

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**IN RE PAYMENT CARD
INTERCHANGE FEE AND MERCHANT
DISCOUNT ANTITRUST LITIGATION**

This Document Applies to: All Cases.

No. 05-MD-01720 (MKB) (JO)

**SUPPLEMENTAL DECLARATION OF CAMERON R. AZARI, ESQ., ON
IMPLEMENTATION AND ADEQUACY OF SETTLEMENT NOTICE PLAN**

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

1. My name is Cameron R. Azari, Esq. 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 I have served as an expert in dozens of federal and state cases involving class action notice plans.

3. I am the Director of Legal Notice for Hilsoft Notifications (“Hilsoft”); a firm that specializes in designing, developing, analyzing and implementing large-scale, un-biased, legal notification plans. Hilsoft is a business unit of Epiq Class Action & Claims Solutions (“EPIQ”).

4. Hilsoft has been involved with some of the most complex and significant notices and notice programs in recent history. With experience in more than 400 cases, notices prepared by Hilsoft have appeared in 53 languages with distribution in almost every country, territory and dependency in the world. Judges, including in published decisions, have recognized and approved numerous notice plans developed by Hilsoft, which decisions have always withstood collateral reviews by other courts and appellate challenges.

5. This declaration will provided updated administration stats following the implementation of the Settlement Notice Plan (“Notice Plan” or “Plan”) for the parties’ settlement

between the Rule 23(b)(3) Class Plaintiffs and the Defendants in *In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL 1720 in the United States District Court for the Eastern District of New York. In the “*Declaration of Cameron R. Azari, Esq., on Implementation and Adequacy of Settlement Notices and Notice Plan*” dated June 6, 2019, (“*Implementation Declaration*”), I detailed the successful implementation of the comprehensive Notice Plan. I also provided my opinion that the Notice Plan was the best notice practicable under the circumstances of this case and satisfied the requirements of due process, including its “desire to actually inform” requirement.¹ Previously, in the “*Declaration of Cameron R. Azari, Esq., on Proposed Settlement Class Notice Program*” dated August 31, 2018, I detailed Hilsoft’s class action notice experience and attached Hilsoft’s curriculum vitae. I also provided my educational and professional experience relating to class actions and my ability to render opinions on the overall adequacy of notice programs.

6. The facts in this declaration are based on what I personally know, as well as information provided to me in the ordinary course of my business by my colleagues at Hilsoft and Epiq, who worked with us to implement the notification effort.

7. As described below, I confirm that the Notice Plan was carried out and that the website notice, mail notice, publication notice, and any other notice to members of the Rule 23(b)(3) Settlement was provided in the manner directed by the Court.

NOTICE PLAN IMPLEMENTATION

Individual Notice

¹ “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 . . .” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950).

8. The comprehensive individual notice effort to notify Settlement Class members is described in the *Declaration of Nicole F. J. Hamann on Class Administrator's Implementation of Settlement Notice Plan*, dated June 6, 2019, and subsequently in Nicole F. J. Hamann's *2019 Report of the Class Administrator* ("*Hamann Declaration*") (filed contemporaneously with this declaration) and as well as my first *Implementation Declaration*.

Media Notice

9. As I stated in my *Implementation Declaration*, to guide the selection of measured media in reaching Settlement Class members, the Notice Plan had a broad primary target audience of all U.S. adults. To focus the reach of the Notice Plan to likely Settlement Class members, the Notice Plan included additional target audiences of U.S. business owners and U.S. business financial decision makers.

10. Altogether, the very significant paid media effort included 354 separate print publication units with a combined circulation of more than 39.9 million and more than 689 million adult internet banner impressions. While the majority of the Notice Program appeared in English, the notice was also published in seven additional languages (Spanish, Chinese, Japanese, Korean, Russian, Thai, and Vietnamese) to reach Settlement Class members whose native language is not English. Notice was provided as follows:

11. National Consumer Publications - A Publication Notice appeared in four selected leading weekly and monthly publications (twice in *People* and *Sports Illustrated* and once in *Parade*, *National Geographic*, and *People en Español*, for a total of seven insertions) as a full page spread notice.

12. U.S. Territory Newspapers - A Publication Notice appeared once as a standard magazine sized, full page ad unit in nine English and Spanish language newspapers targeting the United States territories.

13. National Business Publications - To target business owners and adults in business and finance occupations, the Publication Notice appeared in seven selected leading national business publications as a full-page or equivalent size ad unit.

