsel filing a memorandum in support of the motion; and,

b. Class Counsel and/or Defendants may file a memorandum addressing any objections submitted to the Settlement Agreement, and Defendants may, but shall not be required to, file a memorandum in support of the request that the Court enter Final Approval.

10.03 At the Final Approval Hearing, the Parties will ask the Court to consider and determine whether the provisions of this Agreement should be finally approved, whether the Settlement Agreement should be finally approved as fair, reasonable and adequate, whether any objections to the Settlement Agreement should be overruled, whether the fee award and incentive payments to the Class Representatives should be approved, and whether a judgment finally approving the Settlement Agreement should be entered.

10.04 This Agreement is subject to and conditioned upon the issuance by the Court of a Final Approval Order which grants final approval of this Agreement and:

a. finds that the Notice provided satisfies the requirements of due process and

Federal Rule of Civil Procedure Rule 23(e)(1);

b. finds that Settlement Class Members have been adequately represented by the Class Representatives and Class Counsel;

c. finds that the Settlement Agreement is fair, reasonable and adequate to the Settlement Class, that each Settlement Class Member shall be bound by this Agreement, including the release in Sections 12.01, 12.02, and 12.03, and the covenant not to sue in Section 12.04, and that this Settlement Agreement should be and is approved;

d. dismisses on the merits and with prejudice all Released Claims of the Settlement Class Members;

e. permanently enjoins each and every Settlement Class Member from bringing, joining or continuing to prosecute any Released Claims against Defendants or the Released Parties; and,

f. retains jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation and enforcement of this Settlement.

XI. FINAL JUDGMENT

11.01 The judgment entered at the Final Approval Hearing shall be deemed final:

a. Thirty (30) days after entry of the judgment granting final approval of the Settlement Agreement if no document is filed within that time seeking appeal, review or rehearing of the judgment; or

b. If any such document is filed seeking an appeal, then five (5) days after the date upon which all appellate and/or other proceedings resulting from such document have been finally terminated in such a manner as to permit the judgment to take effect in substantially the form described in Section 10.04.

XII. RELEASE OF CLAIMS

12.01 Released Claims. "Released Claims" means any and all claims, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses and attorneys' fees of any nature whatsoever, whether based on any federal law, state law, common law, territorial law, foreign law, contract, rule, regulation, any regulatory promulgation (including, but not limited to, any opinion or declaratory ruling), common law or equity, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory, that existed as of the date of the Final Approval Order, that relate to or arise out of any Call or attempted Call to any Settlement Class Members, by or on behalf of Defendants or the Released Parties. For the avoidance of doubt, "Released Claims" include, but are not limited to, claims relating to or arising out of the equipment or method used to contact or attempt to contact Settlement Class Members by telephone.

12.02 Waiver of Unknown Claims. Without expanding the foregoing release, the Released Claims specifically extend to claims that Plaintiffs and Settlement Class Members do not know or suspect to exist in their favor at the time that the Settlement Agreement and the releases contained therein become effective. This Section constitutes a waiver, without limitation as to any other applicable law, of Section 1542 of the California Civil Code, which provides:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH 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.

12.03 Plaintiffs and Settlement Class Members understand and acknowledge the significance of these waivers of California Civil Code Section 1542 and similar federal and state

statutes, case law, rules, or regulations relating to limitations on releases. In connection with such waivers and relinquishment, Plaintiffs and the Settlement Class Members acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts that they now know or believe to be true with respect to the subject matter of the Settlement, but that it is their intention to release fully, finally, and forever all Released Claims with respect to the Released Parties, and in furtherance of such intention, the releases of the Released Claims will be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

12.04 Covenant Not To Sue. Plaintiffs agree and covenant, and each Settlement Class Member will be deemed to have agreed and covenanted, not to sue any of the Released Parties with respect to any of the Released Claims, and agree to be forever barred from doing so in any court of law or equity, arbitration proceeding, or any other forum. However, nothing herein is intended to restrict any Settlement Class Member from contacting, assisting or cooperating with any government agency.

XIII. TERMINATION OF AGREEMENT

13.01 Either Side May Terminate the Agreement. Any Party shall each have the right to unilaterally terminate this Settlement Agreement by providing written notice of his, her, or its election to do so ("Termination Notice") to all other Parties hereto within ten (10) calendar days of any of the following occurrences:

a. the Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement Agreement;

b. an appellate court reverses the Final Approval Order, and as a result the Settlement Agreement is materially modified, amended or changed;

c. any court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement Agreement in a way that is material, unless such modification or amendment is accepted in writing by all Parties;

d. circumstances change such that the Effective Date can never occur; or

e. any other ground for termination provided for elsewhere in this Settlement Agreement occurs.

13.02 Revert to Status Quo. If this Settlement Agreement terminates for any reason, the Settlement Agreement shall be of no force and effect and the Parties' rights and defenses shall be restored, without prejudice, to their respective positions as if this Settlement Agreement had never been executed, and any orders entered by the Court in connection with this Settlement Agreement shall be vacated. However, any payments made to the Claims Administrator for services rendered up until the date of termination shall not be refunded, but such payments shall constitute recoverable costs to the extent allowed by law.

XIV. NO ADMISSION OF LIABILITY

14.01 Defendants deny any liability or wrongdoing of any kind associated with the alleged claims in the Complaint and all prior complaints, whether related to their alleged conduct or the conduct of third parties on their respective behalves. Defendants have denied and continue to deny each and every material factual allegation and all claims asserted against them in the Action. Nothing herein shall constitute an admission of wrongdoing or liability, or of the truth of any allegations in the Action. Nothing herein shall constitute an admission by Defendants that the Action is properly brought on a class or representative basis, or that a class may be certified in the Action, other than for settlement purposes. To this end, the settlement of the Action, the negotiation

and execution of this Settlement Agreement, and all acts performed or documents executed pursuant to or in furtherance of the Settlement: (1) are not and shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendants or of the truth of any of the allegations in the Action; (2) are not and shall not be deemed to be, and may not be used as an admission or evidence of any fault or omission on the part of Defendants in any civil, criminal or administrative proceeding in any court, arbitration forum, administrative agency or other tribunal; and (3) are not and shall not be deemed to be and may not be used as an admission of the appropriateness of these or similar claims for class certification.

14.02 Pursuant to Federal Rules of Evidence Rule 408 and any similar provisions under the laws of other states, neither this Settlement Agreement nor any related documents filed or created in connection with this Settlement Agreement shall be admissible in evidence in any proceeding, except as necessary to approve, interpret or enforce this Settlement Agreement.

XV. TAXES

15.01 Qualified Settlement Fund. The Parties agree that the account into which the Settlement Fund is deposited is intended to be and will at all times constitute a "qualified settlement fund" within the meaning of Treas. Reg. § 1.468B-1. The Claims Administrator shall timely make such elections as necessary or advisable to carry out the provisions of Section VI, including, if necessary, the "relation back election" (as defined in Treas. Reg. § 1.468B-1(j)(2)) to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such Treasury regulations promulgated under § 1.468B of the Internal Revenue Code of 1986, as amended (the "Code"). It shall be the responsibility of the Claims Administrator to cause the timely and proper preparation and delivery of the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

15.02 Claims Administrator is "Administrator". For the purpose of § 1.468B of the Code and the Treasury regulations thereunder, the Claims Administrator shall be designated as the "administrator" of the Settlement Fund. The Claims Administrator shall cause to be timely and properly filed 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)). Such returns shall reflect that all Taxes (including any estimated taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund.

15.03 Taxes Paid by Administrator. All taxes arising in connection with income earned by the Settlement Fund, including any taxes or tax detriments that may be imposed upon Defendants or any of the other Released Parties 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 shall be paid by the Claims Administrator from the Settlement Fund.

15.04 Expenses Paid from Fund. Any expenses reasonably incurred by the Claims Administrator in carrying out its duties, including fees of tax attorneys and/or accountants and the cost of issuing 1099s (for example if the amount of a claim exceeds $600), shall be paid by the Claims Administrator from the Settlement Fund.

15.05 Responsibility for Taxes on Distribution. Any person or entity that receives a distribution from the Settlement Fund shall be solely responsible for any taxes or tax-related expenses owed or incurred by that person or entity by reason of that distribution. Such taxes and tax-related expenses shall not be paid from the Settlement Fund.

XVI. MISCELLANEOUS

16.01 Entire Agreement. This Settlement Agreement and the exhibits hereto constitute

the entire agreement between the Parties. Any previous memoranda regarding settlement are superseded by this Settlement Agreement. No representations, warranties or inducements have been made to any of the Parties, other than those representations, warranties, and covenants contained in this Settlement Agreement.

16.02 Governing Law. This Settlement Agreement shall be governed by the laws of the Commonwealth of Pennsylvania.

16.03 Jurisdiction. The Court shall retain continuing and exclusive jurisdiction over the Parties to this Settlement Agreement, including the Plaintiffs and all Settlement Class Members, for purposes of the administration and enforcement of this Settlement Agreement.

16.04 No Construction Against Drafter. This Settlement Agreement was drafted jointly by the Parties and, in construing and interpreting this Settlement Agreement, no provision of this Settlement Agreement shall be construed or interpreted against any Party based upon the contention that this Settlement Agreement or a portion of it was purportedly drafted or prepared by that Party.

16.05 Resolution of Disputes. The Parties shall cooperate in good faith in the administration of this Settlement Agreement. To the extent that there are any unresolved disagreements that arise in administration of this Settlement, the parties agree to participate in a good-faith mediation with Terrence White of Upchurch, White, Watson, & Max in an attempt to resolve said disagreement(s).

16.06 Counterparts. This Settlement Agreement may be signed in counterparts, and the separate signature pages executed by the Parties and their counsel may be combined to create a document binding on all of the Parties and together shall constitute one and the same instrument.

16.07 Time Periods. The time periods and dates described herein are subject to Court

approval and may be modified upon order of the Court or written stipulation of the Parties.

16.08 Authority. Each person executing this Settlement Agreement on behalf of any of the Parties hereto represents that such person has the authority to so execute this Settlement Agreement.

16.09 No Oral Modifications. This Settlement Agreement may not be amended, modified, altered or otherwise changed in any manner, except by a writing signed by a duly authorized agent of Defendants and Plaintiffs, and approved by the Court.

16.10 Publicity and Confidentiality. The Parties agree that they will not initiate any publicity of the Settlement Agreement and will not respond to requests by any media (whether print, online, or any traditional or non-traditional form) about the Settlement Agreement. Notice of the Settlement Agreement will be delivered exclusively through the notice process set forth in Section VII, above.

16.11 Notices. Unless otherwise stated herein, any notice required or provided for under this Agreement shall be in writing and may be sent by electronic mail, hand delivery, or U.S. mail (postage prepaid) as follows:

If to Class Counsel:

Jeremy M. Glapion
The Glapion Law Firm, LLC
1704 Maxwell Drive
Wall, New Jersey 07719
Telephone: (732) 455-9737
jmg@glapionlaw.com

If to Highmark Health Options:

Justin J. Kontul
Reed Smith Centre
225 Fifth Avenue - Suite 1200
Pittsburgh, PA 15222
Telephone: 412.288.3131
jkontul@reedsmith.com

If to Cotiviti

Shannon Z. Petersen, Esq.
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
12275 El Camino Real, Suite 100
San Diego, CA 92130
Telephone: (858) 720-7483
spetersen@sheppardmullin.com

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have caused this Settlement Agreement to be executed.

DATED: Nov 17, 2022

Plaintiff Christopher Walker

Christopher J. Walker (Nov 17, 2022 10:40 EST)

DATED: Nov 17, 2022

Plaintiff Kim Sterling

Kimberly Sterling (Nov 17, 2022 13:02 EST)

DATED: Nov 18, 2022

Plaintiff Ernie Fisher

Ernest Fisher (Nov 18, 2022 09:48 EST)

DATED: _____

Highmark BCBSD Health Options Inc.

Name: _____

Title: _____

DATED: _____

Cotiviti, Inc.

Name: _____

Title: _____

IN WITNESS WHEREOF, the parties hereto have caused this Settlement Agreement to be executed.

DATED: _____ Plaintiff Christopher Walker

_____

DATED: _____ Plaintiff Kim Sterling

_____

DATED: _____ Plaintiff Ernie Fisher

_____

DATED: November 16, 2022 Highmark BCBSD Health Options Inc.

Name: Todd P. Graham

Title: Todd P. Graham,VP DE Medicaid Markets CEO

DATED: _____ Cotiviti, Inc.

Name: _____

Title: _____

IN WITNESS WHEREOF, the parties hereto have caused this Settlement Agreement to be executed.

DATED: _____ Plaintiff Christopher Walker

_____

DATED: _____ Plaintiff Kim Sterling

_____

DATED: _____ Plaintiff Ernie Fisher

_____

DATED: _____ Highmark BCBSD Health Options Inc.

Name: _____

Title: _____

DATED: November 18, 2022 | 2:02 AM EST Cotiviti, Inc.

Name: DocuSigned by: Peter Csapo 6705B2E1C512497...

Title: CFO, CAO, Treasurer and EVP

APPROVED AS TO FORM AND CONTENT:

DATED: 11/17/22

REED SMITH LLP

By: _____

Justin J. Kontul
Highmark BCBSD Health Options Inc.

DATED: _____

SHEPPARD MULLIN

By: _____

Shannon Z. Petersen
Counsel for Cotiviti, Inc.

DATED: _____

THE GLAPION LAW FIRM, LLC

By: _____

Jeremy M. Glapion
Class Counsel

APPROVED AS TO FORM AND CONTENT:

DATED: _____

REED SMITH LLP

By: _____
Justin J. Kontul
Highmark BCBSD Health Options Inc.

DATED: 11/18/2022

SHEPPARD MULLIN

By: _____
Shannon Z. Petersen
Counsel for Cotiviti, Inc.

DATED: _____

THE GLAPION LAW FIRM, LLC

By: _____
Jeremy M. Glapion
Class Counsel

APPRO ED AS TO FORM AND CONTENT:

DATED: _____ REED SMITH P

B : _____
ustin . Kontul
Highmark BCBSD Health Options Inc.

DATED: _____ SHEPPARD M IN

B : _____
Shannon . Petersen
Counsel for Cotiviti, Inc.

DATED: Nov 17, 2022 THE APION AW FIRM, C

B : Jeremy G pion (Nov 17, 2022 10:21 EST)
erem M. lapion
Class Counsel

EXHIBIT A

WALKER v. HIGHMARK BCBSD HEALTH OPTIONS, INC.
CLASS ACTION SETTLEMENT CLAIM FORM

TO RECEIVE A PAYMENT FROM THE SETTLEMENT FUND, YOU MUST COMPLETE A CLAIM FORM AND SUBMIT IT BY MONTH DD, 20YY.

IMPORTANT NOTE: You may submit a claim online at http://www.xxxxxxxxx.com. If you choose instead to complete this paper Claim Form, return it using the prepaid return envelope included with this mailing or send to the address listed below.

Please only submit one Claim Form for [**ELIGIBLE TELEPHONE NUMBER**].

STEP 1 - DIRECTIONS

Fill out the boxes with the information requested below. Please print legibly. Then review the information and sign the certification.

Settlement amounts, if any, will be paid only to the person listed below, at the address listed below.

STEP 2 – CLAIMANT INFORMATION

Name of the subscriber or primary user of **[ELIGIBLE PHONE NUMBER]** (at any point since November 30, 2016):

First Name | MI | Last Name

Current Mailing Address:

City | State | ZIP Code

Email Address (*Optional*):

Telephone number (if different than **[ELIGIBLE PHONE NUMBER])**

STEP 3 – CERTIFICATION

By submitting this Claim Form I hereby certify that:

I am the person listed above and I am, or was at some point since November 30, 2016, the subscriber or primary user of [ELIGIBLE PHONE NUMBER] and I recall receiving prerecorded calls made by or on behalf of Highmark Health Options.

I certify that the above statement is true and correct, and that this is the only Claim Form that I have submitted and/or will submit in connection with [ELIGIBLE PHONE NUMBER]. I understand that I may be contacted by the Settlement Administrator to provide additional information as necessary to process any payment under the settlement.

Under penalty of perjury, all information provided in this Claim Form is true and correct to the best of my knowledge and belief.

Signature: _____ Date: ___ – ___ – ___
MM DD YY

Print Name: _____

WALKER v. HIGHMARK BCBSD HEALTH OPTIONS, INC.
CLASS ACTION SETTLEMENT CLAIM FORM

METHODS OF SUBMISSION

You may fill out and submit this form online at http://www. **xxxxxxxxx**.com

You may also submit this paper form by mail using the prepaid return envelope, or by sending the completed and signed form in a different envelope, postage prepaid, via U.S. Mail to:

Walker v Highmark Health Options Claims Administrator
P.O. Box xxxx
Portland, OR 972xx-xxx

Your submission must be postmarked no later than [**date**]

Questions? Visit **XXXXXXXX.com** or call **1-XXX-XXX-XXXX.**

EXHIBIT B

If you received telephone calls made by, or on behalf of Highmark BCBSD Health Options Inc., you may be entitled to benefits under a class action Settlement

A federal court has authorized this Notice. This is not a solicitation from a lawyer.

- A $1,850,000 Settlement has been reached in a class action lawsuit against Highmark BCBSD Health Options Inc. and Cotiviti, Inc. (collectively, the "Defendants") regarding alleged violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 ("TCPA"). The TCPA is a federal law that restricts the use of prerecorded calls. The Plaintiffs allege that Highmark Health Options violated the TCPA by placing, through their vendor Cotiviti, pre-recorded/artificial voice telephone calls to individuals without their consent. The Defendants deny the allegations in the lawsuit, and the Court has not decided who is right.
- The Settlement offers Cash Awards to Settlement Class Members who file a valid and timely claim. The amount of money you may be eligible for depends on the number of calls received.

This Notice may affect your rights. Please read it carefully.

Your Legal Rights and Options		Deadline
SUBMIT A CLAIM FORM	To get a Cash Award you must submit a Claim Form.	**[90 days after ND]**
EXCLUDE YOURSELF	Get no Settlement benefits, including a Cash Award. Keep your right to file your own lawsuit against the Defendants about the legal claims in this case.	**[45 days after ND]**
OBJECT	Tell the Court why you do not like the Settlement. You will still be bound by the Settlement if the Court approves it.	**[45 days after ND]**
DO NOTHING	Get no Settlement benefits, including a Cash Award. Be bound by the Settlement.	

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case must still decide whether to approve the Settlement and the requested attorneys' fees and costs. No Settlement benefits or payments will be provided unless the Court approves the Settlement, and it becomes final.

BASIC INFORMATION

1. Why is this Notice being provided?

A federal court authorized this Notice because you have the right to know about the proposed Settlement of this class action lawsuit and about all of your rights and options before the Court decides whether to grant final approval of the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for the benefits, and how to get them.

The Honorable Christy Criswell Wiegand of the United States District Court of the Western District of Pennsylvania is overseeing this class action known as *Walker v. Highmark BCBSD Health Options, Inc.; Cotiviti, Inc.*, Case No. 20-cv-1975 (the "Action"). The people who filed this lawsuit are called the "Plaintiffs" or "Class Representatives" and the companies they sued, Highmark BCBSD Health Options Inc. ("Highmark Health Options") and Cotiviti, Inc. ("Cotiviti") are collectively known as the "Defendants."

2. What is this lawsuit about?

The Plaintiffs allege violations of the Telephone Consumer Protection Act ("TCPA") arising from certain calls made and sent by, or on behalf of, Highmark Health Options. The TCPA is a federal law that restricts the use of prerecorded telephone calls. The Plaintiffs allege that Highmark Health Options violated the TCPA by placing, through its vendor Cotiviti, pre-recorded/artificial voice telephone calls to individuals without their consent.

The Defendants deny any wrongdoing, and no court or other entity has made any judgment or other determination of any wrongdoing, or that any law has been violated. The Defendants deny these and all other claims made in the litigation. By entering the Settlement, the Defendants are not admitting any wrongdoing.

3. Why is the lawsuit a class action?

In a class action, Class Representatives sue on behalf of all people who have similar claims. Together, all these people are called a Settlement Class or Settlement Class Members. One court resolves the issues for all Settlement Class Members, except for those Settlement Class Members who timely exclude themselves (opt out) from the Settlement Class. The Class Representatives in this case are Plaintiffs Christopher Walker, Kim Sterling, and Ernie Fisher.

4. Why is there a Settlement?

Plaintiffs and the Defendants do not agree about the claims made in this litigation. The litigation has not gone to trial, and the Court has not decided in favor of the Plaintiffs or the Defendants. Instead, the Plaintiffs and the Defendants have agreed to settle the litigation. The Plaintiffs and the attorneys for the Settlement Class ("Class Counsel") believe the Settlement is best for all Settlement Class Members because of the Settlement benefits and the risks and uncertainty associated with continued litigation and the nature of the defenses raised by the Defendants.

WHO IS INCLUDED IN THE SETTLEMENT?

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

You are a Settlement Class Member if you were the subscriber or primary user of a cellular telephone number that received prerecorded/artificial voice calls from or on behalf of Defendant Highmark Health Options Inc. You are a Settlement Class Member if your cellular telephone number (or a cellular telephone number currently or previously associated with you) has been identified as meeting the following definition:

A. During the Class Period (November 30, 2016, through [the date of Preliminary Approval]), all persons within the United States who are subscribers or primary users of a cellular telephone number to which Defendant Highmark BCBSD Health Options Inc. placed (or had placed on its behalf by Defendant Cotiviti, Inc.) a telephone call using a pre-recorded or artificial voice,

1) when such a call to that cellular telephone number had previously resulted in (a) a "WRONG_NUMBER" disposition or (b) a "MSG_DECLINED" disposition without a subsequent disposition of "CORRECT_PERSON" or "MSG_HUMAN" and

2) when at least one subsequent call to that cellular telephone number had the disposition "WRONG_NUMBER", "MSG_MACHINE", "CORRECT_PERSON", "MSG_HUMAN", "HANGUP", "NO_CONTINUE", or "MSG_DECLINED".

This means you are a Settlement Class Member if from November 30, 2016, through [the date of Preliminary Approval] a call with a pre-recorded message was made by the Defendants to your cellular telephone number and this call was answered, and a previous call possibly indicated or should have indicated a wrong number was reached, and possibly there was no subsequent notation that the correct number was reached.

You do not need to know if calls placed to you actually resulted in one of the dispositions listed above. If you have received a notice, your cellular telephone number (or a cellular telephone number currently or previously associated with you) has already been identified as qualifying.

6. Are there exceptions to being included in the Settlement?

Yes. Excluded from the Settlement Class are those persons who *only* received calls as part of a COVID Campaign, as well as Defendants and any entities in which Defendants have a controlling interest; Defendants' agents and employees; any Judge and Magistrate Judge to whom this action is assigned and any member of their staffs and immediate families.

7. What if I am still not sure whether I am part of the Settlement?

If you are still not sure whether you are a Settlement Class Member, you may go to the Settlement Website at www.xxxxxxxxxxxxxxxxx.com or call the Claims Administrator's toll-free number at 1-xxx-xxx-xxx.

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

8. What does the Settlement provide?

If you are a Settlement Class Member and submit a valid and timely claim, you may be eligible to receive a Cash Award. The Defendants have agreed to pay or cause to be paid $1,850,000 to create a "Settlement Fund." The Settlement Fund will be used to pay approved Claims and all Settlement Costs (any incentive payment to the Class Representatives, any awarded attorneys' fees and costs, and any costs associated with the administration of this settlement).

Your Cash Award will be a *pro rata* (meaning proportional) share of all Eligible Calls claimed during the Claims Period. An Eligible Call is a prerecorded call made after a disposition in Defendants' records identified in (A)(1) of the Settlement Class definition (see question 5).

What this means is that your Cash Award, if any, will be determined by the following formula: (Settlement Fund – Settlement Costs) ÷ (Total Number of Calls Made to Settlement Class Members who submit a claim) = Cash Award Per Call. This is subject to possible adjustments if multiple persons make a claim for the same unique cellular telephone number.

For example, if there is $1,000,000 in the Settlement Fund after Settlement Costs, and there are 1,000 Settlement Class Members who make valid and timely claims, whose combined total number of Eligible Calls is 20,000, the *pro rata* share would be $50 per Call (i.e. $1,000,000 ÷ 20,000).

In this example, someone who received 20 Eligible Calls would receive $1,000. This example is for illustrative purposes only. Your Cash Award, if any, may be significantly more or significantly less than the above.

If multiple people make a claim for the same unique cellular telephone number, the Claims Administrator will contact each person who submitted a claim to obtain the approximate month and year of when each person was the subscriber or primary user of the cellular telephone number to determine the payment to the Settlement Class Members.

9. How do I submit a claim for a Cash Award?

Settlement Class Members seeking a Cash Award must complete and submit a Claim Form to the Claims Administrator by **Month Day, 20YY**. Claim Forms can be submitted online at www.xxxxxxxxxxx.com or by mail. If by mail, the Claim Form must be **postmarked** by **Month Day, 20YY**.

You should file a single Claim Form for each unique cellular telephone number on which you received telephone calls, regardless of the number of times you were called on a particular cell number.

10. What am I giving up to receive Settlement benefits or stay in the Settlement Class?

Unless you exclude yourself (opt out), you are choosing to remain in the Settlement Class. If the Settlement is approved and becomes final, all Court orders will apply to you and legally bind you. You will not be able to sue, continue to sue, or be part of any other lawsuit against the Defendants and Released Parties about the legal issues in this litigation that are released by this Settlement. The specific rights you are giving up are called "Released Claims."

11. What are the Released Claims?

The Settlement Agreement in Section XII describes the Release of Claims, in necessary legal terminology, so please read this section carefully. The Settlement Agreement is available at www.xxxxxxxx.com or in the public Court records on file in this lawsuit. For questions regarding the Released Parties or Released Claims and what the language in the Settlement Agreement means, you can also contact Class Counsel listed in Question 15 for free, or you can talk to your own lawyer at your own expense. You should not contact Defendants directly with questions about the settlement.

HOW TO GET BENEFITS FROM THE SETTLEMENT

12. How do I make a claim for Settlement benefits?

To submit a claim for a Cash Award you must timely submit a valid Claim Form. Settlement Class Members seeking benefits under the Settlement must complete and submit a Claim Form to the Claims Administrator, postmarked or submitted online on or before **Month Day, 20YY**. Claim Forms may be submitted online at www.xxxxxxxxxx.com or printed from the Settlement Website and mailed to the Claims Administrator at the address on the Form. The quickest way to submit a claim is online. Paper Claim Forms are also available by calling 1-xxx-xxx-xxx or by writing to:

Walker v. Highmark Health Options Claims Administrator
PO Box xxxx
Portland, OR 972xx-xxxx

13. What happens if my contact information changes after I submit a claim?

If you change your mailing address or email address after you submit a Claim Form, it is your responsibility to inform the Claims Administrator of your updated information. You may notify the Claims Administrator of any changes by calling 1-xxx-xxx-xxxx or by writing to:

Walker v. Highmark Health Options Claims Administrator
PO Box xxxx
Portland, OR 972xx-xxxx

14. When will I receive my Settlement benefits?

If you file a timely and valid Claim Form, payment will be provided by the Claims Administrator after the Settlement is approved by the Court and becomes final.

It may take time for the Settlement to be approved and become final. Please be patient and check www.xxxxxxxxxx.com for updates.

THE LAWYERS REPRESENTING YOU

15. Do I have a lawyer in this case?

Yes, the Court has appointed Jeremy M. Glapion of The Glapion Law Firm, LLC as Class Counsel to represent you and the Settlement Class for the purposes of this Settlement. You may hire your own lawyer at your own cost and expense if you want someone other than Class Counsel to represent you in this Litigation.

16. How will Class Counsel be paid?

Class Counsel will file a motion asking the Court to award attorneys' fees and costs not to exceed 1/3 of the Settlement Fund, plus Class Counsel's actual expenses. They will also ask the Court to approve an incentive payment, not to exceed $10,000, to Plaintiff Walker, and incentive payments not to exceed $2,500 to Plaintiffs Sterling and Fisher for their involvement in this litigation and for their efforts in achieving the Settlement. If awarded by the Court, attorneys' fees and costs and the incentive awards will be paid out of the Settlement Fund. The Court may award less than these amounts.

Class Counsel's application for attorneys' fees, costs, and service awards will be made available on the settlement website at www.xxxxxxxxxxx.com before the deadline for you to comment or object to the Settlement.

OPTING OUT FROM THE SETTLEMENT

If you are a Settlement Class Member and want to keep any right you may have to sue or continue to sue the Defendants on your own based on the claims raised in this litigation or released by the Released Claims, then you must take steps to get out of the Settlement. This is called excluding yourself from or "opting out" of the Settlement.

17. How do I get out of the Settlement?

To opt out of the Settlement, you must mail a written notice to the Claims Administrator of your intent to opt out. The written notice must be signed, include your full name, address, telephone number, and the cellular telephone number(s) called by Defendants and clearly state that you wish to be excluded from the Settlement Class.

The opt out request must be **postmarked** and sent to the Claims Administrator at the following address by **Month Day, 20YY**:

Walker v. Highmark Health Options Claims Administrator
Exclusions
PO Box xxxx
Portland, OR 972xx-xxxx

You cannot exclude yourself by telephone or by email.

18. If I opt out, can I get anything from the Settlement?

No. If you opt out, you are telling the Court you do not want to be part of the Settlement. You can only get Settlement benefits if you stay in the Settlement.

19. If I do not opt out, can I sue the Defendants for the same thing later?

No. Unless you opt out, you give up any right to sue the Defendants and Released Parties for the claims this Settlement resolves and Releases relating to the alleged violation of the Telephone Consumer Protection Act. You must opt out of this litigation to start or continue with your own lawsuit or be part of any other lawsuit against the Defendants, or any of the Released Parties. If you have a pending lawsuit, speak to your lawyer in that case immediately.

OBJECTING TO THE SETTLEMENT

20. How do I tell the Court that I do not like the Settlement?

If you are a Settlement Class Member, you can tell the Court you do not agree with all or any part of the Settlement or requested attorneys' fees and costs. You can also give reasons why you think the Court should not approve the Settlement or attorneys' fees and costs. To object, you must file timely written notice with the Court as provided below no later than **Month Day, 20YY**, stating you object to the Settlement. The objection must include all the following additional information:

(1) Your full name, address and telephone number;
(2) The cellular telephone number(s) called by Defendants (if different);
(3) The reasons for your objection;
(4) The name of counsel for the objection (if any);
(5) Information about other objections you or your counsel have made in other class action cases in the last four (4) years; and
(6) Whether you intend to appear at the Final Approval Hearing on your own behalf or through counsel. Any documents supporting the objection must also be attached to the objection.

Your objection must be submitted to the Court either by filing it with the Court or by mailing it via U.S. Mail to the Court so that it is **received** by **Month Day, 20YY**, to the following address:

Clerk of Court
United States District Court
Western District of Pennsylvania
700 Grant Street
Pittsburgh, PA 15219

21. What is the difference between objecting and asking to opt out?

Objecting is simply telling the Court you do not like something about the Settlement or requested attorneys' fees and costs. You can object only if you stay in the Settlement Class (meaning you do not opt out of the Settlement). Opting out of the Settlement is telling the Court you do not want to be part of the Settlement Class or the Settlement. If you opt out, you cannot object to the Settlement.

THE FINAL APPROVAL HEARING

22. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing on **Month Day, 20YY, at X:XX x.m.** before Judge Christy Criswell Wiegand at United State District Court, Western District of Pennsylvania, [court address].

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and decide whether to approve the Settlement, Class Counsels' application for attorneys' fees and costs, and the incentive payments to the Plaintiffs. If there are objections, the Court will consider them. The Court may also listen to people who have asked to speak at the hearing.

Note: The date and time of the Final Approval Hearing are subject to change. The Court may also decide to hold the hearing via Zoom or by telephone. Any change will be posted at www.xxxxxxxx.com.

23. Do I have to attend to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to speak about it. As long as you file or mail your written objection on time, the Court will consider it.

24. May I speak at the Final Approval Hearing?

Yes, as long as you do not exclude yourself (opt out), you can (but do not have to) participate and speak for yourself in this litigation and Settlement. This is called making an appearance. You also can have your own lawyer speak for you, but you will have to pay for the lawyer yourself.

If you want to appear, or if you want your own lawyer instead of Class Counsel to speak for you at the hearing, you must follow all of the procedures for objecting to the Settlement listed in Section IX and specifically include a statement whether you and your counsel will appear at the Final Approval Hearing.

IF YOU DO NOTHING

25. What happens if I do nothing at all?

If you are a Settlement Class Member and you do nothing, you will not receive any Settlement benefits. You will give up the rights explained in the "Opting Out from the Settlement" section of this Notice (see questions 10 and 19 above), including your right to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants, the Released Parties about the legal issues in this litigation that are released by the Settlement Agreement.

GETTING MORE INFORMATION

26. How do I get more information?

This Notice summarizes the proposed Settlement. Complete details are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at www.xxxxxxxxxx.com, by calling 1-xxx-xxx-xxxx or by writing to:

Walker v. Highmark Health Options Claims Administrator
PO Box xxxx
Portland, OR 972xx-xxxx

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT'S CLERK OFFICE REGARDING THIS NOTICE.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

CHRISTOPHER JAMES WALKER, KIM STERLING, and ERNIE FISHER on behalf of themselves and all others similarly situated, **Plaintiff,** **v.** **HIGHMARK BCBSD HEALTH OTPIONS, INC.; COTIVITI, INC.** **Defendant.**	Civil Case No.: 20-cv-1975 Hon. Christy Criswell Wiegand

Declaration of Jeremy M. Glapion In Support of Plaintiffs' Unopposed Motion for Preliminary Approval

I, Jeremy M. Glapion, declare as follows:

1. I am the founder of Glapion Law Firm and a member in good standing of the State Bars of New Jersey and New York. I make this declaration based on my own personal knowledge. If called upon to testify, I could and would testify competently to the truth of the matters stated herein.

2. Glapion Law Firm is a plaintiff-side consumer protection firm with a focus on cases alleging violations of the Telephone Consumer Protection Act, Fair Debt Collection Practices Act, and consumer fraud.

3. Since May 2015, I have recovered over $1 million for clients in dozens, if not hundreds, of individual TCPA cases.

4. In addition, I have been appointed lead counsel in three separate TCPA class actions, including this one as well as:

   a. *Willis et al. v. IHeartMedia, Inc.*, Case No. 16-CV-02455 (Cook County, Feb. 19, 2016) (co-lead counsel in successfully administered, $8.5m non-reversionary TCPA class settlement);

   b. *Allard et al. v. SCI Direct, Inc.*, Case No. 16-cv-01033 (M.D. Tenn. 2016) (sole lead counsel in successfully administered, $15 million non-reversionary TCPA class settlement).

   c. *Griffith v. ContextMedia, Inc.*, Case No. 16-cv-2900 (N.D. Illinois 2018) (co-lead counsel in successfully administered, $2.9 million, non-reversionary TCPA class settlement).

5. I am currently litigating three other TCPA (or state law equivalent) putative class actions: *DeSouza v. Aerocare Holdings*, Case No. 22-cv-1047 (M.D. Fla.); *Verma v. Walden*

University, 22-cv-776 (M.D. Fla.); and *Katz v. CHW Group, Inc.*, Case No. 22-cv-5198 (W.D. Ark.).

6. I have also been an invited panelist on a TCPA panel at the PCI Northeast General Counsel Conference.

7. Prior to founding Glapion Law Firm, I was an attorney at the law firm of Lieff Cabraser Heimann & Bernstein, LLP ("LCHB") in New York (2013-2015), a law clerk to The Honorable Freda L. Wolfson (D.N.J.) (2013), and an associate at Gibson Dunn & Crutcher (2012-2013).

8. While at LCHB, I was the primary associate on several high-profile consumer protection matters, including TCPA class cases such as *Henrichs v. Wells Fargo Bank, N.A.*, Case No. 13-CV-05434 (N.D. Cal.); *Ossola v. American Express Co.*, Case No. 13-cv-04836 (N.D. Ill.); and *Balschmiter v. TD Auto Finance, LLC*, Case No. 13-cv-01186 (E.D. Wisc.).

9. My experience in the matters listed above, as well as my knowledge of the TCPA gained through my handling numerous TCPA actions (both class and individual), has allowed me to develop the skills to successfully and capably manage the legal, factual, and procedural issues that accompany TCPA class actions, and to evaluate the merits of this case and the submitted settlement.

Walker v. Highmark Litigation

10. From the outset of this case, the litigation was difficult and contentious, and required significant discovery and the Court to resolve numerous discovery disputes and several dispositive motions.

11. Specifically, Defendant Highmark Health Options moved to dismiss, which the Court denied.

12. Plaintiff moved to remand, which the Court denied.

13. Defendant Cotiviti, Inc. moved to dismiss, which the Court denied.

14. Plaintiffs conducted significant discovery, including 60 requests for production and 19 interrogatories, which necessitated the review and curation of thousands of pages of documents, and necessitated hiring database and data analysis support teams.

15. The parties also attended an all-day mediation before Terry White on July 27, 2022 in an effort to resolve the case, which did successfully result in a settlement agreement in principle.

16. Though I remain confident in the strength of the claims, there remain serious risks, both legal and practical.

17. First, Defendants raised privately and in filings several complete defenses to liability, including the contours of the emergency purpose defense vis-à-vis wrong number calls, which would be an issue of first impression in this circuit. Defendants also argued that Plaintiff Walker (and by extension, later-added Plaintiffs Sterling and Fisher) could only represent persons who received calls as part of the same campaigns they did, which would significantly limit the number of actionable campaigns.

18. Second, while wrong number classes are certifiable, they are more vigorously contested in good-faith than a standard TCPA settlement, and there is well-reasoned case law supporting both certification and denial. There are real risks of class certification being denied in full or in part, which would result in the Settlement Class (or a significant portion of the Settlement Class) receiving no relief.

19. Third, even if Plaintiffs prevailed on every issue, motion, and trial, this Settlement allows for real relief much sooner than would come in its absence. Trial is, at best, a year away,

and any subsequent appeal would add years. Guaranteeing a sizable Settlement to the Class now far outweighs the potential benefit of proceeding to trial and verdict.

20. Considering these risks, and compared to other TCPA settlements nationwide, I strongly believe this Settlement is not only fair, but exceptional. Eligible claimants will likely receive *per call* what many TCPA class settlements pay *per member*. It is a near certainty that some Class Members will see payments north of $1,400. In a possible (but high) claims rate where ten percent of calls are claimed, claimants would receive an estimated $76.98 per call (with the average class member receiving just over $1450), *after* estimated costs and sought attorneys' fees, costs, and service awards.

21. Even in a hypothetical situation where 25 percent of calls are claimed (which would be unheard of in a TCPA settlement), total recovery for class members would be $30.79 for one call to more than $585 for the average class member.

22. This settlement is exceptional relative to other TCPA settlements, gets real money into the hands of class members sooner rather than later, and should help deter future wrongful conduct by Defendants and/or others.

Walker v. Highmark Plaintiffs

23. This exceptional result could not have been achieved without the participation of all three current Plaintiffs.

24. Plaintiff Walker initiated this case and remained attentive and engaged from day one.

25. Plaintiff Walker timely responded to Defendants' discovery requests, asked pertinent and insightful questions throughout the case (including about the instant settlement), and remained available as needed to assist in the prosecution of all aspects of this case.

26. At no point did Plaintiff Walker place his own interests above those of the class.

27. Plaintiff Walker was, by any measure, an ideal class representative Plaintiff.

28. While Plaintiffs Fisher and Sterling were involved in this case for a much shorter period, their participation was vital.

29. One of Defendants' primary expected defenses was that the calls to Plaintiff Walker were made for emergency purposes, in which case they would potentially be exempt from the TCPA.

30. While the Parties disagreed on the viability of this argument, it was not without some support.

31. If all of Plaintiff Walker's claims were made for emergency purposes, then Plaintiff Walker could not proceed, nor could he represent a class.

32. Plaintiff Fisher and Plaintiff Sterling, however, received calls as part of campaigns for which Defendants' emergency purpose argument would arguably be more attenuated, such as satisfaction survey calls and reward program calls.

33. As such, it is my belief that their presence in this case in the weeks leading up to the mediation helped break through what would certainly have been a roadblock during settlement negotiations.

34. It is my belief that their participation contributed significantly to the excellent value obtained at the mediation.

35. It is my belief that this matter would not have resolved—or would not have resolved as favorably—without the participation of Plaintiffs Fisher and Sterling.

36. And while their involvement was short in duration, they at no point expressed a desire to settle individually or place the interests of themselves above the class. They asked

questions and were invested in the case from the beginning. They were and remain responsive to requests for information from counsel.

37. I would have no issues confidently proceeding with any of the Plaintiffs, individually or collectively, should this case not have resolved.

38. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 18th day of November, 2022, at Manasquan, New Jersey.

/s/ Jeremy M. Glapion
Jeremy M. Glapion

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

CHRISTOPHER JAMES WALKER, on behalf of himself and all others similarly situated, **Plaintiff,** v. **HIGHMARK BCBSD HEALTH OPTIONS, INC.; COTIVITI, INC.** **Defendant.**	Civil Case No.: 20-cv-1975 Hon. Christy Criswell Wiegand

DECLARATION OF CAMERON R. AZARI, ESQ. ON NOTICE PLAN AND NOTICE

I, Cameron R. Azari, Esq., hereby declare and state as follows:

1. My name is Cameron Azari. I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.

2. I am a nationally recognized expert in the field of legal notice, and have served as an expert in hundreds of federal and state cases involving class action notice plans.

3. I am the Senior Vice-President of Epiq Class Action and Claims Solutions, Inc. ("Epiq") and the Director of Legal Notice for Hilsoft Notifications, a firm that specializes in designing, developing, analyzing, and implementing large-scale, un-biased, legal notification plans. Hilsoft Notifications is a business unit of Epiq.[1]

4. Epiq is an industry leader in class action settlement administration, having implemented more than a thousand successful class action notice and settlement administration matters. Epiq has worked on some of the most complex and significant notice programs of the recent past, examples of which are discussed below. My team and I have experience with legal noticing in more than 550 cases, including more than 70 multidistrict litigation settlements, and have prepared notices that have appeared in 53 languages and been distributed in almost every country, territory, and dependency in the world. Courts have recognized and approved numerous

[1] References to Epiq in this declaration include Hilsoft Notifications.

notice plans developed by Epiq, and those decisions have invariably withstood appellate review.

RELEVANT EXPERIENCE

5. I have served as a notice expert and have been recognized and appointed by courts to design and provide notice in many large and significant cases, including:

a) *In Re: Zoom Video Communications, Inc. Privacy Litigation*, 3:20-cv-02155 (N.D. Cal.), involved an extensive notice plan for a $85 million privacy settlement. Notice was sent to more than 158 million class members by email or mail (for a smaller subset). The individual notice efforts reached 91% of the class.

b) *In Re: Premera Blue Cross Customer Data Security Breach Litigation*, MDL No. 2633, 3:15-md-2633 (D. Or.), involved an individual notice program with 8.6 million double-postcard notices and 1.4 million email notices. The notices informed class members of a $32 million settlement for a "security incident" affecting class members' personal information.

c) *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Product Liability Litigation (Bosch Settlement)*, MDL No. 2672 (N.D. Cal.), involved a comprehensive notice program that provided individual notice to more than 946,000 vehicle owners via first-class mail and to more than 855,000 via email.

d) *Yamagata et al. v. Reckitt Benckiser LLC,* 3:17-cv-03529 (N.D. Cal.), involved a $50 million settlement on behalf of certain purchasers of Schiff Move Free® Advanced glucosamine supplements. Nearly 4 million email notices and 1.1 million postcard notices were sent, which delivered notice to 98.5% of the identified class that were sent notice.

6. Courts have credited our testimony regarding which method of notification is appropriate for a given case, and I have provided testimony on numerous occasions on whether a certain method of notice represents the best notice practicable under the circumstances.

7. I have served as a legal notice expert in numerous Telephone Consumer Protection Act ("TCPA") cases, including:

- *Beiswinger v. West Shore Home, LLC*, 3:20-cv-01286 (M.D. Fla.);
- *Abramson v. Safe Streets USA LLC*, 5:19-cv-00394 (E.D.N.C.);

- *Johnson v. Moss Bros. Auto Group, Inc. et al.*, 5:19-cv-02456 (C.D. Cal.);
- *Breda v. Cellco Partnership d/b/a Verizon Wireless*, 1:16-cv-11512 (D. Mass.);
- *Fitzhenry v. Independent Home Products, LLC*, 2:19-cv-02993 (D.S.C.);
- *Drazen v. GoDaddy.com, LLC* and *Bennett v. GoDaddy.com, LLC,* 1:19-cv-00563 (S.D. Ala.);
- *Izor v. Abacus Data Systems, Inc.*, 19-cv-01057 (N.D. Cal.);
- *Prather v. Wells Fargo Bank, N.A.*, 1:17-cv-00481 (N.D. Ill.);
- *Garcia v. Target Corporation*, 16-cv-02574 (D. Minn.);
- *Zaklit et al. v. Nationstar Mortgage LLC et al.*, 5:15-cv-02190 (C.D. Cal.);
- *Naiman v. Total Merchant Services, Inc. et al.*, 4:17-cv-03806 (N.D. Cal.);
- *Knapper v. Cox Communications, Inc.*, 2:17-cv-00913 (D. Ariz.);
- *Dipuglia v. US Coachways, Inc.*, 1:17-cv-23006 (S.D. Fla.);
- *Abante Rooter and Plumbing v. Pivotal Payments Inc., d/b/a/ Capital Processing Network and CPN*, 3:16-cv-05486 (N.D. Cal.);
- *Gergetz v. Telenav, Inc.*, 5:16-cv-04261 (N.D. Cal.);
- *Vergara et al., v. Uber Technologies, Inc.*, 1:15-cv-06972 (N.D. Ill.);
- *Masson v. Tallahassee Dodge Chrysler Jeep, LLC,* 17-cv-22967 (S.D. Fla.);
- *Gottlieb v. Citgo Petroleum Corporation*, 9:16-cv-81911 (S.D. Fla);
- *Farnham v. Caribou Coffee Company, Inc.*, 16-cv-00295 (W.D. Wis.); and
- *Rose v. Bank of America Corporation et al.*, 5:11-cv-02390 & 5:12-cv-00400 (N.D. Cal.).

8. Numerous court opinions and comments regarding my testimony and the adequacy of our notice efforts are included in Hilsoft's curriculum vitae, which is included as **Attachment 1**. In forming expert opinions, my staff and I draw from our in-depth class action case experience, as well as our educational and related work experiences. I am an active member of the Oregon State Bar, having received my Bachelor of Science from Willamette University and my Juris Doctor from Northwestern School of Law at Lewis and Clark College. I have served as the Director of Legal Notice for Epiq since 2008 and have overseen the detailed planning of virtually all of our court-approved notice programs during that time. Overall, I have more than 22 years of experience in the design and implementation of legal notification and claims administration programs, having been personally involved in hundreds of successful notice programs.

9. The facts in this declaration are based on my personal knowledge, as well as information provided to me by my colleagues in the ordinary course of my business at Epiq.

OVERVIEW

10. This declaration describes the Settlement Notice Plan ("Notice Plan") and notices (the "Notice" or "Notices") proposed for *Walker v. Highmark BCBSD Health Options, Inc.; Cotiviti, Inc.*, Case No. 20-cv-1975, in the United States District Court for the Western District of Pennsylvania. Epiq designed this Notice Plan based on our extensive prior experience and research into the notice issues particular to this case. We have analyzed and proposed the best notice practicable for providing notice to the Settlement Class here.

DATA PRIVACY AND SECURITY

11. As with all cases, Epiq will maintain extensive data security and privacy safeguards in its official capacity as the Claims Administrator for this Action. A *Services Agreement*, which formally retains Epiq as the Claims Administrator, will govern Epiq's Claims Administration responsibilities for the Action. Service changes or modification beyond the original contract scope will require formal contract addendum or modification.

12. As a data processor, Epiq performs services on data provided, only as outlined in a contract and/or associated statement(s) of work. Epiq does not utilize or perform other procedures on personal data provided or obtained as part of its services to a client. For this Action, Settlement Class Member data ("Class Member Information") will be provided directly to Epiq solely for the purpose of effecting the terms of the Settlement Agreement. Epiq will not use such information or information to be provided by Settlement Class Members for any other purpose than the administration of the Settlement in this Action, specifically the information will not be used, disseminated, or disclosed by or to any other person for any other purpose.

13. The security and privacy of clients' and class members' information and data are paramount to Epiq. That is why Epiq has invested in a layered and robust set of trusted security personnel, controls, and technology to protect the data we handle. To promote a secure environment for client and class member data, industry leading firewalls and intrusion prevention systems protect and monitor Epiq's network perimeter with regular vulnerability scans and penetration tests. Epiq deploys best-in-class endpoint detection, response, and anti-virus solutions

on our endpoints and servers. Strong authentication mechanisms and multi-factor authentication are required for access to Epiq's systems and the data we protect. In addition, Epiq has employed the use of behavior and signature-based analytics as well as monitoring tools across our entire network, which are managed 24 hours per day, 7 days per week, by a team of experienced professionals.

14. Epiq's world class data centers are defended by multi-layered, physical access security, including formal ID and prior approval before access is granted, CCTV, alarms, biometric devices, and security guards, 24 hours per day, 7 days per week. Epiq manages minimum Tier 3+ data centers in 18 locations worldwide. Our centers have robust environmental controls including state-of-the-art fire detection and suppression controls, flood protection, and cooling systems.

15. Beyond Epiq's technology, our people play a vital role in protecting class members' and our clients' information. Epiq has a dedicated information security team comprised of highly trained, experienced, and qualified security professionals. Our teams stay on top of important security issues and retain important industry standard certifications, like SANS, CISSP, and CISA. Epiq is continually improving security infrastructure and processes based on an ever-changing digital landscape. Epiq also partners with best-in-class security service providers. Our robust policies and processes cover all aspects of information security to form part of an industry leading security and compliance program, which is regularly assessed by independent third parties.

16. Epiq holds several industry certifications including: TISAX, Cyber Essentials, Privacy Shield, and ISO 27001. In addition to retaining these certifications, we are aligned to HIPAA, NIST, and FISMA frameworks. We follow local, national, and international privacy regulations. To support our business and staff, Epiq has a dedicated team to facilitate and monitor compliance with privacy policies. Epiq is also committed to a culture of security mindfulness. All employees routinely undergo cybersecurity trainings to ensure that safeguarding information and cybersecurity vigilance is a core practice in all aspects of the work our teams complete.

17. Upon completion of a project, Epiq continues to host all data until otherwise instructed in writing by a customer to delete, archive or return such data. When a customer

requests that Epiq delete or destroy all data, Epiq agrees to delete or destroy all such data; provided, however, that Epiq may retain data as required by applicable law, rule or regulation, and to the extent such copies are electronically stored in accordance with Epiq's record retention or back-up policies or procedures (including those regarding electronic communications) then in effect. Epiq keeps data in line with client retention requirements. If no retention period is specified, Epiq returns the data to the client or securely deletes as appropriate.

NOTICE PLAN SUMMARY

18. Federal Rule of Civil Procedure, Rule 23 directs that notice must be the best notice practicable under the circumstances and must include "individual notice to all members who can be identified through reasonable effort." The proposed Notice Program will satisfy these requirements.

19. This proposed Notice Program is designed to reach the greatest practicable number of Settlement Class Members. Given our experience with similar notice efforts, we expect that the proposed Notice Plan individual notice efforts will reach at least 90% of the identified Settlement Class. The reach will be further enhanced by a Settlement Website. In my experience, the projected reach of the Notice Plan is consistent with other court-approved notice plans, is the best notice practicable under the circumstances of this case, and has been designed to satisfy the requirements of due process, including its "desire to actually inform" requirement.[2]

NOTICE PLAN DETAIL

20. The Notice Plan was designed to provide notice to the following "Settlement Class" as defined in the Settlement Agreement as:

> A. During the Class Period, all persons within the United States who are subscribers or primary users of a cellular telephone number to which Defendant Highmark BCBSD Health Options Inc. placed (or had placed on

[2] *Mullane v. Cent. Hanover Bank & Trust Co*., 339 U.S. 306, 315 (1950) ("But when notice is a person's due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected . . .").

its behalf by Defendant Cotiviti, Inc.) a telephone call using a pre-recorded or artificial voice,

1) when such a call to that telephone number had previously resulted in a) a "WRONG_NUMBER" disposition or b) a "MSG_DECLINED" disposition without a subsequent disposition of "CORRECT_PERSON" or "MSG_HUMAN" and

2) when at least one subsequent call to that telephone number had the disposition "WRONG_NUMBER", "MSG_MACHINE", "CORRECT_PERSON", "MSG_HUMAN", "HANGUP", "NO_CONTINUE", or "MSG_DECLINED".

B. Excluding those persons who *only* received calls as part of a COVID Campaign, as well as Defendants and any entities in which Defendants have a controlling interest; Defendants' agents and employees; any Judge and Magistrate Judge to whom this action is assigned and any member of their staffs and immediate families.

21. I have reviewed the Settlement Agreement and understand that the defined terms used in the definition of the Settlement Class and subsequent exclusion from the Settlement Class mean the following. "Class Period" means "November 30, 2016, through Preliminary Approval." "COVID Campaign" means "a campaign identified in Defendants' records as:

(a) HHO_COVIDVAC_SP;

(b) HHO_COVIDVAC_PEDI_SP;

(c) HHO_COVIDVAC_REM_ADULT_SP;

(d) HHO_COVIDVAC_REM_PEDI_SP; and

(e) HHO_RM_CALL_SP."

NOTICE PLAN

Individual Notice

22. It is my understanding from counsel for the parties that Epiq will be provided data for identified Settlement Class Members ("Class Member Calls List). The Class Member Calls List will include telephone number information for identified Settlement Class Members. The telephone numbers will be sent to a third party such as TransUnion to perform "reverse lookups" by using their extensive databases. By completing a simple database search of each telephone

number provided, the third party will be able to match the telephone numbers to identify the most likely current physical mailing address for potential Settlement Class Members. Multiple name(s) and/or address(es) may be associated with a telephone number, and as a result contact information may be provided as part of the reverse lookups process for multiple potential Settlement Class Members for a given telephone number. The Settlement Class Member data will be used to provide individual notice to all identified Settlement Class Members for whom physical address information is available. Based on our experience, it is anticipated that the reverse lookup process will result in a high percentage of the telephone numbers matching to a likely current physical mailing address for potential Settlement Class Members.

Individual Notice – Direct Mail

23. Epiq will send a Class Notice and a Claim Form with a postage, prepaid return envelope ("Notice Package") to all identified Settlement Class Members with an associated physical address. The Notice Package will be sent via USPS first-class mail. The Class Notice included with the Notice Package will clearly and concisely summarize the case, the Settlement, and the legal rights of the Settlement Class Members. The Notice Package will include a postage, prepaid return envelope, allowing Settlement Class Members to complete and submit a claim at no cost to them. In addition, the Class Notice will direct the recipients to the Settlement Website where they can access additional information.

24. Prior to sending the Notice Package, all mailing addresses will be checked against the National Change of Address ("NCOA") database maintained by the USPS to ensure Settlement Class Member address information is up-to-date and accurately formatted for mailing.[3] In addition, the addresses will be certified via the Coding Accuracy Support System ("CASS") to ensure the quality of the zip code, and will be verified through Delivery Point Validation ("DPV")

[3] The NCOA database is maintained by the USPS and consists of approximately 160 million permanent change-of-address (COA) records consisting of names and addresses of individuals, families, and businesses who have filed a change-of-address with the Postal Service™. The address information is maintained on the database for 48 months and reduces undeliverable mail by providing the most current address information, including standardized and delivery-point-coded addresses, for matches made to the NCOA file for individual, family, and business moves.

to verify the accuracy of the addresses. This address updating process is standard for the industry and for the majority of promotional mailings that occur today.

25. The return address on the Notice Package will be a post office box that Epiq will maintain for this case. The USPS will automatically forward the Notice Package with an available forwarding address order that has not expired ("Postal Forwards"). Notice Packages returned as undeliverable will be re-mailed to any new address available through USPS information, (for example, to the address provided by the USPS on returned mail pieces for which the automatic forwarding order has expired, but is still within the time period in which the USPS returns the piece with the address indicated), and to better addresses that may be found using a third-party lookup service. Upon successfully locating better addresses, Notice Packages will be promptly remailed.

Settlement Website

26. Epiq will create and maintain a dedicated website for the Settlement with an easy to remember domain name. Relevant documents, including the Class Notice, Claim Form, Settlement Agreement, Complaint, Motion for Preliminary Approval, Preliminary Approval Order once entered by the Court, and after filing, Motion for Attorneys' Fees and Costs, and Motion for Final Approval will be posted on the Settlement Website. The Settlement Website will also provide the ability for Settlement Class Members to file an online Claim Form. In addition, the Settlement Website will include relevant dates, answers to frequently asked questions ("FAQs"), instructions for how Settlement Class Members may opt-out (request exclusion) from or object to the Settlement, contact information for the Claims Administrator, and how to obtain other case-related information. The Settlement Website address will be prominently displayed in all notice documents.

Toll-Free Number and Other Contact Information

27. A toll-free telephone number will also be established for the Settlement. Callers will be able to hear an introductory message and will also have the option to learn more about the Settlement in the form of recorded answers to FAQs, and to request that a notice be mailed to them. This automated phone system will be available 24 hours per day, 7 days per week. During

normal business hours, callers will also have the option to speak to a live operator. The toll-free telephone number will be prominently displayed in all notice documents.

28. A postal mailing address will be established, providing Settlement Class Members with the opportunity to request additional information or ask questions.