14. Trade, Business & Specialty Publications - A Publication Notice appeared in 64 selected trade, business & specialty publications once or twice as a full page or equivalent size ad unit for a total of 125 insertions.

15. Language & Ethnic Targeted Publications - The Publication Notice appeared in 103 language & ethnic targeted publications as a full-page ad unit or equivalent size two times in selected daily or weekly publications and one time in selected monthly publications for a total of 203 insertions. The Publication Notice was translated into Spanish, Chinese, Japanese, Korean, Russian, Thai, and Vietnamese.

16. Digital Banner Notice - Banner advertisements appeared on *Google* and *Yahoo Ad Network* (now called *Verizon Media (Yahoo) Audience Network*) in English, on the *Pulpo Ad Network* in Spanish and on the *Refuel Diversity Audience Network* in multiple languages (English, Spanish, Chinese, Japanese, Korean, Thai and Russian). Banner advertisements were also displayed on the social media networks *Facebook* and *Instagram*. In addition, banners were also placed on the websites of several financial media outlets mirrored in the print portion of the Notice Plan, including the *WSJ.com*, *Bloomberg.com*, *Forbes.com*, and *BiZ Journals*. Combined, approximately 689.9 million adult impressions were generated by the Banner Notices over a 31-day period.

17. Informational Release - To build additional reach and extend exposures, a party-neutral Informational Release was issued nationwide on February 22, 2019. The Informational Release was also issued to several “microlists” targeting niche media appropriate for this Settlement Class. These microlists included: "Small Business," "Top Legal Newspapers," "General Retailing," "Finance" and "Accounting.”

Internet Sponsored Search Listings

18. To facilitate Class Members with locating the Case Website, sponsored search listings were acquired on the three most highly-visited internet search engines: *Google, Yahoo!* and *Bing*. The sponsored listings ran through the July 23, 2019, exclusion and objection deadlines. As of July 23, 2019, the sponsored search listings were displayed 215,077 times, resulting in 37,384 clicks that displayed the Case Website.

Case Website, Toll-free Telephone Number, Email Inbox

19. The dedicated website for the previous proposed settlement (www.PaymentCardSettlement.com) continues to be available 24 hours per day, 7 days per week. From September 1, 2018 to August 2, 2019, there have been 940,940 unique visitors to the case website and 1,738,227 web pages have been presented to visitors.

20. The toll-free phone number (1-800-625-6440) was updated to reflect the terms of the Superseding and Amended Class Settlement Agreement. The toll-free phone number continues to be used for this proposed settlement to allow Settlement Class members to call for additional information, listen to answers to FAQs, request that a Long-Form Notice be mailed to them and select to speak to a live operator during normal business hours.

21. From September 1, 2018 to August 2, 2019, the toll-free number has handled 99,106 calls for 442,723 minutes of use, live operators have handled 34,751 inbound calls,

representing 320,316 minutes of use and live operators have handled 3,704 outbound calls representing 7,336 minutes of use.

Objections and Exclusions

22. The deadline for Settlement Class members to request exclusion from the Settlement or object to the Settlement was July 23, 2019. As of August 6, 2019, Epiq has received 676 requests for exclusion. As of August 6, 2019, Epiq has received 200 objections. See the *Hamann Declaration* for additional details regarding the objections and exclusions.

CONCLUSIONS

23. As previously stated in my *Implementation Declaration*, based on conservative calculations, the combined measurable paid print and internet effort alone reached 80.4% of all U.S. Adults aged 18+ with an average frequency of 2.8 times, 84.2% of all U.S. Business Owners with an average frequency of 3.2 times, and 84.4% of all U.S. Adults in Business and Finance Occupations with an average frequency of 3.4 times. Although not calculable, reach and frequency of exposure were enhanced further by the individual notice effort, notice placements in trade, business & specialty publications, language & ethnic targeted publications, U.S. territories newspapers, an informational release, internet sponsored listings, and the case website. This reach and average frequency of exposure indicates that the notice campaign was highly successful in providing notice to potential Settlement Class members.

24. All notice documents were designed to be noticeable, clear, simple, substantive, and informative. No significant or required information was missing. In my opinion, the Notice Program fairly and adequately covered and notified the Class without excluding any demographic group or geographic area. In my opinion, each person reached has been provided with adequate

time prior to the Fairness Hearing to make appropriate decisions, such as whether to opt-out or object to the Settlement.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 7, 2019.



Cameron R. Azari, Esq.

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