PLAIN LANGUAGE NOTICE DESIGN

29. The Class Notice and Claim Form have been carefully designed in consultation with counsel for the settling parties, to be "noticed," reviewed, and—by presenting the information in plain language—understood by Settlement Class Members. The Notices contain substantial, easy-to-read summaries of all key information about Settlement Class Members' rights and options under the Settlement. Consistent with our standard practice, all notice documents will undergo a final edit for grammar and accuracy prior to their dissemination and publication.

30. The Class Notice will provide substantial information to Settlement Class Members. The Class Notice will include (i) details regarding the Settlement Class Members' ability to opt out of or object to the Settlement, (ii) instructions on how to submit a Claim Form, (iii) the deadline to submit a Claim Form, opt out, or object, and (iv) the date, time, and location of the Final Approval Hearing, among other information.

COST OF NOTICE ADMINISTRATION

31. The combined, approximate cost to provide notice and handle the claims administration is currently estimated to be $108,000 to $175,000 (this is not a minimum or a cap). The actual total cost for providing claims administration is dependent upon variables such as the number of undeliverable notices, number of calls to the toll-free line, the number of claims submitted, the validity and completeness of those claim submissions, and the number of Settlement Class Members sent a payment, etc. All costs are subject to the Service Contract under which Epiq will be retained as the Claims Administrator, and the terms and conditions of that agreement.

CONCLUSION

32. In class action notice planning, execution, and analysis, we are guided by due

process considerations under the United States Constitution, by federal, state, and local rules and statutes, and further by case law pertaining to notice. This framework directs that the notice plan be designed to reach the best practicable number of potential class members and, in a settlement class action notice situation such as this, that the notice or notice plan itself not limit knowledge of the availability of benefits—nor the ability to exercise other options—to class members in any way. All of these requirements will be met in this case.

33. The Notice Plan includes an individual notice effort to the identified Settlement Class Members. We reasonably expect the individual notice efforts of the Notice Plan alone will reach at least 90% of the Settlement Class. The reach will be further enhanced by a Settlement Website. The Federal Judicial Center's ("FJC") Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide states that "the lynchpin in an objective determination of the adequacy of a proposed notice effort is whether all the notice efforts together will reach a high percentage of the Settlement Class. It is reasonable to reach between 70–95%."[4] Here, the Notice Plan we have developed will achieve a reach toward the high end of that standard.

34. The Notice Plan follows the guidance for satisfying due process obligations that a notice expert gleans from the United States Supreme Court's seminal decisions, which emphasize the need: (a) to endeavor to actually inform the Settlement Class, and (b) to ensure that notice is reasonably calculated to do so:

a. "[W]hen notice is a person's due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it," *Mullane v. Central Hanover Trust*, 339 U.S. 306, 315 (1950); and

b. "[N]otice must be reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections," *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156 (1974) (citing *Mullane*, 339 U.S. at 314).

35. The Notice Plan in this case will provide the best notice practicable under the

[4] FED. JUDICIAL CTR, JUDGES' CLASS ACTION NOTICE AND CLAIMS PROCESS CHECKLIST AND PLAIN LANGUAGE GUIDE 3 (2010), available at https://www.fjc.gov/content/judges-class-action-notice-and-claims-process-checklist-and-plain-language-guide-0.

circumstances, conform to all aspects of Federal Rule of Civil Procedure 23 regarding notice, comport with the guidance for effective notice articulated in the Manual for Complex Litigation, Fourth, and exceed the requirements of due process, including its "desire to actually inform" requirement.

36. The Notice Plan schedule will afford enough time to provide full and proper notice to Settlement Class Members before any opt-out and objection deadlines.

37. At the conclusion of the Notice Plan, I will provide a declaration verifying the effective implementation of the Notice Plan.

I declare under penalty of perjury that the foregoing is true and correct. Executed November 18, 2022.

Cameron R. Azari, Esq.

Attachment 1

HILSOFT NOTIFICATIONS

Hilsoft Notifications ("Hilsoft") is a leading provider of legal notice services for large-scale class action and bankruptcy matters. We specialize in providing quality, expert, notice plan development. Our notice programs satisfy due process requirements and withstand judicial scrutiny. Hilsoft is a business unit of Epiq Class Action & Claims Solutions, Inc. ("Epiq"). Hilsoft has been retained by defendants or plaintiffs for more than 550 cases, including more than 70 MDL case settlements, with notices appearing in more than 53 languages and in almost every country, territory, and dependency in the world. For more than 25 years, Hilsoft's notice plans have been approved and upheld by courts. Case examples include:

- Hilsoft designed and implemented an extensive notice plan for a $85 million privacy settlement involving Zoom, the most popular videoconferencing platform. Notice was sent to more than 158 million class members by email or mail and millions of reminder notices were sent to stimulate claim filings. The individual notice efforts reached 91% of the class and were enhanced by supplemental media provided with regional newspaper notice, nationally distributed digital and social media notice efforts (delivering more than 280 million impressions), sponsored search, an informational release, and a settlement website. ***In Re: Zoom Video Communications, Inc. Privacy Litigation***, 3:20-cv-02155 (N.D. Cal.).

- For a $50 million settlement on behalf of certain purchasers of Schiff Move Free® Advanced glucosamine supplements, nearly 4 million email notices and 1.1 million postcard notices were sent. The individual notice efforts sent by Hilsoft were delivered to 98.5% of the identified class sent notice. A media campaign with banner notices and sponsored search combined with the individual notice efforts reached at least 80% of the class. ***Yamagata et al. v. Reckitt Benckiser LLC****,* 3:17-cv-03529 (N.D. Cal.).

- Hilsoft designed and implemented an extensive individual notice program for a $60 million settlement for Morgan Stanley Smith Barney's account holders in response to "Data Security Incidents." More than 13.8 million email or mailed notices were delivered, reaching approximately 90% of the identified potential settlement class members. The individual notice efforts were supplemented with nationwide newspaper notice and a settlement website. ***In re Morgan Stanley Data Security Litigation*****,** 1:20-cv-05914 (S.D.N.Y.).

- In response to largescale municipal water contamination in Flint, Michigan, Hilsoft's expertise was relied upon to design and implement a comprehensive notice program. Direct mail notice packages and reminder email notices were sent to identified class members with contact information. In addition, Hilsoft implemented an extensive media plan with local newspaper publications, online video and audio ads, local television and radio ads, sponsored search, an informational release, and a website. The media plan also included banner and social media notices geo-targeted to Flint, Michigan and the state of Michigan. Combined, the notice program individual notice and media efforts reached over 95% of the class. ***In re Flint Water Cases****,* 5:16-cv-10444, (E.D. Mich.).

- Hilsoft implemented an extensive notice program for several settlements alleging improper collection and sharing of personally identifiable information (PII) of drivers on certain toll roads in California. The settlements provided benefits of more than $175 million, including penalty forgiveness. Combined, more than 13.8 million email or postcard notices were sent, reaching 93% - 95% of class members across all settlements. Individual notice was supplemented with banner notices and publication notices in select newspapers all geo-targeted within California. Sponsored search and a settlement website extended the reach of the notice program. ***In re Toll Roads Litigation***, 8:16-cv-00262 (C.D. Cal.).

- Hilsoft developed an extensive media-based notice program for a settlement regarding Walmart weighted goods pricing. Notice consisted of highly visible national consumer print publications and targeted digital banner notices and social media. The banner notices generated more than 522 million impressions. Sponsored search, an informational release, and a settlement website expanded the reach. The notice program reached approximately 75% of the class an average of 3.5 times each. ***Kukorinis v. Walmart, Inc.****,* 1:19-cv-20592 (S.D. Fla.).

- Hilsoft provided notice for the $113 million lithium-ion batteries antitrust litigation settlements with individual notice via email to millions of class members, banner and social media ads, an informational release, and a settlement website. ***In re: Lithium Ion Batteries Antitrust Litigation***, 4:13-md-02420, MDL No. 2420 (N.D. Cal.).

- For a $26.5 million settlement, Hilsoft implemented an extensive notice program targeted to people aged 13+ in the U.S. who exchanged or purchased in-game virtual currency for use within *Fortnite* or *Rocket League*. More than 29 million email notices and 27 million reminder notices were sent to class members. In addition, a targeted media notice program was implemented with internet banner and social media notices, *Reddit* feed ads, and *YouTube* pre-roll ads, generating more than 350.4 million impressions. Combined, the notice efforts reached approximately 93.7% of the class. ***Zanca et al. v. Epic Games, Inc.***, 21-CVS-534 (Sup. Ct. Wake Cnty., N.C.).

- Hilsoft designed and implemented numerous monumental notice campaigns to notify current or former owners or lessees of certain BMW, Mazda, Subaru, Toyota, Honda, Nissan, Ford, and Volkswagen vehicles as part of $1.91 billion in settlements regarding Takata airbags. The Notice Plans included individual mailed notice to more than 61.8 million potential class members and notice via consumer publications, U.S. Territory newspapers, radio, internet banners, mobile banners, and other behaviorally targeted digital media. Combined, the Notice Plans reached more than 95% of adults aged 18+ in the U.S. who owned or leased a subject vehicle with a frequency of 4.0 times each. ***In re: Takata Airbag Products Liability Litigation* (OEMS – BMW, Mazda, Subaru, Toyota, Honda, Nissan, Ford, and Volkswagen)**, MDL No. 2599 (S.D. Fla.).

- For a landmark $6.05 billion settlement reached by Visa and MasterCard in 2012, Hilsoft implemented an intensive notice program with more than 19.8 million direct mail notices to class members together with insertions in mor than 1,500 newspapers, consumer magazines, national business publications, trade and specialty publications, and included notices in multiple languages. An extensive online notice campaign with banner notices generated more than 770 million adult impressions supported by a settlement website in eight languages, and acquisition of sponsored search listings to facilitate locating the website. For the subsequent, superseding $5.54 billion settlement reached by Visa and MasterCard in 2019, Hilsoft implemented an extensive notice program with more than 16.3 million direct mail notices to class members together with over 354 print publication insertions and banner notices, generating more than 689 million adult impressions. ***In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation,*** 1:05-md-01720, MDL No. 1720 (E.D.N.Y.).

- For a $250 million settlement with approximately 4.7 million class members, Hilsoft designed and implemented a notice program with individual notice via postcard or email to approximately 1.43 million class members and a robust publication program, combined reaching approximately 78.8% of all U.S. adults aged 35+ approximately 2.4 times each. ***Hale v. State Farm Mutual Automobile Insurance Company et al.,*** 3:12-cv-00660 (S.D. Ill.).

- Hilsoft designed and implemented an extensive individual notice program with 8.6 million double-postcard notices and 1.4 million email notices. The notices informed class members of a $32 million settlement for a security incident regarding class members' personal information stored in Premera's computer network. The individual notice efforts reached 93.3% of the settlement class. A settlement website, an informational release, and a geo-targeted publication notice further enhanced the notice efforts. ***In re: Premera Blue Cross Customer Data Security Breach Litigation***, 3:15-md-2633 (D. Ore.).

- For a $20 million Telephone Consumer Protection Act settlement, Hilsoft created a notice program with mail or email to more than 6.9 million class members and media noticing via newspaper and internet banner ads, combined reaching approximately 90.6% of the settlement class. ***Vergara et al., v. Uber Technologies, Inc.***, 1:15-cv-06972 (N.D. Ill.).

- An extensive notice effort for asbestos personal injury claims and rights as to Debtors' Joint Plan of Reorganization and Disclosure Statement was designed and implemented by Hilsoft. The notice program included nationwide consumer print publications, trade and union labor publications, internet banner ads, an informational release, and a website. ***In re: Kaiser Gypsum Company, Inc. et al.***, 16-cv-31602 (Bankr. W.D. N.C.).

- A comprehensive notice program within the *Volkswagen Emissions Litigation* provided individual notice to more than 946,000 vehicle owners via first class mail and to more than 855,000 vehicle owners via email. A targeted internet campaign further enhanced the notice effort. ***In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Product Liability Litigation (Bosch Settlement)***, MDL No. 2672 (N.D. Cal.).

- Hilsoft designed a notice program with extensive data acquisition and mailed notice to inform owners and lessees of specific models of Mercedes-Benz vehicles. The notice program reached approximately 96.5% of all class members. ***Callaway v. Mercedes-Benz USA, LLC***, 8:14-cv-02011 (C.D. Cal.).

- Hilsoft provided notice for both the class certification and the settlement phases of the case. The individual notice efforts included postcard notices to more than 2.3 million class members, reaching 96% of the class. A publication notice in a national newspaper, targeted internet banner ads, and a website further extended the reach of the notice plan. ***Waldrup v. Countrywide Financial Corporation et al.***, 2:13-cv-08833 (C.D. Cal.).

- Hilsoft designed and implemented an extensive settlement notice plan for a class period spanning more than 40 years for smokers of light cigarettes. The notice plan delivered a measured reach of approximately 87.8% of Arkansas adults 25+ with a frequency of 8.9 times and approximately 91.1% of Arkansas adults 55+ with a frequency of 10.8 times. Spanish language newspaper notice, an informational release, radio public service announcements ("PSAs"), sponsored search listings, and a case website further enhanced reach. ***Miner v. Philip Morris USA, Inc.***, 60CV03-4661 (Ark. Cir. Ct.).

- Hilsoft oversaw a large asbestos bankruptcy bar date notice effort with individual notice, national consumer publications, hundreds of local and national newspapers, Spanish language newspapers, union labor publications, and digital media to reach the target audience. ***In re: Energy Future Holdings Corp. et al.***, 14-10979 (Bankr. D. Del.).

- Overdraft fee class actions have been brought against nearly every major U.S. commercial bank. For related settlements from 2010-2020, Hilsoft developed programs integrating individual notice, and in some cases paid media efforts. Fifth Third Bank, National City Bank, Bank of Oklahoma, Webster Bank, Harris Bank, M& I Bank, PNC Bank, Compass Bank, Commerce Bank, Citizens Bank, Great Western Bank, TD Bank, BancorpSouth, Comerica Bank, Susquehanna Bank, Associated Bank, Capital One, M&T Bank, Iberiabank and Synovus are among the more than 20 banks that have retained Epiq (Hilsoft). ***In re: Checking Account Overdraft Litigation***, MDL No. 2036 (S.D. Fla.).

- For one of the largest and most complex class action cases in Canadian history, Hilsoft designed and implemented groundbreaking notice to disparate, remote Indigenous people in this multi-billion-dollar settlement. ***In re: Residential Schools Class Action Litigation***, 00-cv-192059 CPA (Ont. Super. Ct.).

- For BP's $7.8 billion settlement related to the Deepwater Horizon oil spill, possibly the most complex class action case in U.S. history, Hilsoft drafted and opined on all forms of notice. The dual notice program to "Economic and Property Damages" and "Medical Benefits" settlement classes as designed by Hilsoft reached at least 95% Gulf Coast region adults via more than 7,900 television spots, 5,200 radio spots, 5,400 print insertions in newspapers, consumer publications, and trade journals, digital media, and individual notice. Subsequently, Hilsoft designed one of the largest claim deadline notice campaigns ever implemented, resulting in a combined measurable paid print, television, radio, and internet effort, reaching in excess of 90% of adults aged 18+ in the 26 identified DMAs covering the Gulf Coast Areas an average of 5.5 times each. ***In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010***, MDL No. 2179 (E.D. La.).

- Extensive point of sale notice effort with 100 million notices distributed to Lowe's purchasers during a six-week period regarding a Chinese drywall settlement. ***Vereen v. Lowe's Home Centers***, SU10-cv-2267B (Ga. Super. Ct.).

Cameron Azari, Esq., Epiq Senior Vice President, Hilsoft Director of Legal Notice

Cameron Azari, Esq. has more than 22 years of experience in the design and implementation of legal notice and claims administration programs. He is a nationally recognized expert in the creation of class action notification campaigns in compliance with Fed R. Civ. P. 23(c)(2) (d)(2) and (e) and similar state class action statutes. Cameron has been responsible for hundreds of legal notice and advertising programs. During his career, he has been involved in an array of high profile class action matters, including *In Re: Zoom Video Communications, Inc. Privacy Litigation, In re: Takata Airbag Products Liability Litigation, In re Flint Water Cases, In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* (MasterCard & Visa), *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Product Liability Litigation* (Bosch Settlement), *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010, In re: Checking Account Overdraft Litigation,* and *In re: Residential Schools Class Action Litigation*. He is an active author and speaker on a broad range of legal notice and class action topics ranging from FRCP Rule 23, email noticing, response rates, and optimizing settlement effectiveness. Cameron is an active member of the Oregon State Bar. He received his B.S. from Willamette University and his J.D. from Northwestern School of Law at Lewis and Clark College. Cameron can be reached at caza@legalnotice.com.

Kyle Bingham, Director – Epiq Legal Noticing

Kyle Bingham has 15 years of experience in the advertising industry. At Hilsoft and Epiq, Kyle is responsible for overseeing the research, planning, and execution of advertising campaigns for legal notice programs including class action, bankruptcy and other legal cases. Kyle has been involved in the design and implementation of numerous legal notice campaigns, including *In re: Takata Airbag Products Liability Litigation, Zanca et al. v. Epic Games, Inc., Kukorinis v. Walmart, Inc., In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Product Liability Litigation (Bosch), In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation (MasterCard & Visa), In re: Energy Future Holdings Corp. et al. (Asbestos Claims Bar Notice), In re: Residential Schools Class Action Litigation, Hale v. State Farm Mutual Automobile Insurance Company,* and *In re: Checking Account Overdraft Litigation*. Prior to joining Epiq and Hilsoft, Kyle worked at Wieden+Kennedy for seven years, an industry-leading advertising agency where he planned and purchased print, digital and broadcast media, and presented strategy and media campaigns to clients for multi-million-dollar branding campaigns and regional direct response initiatives. He received his B.A. from Willamette University. Kyle can be reached at kbingham@epiqglobal.com.

Stephanie Fiereck, Esq., Director of Legal Noticing

Stephanie Fiereck has more than 20 years of class action, bankruptcy, and litigation experience. She has worked on all aspects of class action settlement administration, including pre-settlement class action legal noticing work with clients and complex claims administration. Stephanie is responsible for assisting clients with drafting detailed legal noticing documents, writing declarations, as well as managing several specialized notice processes, including CAFA noticing. During her career, she has written more than 1,000 declarations while working on an array of cases including: *In Re: Zoom Video Communications, Inc. Privacy Litigation, In re: Takata Airbag Products Liability Litigation, In re Flint Water Cases, In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* (MasterCard & Visa), *In re: Energy Future Holdings Corp. et al.* (Asbestos Claims Bar Notice), *Hale v. State Farm Mutual Automobile Insurance Company, In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010,* and *In re: Checking Account Overdraft Litigation*. Stephanie has handled more than 375 CAFA notice mailings. Prior to joining Hilsoft, she was a Vice President at Wells Fargo Bank for five years where she led the class action services business unit. She has authored numerous articles regarding legal notice and settlement administration. Stephanie is an active member of the Oregon State Bar. She received her B.A. from St. Cloud State University and her J.D. from the University of Oregon School of Law. Stephanie can be reached at sfie@epiqglobal.com.

Lauran Schultz, Epiq Managing Director

Lauran Schultz consults with Hilsoft clients on complex noticing issues. Lauran has more than 20 years of experience as a professional in the marketing and advertising field, specializing in legal notice and class action administration since 2005. High profile actions he has been involved in include working with companies such as BP, Bank of America, Fifth Third Bank, Symantec Corporation, Lowe's Home Centers, First Health, Apple, TJX, CNA and Carrier Corporation. Prior to joining Epiq in 2005, Lauran was a Senior Vice President of Marketing at National City Bank in Cleveland, Ohio. Lauran's education includes advanced study in political science at the University of Wisconsin-Madison along with a Ford Foundation fellowship from the Social Science Research Council and American Council of Learned Societies. Lauran can be reached at lschultz@hilsoft.com.

ARTICLES AND PRESENTATIONS

- **Cameron Azari** Chair, "Panel Discussion: Class Actions Case Management." Global Class Actions Symposium 2021, London, UK, Nov. 16, 2021.
- **Cameron Azari** Speaker, "Mass Torts Made Perfect Bi-Annual Conference." Class Actions Abroad, Las Vegas, NV, Oct. 13, 2021.
- **Cameron Azari** Speaker, "Virtual Global Class Actions Symposium 2020, Class Actions Case Management Panel." Nov. 18, 2020.
- **Cameron Azari** Speaker, "Consumers and Class Action Notices: An FTC Workshop." Federal Trade Commission, Washington, DC, Oct. 29, 2019.
- **Cameron Azari** Speaker, "The New Outlook for Automotive Class Action Litigation: Coattails, Recalls, and Loss of Value/Diminution Cases." ACI's Automotive Product Liability Litigation Conference." American Conference Institute, Chicago, IL, July 18, 2019.
- **Cameron Azari** Moderator, "Prepare for the Future of Automotive Class Actions." Bloomberg Next, Webinar-CLE, Nov. 6, 2018.
- **Cameron Azari** Speaker, "The Battleground for Class Certification: Plaintiff and Defense Burdens, Commonality Requirements and Ascertainability." 30th National Forum on Consumer Finance Class Actions and Government Enforcement, Chicago, IL, July 17, 2018.
- **Cameron Azari** Speaker, "Recent Developments in Class Action Notice and Claims Administration." PLI's Class Action Litigation 2018 Conference, New York, NY, June 21, 2018.
- **Cameron Azari** Speaker, "One Class Action or 50? Choice of Law Considerations as Potential Impediment to Nationwide Class Action Settlements." 5th Annual Western Regional CLE Program on Class Actions and Mass Torts. Clyde & Co LLP, San Francisco, CA, June 22, 2018.
- **Cameron Azari** and **Stephanie Fiereck** Co-Authors, *A Practical Guide to Chapter 11 Bankruptcy Publication Notice*. E-book, published, May 2017.
- **Cameron Azari** Featured Speaker, "Proposed Changes to Rule 23 Notice and Scrutiny of Claim Filing Rates," DC Consumer Class Action Lawyers Luncheon, Dec. 6, 2016.
- **Cameron Azari** Speaker, "Recent Developments in Consumer Class Action Notice and Claims Administration." Berman DeValerio Litigation Group, San Francisco, CA, June 8, 2016.
- **Cameron Azari** Speaker, "2016 Cybersecurity & Privacy Summit. Moving From 'Issue Spotting' To Implementing a Mature Risk Management Model." King & Spalding, Atlanta, GA, Apr. 25, 2016.
- **Stephanie Fiereck** Author, "Tips for Responding to a Mega-Sized Data Breach." *Law360,* May 2016.
- **Cameron Azari** Speaker, "Live Cyber Incident Simulation Exercise." Advisen's Cyber Risk Insights Conference, London, UK, Feb. 10, 2015.
- **Cameron Azari** Speaker, "Pitfalls of Class Action Notice and Claims Administration." PLI's Class Action Litigation 2014 Conference, New York, NY, July 9, 2014.
- **Cameron Azari** and **Stephanie Fiereck** Co-Authors, "What You Need to Know About Frequency Capping In Online Class Action Notice Programs." *Class Action Litigation Report*, June 2014.
- **Cameron Azari** Speaker, "Class Settlement Update – Legal Notice and Court Expectations." PLI's 19th Annual Consumer Financial Services Institute Conference, New York, NY, Apr. 7-8, 2014.

- **Cameron Azari** Speaker, "Class Settlement Update – Legal Notice and Court Expectations." PLI's 19th Annual Consumer Financial Services Institute Conference, Chicago, IL, Apr. 28-29, 2014.
- **Stephanie Fiereck** Author, "Planning For The Next Mega-Sized Class Action Settlement." *Law360,* Feb. 2014.
- **Cameron Azari** Speaker, "Legal Notice in Consumer Finance Settlements - Recent Developments." ACI's Consumer Finance Class Actions and Litigation, New York, NY, Jan. 29-30, 2014.
- **Cameron Azari** Speaker, "Legal Notice in Building Products Cases." HarrisMartin's Construction Product Litigation Conference, Miami, FL, Oct. 25, 2013.
- **Cameron Azari** and **Stephanie Fiereck** Co-Authors, "Class Action Legal Noticing: Plain Language Revisited." *Law360*, Apr. 2013.
- **Cameron Azari** Speaker, "Legal Notice in Consumer Finance Settlements Getting your Settlement Approved." ACI's Consumer Finance Class Actions and Litigation, New York, NY, Jan. 31-Feb. 1, 2013.
- **Cameron Azari** Speaker, "Perspectives from Class Action Claims Administrators: Email Notices and Response Rates." CLE International's 8th Annual Class Actions Conference, Los Angeles, CA, May 17-18, 2012.
- **Cameron Azari** Speaker, "Class Action Litigation Trends: A Look into New Cases, Theories of Liability & Updates on the Cases to Watch." ACI's Consumer Finance Class Actions and Litigation, New York, NY, Jan. 26-27, 2012.
- **Lauran Schultz** Speaker, "Legal Notice Best Practices: Building a Workable Settlement Structure." CLE International's 7th Annual Class Action Conference, San Francisco, CA, May 2011.
- **Cameron Azari** Speaker, "Data Breaches Involving Consumer Financial Information: Litigation Exposures and Settlement Considerations." ACI's Consumer Finance Class Actions and Litigation, New York, NY, Jan. 2011.
- **Cameron Azari** Speaker, "Notice in Consumer Class Actions: Adequacy, Efficiency and Best Practices." CLE International's 5th Annual Class Action Conference: Prosecuting and Defending Complex Litigation, San Francisco, CA, 2009.
- **Lauran Schultz** Speaker, "Efficiency and Adequacy Considerations in Class Action Media Notice Programs." Chicago Bar Association, Chicago, IL, 2009.
- **Cameron Azari** Author, "Clearing the Five Hurdles of Email - Delivery of Class Action Legal Notices." *Thomson Reuters Class Action Litigation Reporter*, June 2008.
- **Cameron Azari** Speaker, "Planning for a Smooth Settlement." ACI: Class Action Defense – Complex Settlement Administration for the Class Action Litigator, Phoenix, AZ, 2007.
- **Cameron Azari** Speaker, "Structuring a Litigation Settlement." CLE International's 3rd Annual Conference on Class Actions, Los Angeles, CA, 2007.
- **Cameron Azari** Speaker, "Noticing and Response Rates in Class Action Settlements" – Class Action Bar Gathering, Vancouver, British Columbia, 2007.
- **Cameron Azari** Speaker, "Notice and Response Rates in Class Action Settlements" – Skadden Arps Slate Meagher & Flom, LLP, New York, NY, 2006.
- **Cameron Azari** Speaker, "Notice and Response Rates in Class Action Settlements" – Bridgeport Continuing Legal Education, Class Action and the UCL, San Diego, CA, 2006.
- **Stephanie Fiereck** Author, "Consultant Service Companies Assisting Counsel in Class-Action Suits." *New Jersey Lawyer*, Vol. 14, No. 44, Oct. 2005.

- **Stephanie Fiereck** Author, "Expand Your Internet Research Toolbox." The American Bar Association, *The Young Lawyer*, Vol. 9, No. 10, July/Aug. 2005.
- **Stephanie Fiereck** Author, "Class Action Reform: Be Prepared to Address New Notification Requirements." BNA, Inc. The Bureau of National Affairs, Inc. *Class Action Litigation Report*, Vol. 6, No. 9, May 2005.
- **Cameron Azari** Speaker, "Notice and Response Rates in Class Action Settlements" – Stoel Rives Litigation Group, Portland, OR / Seattle, WA / Boise, ID / Salt Lake City, UT, 2005.
- **Cameron Azari** Speaker, "Notice and Response Rates in Class Action Settlements" – Stroock & Stroock & Lavan Litigation Group, Los Angeles, CA, 2005.
- **Stephanie Fiereck** Author, "Bankruptcy Strategies Can Avert Class Action Crisis." TMA - *The Journal of Corporate* Renewal, Sept. 2004.
- **Cameron Azari** Author, "FRCP 23 Amendments: Twice the Notice or No Settlement." Current Developments – Issue II, Aug. 2003.
- **Cameron Azari** Speaker, "A Scientific Approach to Legal Notice Communication" – Weil Gotshal Litigation Group, New York, NY, 2003.

JUDICIAL COMMENTS

Judge Paul A. Engelmayer, *In re Morgan Stanley Data Security Litigation* (Aug. 5, 2022) 1:20-cv-05914 (S.D.N.Y.):

> *The Court finds that the emailed and mailed notice, publication notice, website, and Class Notice plan implemented pursuant to the Settlement Agreement and Judge Analisa Torres' Preliminary Approval Order: (a) were implemented in accordance with the Preliminary Approval Order; (b) constituted the best notice practicable under the circumstances; (c) constituted notice that was reasonably calculated, under the circumstances, to appraise Settlement Class Members of the pendency of this Action, of the effect of the proposed Settlement (including the Releases to be provided thereunder), of their right to exclude themselves from or object to the proposed Settlement, of their right to appear at the Fairness Hearing, of the Claims Process, and of Class Counsel's application for an award of attorneys' fees, for reimbursement of expenses associated with the Action, and any Service Award; (d) provided a full and fair opportunity to all Settlement Class Members to be heard with respect to the foregoing matters; (e) constituted due, adequate and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (f) met all applicable requirements of Rule 23 of the Federal Rule of Civil Procedure, the United States Constitution, including the Due Process Clause, and any other applicable rules of law.*

Judge Denise Page Hood, *Bleachtech L.L.C. v. United Parcel Service Co.* (July 20, 2022) 14-cv-12719 (E.D. Mich.):

> *The Settlement Class Notice Program, consisting of, among other things, the Publication Notice, Long Form Notice, website, and toll-free telephone number, was the best notice practicable under the circumstances. The Notice Program provided due and adequate notice of the proceedings and of the matters set forth therein, including the proposed settlement set forth in the Settlement Agreement, to all persons entitled to such notice and said notice fully satisfied the requirements of the Federal Rules of Civil Procedure and the United States Constitution, which include the requirement of due process.*

Judge Robert E. Payne, *Skochin et al. v. Genworth Life Insurance Company et al.* (June 29, 2022) 3:21-cv-00019 (E.D. Vir.):

> *The Court finds that the plan to disseminate the Class Notice and Publication Notice the Court previously approved has been implemented and satisfies the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process. The Class Notice, which the Court approved, clearly defined the Class and explained the rights and obligations of the Class Members. The Class Notice explained how to obtain benefits under the Settlement, and how to contact Class Counsel and the Settlement Administrator. The Court appointed Epiq Class Action & Claims Solutions, Inc. ("Epiq") to fulfill the Settlement Administrator duties and disseminate the Class Notice and Publication Notice. The Class Notice and Publication Notice permitted Class Members to access information and documents about the case to inform their decision about whether to opt out of or object to the Settlement.*

Judge Fernando M. Olguin, *Johnson v. Moss Bros. Auto Group, Inc. et al.* (June 24, 2022) 5:19-cv-02456 (C.D. Cal.):

> *Here, after undertaking the required examination, the court approved the form of the proposed class notice. (See Dkt. 125, PAO at 18-21). As discussed above, the notice program was implemented by Epiq. (Dkt. 137-3, Azari Decl. at ¶¶ 15-23 & Exhs. 3-4 (Class Notice)). Accordingly, based on the record and its prior findings, the court finds that the class notice and the notice process fairly and adequately informed the class members of the nature of the action, the terms of the proposed settlement, the effect of the action and release of claims, the class members' right to exclude themselves from the action, and their right to object to the proposed settlement….*

Judge Harvey E. Schlesinger, *Beiswinger v. West Shore Home, LLC* (May 25, 2022) 3:20-cv-01286 (M.D. Fla.):

> *The Notice and the Notice Plan implemented pursuant to the Agreement (1) constitute the best practicable notice under the circumstances; (2) constitute notice that is reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Litigation, their right to object to or exclude themselves from the proposed Settlement, and to appear at the Final Approval Hearing; (3) are reasonable and constitute due, adequate, and sufficient notice to all Persons entitled to receive notice; and (4) meet all applicable requirements of the Federal Rules of Civil Procedure, the Due Process Clause of the United States Constitution, and the rules of the Court.*

Judge Scott Kording, *Jackson v. UKG Inc., f/k/a The Ultimate Software Group, Inc.* (May 20, 2022) 2020L0000031 (Cir. Ct. of McLean Cnty., Ill.):

> *The Court has determined that the Notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed Settlement Class Members of all material elements of the Settlement, constituted the best notice practicable under the circumstances, and fully satisfied the requirements of 735 ILCS 5/2-803, applicable law, and the Due Process Clauses of the U.S. Constitution and Illinois Constitution.*

Judge Denise J. Casper, *Breda v. Cellco Partnership d/b/a Verizon Wireless* (May 2, 2022) 1:16-cv-11512 (D. Mass.):

> *The Court hereby finds Notice of Settlement was disseminated to persons in the Settlement Class in accordance with the Court's preliminary approval order, was the best notice practicable under the circumstances, and that the Notice satisfied Rule 23 and due process.*

Judge William H. Orrick, *Maldonado et al. v. Apple Inc. et al.* (Apr. 29, 2022) 3:16-cv-04067 (N.D. Cal.):

> *[N]otice of the Class Settlement to the Certified Class was the best notice practicable under the circumstances. The notice satisfied due process and provided adequate information to the Certified Class of all matters relating to the Class Settlement, and fully satisfied the requirements of Federal Rules of Civil Procedure 23(c)(2) and (e)(1).*

Judge Laurel Beeler, *In re: Zoom Video Communications, Inc. Privacy Litigation* (Apr. 21, 2022) 20-cv-02155 (N.D. Cal.):

> *Between November 19, 2021, and January 3, 2022, notice was sent to 158,203,160 class members by email (including reminder emails to those who did not submit a claim form) and 189,003 by mail. Of the emailed notices, 14,303,749 were undeliverable, and of that group, Epiq mailed notice to 296,592 class members for whom a physical address was available. Of the mailed notices, efforts were made to ensure address accuracy and currency, and as of March 10, 2022, 11,543 were undeliverable. In total, as of March 10, 2022, notice was accomplished for 144,242,901 class members, or 91% of the total. Additional notice efforts were made by newspaper … social media, sponsored search, an informational release, and a Settlement Website. Epiq and Class Counsel also complied with the court's prior request that best practices related to the security of class member data be implemented.*
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> *[T]he Settlement Administrator provided notice to the class in the form the court approved previously. The notice met all legal prerequisites: it was the best notice practicable, satisfied the requirements of Rule 23(c)(2), adequately advised class members of their rights under the settlement agreement, met the requirements of due process, and complied with the court's order regarding court notice. The forms of notice fairly, plainly, accurately, and reasonably provided class members with all required information ....*

Judge Federico A. Moreno, *In re: Takata Airbag Products Liability Litigation* (Volkswagen) (Mar. 28, 2022) MDL No. 2599 (S.D. Fla.):

> *[T]he Court finds that the Class Notice has been given to the Class in the manner approved by the Court in its Preliminary Approval Order … The Court finds that such Class Notice: (i) is reasonable and constitutes the best practicable notice to Class Members under the circumstances; (ii) constitutes notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action and the terms of the Settlement Agreement, their right to exclude themselves from the Class or to object to all or any part of the Settlement Agreement, their right to appear at the Fairness Hearing (either on their own or through counsel hired at their own expense) and the binding effect of the orders and Final Order and Final Judgment in the Action, whether favorable or unfavorable, on all persons and entities who or which do not exclude themselves from the Class; (iii) constitutes due, adequate, and sufficient notice to all persons or entities entitled to receive notice; and (iv) fully satisfied the requirements of the United States Constitution (including the Due Process Clause), FED. R. CIV. P. 23 and any other applicable law as well as complying with the Federal Judicial Center's illustrative class action notices.*

Judge James Donato, *Pennington et al. v. Tetra Tech, Inc. et al.* (Mar. 28, 2022) 3:18-cv-05330 (N.D. Cal.):

> *On the Rule 23(e)(1) notice requirement, the Court approved the parties' notice plan, which included postcard notice, email notice, and a settlement website. Dkt. No. 154. The individual notice efforts reached an impressive 100% of the identified settlement class. Dkt. No. 200-2 ¶ 23. The Court finds that notice was provided in the best practicable manner to class members who will be bound by the proposal. Fed. R. Civ. P. 23(e)(1).*

Judge Edward J. Davila, *Cochran et al. v. The Kroger Co. et al.* (Mar. 24, 2022) 5:21-cv-01887 (N.D. Cal.):

> *The Court finds that the dissemination of the Notices:*
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> *(a) was implemented in accordance with the Preliminary Approval Order; (b) constituted the best notice practicable under the circumstances; (c) constituted notice that is appropriate, in a manner, content, and format reasonably calculated, under the circumstances, to apprise Settlement Class Members …; (d) constituted due, adequate, and sufficient notice to all Persons entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Constitution of the United (including the Due Process Clause), and all other applicable laws and rules.*

Judge Sunshine Sykes, *In re Renovate America Finance Cases* (Mar. 4, 2022) RICJCCP4940 (Sup. Ct. of Cal., Riverside Cnty.):

> *The Court finds that notice previously given to Class Members in the Action was the best notice practicable under the circumstances and satisfies the requirements of due process …The Court further finds that, because (a) adequate notice has been provided to all Class Members and (b) all Class Members have been given the opportunity to object to, and/or request exclusion from, the Settlement, the Court has jurisdiction over all Class Members.*

Judge David O. Carter, *Fernandez v. Rushmore Loan Management Services LLC* (Feb. 14, 2022) 8:21-cv-00621 (C. D. Cal.):

> *Notice was sent to potential Class Members pursuant to the Settlement Agreement and the method approved by the Court. The Class Notice adequately describes the litigation and the scope of the involved Class. Further, the Class Notice explained the amount of the Settlement Fund, the plan of allocation, that Plaintiff's counsel and Plaintiff will apply for attorneys' fees, costs, and a service award, and the Class Members' option to participate, opt out, or object to the Settlement. The Class Notice consisted of direct notice via USPS, as well as a Settlement Website where Class Members could view the Long Form Notice.*

Judge Otis D. Wright, II, *In re Toll Roads Litigation* (Feb. 11, 2022) 8:16-cv-00262 (C. D. Cal.):

> *The Class Administrator provided notice to members of the Settlement Classes in compliance with the Agreements, due process, and Rule 23. The notice: (i) fully and accurately informed class members about the lawsuit and settlements; (ii) provided sufficient information so that class members were able to decide whether to accept the benefits offered, opt-out and pursue their own remedies, or object to the proposed settlements; (iii) provided procedures for class members to file written objections to the proposed settlements, to appear at the hearing, and to state objections to the proposed settlements; and (iv) provided the time, date, and place of the final fairness hearing. The Court finds that the Notice provided to the Classes pursuant to the Settlement*

Agreements and the Preliminary Approval Order and consisting of individual direct postcard and email notice, publication notice, settlement website, and CAFA notice has been successful and (i) constituted the best practicable notice under the circumstances; (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action, their right to object to the Settlements or exclude themselves from the Classes, and to appear at the Final Approval Hearing; (iii) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) otherwise met all applicable requirements of the Federal Rules of Civil Procedure, the Due Process Clause of the United States Constitution, and the rules of the Court.

Judge Virginia M. Kendall, *In re Turkey Antitrust Litigations* (Commercial and Institutional Indirect Purchaser Plaintiffs' Action) *Sandee's Bakery d/b/a Sandee's Catering Bakery & Deli et al. v. Agri Stats, Inc.* (Feb. 10, 2022) 1:19-cv-08318 (N.D. Ill.):

The notice given to the Settlement Class, including individual notice all members of the Settlement Class who could be identified through reasonable efforts, was the most effective and practicable under the circumstances. This notice provided due and sufficient notice of proceedings and of the matters set forth therein, including the proposed Settlement, to all persons entitled to such notice, and this notice fully satisfied the requirements of Rules 23(c)(2) and 23(e)(1) of the Federal Rules of Civil Procedure and the requirements of due process.

Judge Beth Labson Freeman, *Ford et al. v. [24]7.ai, Inc.* (Jan. 28, 2022) 5:18-cv-02770 (N.D. Cal.):

The Court finds that the manner and form of notice (the "Notice Program") set forth in the Settlement Agreement was provided to Settlement Class Members. The Court finds that the Notice Program, as implemented, was the best practicable under the circumstances. The Notice Program was reasonably calculated under the circumstances to apprise the Settlement Class of the pendency of the Action, class certification, the terms of the Settlement, and their rights to opt-out of the Settlement Class and object to the Settlement, Class Counsel's fee request, and the request for Service Award for Plaintiffs. The Notice and notice program constituted sufficient notice to all persons entitled to notice. The Notice and notice program satisfy all applicable requirements of law, including, but not limited to, Federal Rule of Civil Procedure 23 and the constitutional requirement of due process.

Judge Terrence W. Boyle, *Abramson et al. v. Safe Streets USA LLC et al.* (Jan. 12, 2022) 5:19-cv-00394 (E.D.N.C.):

Notice was provided to Settlement Class Members in compliance with Section 4 of the Settlement Agreement, due process, and Rule 23 of the Federal Rules of Civil Procedure. The notice: (a) fully and accurately informed Settlement Class Members about the Actions and Settlement Agreement; (b) provided sufficient information so that Settlement Class Members could decide whether to accept the benefits offered, opt-out and pursue their own remedies, or object to the settlement; (c) provided procedures for Settlement Class Members to submit written objections to the proposed settlement, to appear at the hearing, and to state objections to the proposed settlement; and (d) provided the time, date, and place of the Final Approval Hearing.

Judge Joan B. Gottschall, *Mercado et al. v. Verde Energy USA, Inc.* (Dec. 17, 2021) 1:18-cv-02068 (N.D. Ill.):

In accordance with the Settlement Agreement, Epiq launched the Settlement Website and mailed out settlement notices in accordance with the preliminary approval order. (ECF No. 149). Pursuant to this Court's preliminary approval order, Epiq mailed and emailed notice to the Class on October 1, 2021. Therefore, direct notice was sent and delivered successfully to the vast majority of Class Members.
The Class Notice, together with all included and ancillary documents thereto, complied with all the requirements of Rule 23(c)(2)(B) and fairly, accurately, and reasonably informed members of the Class of: (a) appropriate information about the nature of this Litigation, including the class claims, issues, and defenses, and the essential terms of the Settlement Agreement; (b) the definition of the Class; (c) appropriate information about, and means for obtaining additional information regarding, the lawsuit and the Settlement Agreement; (d) appropriate information about, and means for obtaining and submitting, a claim; (e) appropriate information about the right of Class Members to appear through an attorney, as well as the time, manner, and effect of excluding themselves from the Settlement, objecting to the terms of the Settlement Agreement, or objecting to Lead and Class Counsel's request for an award of attorneys' fees and costs, and the procedures to do so; (f) appropriate information about the consequences of failing to submit a claim or failing to comply with the procedures and deadline for requesting exclusion from, or objecting to, the Settlement; and (g) the binding effect of a class judgment on Class Members under Rule 23(c)(3) of the Federal Rules of Civil Procedure.

The Court finds that Class Members have been provided the best notice practicable of the Settlement and that such notice fully satisfies all requirements of applicable laws and due process.

Judge Patricia M. Lucas, *Wallace v. Wells Fargo* (Nov. 24, 2021) 17CV317775 (Sup. Ct. Cal. Cnty. of Santa Clara):

> *On August 29, 2021, a dedicated website was established for the settlement at which class members can obtain detailed information about the case and review key documents, including the long form notice, postcard notice, settlement agreement, complaint, motion for preliminary approval … (Declaration of Cameron R. Azari, Esq. Regarding Implementation and Adequacy of Settlement Notice Program ["Azari Dec."] ¶19). As of October 18, 2021, there were 2,639 visitors to the website and 4,428 website pages presented.* (Ibid.).
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> *On August 30, 2021, a toll-free telephone number was established to allow class members to call for additional information in English or Spanish, listen to answers to frequently asked questions, and request that a long form notice be mailed to them (Azari Dec. ¶20). As of October 18, 2021, the telephone number handled 345 calls, representing 1,207 minutes of use, and the settlement administrator mailed 30 long form notices as a result of requests made via the telephone number.*
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> *Also, on August 30, 2021, individual postcard notices were mailed to 177,817 class members. (Azari Dec. ¶14) As of November 10, 2021, 169,404 of those class members successfully received notice. (Supplemental Declaration of Cameron R. Azari, Esq. Regarding Implementation and Adequacy of Settlement Notice Program ["Supp. Azari Dec."] ¶10.).*

Judge John R. Tunheim, *In Re Pork Antitrust Litigation (Commercial and Institutional Indirect Purchaser Plaintiff Action)* (JBS USA Food Company, JBS USA Food Company Holdings) (Nov. 18, 2021) 18-cv-01776 (D. Minn.):

> *The notice given to the Settlement Class, including individual notice to all members of the Settlement Class who could be identified through reasonable effort, was the most effective and practicable under the circumstances. This notice provided due and sufficient notice of the proceedings and of the matters set forth therein, including the proposed settlement, to all persons entitled to such notice, and this notice fully satisfied the requirements of Rules 23(c)(2) and 23(e)(1) of the Federal Rules of Civil Procedure and the requirements of due process.*

Judge H. Russel Holland, *Coleman v. Alaska USA Federal Credit Union* (Nov. 17, 2021) 3:19-cv-00229 (D. Alaska):

> *The Court approved Notice Program has been fully implemented. The Court finds that the Notices given to the Settlement Class fully and accurately informed Settlement Class Members of all material elements of the proposed Settlement and constituted valid, due, and sufficient Notice to Settlement Class Members consistent with all applicable requirements. The Court further finds that the Notice Program satisfies due process.*

Judge A. Graham Shirley, *Zanca et al. v. Epic Games, Inc.* (Nov. 16, 2021) 21-CVS-534 (Sup. Ct. Wake Cnty., N.C.):

> *Notice has been provided to all members of the Settlement Class pursuant to and in the manner directed by the Preliminary Approval Order. The Notice Plan was properly administered by a highly experienced third-party Settlement Administrator. Proof of the provision of that Notice has been filed with the Court and full opportunity to be heard has been offered to all Parties to the Action, the Settlement Class, and all persons in interest. The form and manner of the Notice is hereby determined to have been the best notice practicable under the circumstances and to have been given full compliance with each of the requirements of North Carolina Rule of Civil Procedure 23, due process, and applicable law.*

Judge Judith E. Levy, *In re Flint Water Cases* (Nov. 10, 2021) 5:16-cv-10444 (E.D. Mich.):

> *(1) a "Long Form Notice packet [was] mailed to each Settlement Class member … a list of over 57,000 addresses—[and] over 90% of [the mailings] resulted in successful delivery;" (2) notices were emailed "to addresses that could be determined for Settlement Class members;" and (3) the "Notice Administrator implemented a comprehensive media notice campaign." … The media campaign coupled with the mailing was intended to reach the relevant audience in several ways and at several times so that the class members would be fully informed about the settlement and the registration and objection process.*
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> *The media campaign included publication in the local newspaper … local digital banners … television … and radio spots … banner notices and radio ads placed on Pandora and SoundCloud; and video ads placed on YouTube .... [T]his settlement has received widespread media attention from major news outlets nationwide.*
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> *Plaintiffs submitted an affidavit signed by Azari that details the implementation of the Notice plan .... The affidavit is bolstered by several documents attached to it, such as the declaration of Epiq Class Action and Claims Solutions, Inc.'s Legal Notice Manager, Stephanie J. Fiereck. Azari declared that Epiq "delivered individual notice to approximately 91.5% of the identified Settlement Class" and that the media notice brought the overall notice effort to "in excess of*

95%." The Court finds that the notice plan was implemented in an appropriate manner.

In conclusion, the Court finds that the Notice Plan as implemented, and its content, satisfies due process.

Judge Vince Chhabria, *Yamagata et al. v. Reckitt Benckiser LLC* (Oct. 28, 2021) 3:17-cv-03529 (N.D. Cal.):

The Court directed that Class Notice be given to the Class Members pursuant to the notice program proposed by the Parties and approved by the Court. In accordance with the Court's Preliminary Approval Order and the Court-approved notice program, the Settlement Administrator caused the forms of Class Notice to be disseminated as ordered. The Long-form Class Notice advised Class Members of the terms of the Settlement Agreement; the Final Approval Hearing, and their right to appear at such hearing; their rights to remain in, or opt out of, the Settlement Class and to object to the Settlement Agreement; procedures for exercising such rights; and the binding effect of this Order and accompanying Final Judgment, whether favorable or unfavorable, to the Settlement Class.

The distribution of the Class Notice pursuant to the Class Notice Program constituted the best notice practicable under the circumstances, and fully satisfies the requirements of Federal Rule of Civil Procedure 23, the requirements of due process, 28 U.S.C. § 1715, and any other applicable law. Eisen v. Carlisle & Jacquelin, 417 U.S. 156, 173 (1974); Rodriguez v. West Publ'g Co., 563 F.3d 948, 962 (9th Cir. 2009).

Judge Otis D. Wright, II, *Silveira v. M&T Bank* (Oct. 12, 2021) 2:19-cv-06958 (C.D. Cal.):

Notice was sent to potential class members pursuant to the Settlement Agreement and the method approved by the Court. The Class Notice consisted of direct notice via USPS first class mail, as well as a Settlement Website where Class Members could view and request to be sent the Long Form Notice. The Class Notice adequately described the litigation and the scope of the involved class. Further, the Class Notice explained the amount of the Settlement Fund, the plan of allocation, that Plaintiff's counsel and Plaintiff will apply for attorneys' fees, costs, and a service award, and the class members' option to participate, opt out, or object to the settlement.

Judge Timothy J. Korrigan, *Smith v. Costa Del Mar, Inc.* (Sept. 21, 2021) 3:18-cv-01011 (M.D. Fla.):

Following preliminary approval, the settlement administrator carried out the notice program .... The settlement administrator sent a summary notice and long-form notice to all class members, sent CAFA notice to federal and state officials … and established a website with comprehensive information about the settlement .... Email notice was sent to class members with email addresses, and postcards were sent to class members with only physical addresses .... Multiple attempts were made to contact class members in some cases, and all notices directed recipients to a website where they could access settlement information .... A paid online media plan was implemented for class members for whom the settlement administrator did not have data .... When the notice program was complete, the settlement administrator submitted a declaration stating that the notice and paid media plan reached at least seventy percent of potential class members .... [N]otices had been delivered via postcards or email to 939,400 of the 939,479 class members to whom the settlement administrator sent notice—a ninety-nine and a half percent deliverable rate....

Notice was disseminated in accordance with the Preliminary Approval Order .... Federal Rule of Civil Procedure 23(c)(2)(B) requires that notice be "the best notice that is practicable under the circumstances." Upon review of the notice materials … and of Azari's Declaration … regarding the notice program, the Court is satisfied with the way in which the notice program was carried out. Class notice fully complied with Rule 23(c)(2)(B) and due process, constituted the best notice practicable under the circumstances, and was sufficient notice to all persons entitled to notice of the settlement of this lawsuit.

Judge Jose E. Martinez, *Kukorinis v. Walmart, Inc.* (Sept. 20, 2021) 1:19-cv-20592 (S.D. Fla.):

[T]he Court approved the appointment of Epiq Class Action and Claims Solutions, Inc. as the Claims Administrator with the responsibility of implementing the notice requirements approved in the Court's Order of Approval .... The media plan included various forms of notice, utilizing national consumer print publications, internet banner advertising, social media, sponsored search, and a national informational release .... According to the Azari Declaration, the Court-approved Notice reached approximately seventy-five percent (75%) of the Settlement Class on an average of 3.5 times per Class Member ....

Pertinently, the Claims Administrator implemented digital banner notices across certain social media platforms, including Facebook and Instagram, which linked directly to the Settlement Website … the digital banner notices generated approximately 522.6 million adult impressions online .... [T]he Court finds that notice was "reasonably

calculated, under the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections."

Judge Steven L. Tiscione, *Fiore et al. v. Ingenious Designs, LLC* (Sept. 10, 2021) 1:18-cv-07124 (E.D.N.Y.):

Following the Court's Preliminary Approval of the Settlement, the Notice Plan was effectuated by the Parties and the appointed Claims Administrator, Epiq Systems. The Notice Plan included a direct mailing to Class members who could be specifically identified, as well as nationwide notice by publication, social media and retailer displays and posters. The Notice Plan also included the establishment of an informational website and toll-free telephone number. The Court finds the Parties completed all settlement notice obligations imposed in the Order Preliminarily Approving Settlement. In addition, Defendants through the Class Administrator, sent the requisite CAFA notices to 57 federal and state officials. The class notices constitute "the best notice practicable under the circumstances," as required by Rule 23(c)(2).

Judge John S. Meyer, *Lozano v. CodeMetro, Inc.* (Sept. 8, 2021) 37-2020-00022701 (Sup. Ct. Cal. Cnty. of San Diego):

The Court finds that Notice has been given to the Settlement Class in the manner directed by the Court in the Preliminary Approval Order. The Court finds that such Notice: (i) was reasonable and constituted the best practicable notice under the circumstances; (ii) was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Litigation, the terms of the Settlement, their right to exclude themselves from the Settlement Class or object to all or any part of the Settlement, their right to appear at the Final Fairness Hearing (either on their own or through counsel hired at their own expense), and the binding effect of final approval of the Settlement on all persons who do not exclude themselves from the Settlement Class; (iii) constituted due, adequate, and sufficient notice to all persons or entities entitled to receive notice; and (iv) fully satisfied the requirements of the United States Constitution (including the Due Process Clause), and any other applicable law.

Judge Mae A. D'Agostino, *Thompson et al. v. Community Bank, N.A.* (Sept. 8, 2021) 8:19-cv-0919 (N.D.N.Y.):

Prior to distributing Notice to the Settlement Class members, the Settlement Administrator established a website, … as well as a toll-free line that Settlement Class members could access or call for any questions or additional information about the proposed Settlement, including the Long Form Notice. Once Settlement Class members were identified via Defendant's business records, the Notices attached to the Agreement and approved by the Court were sent to each Settlement Class member. For Current Account Holders who have elected to receive bank communications via email, Email Notice was delivered. To Past Defendant Account Holders, and Current Account Holders who have not elected to receive communications by email or for whom the Defendant does not have a valid email address, Postcard Notice was delivered by U.S. Mail. The Settlement Administrator mailed 36,012 Postcard Notices and sent 16,834 Email Notices to the Settlement Class, and as a result of the Notice Program, 95% of the Settlement Class received Notice of the Settlement.

Judge Graham C. Mullen, *In re: Kaiser Gypsum Company, Inc. et al.* (July 27, 2021) 16-cv-31602, (W.D.N.C.):

[T]the Declaration of Cameron R. Azari, Esq. on Implementation of Notice Regarding the Joint Plan of Reorganization of Kaiser Gypsum Company, Inc. and Hanson Permanente Cement, Inc. … (the "Notice Declaration") was filed with the Bankruptcy Court on July 1, 2020, attesting to publication notice of the Plan.

[T]he Court has reviewed the Plan, the Disclosure Statement, the Disclosure Statement Order, the Voting Agent Declaration, the Affidavits of Service, the Publication Declaration, the Notice Declaration, the Memoranda of Law, the Declarations, the Truck Affidavits and all other pleadings before the Court in connection with the Confirmation of the Plan, including the objections filed to the Plan. The Plan is hereby confirmed in its entirety ....

Judge Anne-Christine Massullo, *UFCW & Employers Benefit Trust v. Sutter Health et al.* (Aug. 27, 2021) CGC 14-538451 consolidated with CGC-18-565398 (Sup. Ct. of Cal., Cnty. of San Fran.):

The notice of the Settlement provided to the Class constitutes due, adequate and sufficient notice and the best notice practicable under the circumstances, and meets the requirements of due process, the laws of the State of California, and Rule 3.769(f) of the California Rules of Court.

Judge Anne-Christine Massullo, *Morris v. Provident Credit Union* (June 23, 2021) CGC-19-581616 (Sup. Ct. Cal. Cnty. of San Fran.):

The Notice approved by this Court was distributed to the Classes in substantial compliance with this Court's Order Certifying Classes for Settlement Purposes and Granting Preliminary Approval of Class Settlement ("Preliminary

Approval Order") and the Agreement. The Notice met the requirements of due process and California Rules of Court, rules 3.766 and 3.769(f). The notice to the Classes was adequate.

Judge Esther Salas, *Sager et al. v. Volkswagen Group of America, Inc. et al.* (June 22, 2021) 18-cv-13556 (D.N.J.):

The Court further finds and concludes that Class Notice was properly and timely disseminated to the Settlement Class in accordance with the Class Notice Plan set forth in the Settlement Agreement and the Preliminary Approval Order (Dkt. No. 69). The Class Notice Plan and its implementation in this case fully satisfy Rule 23, the requirements of due process and constitute the best notice practicable under the circumstances.

Judge Josephine L. Staton, *In re: Hyundai and Kia Engine Litigation and Flaherty v. Hyundai Motor Company, Inc. et al.* (June 10, 2021) 8:17-cv-00838 and 18-cv-02223 (C.D. Cal.):

The Class Notice was disseminated in accordance with the procedures required by the Court's Orders … in accordance with applicable law, and satisfied the requirements of Rule 23(e) and due process and constituted the best notice practicable for the reasons discussed in the Preliminary Approval Order and Final Approval Order.

Judge Harvey Schlesinger, *In re: Disposable Contact Lens Antitrust Litigation* (ABB Concise Optical Group, LLC) (May 31, 2021) 3:15-md-02626 (M.D. Fla.):

The Court finds that the dissemination of the Notice: (a) was implemented in accordance with the Preliminary Approval Order; (b) constitutes the best notice practicable under the circumstances; (c) constitutes notice that was reasonably calculated, under the circumstances, to apprise the Settlement Class of (i) the pendency of the Action; (ii) the effect of the Settlement Agreement (including the Releases to be provided thereunder); (iii) Class Counsel's possible motion for an award of attorneys' fees and reimbursement of expenses; (iv) the right to object to any aspect of the Settlement Agreement, the Plan of Distribution, and/or Class Counsel's motion for attorneys' fees and reimbursement of expenses; (v) the right to opt out of the Settlement Class; (vi) the right to appear at the Fairness Hearing; and (vii) the fact that Plaintiffs may receive incentive awards; (d) constitutes due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the Settlement Agreement; and (e) satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure and the United States Constitution (including the Due Process Clause).

Judge Haywood S. Gilliam, Jr. *Richards et al. v. Chime Financial, Inc.* (May 24, 2021) 4:19-cv-06864 (N.D. Cal.):

The Court finds that the notice and notice plan previously approved by the Court was implemented and complies with Rule 23(c)(2)(B) … The Court ordered that the third-party settlement administrator send class notice via email based on a class list Defendant provided … Epiq Class Action & Claims Solutions, Inc., the third-party settlement administrator, represents that class notice was provided as directed .... Epiq received a total of 527,505 records for potential Class Members, including their email addresses .... If the receiving email server could not deliver the message, a "bounce code" was returned to Epiq indicating that the message was undeliverable .... Epiq made two additional attempts to deliver the email notice .... As of Mach 1, 2021, a total of 495,006 email notices were delivered, and 32,499 remained undeliverable .... In light of these facts, the Court finds that the parties have sufficiently provided the best practicable notice to the Class Members.

Judge Henry Edward Autrey, *Pearlstone v. Wal-Mart Stores, Inc.* (Apr. 22, 2021) 4:17-cv-02856 (C.D. Cal.):

The Court finds that adequate notice was given to all Settlement Class Members pursuant to the terms of the Parties' Settlement Agreement and the Preliminary Approval Order. The Court has further determined that the Notice Plan fully and accurately informed Settlement Class Members of all material elements of the Settlement, constituted the best notice practicable under the circumstances, and fully satisfied the requirements of Federal Rule 23(c)(2) and 23(e)(1), applicable law, and the Due Process Clause of the United States Constitution.

Judge Lucy H. Koh, *Grace v. Apple, Inc.* (Mar. 31, 2021) 17-cv-00551 (N.D. Cal.):

Federal Rule of Civil Procedure 23(c)(2)(B) requires that the settling parties provide class members with "the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice must clearly and concisely state in plain, easily understood language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3)." The

Court finds that the Notice Plan, which was direct notice sent to 99.8% of the Settlement Class via email and U.S. Mail, has been implemented in compliance with this Court's Order (ECF No. 426) and complies with Rule 23(c)(2)(B).

Judge Gary A. Fenner, ***In re: Pre-Filled Propane Tank Antitrust Litigation*** (Mar. 30, 2021) MDL No. 2567, 14-cv-02567 (W.D. Mo.):

Based upon the Declaration of Cameron Azari, on behalf of Epiq, the Administrator appointed by the Court, the Court finds that the Notice Program has been properly implemented. That Declaration shows that there have been no requests for exclusion from the Settlement, and no objections to the Settlement. Finally, the Declaration reflects that AmeriGas has given appropriate notice of this settlement to the Attorney General of the United States and the appropriate State officials under the Class Action Fairness Act, 28 U.S.C. § 1715, and no objections have been received from any of them.

Judge Richard Seeborg, ***Bautista v. Valero Marketing and Supply Company*** (Mar. 17, 2021) 3:15-cv-05557 (N.D. Cal.):

The Notice given to the Settlement Class in accordance with the Notice Order was the best notice practicable under the circumstances of these proceedings and of the matters set forth therein, including the proposed Settlement set forth in the Settlement Agreement, to all Persons entitled to such notice, and said notice fully satisfied the requirements of Fed. R. Civ. P. 23 and due process.

Judge James D. Peterson, ***Fox et al. v. Iowa Health System d.b.a. UnityPoint Health*** (Mar. 4, 2021) 18-cv-00327 (W.D. Wis.):

The approved Notice plan provided for direct mail notice to all class members at their last known address according to UnityPoint's records, as updated by the administrator through the U.S. Postal Service. For postcards returned undeliverable, the administrator tried to find updated addresses for those class members. The administrator maintained the Settlement website and made Spanish versions of the Long Form Notice and Claim Form available upon request. The administrator also maintained a toll-free telephone line which provides class members detailed information about the settlement and allows individuals to request a claim form be mailed to them.

The Court finds that this Notice (i) constituted the best notice practicable under the circumstances; (ii) was reasonably calculated, under the circumstances, to apprise Settlement Class members of the Settlement, the effect of the Settlement (including the release therein), and their right to object to the terms of the settlement and appear at the Final Approval Hearing; (iii) constituted due and sufficient notice of the Settlement to all reasonably identifiable persons entitled to receive such notice; (iv) satisfied the requirements of due process, Federal Rule of Civil Procedure 23(e)(1) and the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, and all applicable laws and rules.

Judge Larry A. Burns, ***Trujillo et al. v. Ametek, Inc. et al.*** (Mar. 3, 2021) 3:15-cv-01394 (S.D. Cal.):

The Class has received the best practicable notice under the circumstances of this case. The Parties' selection and retention of Epiq Class Action & Claims Solutions, Inc. ("Epiq") as the Claims Administrator was reasonable and appropriate. Based on the Declaration of Cameron Azari of Epiq, the Court finds that the Settlement Notices were published to the Class Members in the form and manner approved by the Court in its Preliminary Approval Order. See Dkt. 181-6. The Settlement Notices provided fair, effective, and the best practicable notice to the Class of the Settlement's terms. The Settlement Notices informed the Class of Plaintiffs' intent to seek attorneys' fees, costs, and incentive payments, set forth the date, time, and place of the Fairness Hearing, and explained Class Members' rights to object to the Settlement or Fee Motion and to appear at the Fairness Hearing .... The Settlement Notices fully satisfied all notice requirements under the law, including the Federal Rules of Civil Procedure, the requirements of the California Legal Remedies Act, Cal. Civ. Code § 1781, and all due process rights under the U.S. Constitution and California Constitutions.

Judge Sherri A. Lydon, ***Fitzhenry v. Independent Home Products, LLC*** (Mar. 2, 2021) 2:19-cv-02993 (D.S.C.):

Notice was provided to Class Members in compliance with Section VI of the Settlement Agreement, due process, and Rule 23 of the Federal Rules of Civil Procedure. The notice: (i) fully and accurately informed Settlement Class Members about the lawsuit and settlement; (ii) provided sufficient information so that Settlement Class Members could decide whether to accept the benefits offered, opt-out and pursue their own remedies, or object to the settlement; (iii) provided procedures for Class Members to file written objections to the proposed settlement, to appear at the hearing, and to state objections to the proposed settlement; and (iv) provided the time, date, and place of the final fairness hearing.

Judge James V. Selna, *Alvarez v. Sirius XM Radio Inc.* (Feb. 9, 2021) 2:18-cv-08605 (C.D. Cal.):

> *The Court finds that the dissemination of the Notices attached as Exhibits to the Settlement Agreement: (a) was implemented in accordance with the Notice Order; (b) constituted the best notice practicable under the circumstances; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of (i) the pendency of the Action; (ii) their right to submit a claim (where applicable) by submitting a Claim Form; (iii) their right to exclude themselves from the Settlement Class; (iv) the effect of the proposed Settlement (including the Releases to be provided thereunder); (v) Named Plaintiffs' application for the payment of Service Awards; (vi) Class Counsel's motion for an award an attorneys' fees and expenses; (vii) their right to object to any aspect of the Settlement, and/or Class Counsel's motion for attorneys' fees and expenses (including a Service Award to the Named Plaintiffs and Mr. Wright); and (viii) their right to appear at the Final Approval Hearing; (d) constituted due, adequate, and sufficient notice to all Persons entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Constitution of the United States (including the Due Process Clause), and all other applicable laws and rules.*

Judge Jon S. Tigar, *Elder v. Hilton Worldwide Holdings, Inc.* (Feb. 4, 2021) 16-cv-00278 (N.D. Cal.):

> *"Epiq implemented the notice plan precisely as set out in the Settlement Agreement and as ordered by the Court." ECF No. 162 at 9-10. Epiq sent initial notice by email to 8,777 Class Members and by U.S. Mail to the remaining 1,244 Class members. Id. at 10. The Notice informed Class Members about all aspects of the Settlement, the date and time of the fairness hearing, and the process for objections. ECF No. 155 at 28-37. Epiq then mailed notice to the 2,696 Class Members whose emails were returned as undeliverable. Id. "Of the 10,021 Class Members identified from Defendants' records, Epiq was unable to deliver the notice to only 35 Class Members. Accordingly, the reach of the notice is 99.65%." Id. (citation omitted). Epiq also created and maintained a settlement website and a toll-free hotline that Class Members could call if they had questions about the settlement. Id.*
>
> *The Court finds that the parties have complied with the Court's preliminary approval order and, because the notice plan complied with Rule 23, have provided adequate notice to class members.*

Judge Michael W. Jones, *Wallace et al. v. Monier Lifetile LLC et al.* (Jan. 15, 2021) SCV-16410 (Sup. Ct. Cal.):

> *The Court also finds that the Class Notice and notice process were implemented in accordance with the Preliminary Approval Order, providing the best practicable notice under the circumstances.*

Judge Kristi K. DuBose, *Drazen v. GoDaddy.com, LLC* and *Bennett v. GoDaddy.com, LLC* (Dec. 23, 2020) 1:19-cv-00563 (S.D. Ala.):

> *The Court finds that the Notice and the claims procedures actually implemented satisfy due process, meet the requirements of Rule 23(e)(1), and the Notice constitutes the best notice practicable under the circumstances.*

Judge Haywood S. Gilliam, Jr., *Izor v. Abacus Data Systems, Inc.* (Dec. 21, 2020) 19-cv-01057 (N.D. Cal.):

> *The Court finds that the notice plan previously approved by the Court was implemented and that the notice thus satisfied Rule 23(c)(2)(B). [T]he Court finds that the parties have sufficiently provided the best practicable notice to the class members.*

Judge Christopher C. Conner, *Al's Discount Plumbing et al. v. Viega, LLC* (Dec. 18, 2020) 19-cv-00159 (M.D. Pa.):

> *The Court finds that the notice and notice plan previously approved by the Court was implemented and complies with Fed. R. Civ. P. 23(c)(2)(B) and due process. Specifically, the Court ordered that the third-party Settlement Administrator, Epiq, send class notice via email, U.S. mail, by publication in two recognized industry magazines, Plumber and PHC News, in both their print and online digital forms, and to implement a digital media campaign. (ECF 99). Epiq represents that class notice was provided as directed. See Declaration of Cameron R. Azari, ¶¶ 12-15 (ECF 104-13).*

Judge Naomi Reice Buchwald, *In re: Libor-Based Financial Instruments Antitrust Litigation* (Dec. 16, 2020) MDL No. 2262, 1:11-md-02262 (S.D.N.Y.):

> *Upon review of the record, the Court hereby finds that the forms and methods of notifying the members of the Settlement Classes and their terms and conditions have met the requirements of the United States Constitution (including the Due Process Clause), Rule 23 of the Federal Rules of Civil Procedure, and all other applicable law and rules; constituted the best notice practicable under the circumstances; and constituted due and sufficient notice to all members of the Settlement Classes of these proceedings and the matters set forth herein, including the Settlements, the Plan of Allocation and the Fairness Hearing. Therefore, the Class Notice is finally approved.*

Judge Larry A. Burns, *Cox et al. Ametek, Inc. et al.* (Dec 15, 2020) 3:17-cv-00597 (S.D. Cal.):

> *The Class has received the best practicable notice under the circumstances of this case. The Parties' selection and retention of Epiq Class Action & Claims Solutions, Inc. ("Epiq") as the Claims Administrator was reasonable and appropriate. Based on the Declaration of Cameron Azari of Epiq, the Court finds that the Settlement Notices were published to the Class Members in the form and manner approved by the Court in its Preliminary Approval Order. See Dkt. 129-6. The Settlement Notices provided fair, effective, and the best practicable notice to the Class of the Settlement's terms . The Settlement Notices informed the Class of Plaintiffs' intent to seek attorneys' fees, costs, and incentive payments, set forth the date, time, and place of the Fairness Hearing, and explained Class Members' rights to object to the Settlement or Fee Motion and to appear at the Fairness Hearing … The Settlement Notices fully satisfied all notice requirements under the law, including the Federal Rules of Civil Procedure, the requirements of the California Legal Remedies Act, Cal. Civ. Code § 1781, and all due process rights under the U.S. Constitution and California Constitutions.*

Judge Timothy J. Sullivan*, Robinson v. Nationstar Mortgage LLC* (Dec. 11, 2020) 8:14-cv-03667 (D. Md.):

> *The Class Notice provided to the Settlement Class conforms with the requirements of Fed. Rule Civ. Proc. 23, the United States Constitution, and any other applicable law, and constitutes the best notice practicable under the circumstances, by providing individual notice to all Settlement Class Members who could be identified through reasonable effort, and by providing due and adequate notice of the proceedings and of the matters set forth therein to the other Settlement Class Members. The Class Notice fully satisfied the requirements of Due Process.*

Judge Yvonne Gonzalez Rogers, *In re: Lithium Ion Batteries Antitrust Litigation* (Dec. 10, 2020) MDL No. 2420, 4:13-md-02420 (N.D. Cal.):

> *The proposed notice plan was undertaken and carried out pursuant to this Court's preliminary approval order prior to remand, and a second notice campaign thereafter. (See Dkt. No. 2571.) The class received direct and indirect notice through several methods – email notice, mailed notice upon request, an informative settlement website, a telephone support line, and a vigorous online campaign. Digital banner advertisements were targeted specifically to settlement class members, including on Google and Yahoo's ad networks, as well as Facebook and Instagram, with over 396 million impressions delivered. Sponsored search listings were employed on Google, Yahoo and Bing, resulting in 216,477 results, with 1,845 clicks through to the settlement website. An informational release was distributed to 495 media contacts in the consumer electronics industry. The case website has continued to be maintained as a channel for communications with class members. Between February 11, 2020 and April 23, 2020, there were 207,205 unique visitors to the website. In the same period, the toll-free telephone number available to class members received 515 calls.*

Judge Katherine A. Bacal, *Garvin v. San Diego Unified Port District* (Nov. 20, 2020) 37-2020-00015064 (Sup. Ct. Cal.):

> *Notice was provided to Class Members in compliance with the Settlement Agreement, California Code of Civil Procedure §382 and California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and any other applicable law, and constitutes the best notice practicable under the circumstances, by providing notice to all individual Class Members who could be identified through reasonable effort, and by providing due and adequate notice of the proceedings and of the matters set forth therein to the other Class Members. The Notice fully satisfied the requirements of due process.*

Judge Catherine D. Perry*, Pirozzi et al. v. Massage Envy Franchising, LLC* (Nov. 13, 2020) 4:19-cv-807 (E.D. Mo.):

> *The COURT hereby finds that the CLASS NOTICE given to the CLASS: (i) fairly and accurately described the ACTION and the proposed SETTLEMENT; (ii) provided sufficient information so that the CLASS MEMBERS were able to decide*

whether to accept the benefits offered by the SETTLEMENT, exclude themselves from the SETTLEMENT, or object to the SETTLEMENT; (iii) adequately described the time and manner by which CLASS MEMBERS could submit a CLAIM under the SETTLEMENT, exclude themselves from the SETTLEMENT, or object to the SETTLEMENT and/or appear at the FINAL APPROVAL HEARING; and (iv) provided the date, time, and place of the FINAL APPROVAL HEARING. The COURT hereby finds that the CLASS NOTICE was the best notice practicable under the circumstances, constituted a reasonable manner of notice to all class members who would be bound by the SETTLEMENT, and complied fully with Federal Rule of Civil Procedure Rule 23, due process, and all other applicable laws.

Judge Robert E. Payne, *Skochin et al. v. Genworth Life Insurance Company et al.* (Nov. 12, 2020) 3:19-cv-00049 (E.D. Vir.):

For the reasons set forth in the Court's Memorandum Opinion addressing objections to the Settlement Agreement, … the plan to disseminate the Class Notice and Publication Notice, which the Court previously approved, has been implemented and satisfied the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process.

Judge Jeff Carpenter*, Eastwood Construction LLC et al. v. City of Monroe* (Oct. 27, 2020) 18-cvs-2692 and ***The Estate of Donald Alan Plyler Sr. et al. v. City of Monroe*** (Oct. 27, 2020) 19-cvs-1825 (Sup. Ct. N.C.):

Therefore, the Court GRANTS the Final Approval Motion, CERTIFIES the class as defined below for settlement purposes only, APPROVES the Settlement, and GRANTS the Fee Motion ....

The Settlement Agreement and the Settlement Notice are found to be fair, reasonable, adequate, and in the best interests of the Settlement Class, and are hereby approved pursuant to North Carolina Rule of Civil Procedure 23. The Parties are hereby authorized and directed to comply with and to consummate the Settlement Agreement in accordance with the terms and provisions set forth in the Settlement Agreement, and the Clerk of the Court is directed to enter and docket this Order and Final Judgement in the Actions.

Judge M. James Lorenz, *Walters et al. v. Target Corp.* (Oct. 26, 2020) 3:16-cv-1678 (S.D. Cal.):

The Court has determined that the Class Notices given to Settlement Class members fully and accurately informed Settlement Class members of all material elements of the proposed Settlement and constituted valid, due, and sufficient notice to Settlement Class members consistent with all applicable requirements. The Court further finds that the Notice Program satisfies due process and has been fully implemented.

Judge Maren E. Nelson, *Harris et al. v. Farmers Insurance Exchange and Mid Century Insurance Company* (Oct. 26, 2020) BC 579498 (Sup. Ct. Cal.):

Distribution of Notice directed to the Settlement Class Members as set forth in the Settlement has been completed in conformity with the Preliminary Approval Order, including individual notice to all Settlement Class members who could be identified through reasonable effort, and the best notice practicable under the circumstances. The Notice, which reached 99.9% of all Settlement Class Members, provided due and adequate notice of the proceedings and of the matters set forth therein, including the proposed Settlement, to all persons entitled to Notice, and the Notice and its distribution fully satisfied the requirements of due process.

Judge Vera M. Scanlon, *Lashambae v. Capital One Bank, N.A.* (Oct. 21, 2020) 1:17-cv-06406 (E.D.N.Y.):

The Class Notice, as amended, contained all of the necessary elements, including the class definition, the identifies of the named Parties and their counsel, a summary of the terms of the proposed Settlement, information regarding the manner in which objections may be submitted, information regarding the opt-out procedures and deadlines, and the date and location of the Final Approval Hearing. Notice was successfully delivered to approximately 98.7% of the Settlement Class and only 78 individual Settlement Class Members did not receive notice by email or first class mail.

Having reviewed the content of the Class Notice, as amended, and the manner in which the Class Notice was disseminated, this Court finds that the Class Notice, as amended, satisfied the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and all other applicable law and rules. The Class Notice, as amended, provided to the Settlement Class in accordance with the Preliminary Approval Order was the best notice practicable under the circumstances and provided this Court with jurisdiction over the absent Settlement Class Members. See Fed. R. Civ. P. 23(c)(2)(B).

Chancellor Walter L. Evans, *K.B., by and through her natural parent, Jennifer Qassis, and Lillian Knox-Bender v. Methodist Healthcare - Memphis Hospitals* (Oct. 14, 2020) CH-13-04871-1 (30th Jud. Dist. Tenn.):

> *Based upon the filings and the record as a whole, the Court finds and determines that dissemination of the Class Notice as set forth herein complies with Tenn. R. Civ. P. 23.03(3) and 23.05 and (i) constitutes the best practicable notice under the circumstances, (ii) was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of Class Settlement, their rights to object to the proposed Settlement, (iii) was reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice, (iv) meets all applicable requirements of Due Process; (v) and properly provides notice of the attorney's fees that Class Counsel shall seek in this action. As a result, the Court finds that Class Members were properly notified of their rights, received full Due Process ....*

Judge Sara L. Ellis, *Nelson v. Roadrunner Transportation Systems, Inc.* (Sept. 15, 2020) 1:18-cv-07400 (N.D. Ill.):

> *Notice of the Final Approval Hearing, the proposed motion for attorneys' fees, costs, and expenses, and the proposed Service Award payment to Plaintiff have been provided to Settlement Class Members as directed by this Court's Orders.*
>
> *The Court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Federal Rule of Civil Procedure 23(c)(2)(B).*

Judge George H. Wu, *Lusnak v. Bank of America, N.A.* (Aug. 10, 2020) 14-cv-01855 (C.D. Cal.):

> *The Court finds that the Notice program for disseminating notice to the Settlement Class, provided for in the Settlement Agreement and previously approved and directed by the Court, has been implemented by the Settlement Administrator and the Parties. The Court finds that such Notice program, including the approved forms of notice: (a) constituted the best notice that is practicable under the circumstances; (b) included direct individual notice to all Settlement Class Members who could be identified through reasonable effort; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the nature of the Lawsuit, the definition of the Settlement Class certified, the class claims and issues, the opportunity to enter an appearance through an attorney if the member so desires; the opportunity, the time, and manner for requesting exclusion from the Settlement Class, and the binding effect of a class judgment; (d) constituted due, adequate and sufficient notice to all persons entitled to notice; and (e) met all applicable requirements of Federal Rule of Civil Procedure 23, due process under the U.S. Constitution, and any other applicable law.*

Judge James Lawrence King, *Dasher v. RBC Bank (USA) predecessor in interest to PNC Bank, N.A.* (Aug. 10, 2020) 1:10-cv-22190 (S.D. Fla.) as part of ***In re: Checking Account Overdraft Litigation*** MDL No. 2036 (S.D. Fla.):

> *The Court finds that the members of the Settlement Class were provided with the best practicable notice; the notice was "reasonably calculated, under [the] circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Shutts, 472 U.S. at 812 (quoting Mullane, 339 U.S. at 314-15). This Settlement was widely publicized, and any member of the Settlement Class who wished to express comments or objections had ample opportunity and means to do so.*

Judge Jeffrey S. Ross, *Lehman v. Transbay Joint Powers Authority et al.* (Aug. 7, 2020) CGC-16-553758 (Sup. Ct. Cal.):

> *The Notice approved by this Court was distributed to the Settlement Class Members in compliance with this Court's Order Granting Preliminary Approval of Class Action Settlement, dated May 8, 2020. The Notice provided to the Settlement Class Members met the requirements of due process and constituted the best notice practicable in the circumstances. Based on evidence and other material submitted in conjunction with the final approval hearing, notice to the class was adequate.*

Judge Jean Hoefer Toal, *Cook et al. v. South Carolina Public Service Authority et al.* (July 31, 2020) 2019-CP-23-6675 (Ct. of Com. Pleas. 13th Jud. Cir. S.C.):

> *Notice was sent to more than 1.65 million Class members, published in newspapers whose collective circulation covers the entirety of the State, and supplemented with internet banner ads totaling approximately 12.3 million impressions. The notices directed Class members to the settlement website and toll-free line for additional inquiries and further information. After this extensive notice campaign, only 78 individuals (0.0047%)*

have opted-out, and only nine (0.00054%) have objected. The Court finds this response to be overwhelmingly favorable.

Judge Peter J. Messitte, *Jackson et al. v. Viking Group, Inc. et al.* (July 28, 2020) 8:18-cv-02356 (D. Md.):

[T]he Court finds, that the Notice Plan has been implemented in the manner approved by the Court in its Preliminary Approval Order as amended. The Court finds that the Notice Plan: (i) constitutes the best notice practicable to the Settlement Class under the circumstances; (ii) was reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of this Lawsuit and the terms of the Settlement, their right to exclude themselves from the Settlement, or to object to any part of the Settlement, their right to appear at the Final Approval Hearing (either on their own or through counsel hired at their own expense), and the binding effect of the Final Approval Order and the Final Judgment, whether favorable or unfavorable, on all Persons who do not exclude themselves from the Settlement Class, (iii) due, adequate, and sufficient notice to all Persons entitled to receive notice; and (iv) notice that fully satisfies the requirements of the United States Constitution (including the Due Process Clause), Fed. R. Civ. P. 23, and any other applicable law.

Judge Michael P. Shea, *Grayson et al. v. General Electric Company* (July 27, 2020) 3:13-cv-01799 (D. Conn.):

Pursuant to the Preliminary Approval Order, the Settlement Notice was mailed, emailed and disseminated by the other means described in the Settlement Agreement to the Class Members. This Court finds that this notice procedure was (i) the best practicable notice; (ii) reasonably calculated, under the circumstances, to apprise the Class Members of the pendency of the Civil Action and of their right to object to or exclude themselves from the proposed Settlement; and (iii) reasonable and constitutes due, adequate, and sufficient notice to all entities and persons entitled to receive notice.

Judge Gerald J. Pappert, *Rose v. The Travelers Home and Marine Insurance Company et al.* (July 20, 2020) 19-cv-00977 (E.D. Pa.):

The Class Notice … has been given to the Settlement Class in the manner approved by the Court in its Preliminary Approval Order. Such Class Notice (i) constituted the best notice practicable to the Settlement Class under the circumstances; (ii) was reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency and nature of this Action, the definition of the Settlement Class, the terms of the Settlement Agreement, the rights of the Settlement Class to exclude themselves from the settlement or to object to any part of the settlement, the rights of the Settlement Class to appear at the Final Approval Hearing (either on their own or through counsel hired at their own expense), and the binding effect of the Settlement Agreement on all persons who do not exclude themselves from the Settlement Class, (iii) provided due, adequate, and sufficient notice to the Settlement Class; and (iv) fully satisfied all applicable requirements of law, including, but not limited to, Federal Rule of Civil Procedure 23 and the due process requirements of the United States Constitution.

Judge Christina A. Snyder, *Waldrup v. Countrywide Financial Corporation et al.* (July 16, 2020) 2:13-cv-08833 (C.D. Cal.):

The Court finds that mailed and publication notice previously given to Class Members in the Action was the best notice practicable under the circumstances, and satisfies the requirements of due process and FED. R. CIV. P. 23. The Court further finds that, because (a) adequate notice has been provided to all Class Members and (b) all Class Members have been given the opportunity to object to, and/or request exclusion from, the Settlement, it has jurisdiction over all Class Members. The Court further finds that all requirements of statute (including but not limited to 28 U.S.C. § 1715), rule, and state and federal constitutions necessary to effectuate this Settlement have been met and satisfied.

Judge James Donato, *Coffeng et al. v. Volkswagen Group of America, Inc.* (June 10, 2020) 17-cv-01825 (N.D. Cal.):

The Court finds that, as demonstrated by the Declaration and Supplemental Declaration of Cameron Azari, and counsel's submissions, Notice to the Settlement Class was timely and properly effectuated in accordance with FED. R. CIV. P. 23(e) and the approved Notice Plan set forth in the Court's Preliminary Approval Order. The Court finds that said Notice constitutes the best notice practicable under the circumstances, and satisfies all requirements of Rule 23(e) and due process.

Judge Michael W. Fitzgerald*, Behfarin v. Pruco Life Insurance Company et al.* (June 3, 2020) 17-cv-05290 (C.D. Cal.):

> *The Court finds that the requirements of Rule 23 of the Federal Rule of Civil Procedure and other laws and rules applicable to final settlement approval of class actions have been satisfied ....*
>
> *This Court finds that the Claims Administrator caused notice to be disseminated to the Class in accordance with the plan to disseminate Notice outlined in the Settlement Agreement and the Preliminary Approval Order, and that Notice was given in an adequate and sufficient manner and complies with Due Process and Fed. R. Civ. P. 23.*

Judge Nancy J. Rosenstengel, *First Impressions Salon, Inc. et al. v. National Milk Producers Federation et al.* (Apr. 27, 2020) 3:13-cv-00454 (S.D. Ill.):

> *The Court finds that the Notice given to the Class Members was completed as approved by this Court and complied in all respects with the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process. The settlement Notice Plan was modeled on and supplements the previous court-approved plan and, having been completed, constitutes the best notice practicable under the circumstances. In making this determination, the Court finds that the Notice provided Class members due and adequate notice of the Settlement, the Settlement Agreement, the Plan of Distribution, these proceedings, and the rights of Class members to opt-out of the Class and/or object to Final Approval of the Settlement, as well as Plaintiffs' Motion requesting attorney fees, costs, and Class Representative service awards.*

Judge Harvey Schlesinger, *In re: Disposable Contact Lens Antitrust Litigation* (CooperVision, Inc.) (Mar. 4, 2020) 3:15-md-02626 (M.D. Fla.):

> *The Court finds that the dissemination of the Notice: (a) was implemented in accordance with the Preliminary Approval Orders; (b) constitutes the best notice practicable under the circumstances; (c) constitutes notice that was reasonably calculated, under the circumstances, to apprise the Settlement Classes of (i) the pendency of the Action; (ii) the effect of the Settlement Agreements (including the Releases to the provided thereunder); (iii) Class Counsel's possible motion for an award of attorneys' fees and reimbursement of expenses; (iv) the right to object to any aspect of the Settlement Agreements, the Plan of Distribution, and/or Class Counsel's motion for attorneys' fees and reimbursement of expenses; (v) the right to opt out of the Settlement Classes; (vi) the right to appear at the Fairness Hearing; and (vii) the fact that Plaintiffs may receive incentive awards; (d) constitutes due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the Settlement Agreement and (e) satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure and the United States Constitution (including the Due Process Clause).*

Judge Amos L. Mazzant, *Stone et al. v. Porcelana Corona De Mexico, S.A. DE C.V f/k/a Sanitarios Lamosa S.A. DE C.V. a/k/a Vortens* (Mar. 3, 2020) 4:17-cv-00001 (E.D. Tex.):

> *The Court has reviewed the Notice Plan and its implementation and efficacy, and finds that it constituted the best notice practicable under the circumstances and was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action and their right to object to the proposed settlement in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution and Rules 23(c) and (e) of the Federal Rules of Civil Procedure.*
>
> *In addition, Class Notice clearly and concisely stated in plain, easily understood language: (i) the nature of the action; (ii) the definition of the certified Equitable Relief Settlement Class; (iii) the claims and issues of the Equitable Relief Settlement Class; (iv) that a Settlement Class Member may enter an appearance through an attorney if the member so desires; (v) the binding effect of a class judgment on members under Fed. R. Civ. P. 23(c)(3).*

Judge Michael H. Simon, *In re: Premera Blue Cross Customer Data Security Breach Litigation* (Mar. 2, 2020) 3:15-md-2633 (D. Ore.):

> *The Court confirms that the form and content of the Summary Notice, Long Form Notice, Publication Notice, and Claim Form, and the procedure set forth in the Settlement for providing notice of the Settlement to the Class, were in full compliance with the notice requirements of Federal Rules of Civil Procedure 23(c)(2)(B) and 23(e), fully, fairly, accurately, and adequately advised members of the Class of their rights under the Settlement, provided the best notice practicable under the circumstances, fully satisfied the requirements of due process and Rule 23 of the Federal Rules of Civil Procedure, and afforded Class Members with adequate*

time and opportunity to file objections to the Settlement and attorney's fee motion, submit Requests for Exclusion, and submit Claim Forms to the Settlement Administrator.

Judge Maxine M. Chesney, *McKinney-Drobnis et al. v. Massage Envy Franchising* (Mar. 2, 2020) 3:16-cv-06450 (N.D. Cal.):

The COURT hereby finds that the individual direct CLASS NOTICE given to the CLASS via email or First Class U.S. Mail (i) fairly and accurately described the ACTION and the proposed SETTLEMENT; (ii) provided sufficient information so that the CLASS MEMBERS were able to decide whether to accept the benefits offered by the SETTLEMENT, exclude themselves from the SETTLEMENT, or object to the SETTLEMENT; (iii) adequately described the manner in which CLASS MEMBERS could submit a VOUCHER REQUEST under the SETTLEMENT, exclude themselves from the SETTLEMENT, or object to the SETTLEMENT and/or appear at the FINAL APPROVAL HEARING; and (iv) provided the date, time, and place of the FINAL APPROVAL HEARING. The COURT hereby finds that the CLASS NOTICE was the best notice practicable under the circumstances and complied fully with Federal Rule of Civil Procedure Rule 23, due process, and all other applicable laws.

Judge Harry D. Leinenweber, *Albrecht v. Oasis Power, LLC d/b/a Oasis Energy* (Feb. 6, 2020) 1:18-cv-01061 (N.D. Ill.):

The Court finds that the distribution of the Class Notice, as provided for in the Settlement Agreement, (i) constituted the best practicable notice under the circumstances to Settlement Class Members, (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of, among other things, the pendency of the Action, the nature and terms of the proposed Settlement, their right to object or to exclude themselves from the proposed Settlement, and their right to appear at the Final Approval Hearing, (iii) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to be provided with notice, and (iv) complied fully with the requirements of Fed. R. Civ. P. 23, the United States Constitution, the Rules of this Court, and any other applicable law.

The Court finds that the Class Notice and methodology set forth in the Settlement Agreement, the Preliminary Approval Order, and this Final Approval Order (i) constitute the most effective and practicable notice of the Final Approval Order, the relief available to Settlement Class Members pursuant to the Final Approval Order, and applicable time periods; (ii) constitute due, adequate, and sufficient notice for all other purposes to all Settlement Class Members; and (iii) comply fully with the requirements of Fed. R. Civ. P. 23, the United States Constitution, the Rules of this Court, and any other applicable laws.

Judge Robert Scola, Jr., *Wilson et al. v. Volkswagen Group of America, Inc. et al.* (Jan. 28, 2020) 17-cv-23033 (S.D. Fla.):

The Court finds that the Class Notice, in the form approved by the Court, was properly disseminated to the Settlement Class pursuant to the Notice Plan and constituted the best practicable notice under the circumstances. The forms and methods of the Notice Plan approved by the Court met all applicable requirements of the Federal Rules of Civil Procedure, the United States Code, the United States Constitution (including the Due Process Clause), and any other applicable law.

Judge Michael Davis, *Garcia v. Target Corporation* (Jan. 27, 2020) 16-cv-02574 (D. Minn.):

The Court finds that the Notice Plan set forth in Section 4 of the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order constitutes the best notice practicable under the circumstances and shall constitute due and sufficient notice to the Settlement Class of the pendency of this case, certification of the Settlement Class for settlement purposes only, the terms of the Settlement Agreement, and the Final Approval Hearing, and satisfies the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and any other applicable law.

Judge Bruce Howe Hendricks, *In re: TD Bank, N.A. Debit Card Overdraft Fee Litigation* (Jan. 9, 2020) MDL No. 2613, 6:15-MN-02613 (D.S.C.):

The Classes have been notified of the settlement pursuant to the plan approved by the Court. After having reviewed the Declaration of Cameron R. Azari (ECF No. 220-1) and the Supplemental Declaration of Cameron R. Azari (ECF No. 225-1), the Court hereby finds that notice was accomplished in accordance with the Court's directives. The Court further finds that the notice program constituted the best practicable notice to the Settlement Classes under the circumstances and fully satisfies the requirements of due process and Federal Rule 23.

Judge Margo K. Brodie, ***In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*** (Dec. 13, 2019) MDL No. 1720, 05-md-01720 (E.D.N.Y.):

> *The notice and exclusion procedures provided to the Rule 23(b)(3) Settlement Class, including but not limited to the methods of identifying and notifying members of the Rule 23(b)(3) Settlement Class, were fair, adequate, and sufficient, constituted the best practicable notice under the circumstances, and were reasonably calculated to apprise members of the Rule 23(b)(3) Settlement Class of the Action, the terms of the Superseding Settlement Agreement, and their objection rights, and to apprise members of the Rule 23(b)(3) Settlement Class of their exclusion rights, and fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, any other applicable laws or rules of the Court, and due process.*

Judge Steven Logan, ***Knapper v. Cox Communications, Inc.*** (Dec. 13, 2019) 2:17-cv-00913 (D. Ariz.):

> *The Court finds that the form and method for notifying the class members of the settlement and its terms and conditions was in conformity with this Court's Preliminary Approval Order (Doc. 120). The Court further finds that the notice satisfied due process principles and the requirements of Federal Rule of Civil Procedure 23(c), and the Plaintiff chose the best practicable notice under the circumstances. The Court further finds that the notice was clearly designed to advise the class members of their rights.*

Judge Manish Shah, ***Prather v. Wells Fargo Bank, N.A.*** (Dec. 10, 2019) 1:17-cv-00481 (N.D. Ill.):

> *The Court finds that the Notice Plan set forth in Section VIII of the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order constitutes the best notice practicable under the circumstances and shall constitute due and sufficient notice to the Settlement Class of the pendency of this case, certification of the Settlement Class for settlement purposes only, the terms of the Settlement Agreement, and the Final Approval Hearing, and satisfies the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and any other applicable law.*

Judge Liam O'Grady, ***Liggio v. Apple Federal Credit Union*** (Dec. 6, 2019) 1:18-cv-01059 (E.D. Vir.):

> *The Court finds that the manner and form of notice (the "Notice Plan") as provided for in this Court's July 2, 2019 Order granting preliminary approval of class settlement, and as set forth in the Parties' Settlement Agreement was provided to Settlement Class Members by the Settlement Administrator .... The Notice Plan was reasonably calculated to give actual notice to Settlement Class Members of the right to receive benefits from the Settlement, and to be excluded from or object to the Settlement. The Notice Plan met the requirements of Rule 23(c)(2)(B) and due process and constituted the best notice practicable under the circumstances.*

Judge Brian McDonald, ***Armon et al. v. Washington State University*** (Nov. 8, 2019) 17-2-23244-1 (consolidated with 17-2-25052-0) (Sup. Ct. Wash.):

> *The Court finds that the Notice Program, as set forth in the Settlement and effectuated pursuant to the Preliminary Approval Order, satisfied CR 23(c)(2), was the best Notice practicable under the circumstances, was reasonably calculated to provide-and did provide-due and sufficient Notice to the Settlement Class of the pendency of the Litigation; certification of the Settlement Class for settlement purposes only; the existence and terms of the Settlement; the identity of Class Counsel and appropriate information about Class Counsel's then-forthcoming application for attorneys' fees and incentive awards to the Class Representatives; appropriate information about how to participate in the Settlement; Settlement Class Members' right to exclude themselves; their right to object to the Settlement and to appear at the Final Approval Hearing, through counsel if they desired; and appropriate instructions as to how to obtain additional information regarding this Litigation and the Settlement. In addition, pursuant to CR 23(c)(2)(B), the Notice properly informed Settlement Class Members that any Settlement Class Member who failed to opt-out would be prohibited from bringing a lawsuit against Defendant based on or related to any of the claims asserted by Plaintiffs, and it satisfied the other requirements of the Civil Rules.*

Judge Andrew J. Guilford, ***In re: Wells Fargo Collateral Protection Insurance Litigation*** (Nov. 4, 2019) 8:17-ml-02797 (C.D. Cal.):

> *Epiq Class Action & Claims Solutions, Inc. ("Epiq"), the parties' settlement administrator, was able to deliver the court-approved notice materials to all class members, including 2,254,411 notice packets and 1,019,408 summary notices.*

Judge Paul L. Maloney, *Burch v. Whirlpool Corporation* (Oct. 16, 2019) 1:17-cv-00018 (W.D. Mich.):

> *[T]he Court hereby finds and concludes that members of the Settlement Class have been provided the best notice practicable of the Settlement and that such notice satisfies all requirements of federal and applicable state laws and due process.*

Judge Gene E.K. Pratter, *Tashica Fulton-Green et al. v. Accolade, Inc.* (Sept. 24, 2019) 2:18-cv-00274 (E.D. Pa.):

> *The Court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Federal Rule of Civil Procedure 23(c)(2)(B).*

Judge Edwin Torres, *Burrow et al. v. Forjas Taurus S.A. et al.* (Sept. 6, 2019) 1:16-cv-21606 (S.D. Fla.):

> *Because the Parties complied with the agreed-to notice provisions as preliminarily approved by this Court, and given that there are no developments or changes in the facts to alter the Court's previous conclusion, the Court finds that the notice provided in this case satisfied the requirements of due process and of Rule 23(c)(2)(B).*

Judge Amos L. Mazzant, *Fessler v. Porcelana Corona De Mexico, S.A. DE C.V f/k/a Sanitarios Lamosa S.A. DE C.V. a/k/a Vortens* (Aug. 30, 2019) 4:19-cv-00248 (E.D. Tex.):

> *The Court has reviewed the Notice Plan and its implementation and efficacy, and finds that it constituted the best notice practicable under the circumstances and was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action and their right to object to the proposed settlement or opt out of the Settlement Class in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution and Rules 23(c) and (e) of the Federal Rules of Civil Procedure.*
>
> *In addition, Class Notice clearly and concisely stated in plain, easily understood language: (i) the nature of the action; (ii) the definition of the certified 2011 Settlement Class; (iii) the claims and issues of the 2011 Settlement Class; (iv) that a Settlement Class Member may enter an appearance through an attorney if the member so desires; (v) that the Court will exclude from the Settlement Class any member who requests exclusions; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Fed. R. Civ. P. 23(c)(3).*

Judge Karon Owen Bowdre, *In re: Community Health Systems, Inc. Customer Data Security Breach Litigation* (Aug. 22, 2019) MDL No. 2595, 2:15-cv-00222 (N.D. Ala.):

> *The court finds that the Notice Program: (1) satisfied the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process; (2) was the best practicable notice under the circumstances; (3) reasonably apprised Settlement Class members of the pendency of the Action and their right to object to the settlement or opt-out of the Settlement Class; and (4) was reasonable and constituted due, adequate and sufficient notice to all persons entitled to receive notice. Approximately 90% of the 6,081,189 individuals identified as Settlement Class members received the Initial Postcard Notice of this Settlement Action.*
>
> *The court further finds, pursuant to Fed. R. Civ. P. 23(c)(2)(B), that the Class Notice adequately informed Settlement Class members of their rights with respect to this action.*

Judge Christina A. Snyder, *Zaklit et al. v. Nationstar Mortgage LLC et al.* (Aug. 21, 2019) 5:15-cv-02190 (C.D. Cal.):

> *The Class Notice provided to the Settlement Class conforms with the requirements of Fed. Rule Civ. Proc. 23, the California and United States Constitutions, and any other applicable law, and constitutes the best notice practicable under the circumstances, by providing individual notice to all Settlement Class Members who could be identified through reasonable effort, and by providing due and adequate notice of the proceedings and of the matters set forth therein to the other Settlement Class Members. The notice fully satisfied the requirements of Due Process. No Settlement Class Members have objected to the terms of the Settlement.*

Judge Brian M. Cogan, *Luib v. Henkel Consumer Goods Inc.* (Aug. 19, 2019) 1:17-cv-03021 (E.D.N.Y.):

> *The Court finds that the Notice Plan, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order: (i) was the best notice practicable under the circumstances; (ii) was reasonably*

calculated to provide, and did provide, due and sufficient notice to the Settlement Class regarding the existence and nature of the Action, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and the rights of Settlement Class members to exclude themselves from the Settlement Agreement, to object and appear at the Final Approval Hearing, and to receive benefits under the Settlement Agreement; and (iii) satisfied the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and all other applicable law.

Judge Yvonne Gonzalez Rogers, *In re: Lithium Ion Batteries Antitrust Litigation* (Aug. 16, 2019) MDL No. 2420, 4:13-md-02420 (N.D. Cal.):

The proposed notice plan was undertaken and carried out pursuant to this Court's preliminary approval order. [T]he notice program reached approximately 87 percent of adults who purchased portable computers, power tools, camcorders, or replacement batteries, and these class members were notified an average of 3.5 times each. As a result of Plaintiffs' notice efforts, in total, 1,025,449 class members have submitted claims. That includes 51,961 new claims, and 973,488 claims filed under the prior settlements.

Judge Jon Tigar, *McKnight et al. v. Uber Technologies, Inc. et al.* (Aug. 13, 2019) 3:14-cv-05615 (N.D. Cal.):

The settlement administrator, Epiq Systems, Inc., carried out the notice procedures as outlined in the preliminary approval. ECF No. 162 at 17-18. Notices were mailed to over 22 million class members with a success rate of over 90%. Id. at 17. Epiq also created a website, banner ads, and a toll free number. Id. at 17-18. Epiq estimates that it reached through mail and other formats 94.3% of class members. ECF No. 164 ¶ 28. In light of these actions, and the Court's prior order granting preliminary approval, the Court finds that the parties have provided adequate notice to class members.

Judge Gary W.B. Chang, *Robinson v. First Hawaiian Bank* (Aug. 8, 2019) 17-1-0167-01 (Cir. Ct. of First Cir. Haw.):

This Court determines that the Notice Program satisfies all of the due process requirements for a class action settlement.

Judge Karin Crump, *Hyder et al. v. Consumers County Mutual Insurance Company* (July 30, 2019) D-1-GN-16-000596 (D. Ct. of Travis Cnty. Tex.):

Due and adequate Notice of the pendency of this Action and of this Settlement has been provided to members of the Settlement Class, and this Court hereby finds that the Notice Plan described in the Preliminary Approval Order and completed by Defendant complied fully with the requirements of due process, the Texas Rules of Civil Procedure, and the requirements of due process under the Texas and United States Constitutions, and any other applicable laws.

Judge Wendy Bettlestone, *Underwood v. Kohl's Department Stores, Inc. et al.* (July 24, 2019) 2:15-cv-00730 (E.D. Pa.):

The Notice, the contents of which were previously approved by the Court, was disseminated in accordance with the procedures required by the Court's Preliminary Approval Order in accordance with applicable law.

Judge Andrew G. Ceresia, J.S.C., *Denier et al. v. Taconic Biosciences, Inc.* (July 15, 2019) 00255851 (Sup Ct. N.Y.):

The Court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of the CPLR.

Judge Vince G. Chhabria, *Parsons v. Kimpton Hotel & Restaurant Group, LLC* (July 11, 2019) 3:16-cv-05387 (N.D. Cal.):

Pursuant to the Preliminary Approval Order, the notice documents were sent to Settlement Class Members by email or by first-class mail, and further notice was achieved via publication in People magazine, internet banner notices, and internet sponsored search listings. The Court finds that the manner and form of notice (the "Notice Program") set forth in the Settlement Agreement was provided to Settlement Class Members. The Court finds that the Notice Program, as implemented, was the best practicable under the circumstances. The Notice Program was reasonably calculated under the circumstances to apprise the Settlement Class of the pendency of the Action, class certification, the terms of the Settlement, and their rights to opt-out of the Settlement Class and object to the Settlement, Class Counsel's fee request, and the request for Service Award for Plaintiff. The Notice and Notice Program constituted sufficient notice to all persons entitled to notice. The Notice and Notice Program satisfy all applicable requirements of law, including, but not limited to, Federal Rule of Civil Procedure 23 and the constitutional requirement of due process.

Judge Daniel J. Buckley, *Adlouni v. UCLA Health Systems Auxiliary et al.* (June 28, 2019) BC589243 (Sup. Ct. Cal.):

> *The Court finds that the notice to the Settlement Class pursuant to the Preliminary Approval Order was appropriate, adequate, and sufficient, and constituted the best notice practicable under the circumstances to all Persons within the definition of the Settlement Class to apprise interested parties of the pendency of the Action, the nature of the claims, the definition of the Settlement Class, and the opportunity to exclude themselves from the Settlement Class or present objections to the settlement. The notice fully complied with the requirements of due process and all applicable statutes and laws and with the California Rules of Court.*

Judge John C. Hayes III, *Lightsey et al. v. South Carolina Electric & Gas Company, a Wholly Owned Subsidiary of SCANA et al.* (June 11, 2019) 2017-CP-25-335 (Ct. of Com. Pleas., S.C.):

> *These multiple efforts at notification far exceed the due process requirement that the class representative provide the best practical notice. See Eisen v. Carlisle & Jacquelin, 417 U.S. 156, 94 S.Ct. 2140 (1974); Hospitality Mgmt. Assoc., Inc. v. Shell Oil, Inc., 356 S.C. 644, 591 S.E.2d 611 (2004). Following this extensive notice campaign reaching over 1.6 million potential class member accounts, Class counsel have received just two objections to the settlement and only 24 opt outs.*

Judge Stephen K. Bushong, *Scharfstein v. BP West Coast Products, LLC* (June 4, 2019) 1112-17046 (Ore. Cir., Cnty. of Multnomah):

> *The Court finds that the Notice Plan … fully met the requirements of the Oregon Rules of Civil Procedure, due process, the United States Constitution, the Oregon Constitution, and any other applicable law.*

Judge Cynthia Bashant, *Lloyd et al. v. Navy Federal Credit Union* (May 28, 2019) 17-cv-1280 (S.D. Cal.):

> *This Court previously reviewed, and conditionally approved Plaintiffs' class notices subject to certain amendments. The Court affirms once more that notice was adequate.*

Judge Robert W. Gettleman, *Cowen v. Lenny & Larry's Inc.* (May 2, 2019) 1:17-cv-01530 (N.D. Ill.):

> *Notice to the Settlement Class and other potentially interested parties has been provided in accordance with the elements specified by the Court in the preliminary approval order. Adequate notice of the amended settlement and the final approval hearing has also been given. Such notice informed the Settlement Class members of all material elements of the proposed Settlement and of their opportunity to object or comment thereon or to exclude themselves from the Settlement; provided Settlement Class Members adequate instructions and a means to obtain additional information; was adequate notice under the circumstances; was valid, due, and sufficient notice to all Settlement Class [M]embers; and complied fully with the laws of the State of Illinois, Federal Rules of Civil Procedure, the United States Constitution, due process, and other applicable law.*

Judge Edward J. Davila, *In re: HP Printer Firmware Update Litigation* (Apr. 25, 2019) 5:16-cv-05820 (N.D. Cal.):

> *Due and adequate notice has been given of the Settlement as required by the Preliminary Approval Order. The Court finds that notice of this Settlement was given to Class Members in accordance with the Preliminary Approval Order and constituted the best notice practicable of the proceedings and matters set forth therein, including the Settlement, to all Persons entitled to such notice, and that this notice satisfied the requirements of Federal Rule of Civil Procedure 23 and of due process.*

Judge Claudia Wilken, *Naiman v. Total Merchant Services, Inc. et al.* (Apr. 16, 2019) 4:17-cv-03806 (N.D. Cal.):

> *The Court also finds that the notice program satisfied the requirements of Federal Rule of Civil Procedure 23 and due process. The notice approved by the Court and disseminated by Epiq constituted the best practicable method for informing the class about the Final Settlement Agreement and relevant aspects of the litigation.*

Judge Paul Gardephe, *37 Besen Parkway, LLC v. John Hancock Life Insurance Company (U.S.A.)* (Mar. 31, 2019) 15-cv-9924 (S.D.N.Y.):

> *The Notice given to Class Members complied in all respects with the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process and provided due and adequate notice to the Class.*

Judge Alison J. Nathan, *Pantelyat et al. v. Bank of America, N.A. et al.* (Jan. 31, 2019) 16-cv-08964 (S.D.N.Y.):

> *The Class Notice provided to the Settlement Class in accordance with the Preliminary Approval Order was the best notice practicable under the circumstances, and constituted due and sufficient notice of the proceedings and matters set forth therein, to all persons entitled to notice. The notice fully satisfied the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and all other applicable law and rules.*

Judge Kenneth M. Hoyt, *Al's Pals Pet Card, LLC et al. v. Woodforest National Bank, N.A. et al.* (Jan. 30, 2019) 4:17-cv-3852 (S.D. Tex.):

> *[T]he Court finds that the class has been notified of the Settlement pursuant to the plan approved by the Court. The Court further finds that the notice program constituted the best practicable notice to the class under the circumstances and fully satisfies the requirements of due process, including Fed. R. Civ. P. 23(e)(1) and 28 U.S.C. § 1715.*

Judge Robert M. Dow, Jr., *In re: Dealer Management Systems Antitrust Litigation* (Jan. 23, 2019) MDL No. 2817, 18-cv-00864 (N.D. Ill.):

> *The Court finds that the Settlement Administrator fully complied with the Preliminary Approval Order and that the form and manner of providing notice to the Dealership Class of the proposed Settlement with Reynolds was the best notice practicable under the circumstances, including individual notice to all members of the Dealership Class who could be identified through the exercise of reasonable effort. The Court further finds that the notice program provided due and adequate notice of these proceedings and of the matters set forth therein, including the terms of the Agreement, to all parties entitled to such notice and fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1715(b), and constitutional due process.*

Judge Federico A. Moreno, *In re: Takata Airbag Products Liability Litigation* (Ford) (Dec. 20, 2018) MDL No. 2599 (S.D. Fla.):

> *The record shows and the Court finds that the Class Notice has been given to the Class in the manner approved by the Court in its Preliminary Approval Order. The Court finds that such Class Notice: .(i) is reasonable and constitutes the best practicable notice to Class Members under the circumstances; (ii) constitutes notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action and the terms of the Settlement Agreement, their right to exclude themselves from the Class or to object to all or any part of the Settlement Agreement, their right to appear at the Fairness Hearing (either on their own or through counsel hired at their own expense) and the binding effect of the orders and Final Order and Final Judgment in the Action, whether favorable or unfavorable, on all persons and entities who or which do not exclude themselves from the Class; (iii) constitutes due, adequate, and sufficient notice to all persons or entities entitled to receive notice; and (iv) fully satisfied the requirements of the United States Constitution (including the Due Process Clause), FED. R. Civ. P. 23 and any other applicable law as well as complying with the Federal Judicial Center's illustrative class action notices.*

Judge Herndon, *Hale v. State Farm Mutual Automobile Insurance Company et al.* (Dec. 16, 2018) 3:12-cv-00660 (S.D. Ill.):

> *The Class here is estimated to include approximately 4.7 million members. Approximately 1.43 million of them received individual postcard or email notice of the terms of the proposed Settlement, and the rest were notified via a robust publication program "estimated to reach 78.8% of all U.S. Adults Aged 35+ approximately 2.4 times." Doc. 966-2 ¶¶ 26, 41. The Court previously approved the notice plan (Doc. 947), and now, having carefully reviewed the declaration of the Notice Administrator (Doc. 966-2), concludes that it was fully and properly executed, and reflected "the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." See Fed. R. Civ. P. 23(c)(2)(B). The Court further concludes that CAFA notice was properly effectuated to the attorneys general and insurance commissioners of all 50 states and District of Columbia.*

Judge Jesse M. Furman, *Alaska Electrical Pension Fund et al. v. Bank of America, N.A. et al.* (Nov. 13, 2018) 14-cv-07126 (S.D.N.Y.):

> *The mailing and distribution of the Notice to all members of the Settlement Class who could be identified through reasonable effort, the publication of the Summary Notice, and the other Notice efforts described in the Motion for Final Approval, as provided for in the Court's June 26, 2018 Preliminary Approval Order, satisfy the*

requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, constitute the best notice practicable under the circumstances, and constitute due and sufficient notice to all Persons entitled to notice.

Judge William L. Campbell, Jr., *Ajose et al. v. Interline Brands, Inc.* (Oct. 23, 2018) 3:14-cv-01707 (M.D. Tenn.):

The Court finds that the Notice Plan, as approved by the Preliminary Approval Order: (i) satisfied the requirements of Rule 23(c)(3) and due process; (ii) was reasonable and the best practicable notice under the circumstances; (iii) reasonably apprised the Settlement Class of the pendency of the action, the terms of the Agreement, their right to object to the proposed settlement or opt out of the Settlement Class, the right to appear at the Final Fairness Hearing, and the Claims Process; and (iv) was reasonable and constituted due, adequate, and sufficient notice to all those entitled to receive notice.

Judge Joseph C. Spero, *Abante Rooter and Plumbing v. Pivotal Payments Inc., d/b/a/ Capital Processing Network and CPN* (Oct. 15, 2018) 3:16-cv-05486 (N.D. Cal.):

[T]the Court finds that notice to the class of the settlement complied with Rule 23(c)(3) and (e) and due process. Rule 23(e)(1) states that "[t]he court must direct notice in a reasonable manner to all class members who would be bound by" a proposed settlement, voluntary dismissal, or compromise. Class members are entitled to the "best notice that is practicable under the circumstances" of any proposed settlement before it is finally approved by the Court. Fed. R. Civ. P. 23(c)(2)(B) … The notice program included notice sent by first class mail to 1,750,564 class members and reached approximately 95.2% of the class.

Judge Marcia G. Cooke, *Dipuglia v. US Coachways, Inc.* (*Sept. 28, 2018)* 1:17-cv-23006 (S.D. Fla.):

The Settlement Class Notice Program was the best notice practicable under the circumstances. The Notice Program provided due and adequate notice of the proceedings and of the matters set forth therein, including the proposed settlement set forth in the Agreement, to all persons entitled to such notice and said notice fully satisfied the requirements of the Federal Rules of Civil Procedure and the United States Constitution, which include the requirement of due process.

Judge Beth Labson Freeman, *Gergetz v. Telenav, Inc.* (Sept. 27, 2018) 5:16-cv-04261 (N.D. Cal.):

The Court finds that the Notice and Notice Plan implemented pursuant to the Settlement Agreement, which consists of individual notice sent via first-class U.S. Mail postcard, notice provided via email, and the posting of relevant Settlement documents on the Settlement Website, has been successfully implemented and was the best notice practicable under the circumstances and: (1) constituted notice that was reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action, their right to object to or to exclude themselves from the Settlement Agreement, and their right to appear at the Final Approval Hearing; (2) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (3) met all applicable requirements of the Federal Rules of Civil Procedure, the Due Process Clause, and the Rules of this Court.

Judge M. James Lorenz, *Farrell v. Bank of America, N.A.* (Aug. 31, 2018) 3:16-cv-00492 (S.D. Cal.):

The Court therefore finds that the Class Notices given to Settlement Class members adequately informed Settlement Class members of all material elements of the proposed Settlement and constituted valid, due, and sufficient notice to Settlement Class members. The Court further finds that the Notice Program satisfies due process and has been fully implemented.

Judge Dean D. Pregerson, *Falco et al. v. Nissan North America, Inc. et al.* (July 16, 2018) 2:13-cv-00686 (C.D. Cal.):

Notice to the Settlement Class as required by Rule 23(e) of the Federal Rules of Civil Procedure has been provided in accordance with the Court's Preliminary Approval Order, and such Notice by first-class mail was given in an adequate and sufficient manner, and constitutes the best notice practicable under the circumstances, and satisfies all requirements of Rule 23(e) and due process.

Judge Lynn Adelman, *In re: Windsor Wood Clad Window Product Liability Litigation* (July 16, 2018) MDL No. 2688, 16-md-02688 (E.D. Wis.):

The Court finds that the Notice Program was appropriately administered, and was the best practicable notice to the Class under the circumstances, satisfying the requirements of Rule 23 and due process. The Notice

Program, constitutes due, adequate, and sufficient notice to all persons, entities, and/or organizations entitled to receive notice; fully satisfied the requirements of the Constitution of the United States (including the Due Process Clause), Rule 23 of the Federal Rules of Civil Procedure, and any other applicable law; and is based on the Federal Judicial Center's illustrative class action notices.

Judge Stephen K. Bushong, *Surrett et al. v. Western Culinary Institute et al.* (June 18, 2018) 0803-03530 (Ore. Cir. Cnty. of Multnomah):

This Court finds that the distribution of the Notice of Settlement … fully met the requirements of the Oregon Rules of Civil Procedure, due process, the United States Constitution, the Oregon Constitution, and any other applicable law.

Judge Jesse M. Furman, *Alaska Electrical Pension Fund et al. v. Bank of America, N.A. et al.* (June 1, 2018) 14-cv-07126 (S.D.N.Y.):

The mailing of the Notice to all members of the Settlement Class who could be identified through reasonable effort, the publication of the Summary Notice, and the other Notice distribution efforts described in the Motion for Final Approval, as provided for in the Court's October 24, 2017 Order Providing for Notice to the Settlement Class and Preliminarily Approving the Plan of Distribution, satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, constitute the best notice practicable under the circumstances, and constitute due and sufficient notice to all Persons entitled to notice.

Judge Brad Seligman, *Larson v. John Hancock Life Insurance Company (U.S.A.)* (May 8, 2018) RG16813803 (Sup. Ct. Cal.):

The Court finds that the Class Notice and dissemination of the Class Notice as carried out by the Settlement Administrator complied with the Court's order granting preliminary approval and all applicable requirements of law, including, but not limited to California Rules of Court, rule 3.769(f) and the Constitutional requirements of due process, and constituted the best notice practicable under the circumstances and sufficient notice to all persons entitled to notice of the Settlement.

[T]he dissemination of the Class Notice constituted the best notice practicable because it included mailing individual notice to all Settlement Class Members who are reasonably identifiable using the same method used to inform class members of certification of the class, following a National Change of Address search and run through the LexisNexis Deceased Database.

Judge Federico A. Moreno, *Masson v. Tallahassee Dodge Chrysler Jeep, LLC* (May 8, 2018) 17-cv-22967 (S.D. Fla.):

The Settlement Class Notice Program was the best notice practicable under the circumstances. The Notice Program provided due and adequate notice of the proceedings and of the matters set forth therein, including the proposed settlement set forth in the Agreement, to all persons entitled to such notice and said notice fully satisfied the requirements of the Federal Rules of Civil Procedure and the United States Constitution, which include the requirement of due process.

Chancellor Russell T. Perkins, *Morton v. GreenBank* (Apr. 18, 2018) 11-135-IV (20th Jud. Dist. Tenn.):

The Notice Program as provided or in the Agreement and the Preliminary Amended Approval Order constituted the best notice practicable under the circumstances, including individual notice to all Settlement Class members who could be identified through reasonable effort. The Notice Plan fully satisfied the requirements of Tennessee Rule of Civil Procedure 23.03, due process and any other applicable law.

Judge James V. Selna, *Callaway v. Mercedes-Benz USA, LLC* (Mar. 8, 2018) 8:14-cv-02011 (C.D. Cal.):

The Court finds that the notice given to the Class was the best notice practicable under the circumstances of this case, and that the notice complied with the requirements of Federal Rule of Civil Procedure 23 and due process.

The notice given by the Class Administrator constituted due and sufficient notice to the Settlement Class, and adequately informed members of the Settlement Class of their right to exclude themselves from the Settlement Class so as not to be bound by the terms of the Settlement Agreement and how to object to the Settlement.

The Court has considered and rejected the objection … [regarding] the adequacy of the notice plan. The notice given provided ample information regarding the case. Class members also had the ability to seek additional information from the settlement website, from Class Counsel or from the Class Administrator.

Judge Thomas M. Durkin, *Vergara et al., v. Uber Technologies, Inc.* (Mar. 1, 2018) 1:15-cv-06972 (N.D. Ill.):

The Court finds that the Notice Plan set forth in Section IX of the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order constitutes the best notice practicable under the circumstances and shall constitute due and sufficient notice to the Settlement Classes of the pendency of this case, certification of the Settlement Classes for settlement purposes only, the terms of the Settlement Agreement, and the Final Approval Hearing, and satisfies the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and any other applicable law. Further, the Court finds that Defendant has timely satisfied the notice requirements of 28 U.S.C. Section 1715.

Judge Federico A. Moreno, *In re: Takata Airbag Products Liability Litigation* (Honda & Nissan) (Feb. 28, 2018) MDL No. 2599 (S.D. Fla.):

The Court finds that the Class Notice has been given to the Class in the manner approved by the Court in its Preliminary Approval Order. The Court finds that such Class Notice: (i) is reasonable and constitutes the best practicable notice to Class Members under the circumstances; (ii) constitutes notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action and the terms of the Settlement Agreement, their right to exclude themselves from the Class or to object to all or any part of the Settlement Agreement, their right to appear at the Fairness Hearing (either on their own or through counsel hired at their own expense) and the binding effect of the orders and Final Order and Final Judgment in the Action, whether favorable or unfavorable, on all persons and entities who or which do not exclude themselves from the Class; (iii) constitutes due, adequate, and sufficient notice to all persons or entities entitled to receive notice; and (iv) fully satisfied the requirements of the United States Constitution (including the Due Process Clause), FED R. CIV. R. 23 and any other applicable law as well as complying with the Federal Judicial Center's illustrative class action notices.

Judge Susan O. Hickey, *Larey v. Allstate Property and Casualty Insurance Company* (Feb. 9, 2018) 4:14-cv-04008 (W.D. Kan.):

Based on the Court's review of the evidence submitted and argument of counsel, the Court finds and concludes that the Class Notice and Claim Form was mailed to potential Class Members in accordance with the provisions of the Preliminary Approval Order, and together with the Publication Notice, the automated toll-free telephone number, and the settlement website: (i) constituted, under the circumstances, the most effective and practicable notice of the pendency of the Lawsuit, this Stipulation, and the Final Approval Hearing to all Class Members who could be identified through reasonable effort; and (ii) met all requirements of the Federal Rules of Civil Procedure, the requirements of due process under the United States Constitution, and the requirements of any other applicable rules or law.

Judge Muriel D. Hughes, *Glaske v. Independent Bank Corporation* (Jan. 11, 2018) 13-009983 (Cir. Ct. Mich.):

The Court-approved Notice Plan satisfied due process requirements … The notice, among other things, was calculated to reach Settlement Class Members because it was sent to their last known email or mail address in the Bank's files.

Judge Naomi Reice Buchwald, *Orlander v. Staples, Inc.* (Dec. 13, 2017) 13-cv-00703 (S.D.N.Y.):

The Notice of Class Action Settlement ("Notice") was given to all Class Members who could be identified with reasonable effort in accordance with the terms of the Settlement Agreement and Preliminary Approval Order. The form and method of notifying the Class of the pendency of the Action as a class action and the terms and conditions of the proposed Settlement met the requirements of Federal Rule of Civil Procedure 23 and the Constitution of the United States (including the Due Process Clause); and any other applicable law, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

Judge Lisa Godbey Wood, *T.A.N. v. PNI Digital Media, Inc.* (Dec. 1, 2017) 2:16-cv-132 (S.D. Ga.):

Notice to the Settlement Class Members required by Rule 23 has been provided as directed by this Court in the Preliminary Approval Order, and such notice constituted the best notice practicable, including, but not

limited to, the forms of notice and methods of identifying and providing notice to the Settlement Class Members, and satisfied the requirements of Rule 23 and due process, and all other applicable laws.

Judge Robin L. Rosenberg, *Gottlieb v. Citgo Petroleum Corporation* (Nov. 29, 2017) 9:16-cv-81911 (S.D. Fla):

The Settlement Class Notice Program was the best notice practicable under the circumstances. The Notice Program provided due and adequate notice of the proceedings and of the matters set forth therein, including the proposed settlement set forth in the Settlement Agreement, to all persons entitled to such notice and said notice fully satisfied the requirements of the Federal Rules of Civil Procedure and the United States Constitution, which include the requirement of due process.

Judge Donald M. Middlebrooks, *Mahoney v. TT of Pine Ridge, Inc.* (Nov. 20, 2017) 9:17-cv-80029 (S.D. Fla.):

Based on the Settlement Agreement, Order Granting Preliminary Approval of Class Action Settlement Agreement, and upon the Declaration of Cameron Azari, Esq. (DE 61-1), the Court finds that Class Notice provided to the Settlement Class was the best notice practicable under the circumstances, and that it satisfied the requirements of due process and Federal Rule of Civil Procedure 23(e)(1).

Judge Gerald Austin McHugh, *Sobiech v. U.S. Gas & Electric, Inc., i/t/d/b/a Pennsylvania Gas & Electric et al.* (Nov. 8, 2017) 2:14-cv-04464 (E.D. Pa.):

Notice has been provided to the Settlement Class of the pendency of this Action, the conditional certification of the Settlement Class for purposes of this Settlement, and the preliminary approval of the Settlement Agreement and the Settlement contemplated thereby. The Court finds that the notice provided was the best notice practicable under the circumstances to all persons entitled to such notice and fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process.

Judge Federico A. Moreno, *In re: Takata Airbag Products Liability Litigation* (BMW, Mazda, Toyota, & Subaru) (Nov. 1, 2017) MDL No. 2599 (S.D. Fla.):

[T]he Court finds that the Class Notice has been given to the Class in the manner approved in the Preliminary Approval Order. The Class Notice: (i) is reasonable and constitutes the best practicable notice to Class Members under the circumstances; (ii) constitutes notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action and the terms of the Settlement Agreement, their right to exclude themselves from the Class or to object to all or any part of the Settlement Agreement, their right to appear at the Fairness Hearing (either on their own or through counsel hired at their own expense), and the binding effect of the orders and Final Order and Final Judgment in the Action, whether favorable or unfavorable, on all persons and entities who or which do not exclude themselves from the Class; (iii) constitutes due, adequate, and sufficient notice to all persons or entities entitled to receive notice; and (iv) fully satisfied the requirements of the United States Constitution (including the Due Process Clause), Federal Rule of Civil Procedure 23 and any other applicable law as well as complying with the Federal Judicial Center's illustrative class action notices.

Judge Charles R. Breyer, *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation* (May 17, 2017) MDL No. 2672 (N.D. Cal.):

The Court is satisfied that the Notice Program was reasonably calculated to notify Class Members of the proposed Settlement. The Notice "apprise[d] interested parties of the pendency of the action and afford[ed] them an opportunity to present their objections." Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950). Indeed, the Notice Administrator reports that the notice delivery rate of 97.04% "exceed[ed] the expected range and is indicative of the extensive address updating and re-mailing protocols used." (Dkt. No. 3188-2 ¶ 24.)

Judge Rebecca Brett Nightingale, *Ratzlaff et al. v. BOKF, NA d/b/a Bank of Oklahoma et al.* (May 15, 2017) CJ-2015-00859 (Dist. Ct. Okla.):

The Court-approved Notice Plan satisfies Oklahoma law because it is "reasonable" (12 O.S. § 2023(E)(I)) and it satisfies due process requirements because it was "reasonably calculated, under [the] circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Shutts, 472 U.S. at 812 (quoting Mullane, 339 U.S. at 314-15).

Judge Joseph F. Bataillon, *Klug v. Watts Regulator Company* (Apr. 13, 2017) 8:15-cv-00061 (D. Neb.):

> *The court finds that the notice to the Settlement Class of the pendency of the Class Action and of this settlement, as provided by the Settlement Agreement and by the Preliminary Approval Order dated December 7, 2017, constituted the best notice practicable under the circumstances to all persons and entities within the definition of the Settlement Class, and fully complied with the requirements of Federal Rules of Civil Procedure Rule 23 and due process. Due and sufficient proof of the execution of the Notice Plan as outlined in the Preliminary Approval Order has been filed.*

Judge Yvonne Gonzalez Rogers, *Bias v. Wells Fargo & Company et al.* (Apr. 13, 2017) 4:12-cv-00664 (N.D. Cal.):

> *The form, content, and method of dissemination of Notice of Settlement given to the Settlement Class was adequate and reasonable and constituted the best notice practicable under the circumstances, including both individual notice to all Settlement Class Members who could be identified through reasonable effort and publication notice.*
>
> *Notice of Settlement, as given, complied with the requirements of Rule 23 of the Federal Rules of Civil Procedure, satisfied the requirements of due process, and constituted due and sufficient notice of the matters set forth herein.*
>
> *Notice of the Settlement was provided to the appropriate regulators pursuant to the Class Action Fairness Act, 28 U.S.C. § 1715(c)(1).*

Judge Carlos Murguia, *Whitton v. Deffenbaugh Industries, Inc. et al.* (Dec. 14, 2016) 2:12-cv-02247 and ***Gary, LLC v. Deffenbaugh Industries, Inc. et al.*** 2:13-cv-02634 (D. Kan.):

> *The Court determines that the Notice Plan as implemented was reasonably calculated to provide the best notice practicable under the circumstances and contained all required information for members of the proposed Settlement Class to act to protect their interests. The Court also finds that Class Members were provided an adequate period of time to receive Notice and respond accordingly.*

Judge Yvette Kane, *In re: Shop-Vac Marketing and Sales Practices Litigation* (Dec. 9, 2016) MDL No. 2380 (M.D. Pa.):

> *The Court hereby finds and concludes that members of the Settlement Class have been provided the best notice practicable of the Settlement and that such notice satisfies all requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, and all other applicable laws.*

Judge Timothy D. Fox, *Miner v. Philip Morris USA, Inc.* (Nov. 21, 2016) 60CV03-4661 (Ark. Cir. Ct.):

> *The Court finds that the Settlement Notice provided to potential members of the Class constituted the best and most practicable notice under the circumstances, thereby complying fully with due process and Rule 23 of the Arkansas Rules of Civil Procedure.*

Judge Eileen Bransten, *In re: HSBC Bank USA, N.A.,* as part of *In re: Checking Account Overdraft Litigation* (Oct. 13, 2016) 650562/2011 (Sup. Ct. N.Y.):

> *This Court finds that the Notice Program and the Notice provided to Settlement Class members fully satisfied the requirements of constitutional due process, the N.Y. C.P.L.R., and any other applicable laws, and constituted the best notice practicable under the circumstances and constituted due and sufficient notice to all persons entitled thereto.*

Judge Jerome B. Simandle, *In re: Caterpillar, Inc. C13 and C15 Engine Products Liability Litigation* (Sept. 20, 2016) MDL No. 2540 (D.N.J.):

> *The Court hereby finds that the Notice provided to the Settlement Class constituted the best notice practicable under the circumstances. Said Notice provided due and adequate notice of these proceedings and the matters set forth herein, including the terms of the Settlement Agreement, to all persons entitled to such notice, and said notice fully satisfied the requirements of Fed. R. Civ. P. 23, requirements of due process and any other applicable law.*

Judge Marcia G. Cooke, *Chimeno-Buzzi v. Hollister Co. and Abercrombie & Fitch Co.* (Apr. 11, 2016) 14-cv-23120 (S.D. Fla.):

> *Pursuant to the Court's Preliminary Approval Order, the Settlement Administrator, Epiq Systems, Inc. [Hilsoft Notifications], has complied with the approved notice process as confirmed in its Declaration filed with the Court on March 23, 2016. The Court finds that the notice process was designed to advise Class Members of their rights. The form and method for notifying Class Members of the settlement and its terms and conditions was in conformity with this Court's Preliminary Approval Order, constituted the best notice practicable under the circumstances, and satisfied the requirements of Federal Rule of Civil Procedure 23(c)(2)(B), the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715, and due process under the United States Constitution and other applicable laws.*

Judge Yvonne Gonzalez Rogers, *In re: Lithium Ion Batteries Antitrust Litigation* (Mar. 22, 2016) MDL No. 2420, 4:13-md-02420 (N.D. Cal.):

> *From what I could tell, I liked your approach and the way you did it. I get a lot of these notices that I think are all legalese and no one can really understand them. Yours was not that way.*

Judge Christopher S. Sontchi, *In re: Energy Future Holdings Corp et al.* (July 30, 2015) 14-cv-10979 (Bankr. D. Del.):

> *Notice of the Asbestos Bar Date as set forth in this Asbestos Bar Date Order and in the manner set forth herein constitutes adequate and sufficient notice of the Asbestos Bar Date and satisfies the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.*

Judge David C. Norton, *In re: MI Windows and Doors Inc. Products Liability Litigation* (July 22, 2015) MDL No. 2333, 2:12-mn-00001 (D.S.C.):

> *The court finds that the Notice Plan, as described in the Settlement and related declarations, has been faithfully carried out and constituted the best practicable notice to Class Members under the circumstances of this Action, and was reasonable and constituted due, adequate, and sufficient notice to all Persons entitled to be provided with Notice.*
>
> *The court also finds that the Notice Plan was reasonably calculated, under the circumstances, to apprise Class Members of: (1) the pendency of this class action; (2) their right to exclude themselves from the Settlement Class and the proposed Settlement; (3) their right to object to any aspect of the proposed Settlement (including final certification of the Settlement Class, the fairness, reasonableness, or adequacy of the proposed Settlement, the adequacy of the Settlement Class's representation by Named Plaintiffs or Class Counsel, or the award of attorney's and representative fees); (4) their right to appear at the fairness hearing (either on their own or through counsel hired at their own expense); and (5) the binding and preclusive effect of the orders and Final Order and Judgment in this Action, whether favorable or unfavorable, on all Persons who do not request exclusion from the Settlement Class. As such, the court finds that the Notice fully satisfied the requirements of the Federal Rules of Civil Procedure, including Federal Rule of Civil Procedure 23(c)(2) and (e), the United States Constitution (including the Due Process Clause), the rules of this court, and any other applicable law, and provided sufficient notice to bind all Class Members, regardless of whether a particular Class Member received actual notice.*

Judge Robert W. Gettleman, *Adkins et al. v. Nestlé Purina PetCare Company et al.* (June 23, 2015) 1:12-cv-02871 (N.D. Ill.):

> *Notice to the Settlement Class and other potentially interested parties has been provided in accordance with the notice requirements specified by the Court in the Preliminary Approval Order. Such notice fully and accurately informed the Settlement Class members of all material elements of the proposed Settlement and of their opportunity to object or comment thereon or to exclude themselves from the Settlement; provided Settlement Class Members adequate instructions and a variety of means to obtain additional information; was the best notice practicable under the circumstances; was valid, due, and sufficient notice to all Settlement Class members; and complied fully with the laws of the State of Illinois, Federal Rules of Civil Procedure, the United States Constitution, due process, and other applicable law.*

Judge James Lawrence King, *Steen v. Capital One, N.A.* (May 22, 2015) 2:10-cv-01505 (E.D. La.) and 1:10-cv-22058 (S.D. Fla.) as part of ***In re: Checking Account Overdraft Litigation***, MDL No. 2036 (S.D. Fla.):

> *The Court finds that the Settlement Class Members were provided with the best practicable notice; the notice was reasonably calculated, under [the] circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Shutts, 472 U.S. at 812 (quoting Mullane, 339 U.S. at 314-15). This Settlement with Capital One was widely publicized, and any Settlement Class Member who wished to express comments or objections had ample opportunity and means to do so. Azari Decl. ¶¶ 30-39.*

Judge Rya W. Zobel, *Gulbankian et al. v. MW Manufacturers, Inc.* (Dec. 29, 2014) 1:10-cv-10392 (D. Mass.):

> *This Court finds that the Class Notice was provided to the Settlement Class consistent with the Preliminary Approval Order and that it was the best notice practicable and fully satisfied the requirements of the Federal Rules of Civil Procedure, due process, and applicable law. The Court finds that the Notice Plan that was implemented by the Claims Administrator satisfies the requirements of FED. R. CIV. P. 23, 28 U.S.C. § 1715, and Due Process, and is the best notice practicable under the circumstances. The Notice Plan constituted due and sufficient notice of the Settlement, the Final Approval Hearing, and the other matters referred to in the notices. Proof of the giving of such notices has been filed with the Court via the Azari Declaration and its exhibits.*

Judge Edward J. Davila, *Rose v. Bank of America Corporation et al.* (Aug. 29, 2014) 5:11-cv-02390 & 5:12-cv-00400 (N.D. Cal.):

> *The Court finds that the notice was reasonably calculated under the circumstances to apprise the Settlement Class of the pendency of this action, all material elements of the Settlement, the opportunity for Settlement Class Members to exclude themselves from, object to, or comment on the settlement and to appear at the final approval hearing. The notice was the best notice practicable under the circumstances, satisfying the requirements of Rule 23(c)(2)(B); provided notice in a reasonable manner to all class members, satisfying Rule 23(e)(1)(B); was adequate and sufficient notice to all Class Members; and, complied fully with the laws of the United States and of the Federal Rules of Civil Procedure, due process and any other applicable rules of court.*

Judge James A. Robertson, II, *Wong et al. v. Alacer Corp.* (June 27, 2014) CGC-12-519221 (Sup. Ct. Cal.):

> *Notice to the Settlement Class has been provided in accordance with the Preliminary Approval Order. Based on the Declaration of Cameron Azari dated March 7, 2014, such Class Notice has been provided in an adequate and sufficient manner, constitutes the best notice practicable under the circumstances and satisfies the requirements of California Civil Code Section 1781, California Civil Code of Civil Procedure Section 382, Rules 3.766 of the California Rules of Court, and due process.*

Judge John Gleeson, *In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* (Dec. 13, 2013) MDL No. 1720, 05-md-01720 (E.D.N.Y.):

> *The Class Administrator notified class members of the terms of the proposed settlement through a mailed notice and publication campaign that included more than 20 million mailings and publication in more than 400 publications. The notice here meets the requirements of due process and notice standards … The objectors' complaints provide no reason to conclude that the purposes and requirements of a notice to a class were not met here.*

Judge Lance M. Africk, *Evans et al. v. TIN, Inc. et al.* (July 7, 2013) 2:11-cv-02067 (E.D. La.):

> *The Court finds that the dissemination of the Class Notice… as described in Notice Agent Lauran Schultz's Declaration: (a) constituted the best practicable notice to Class Members under the circumstances; (b) constituted notice that was reasonably calculated, under the circumstances…; (c) constituted notice that was reasonable, due, adequate, and sufficient; and (d) constituted notice that fully satisfied all applicable legal requirements, including Rules 23(c)(2)(B) and (e)(1) of the Federal Rules of Civil Procedure, the United States Constitution (including Due Process Clause), the Rules of this Court, and any other applicable law, as well as complied with the Federal Judicial Center's illustrative class action notices.*

Judge Edward M. Chen, *Marolda v. Symantec Corporation* (Apr. 5, 2013) 3:08-cv-05701 (N.D. Cal.):

> *Approximately 3.9 million notices were delivered by email to class members, but only a very small percentage objected or opted out … The Court … concludes that notice of settlement to the class was adequate and*

satisfied all requirements of Federal Rule of Civil Procedure 23(e) and due process. Class members received direct notice by email, and additional notice was given by publication in numerous widely circulated publications as well as in numerous targeted publications. These were the best practicable means of informing class members of their rights and of the settlement's terms.

Judge Ann D. Montgomery, *In re: Zurn Pex Plumbing Products Liability Litigation* (Feb. 27, 2013) MDL No. 1958, 08-md-01958 (D. Minn.):

The parties retained Hilsoft Notifications ("Hilsoft"), an experienced class-notice consultant, to design and carry out the notice plan. The form and content of the notices provided to the class were direct, understandable, and consistent with the "plain language" principles advanced by the Federal Judicial Center.

*The notice plan's multi-faceted approach to providing notice to settlement class members whose identity is not known to the settling parties constitutes "the best notice [*26] that is practicable under the circumstances" consistent with Rule 23(c)(2)(B).*

Magistrate Judge Stewart, *Gessele et al. v. Jack in the Box, Inc.* (Jan. 28, 2013) 3:10-cv-00960 (D. Ore.):

Moreover, plaintiffs have submitted [a] declaration from Cameron Azari (docket #129), a nationally recognized notice expert, who attests that fashioning an effective joint notice is not unworkable or unduly confusing. Azari also provides a detailed analysis of how he would approach fashioning an effective notice in this case.

Judge Carl J. Barbier, *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010* *(Medical Benefits Settlement)* (Jan. 11, 2013) MDL No. 2179 (E.D. La.):

Through August 9, 2012, 366,242 individual notices had been sent to potential [Medical Benefits] Settlement Class Members by postal mail and 56,136 individual notices had been e-mailed. Only 10,700 mailings—or 3.3%—were known to be undeliverable. (Azari Decl. ¶¶ 8, 9.) Notice was also provided through an extensive schedule of local newspaper, radio, television and Internet placements, well-read consumer magazines, a national daily business newspaper, highly-trafficked websites, and Sunday local newspapers (via newspaper supplements). Notice was also provided in non-measured trade, business and specialty publications, African-American, Vietnamese, and Spanish language publications, and Cajun radio programming. The combined measurable paid print, television, radio, and Internet effort reached an estimated 95% of adults aged 18+ in the Gulf Coast region an average of 10.3 times each, and an estimated 83% of all adults in the United States aged 18+ an average of 4 times each. (Id. ¶¶ 8, 10.) All notice documents were designed to be clear, substantive, and informative. (Id. ¶ 5.)

The Court received no objections to the scope or content of the [Medical Benefits] Notice Program. (Azari Supp. Decl. ¶ 12.) The Court finds that the Notice and Notice Plan as implemented satisfied the best notice practicable standard of Rule 23(c) and, in accordance with Rule 23(e)(1), provided notice in a reasonable manner to Class Members who would be bound by the Settlement, including individual notice to all Class Members who could be identified through reasonable effort. Likewise, the Notice and Notice Plan satisfied the requirements of Due Process. The Court also finds the Notice and Notice Plan satisfied the requirements of CAFA.

Judge Carl J. Barbier, *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010* *(Economic and Property Damages Settlement)* (Dec. 21, 2012) MDL No. 2179 (E.D. La.):

The Court finds that the Class Notice and Class Notice Plan satisfied and continue to satisfy the applicable requirements of Federal Rule of Civil Procedure 23(c)(2)(b) and 23(e), the Class Action Fairness Act (28 U.S.C. § 1711 et seq.), and the Due Process Clause of the United States Constitution (U.S. Const., amend. V), constituting the best notice that is practicable under the circumstances of this litigation. The notice program surpassed the requirements of Due Process, Rule 23, and CAFA. Based on the factual elements of the Notice Program as detailed below, the Notice Program surpassed all of the requirements of Due Process, Rule 23, and CAFA.

The Notice Program, as duly implemented, surpasses other notice programs that Hilsoft Notifications has designed and executed with court approval. The Notice Program included notification to known or potential Class Members via postal mail and e-mail; an extensive schedule of local newspaper, radio, television and Internet placements, well-read consumer magazines, a national daily business newspaper, and Sunday local newspapers. Notice placements also appeared in non-measured trade, business, and specialty publications, African-American, Vietnamese, and Spanish language publications, and Cajun radio programming. The Notice

Program met the objective of reaching the greatest possible number of class members and providing them with every reasonable opportunity to understand their legal rights. See Azari Decl. ¶¶ 8, 15, 68. The Notice Program was substantially completed on July 15, 2012, allowing class members adequate time to make decisions before the opt-out and objections deadlines.

The media notice effort alone reached an estimated 95% of adults in the Gulf region an average of 10.3 times each, and an estimated 83% of all adults in the United States an average of 4 times each. These figures do not include notice efforts that cannot be measured, such as advertisements in trade publications and sponsored search engine listings. The Notice Program fairly and adequately covered and notified the class without excluding any demographic group or geographic area, and it exceeded the reach percentage achieved in most other court-approved notice programs.

Judge Alonzo Harris, *Opelousas General Hospital Authority, A Public Trust, D/B/A Opelousas General Health System and Arklamiss Surgery Center, L.L.C. v. FairPay Solutions, Inc.* (Aug. 17, 2012) 12-C-1599 (27th Jud. D. Ct. La.):

Notice given to Class Members and all other interested parties pursuant to this Court's order of April 18, 2012, was reasonably calculated to apprise interested parties of the pendency of the action, the certification of the Class as Defined for settlement purposes only, the terms of the Settlement Agreement, Class Members rights to be represented by private counsel, at their own costs, and Class Members rights to appear in Court to have their objections heard, and to afford persons or entities within the Class Definition an opportunity to exclude themselves from the Class. Such notice complied with all requirements of the federal and state constitutions, including the Due Process Clause, and applicable articles of the Louisiana Code of Civil Procedure, and constituted the best notice practicable under the circumstances and constituted due and sufficient notice to all potential members of the Class as Defined.

Judge James Lawrence King, *Sachar v. Iberiabank Corporation* (Apr. 26, 2012) as part of ***In re: Checking Account Overdraft*** MDL No. 2036 (S.D. Fla):

The Court finds that the Notice previously approved was fully and properly effectuated and was sufficient to satisfy the requirements of due process because it described "the substantive claims … [and] contained information reasonably necessary to [allow Settlement Class Members to] make a decision to remain a class member and be bound by the final judgment." In re: Nissan Motor Corp. Antitrust Litig., 552 F.2d 1088, 1104-05 (5th Cir. 1977). The Notice, among other things, defined the Settlement Class, described the release as well as the amount and method and manner of proposed distribution of the Settlement proceeds, and informed Settlement Class Members of their rights to opt-out or object, the procedures for doing so, and the time and place of the Final Approval Hearing. The Notice also informed Settlement Class Members that a class judgment would bind them unless they opted out, and told them where they could obtain more information, such as access to a full copy of the Agreement. Further, the Notice described in summary form the fact that Class Counsel would be seeking attorneys' fees of up to 30 percent of the Settlement. Settlement Class Members were provided with the best practicable notice "reasonably calculated, under [the] circumstances, to apprise them of the pendency of the action and afford them an opportunity to present their objections." Mullane, 339 U.S. at 314. The content of the Notice fully complied with the requirements of Rule 23.

Judge Bobby Peters, *Vereen v. Lowe's Home Centers* (Apr. 13, 2012) SU10-cv-2267B (Ga. Super. Ct.):

The Court finds that the Notice and the Notice Plan was fulfilled, in accordance with the terms of the Settlement Agreement, the Amendment, and this Court's Preliminary Approval Order and that this Notice and Notice Plan constituted the best practicable notice to Class Members under the circumstances of this action, constituted due and sufficient Notice of the proposed Settlement to all persons entitled to participate in the proposed Settlement, and was in full compliance with Ga. Code Ann § 9-11-23 and the constitutional requirements of due process. Extensive notice was provided to the class, including point of sale notification, publication notice and notice by first-class mail for certain potential Class Members.

The affidavit of the notice expert conclusively supports this Court's finding that the notice program was adequate, appropriate, and comported with Georgia Code Ann. § 9-11-23(b)(2), the Due Process Clause of the Constitution, and the guidance for effective notice articulate in the FJC's Manual for Complex Litigation, 4th.

Judge Lee Rosenthal, *In re: Heartland Payment Systems, Inc. Customer Data Security Breach Litigation* (Mar. 2, 2012) MDL No. 2046 (S.D. Tex.):

> *The notice that has been given clearly complies with Rule 23(e)(1)'s reasonableness requirement … Hilsoft Notifications analyzed the notice plan after its implementation and conservatively estimated that notice reached 81.4 percent of the class members. (Docket Entry No. 106, ¶ 32). Both the summary notice and the detailed notice provided the information reasonably necessary for the presumptive class members to determine whether to object to the proposed settlement. See Katrina Canal Breaches, 628 F.3d at 197. Both the summary notice and the detailed notice "were written in easy-to-understand plain English." In re: Black Farmers Discrimination Litig., — F. Supp. 2d —, 2011 WL 5117058, at *23 (D.D.C. 2011); accord AGGREGATE LITIGATION § 3.04(c).15 The notice provided "satisf[ies] the broad reasonableness standards imposed by due process" and Rule 23. Katrina Canal Breaches, 628 F.3d at 197.*

Judge John D. Bates, *Trombley v. National City Bank* (Dec. 1, 2011) 1:10-cv-00232 (D.D.C.) as part of ***In re: Checking Account Overdraft Litigation*** MDL No. 2036 (S.D. Fla.):

> *The form, content, and method of dissemination of Notice given to the Settlement Class were in full compliance with the Court's January 11, 2011 Order, the requirements of Fed. R. Civ. P. 23(e), and due process. The notice was adequate and reasonable, and constituted the best notice practicable under the circumstances. In addition, adequate notice of the proceedings and an opportunity to participate in the final fairness hearing were provided to the Settlement Class.*

Judge Robert M. Dow, Jr., *Schulte v. Fifth Third Bank* (July 29, 2011) 1:09-cv-06655 (N.D. Ill.):

> *The Court has reviewed the content of all of the various notices, as well as the manner in which Notice was disseminated, and concludes that the Notice given to the Class fully complied with Federal Rule of Civil Procedure 23, as it was the best notice practicable, satisfied all constitutional due process concerns, and provided the Court with jurisdiction over the absent Class Members.*

Judge Ellis J. Daigle, *Williams v. Hammerman & Gainer Inc.* (June 30, 2011) 11-C-3187-B (27th Jud. D. Ct. La.):

> *Notices given to Settlement Class members and all other interested parties throughout this proceeding with respect to the certification of the Settlement Class, the proposed settlement, and all related procedures and hearings—including, without limitation, the notice to putative Settlement Class members and others more fully described in this Court's order of 30th day of March 2011 were reasonably calculated under all the circumstances and have been sufficient, as to form, content, and manner of dissemination, to apprise interested parties and members of the Settlement Class of the pendency of the action, the certification of the Settlement Class, the Settlement Agreement and its contents, Settlement Class members' right to be represented by private counsel, at their own cost, and Settlement Class members' right to appear in Court to have their objections heard, and to afford Settlement Class members an opportunity to exclude themselves from the Settlement Class. Such notices complied with all requirements of the federal and state constitutions, including the due process clause, and applicable articles of the Louisiana Code of Civil Procedures, and constituted the best notice practicable under the circumstances and constituted due and sufficient notice to all potential members of the Settlement Class.*

Judge Stefan R. Underhill, *Mathena v. Webster Bank, N.A.* (Mar. 24, 2011) 3:10-cv-01448 (D. Conn.) as part of ***In re: Checking Account Overdraft Litigation*** MDL No. 2036 (S.D. Fla.):

> *The form, content, and method of dissemination of Notice given to the Settlement Class were adequate and reasonable, and constituted the best notice practicable under the circumstances. The Notice, as given, provided valid, due, and sufficient notice of the proposed settlement, the terms and conditions set forth in the Settlement Agreement, and these proceedings to all persons entitled to such notice, and said notice fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process.*

Judge Ted Stewart, *Miller v. Basic Research, LLC* (Sept. 2, 2010) 2:07-cv-00871 (D. Utah):

> *Plaintiffs state that they have hired a firm specializing in designing and implementing large scale, unbiased, legal notification plans. Plaintiffs represent to the Court that such notice will include: 1) individual notice by electronic mail and/or first-class mail sent to all reasonably identifiable Class members; 2) nationwide paid media notice through a combination of print publications, including newspapers, consumer magazines, newspaper supplements and the Internet; 3) a neutral, Court-approved, informational press release; 4) a*

neutral, Court-approved Internet website; and 5) a toll-free telephone number. Similar mixed media plans have been approved by other district courts post class certification. The Court finds this plan is sufficient to meet the notice requirement.

Judge Sara Loi, *Pavlov v. Continental Casualty Co.* (Oct. 7, 2009) 5:07-cv-02580 (N.D. Ohio):

As previously set forth in this Memorandum Opinion, the elaborate notice program contained in the Settlement Agreement provides for notice through a variety of means, including direct mail to each class member, notice to the United States Attorney General and each State, a toll free number, and a website designed to provide information about the settlement and instructions on submitting claims. With a 99.9% effective rate, the Court finds that the notice program constituted the "best notice that is practicable under the circumstances," Fed. R. Civ. P. 23(c)(2)(B), and clearly satisfies the requirements of Rule 23(c)(2)(B).

Judge James Robertson, *In re: Department of Veterans Affairs (VA) Data Theft Litigation* (Sept. 23, 2009) MDL No. 1796 (D.D.C.):

The Notice Plan, as implemented, satisfied the requirements of due process and was the best notice practicable under the circumstances. The Notice Plan was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the action, the terms of the Settlement, and their right to appear, object to or exclude themselves from the Settlement. Further, the notice was reasonable and constituted due, adequate and sufficient notice to all persons entitled to receive notice.

LEGAL NOTICE CASES

Hilsoft has served as a notice expert for planning, implementation and/or analysis in the following partial list of cases:

In re: In re: U.S. Office of Personnel Management Data Security Breach Litigation	D.D.C., No. MDL No. 2664, 15-cv-01394
In re: fairlife Milk Products Marketing and Sales Practices Litigation	N.D. Ill., No. MDL No. 2909, No. 1:19-cv-03924
In Re: Zoom Video Communications, Inc. Privacy Litigation	N.D. Cal., No. 3:20-cv-02155
Browning et al. v. Anheuser-Busch, LLC **(False Advertising)**	W.D. Mo., No. 20-cv-00889
Callen v. Daimler AG and Mercedes-Benz USA, LLC **(Interior Trim)**	N.D. Ga., No. 1:19-cv-01411
In re: Disposable Contact Lens Antitrust Litigation **(Alcon Laboratories, Inc. and Johnson & Johnson Vision Care, Inc.)**	M.D. Fla., No. 3:15-md-02626
Ford et al. v. [24]7.ai, Inc. **(Data Breach - Best Buy Data Incident)**	N.D. Cal., MDL No. 2863, No. 5:18-cv-02770
In re Takata Airbag Class Action Settlement **- Australia Settlement** ***Louise Haselhurst v. Toyota Motor Corporation Australia Limited*** ***Kimley Whisson v. Subaru (Aust) Pty Limited*** ***Akuratiya Kularathne v. Honda Australia Pty Limited*** ***Owen Brewster v. BMW Australia Ltd*** ***Jaydan Bond v. Nissan Motor Co (Australia) Pty Limited*** ***Camilla Coates v. Mazda Australia Pty Limited***	Australia; NSWSC, No. 2017/00340824 No. 2017/00353017 No. 2017/00378526 No. 2018/00009555 No. 2018/00009565 No. 2018/00042244
In Re Pork Antitrust Litigation (Commercial and Institutional Indirect Purchaser Actions - CIIPPs) **(Smithfield Foods, Inc.)**	D. Minn., No. 0:18-cv-01776
Jackson v. UKG Inc., f/k/a The Ultimate Software Group, Inc. **(Biometrics)**	Cir. Ct. of McLean Cnty., Ill., No. 2020L31
In re: Capital One Consumer Security Breach Litigation	E.D. Vir., MDL No. 2915, No. 1:19-md-02915
Dundon et al. v. Chipotle Mexican Grill, Inc. **(Food Ordering Fees)**	Cir. Ct. Cal. Alameda Cnty., No. RG21088118
In re Morgan Stanley Data Security Litigation	S.D.N.Y., No. 1:20-cv-05914

DiFlauro v. Bank of America Corporation, et al.	C.D. Cal., No. 2:20-cv-05692
In re: California Pizza Kitchen Data Breach Litigation	C.D. Cal., No. 8:21-cv-01928
Breda v. Cellco Partnership d/b/a Verizon Wireless **(TCPA)**	D. Mass., No. 1:16-cv-11512
Snyder et al. v. The Urology Center of Colorado, P.C. **(Data Breach)**	2nd Dist. Ct, Cnty. of Denver Col., No. 2021CV33707
Dearing v. Magellan Health Inc. et al. **(Data Breach)**	Sup. Ct. Cnty of Maricopa, Ariz., No. CV2020-013648
Toretto et al. v. Donnelley Financial Solutions, Inc. et al.	S.D.N.Y., No. 1:20-cv-02667
In Re: Takata Airbag Products Liability Litigation **(Volkswagen)**	S.D. Fla., MDL No. 2599, No. 1:15-md-02599
Beiswinger v. West Shore Home, LLC **(TCPA)**	M.D. Fla., No. 3:20-cv-01286
Arthur et al. v. McDonald's USA, LLC et al.; Lark et al. v. McDonald's USA, LLC et al. **(Biometrics)**	Cir. Ct. St. Clair Cnty., Ill., Nos. 20-L-0891; 1-L-559
Kostka et al. v. Dickey's Barbecue Restaurants, Inc. et al.	N.D. Tex., No. 3:20-cv-03424
Scherr v. Rodan & Fields, LLC; Gorzo et al. v. Rodan & Fields, LLC **(Lash Boost Mascara Product)**	Sup. Ct. of Cal., Cnty. San Bernadino, No. CJC-18-004981; Sup. Ct. of Cal., Cnty. of San Fran., Nos. CIVDS 1723435 and CGC-18-565628
Cochran et al. v. The Kroger Co. et al. **(Data Breach)**	N.D. Cal., No. 5:21-cv-01887
Fernandez v. Rushmore Loan Management Services LLC **(Mortgage Loan Fees)**	C.D. Cal., No. 8:21-cv-00621
Abramson v. Safe Streets USA LLC **(TCPA)**	E.D.N.C., No. 5:19-cv-00394
Stoll et al. v. Musculoskeletal Institute, Chartered **(Data Breach)**	M.D. Fla., No. 8:20-cv-01798
Keith Mayo v. Affinity Plus Federal Credit Union **(Overdraft)**	4th Jud. Dist. Ct. Minn., No. 27-cv-11786
Johnson v. Moss Bros. Auto Group, Inc. et al. **(TCPA)**	C.D. Cal., No. 5:19-cv-02456
Muransky et al. v. The Cheesecake Factory, Inc. **(FACTA)**	Sup. Ct. Cal. Cnty. of Los Angeles, No. 19-ST-cv-43875
Haney v. Genworth Life Ins. Co. **(Long Term Care Insurance)**	E.D. Vir., No. 3:22-cv-00055
Halcom v. Genworth Life Ins. Co. **(Long Term Care Insurance)**	E.D. Vir., No. 3:21-cv-00019
Mercado et al. v. Verde Energy USA, Inc. **(Variable Rate Energy)**	N.D. Ill., No. 1:18-cv-02068
Fallis v. Gate City Bank **(Overdraft)**	East Cent. Dist. Ct. Cass Cnty. N.D., No. 09-2019-cv-04007
Sanchez et al. v. California Public Employees' Retirement System et al. **(Long Term Care Insurance)**	Sup. Ct. Cal. Cnty. of Los Angeles, No. BC 517444
Hameed-Bolden et al. v. Forever 21 Retail, Inc. et al. **(Data Breach for Payment Cards)**	C.D. Cal., No. 2:18-cv-03019
Wallace v. Wells Fargo **(Overdraft Fees on Uber and Lyft One-Time Transactions)**	Sup. Ct. Cal. Cnty. of Santa Clara, No. 17-cv-317775

In re Turkey Antitrust Litigations **(Commercial and Institutional Indirect Purchaser Plaintiffs' Action – CIIPPs)** ***Sandee's Bakery d/b/a Sandee's Catering Bakery & Deli et al. v. Agri Stats, Inc.***	N.D. Ill., No. 1:20-cv-02295
Coleman v. Alaska USA Federal Credit Union **(Retry Bank Fees)**	D. Alaska, No. 3:19-cv-00229
Fiore et al. v. Ingenious Designs, L.L.C. and HSN, Inc. **(My Little Steamer)**	E.D.N.Y., No. 1:18-cv-07124
In Re Pork Antitrust Litigation (Commercial and Institutional Indirect Purchaser Actions - CIIPPs) **(JBS USA Food Company, JBS USA Food Company Holdings)**	D. Minn., No. 0:18-cv-01776
Lozano v. CodeMetro Inc. **(Data Breach)**	Sup. Ct. Cal. Cnty. of San Diego, No. 37-2020-00022701
Yamagata et al. v. Reckitt Benckiser LLC **(Schiff Move Free® Advanced Glucosamine Supplements)**	N.D. Cal., No. 3:17-cv-03529
Cin-Q Automobiles, Inc. et al. v. Buccaneers Limited Partnership **(TCPA)**	M.D. Fla., No. 8:13-cv-01592
Thompson et al. v. Community Bank, N.A. **(Overdraft)**	N.D.N.Y., No. 8:19-cv-00919
Bleachtech L.L.C. v. United Parcel Service Co. **(Declared Value Shipping Fees)**	E.D. Mich., No. 2:14-cv-12719
Silveira v. M&T Bank **(Mortgage Fees)**	C.D. Cal., No. 2:19-cv-06958
In re Toll Roads Litigation; Borsuk et al. v. Foothill/Eastern Transportation Corridor Agency et al. **(OCTA Settlement - Collection & Sharing of Personally Identifiable Information)**	C.D. Cal., No. 8:16-cv-00262
In Re: Toll Roads Litigation **(3M/TCA Settlement - Collection & Sharing of Personally Identifiable Information)**	C.D. Cal., No. 8:16-cv-00262
Pearlstone v. Wal-Mart Stores, Inc. **(Sales Tax)**	C.D. Cal., No. 4:17-cv-02856
Zanca et al. v. Epic Games, Inc. **(Fortnite or Rocket League Video Games)**	Sup. Ct. Wake Cnty. N.C., No. 21-CVS-534
In re: Flint Water Cases	E.D. Mich., No. 5:16-cv-10444
Kukorinis v. Walmart, Inc. **(Weighted Goods Pricing)**	S.D. Fla., No. 1:19-cv-20592
Grace v. Apple, Inc.	N.D. Cal., No. 17-cv-00551
Alvarez v. Sirius XM Radio Inc.	C.D. Cal., No. 2:18-cv-08605
In re: Pre-Filled Propane Tank Antitrust Litigation	W.D. Mo., No. MDL No. 2567, No. 14-cv-02567
In re: Disposable Contact Lens Antitrust Litigation **(ABB Concise Optical Group, LLC)**	M.D. Fla., No. 3:15-md-02626
Morris v. Provident Credit Union **(Overdraft)**	Sup. Ct. Cal. Cnty. of San Fran., No. CGC-19-581616
Pennington v. Tetra Tech, Inc. et al. **(Property)**	N.D. Cal., No. 3:18-cv-05330
Maldonado et al. v. Apple Inc. et al. **(Apple Care iPhone)**	N.D. Cal., No. 3:16-cv-04067
UFCW & Employers Benefit Trust v. Sutter Health et al. **(Self-Funded Payors)**	Sup. Ct. of Cal., Cnty. of San Fran., No. CGC 14-538451 Consolidated with CGC-18-565398
Fitzhenry v. Independent Home Products, LLC **(TCPA)**	D.S.C., No. 2:19-cv-02993
In re: Hyundai and Kia Engine Litigation and Flaherty v. Hyundai Motor Company, Inc. et al.	C.D. Cal., Nos. 8:17-cv-00838 & 18-cv-02223

Sager et al. v. Volkswagen Group of America, Inc. et al.	D.N.J., No. 18-cv-13556
Bautista v. Valero Marketing and Supply Company	N.D. Cal., No. 3:15-cv-05557
Richards et al. v. Chime Financial, Inc.	N.D. Cal., No. 4:19-cv-06864
In re: Health Insurance Innovations Securities Litigation	M.D. Fla., No. 8:17-cv-02186
Fox et al. v. Iowa Health System d.b.a. UnityPoint Health **(Data Breach)**	W.D. Wis., No. 18-cv-00327
Smith v. Costa Del Mar, Inc. **(Sunglasses Warranty)**	M.D. Fla., No. 3:18-cv-01011
Al's Discount Plumbing et al. v. Viega, LLC **(Building Products)**	M.D. Pa., No. 19-cv-00159
Rose v. The Travelers Home and Marine Insurance Company et al.	E.D. Pa., No. 19-cv-00977
Eastwood Construction LLC et al. v. City of Monroe ***The Estate of Donald Alan Plyler Sr. et al. v. City of Monroe***	Sup. Ct. N.C., Nos. 18-CVS-2692 & 19-CVS-1825
Garvin v. San Diego Unified Port District	Sup. Ct. Cal., No. 37-2020-00015064
Consumer Financial Protection Bureau v. Siringoringo Law Firm	C.D. Cal., No. 8:14-cv-01155
Robinson v. Nationstar Mortgage LLC	D. Md., No. 8:14-cv-03667
Drazen v. GoDaddy.com, LLC **and** ***Bennett v. GoDaddy.com, LLC (TCPA)***	S.D. Ala., No. 1:19-cv-00563
In re: Libor-Based Financial Instruments Antitrust Litigation	S.D.N.Y., MDL No. 2262, No. 1:11-md-2262
Izor v. Abacus Data Systems, Inc. **(TCPA)**	N.D. Cal., No. 19-cv-01057
Cook et al. v. South Carolina Public Service Authority et al.	Ct. of Com. Pleas. 13th Jud. Cir. S.C., No. 2019-CP-23-6675
K.B., by and through her natural parent, Jennifer Qassis, and Lillian Knox-Bender v. Methodist Healthcare - Memphis Hospitals	30th Jud. Dist. Tenn., No. CH-13-04871-1
In re: Roman Catholic Diocese of Harrisburg	Bank. Ct. M.D. Pa., No. 1:20-bk-00599
Denier et al. v. Taconic Biosciences, Inc.	Sup Ct. N.Y., No. 00255851
Robinson v. First Hawaiian Bank **(Overdraft)**	Cir. Ct. of First Cir. Haw., No. 17-1-0167-01
Burch v. Whirlpool Corporation	W.D. Mich., No. 1:17-cv-00018
Armon et al. v. Washington State University **(Data Breach)**	Sup. Ct. Wash., No. 17-2-23244-1 consolidated with No. 17-2-25052-0
Wilson et al. v. Volkswagen Group of America, Inc. et al.	S.D. Fla., No. 17-cv-23033
Prather v. Wells Fargo Bank, N.A. **(TCPA)**	N.D. Ill., No. 1:17-cv-00481
In re: Wells Fargo Collateral Protection Insurance Litigation	C.D. Cal., No. 8:17-ml-02797
Ciuffitelli et al. v. Deloitte & Touche LLP et al.	D. Ore., No. 3:16-cv-00580
Coffeng et al. v. Volkswagen Group of America, Inc.	N.D. Cal., No. 17-cv-01825
Audet et al. v. Garza et al.	D. Conn., No. 3:16-cv-00940

In re: Disposable Contact Lens Antitrust Litigation **(CooperVision, Inc.)**	M.D. Fla., No. 3:15-md-02626
Hyder et al. v. Consumers County Mutual Insurance Company	D. Ct. of Travis Cnty. Tex., No. D-1-GN-16-000596
Fessler v. Porcelana Corona De Mexico, S.A. DE C.V f/k/a Sanitarios Lamosa S.A. DE C.V. a/k/a Vortens	E.D. Tex., No. 4:19-cv-00248
In re: TD Bank, N.A. Debit Card Overdraft Fee Litigation	D.S.C., MDL No. 2613, No. 6:15-MN-02613
Liggio v. Apple Federal Credit Union	E.D. Vir., No. 1:18-cv-01059
Garcia v. Target Corporation **(TCPA)**	D. Minn., No. 16-cv-02574
Albrecht v. Oasis Power, LLC d/b/a Oasis Energy	N.D. Ill., No. 1:18-cv-01061
McKinney-Drobnis et al. v. Massage Envy Franchising	N.D. Cal., No. 3:16-cv-06450
In re: Optical Disk Drive Products Antitrust Litigation	N.D. Cal., MDL No. 2143, No. 3:10-md-02143
Stone et al. v. Porcelana Corona De Mexico, S.A. DE C.V f/k/a Sanitarios Lamosa S.A. DE C.V. a/k/a Vortens	E.D. Tex., No. 4:17-cv-00001
In re: Kaiser Gypsum Company, Inc. et al. **(Asbestos)**	Bankr. W.D. N.C., No. 16-31602
Kuss v. American HomePatient, Inc. et al. **(Data Breach)**	M.D. Fla., No. 8:18-cv-02348
Lusnak v. Bank of America, N.A.	C.D. Cal., No. 14-cv-01855
In re: Premera Blue Cross Customer Data Security Breach Litigation	D. Ore., No. 3:15-md-02633
Elder v. Hilton Worldwide Holdings, Inc. **(Hotel Stay Promotion)**	N.D. Cal., No. 16-cv-00278
Grayson et al. v. General Electric Company **(Microwaves)**	D. Conn., No. 3:13-cv-01799
Harris et al. v. Farmers Insurance Exchange and Mid Century Insurance Company	Sup. Ct. Cal., No. BC 579498
Lashambae v. Capital One Bank, N.A. **(Overdraft)**	E.D.N.Y., No. 1:17-cv-06406
Trujillo et al. v. Ametek, Inc. et al. **(Toxic Leak)**	S.D. Cal., No.3:15-cv-01394
Cox et al. v. Ametek, Inc. et al. **(Toxic Leak)**	S.D. Cal., No. 3:17-cv-00597
Pirozzi et al. v. Massage Envy Franchising, LLC	E.D. Mo., No. 4:19-cv-00807
Lehman v. Transbay Joint Powers Authority et al. **(Millennium Tower)**	Sup. Ct. Cal., No. GCG-16-553758
In re: FCA US LLC Monostable Electronic Gearshift Litigation	E.D. Mich., MDL No. 2744 & No. 16-md-02744
Dasher v. RBC Bank (USA) predecessor in interest to PNC Bank, N.A.**, as part of *In re: Checking Account Overdraft***	S.D. Fla., No. 1:10-cv-22190, as part of MDL No. 2036
Behfarin v. Pruco Life Insurance Company et al.	C.D. Cal., No. 17-cv-05290
In re: Renovate America Finance Cases **(Tax Assessment Financing)**	Sup. Ct., Cal., Cnty. of Riverside, No. RICJCCP4940
Nelson v. Roadrunner Transportation Systems, Inc. **(Data Breach)**	N.D. Ill., No. 1:18-cv-07400

Skochin et al. v. Genworth Life Insurance Company et al.	E.D. Vir., No. 3:19-cv-00049
***Walters et al. v. Target Corp.* (Overdraft)**	S.D. Cal., No. 3:16-cv-01678
Jackson et al. v. Viking Group, Inc. et al.	D. Md., No. 8:18-cv-02356
Waldrup v. Countrywide Financial Corporation et al.	C.D. Cal., No. 2:13-cv-08833
Burrow et al. v. Forjas Taurus S.A. et al.	S.D. Fla., No. 1:16-cv-21606
Henrikson v. Samsung Electronics Canada Inc.	Ontario Super. Ct., No. 2762-16cp
In re: Comcast Corp. Set-Top Cable Television Box Antitrust Litigation	E.D. Pa., No. 2:09-md-02034
Lightsey et al. v. South Carolina Electric & Gas Company, a Wholly Owned Subsidiary of SCANA et al.	Ct. of Com. Pleas., S.C., No. 2017-CP-25-335
Rabin v. HP Canada Co. et al.	Quebec Ct., Dist. of Montreal, No. 500-06-000813-168
***Di Filippo v. The Bank of Nova Scotia et al.* (Gold Market Instrument)**	Ontario Sup. Ct., No. CV-15-543005-00CP & No. CV-16-551067-00CP
McIntosh v. Takata Corporation et al.; Vitoratos et al. v. Takata Corporation et al.; and Hall v. Takata Corporation et al.	Ontario Sup Ct., No. CV-16-543833-00CP; Quebec Sup. Ct. of Justice, No. 500-06-000723-144; & Court of Queen's Bench for Saskatchewan, No. QBG. 1284 or 2015
Adlouni v. UCLA Health Systems Auxiliary et al.	Sup. Ct. Cal., No. BC589243
Lloyd et al. v. Navy Federal Credit Union	S.D. Cal., No. 17-cv-01280
Luib v. Henkel Consumer Goods Inc.	E.D.N.Y., No. 1:17-cv-03021
***Zaklit et al. v. Nationstar Mortgage LLC et al.* (TCPA)**	C.D. Cal., No. 5:15-cv-02190
In re: HP Printer Firmware Update Litigation	N.D. Cal., No. 5:16-cv-05820
In re: Dealer Management Systems Antitrust Litigation	N.D. Ill., MDL No. 2817, No. 18-cv-00864
Mosser v. TD Bank, N.A. and Mazzadra et al. v. TD Bank, N.A.*, as part of *In re: Checking Account Overdraft	E.D. Pa., No. 2:10-cv-00731, S.D. Fla., No. 10-cv-21386 and S.D. Fla., No. 1:10-cv-21870, as part of S.D. Fla., MDL No. 2036
***Naiman v. Total Merchant Services, Inc. et al.* (TCPA)**	N.D. Cal., No. 4:17-cv-03806
In re: Valley Anesthesiology Consultants, Inc. Data Breach Litigation	Sup. Ct. of Maricopa Ariz., No. CV2016-013446
***Parsons v. Kimpton Hotel & Restaurant Group, LLC* (Data Breach)**	N.D. Cal., No. 3:16-cv-05387
Stahl v. Bank of the West	Sup. Ct. Cal., No. BC673397
37 Besen Parkway, LLC v. John Hancock Life Insurance Company (U.S.A.)	S.D.N.Y., No. 15-cv-09924
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