

SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY

IN RE GATEWAY PLAZA RESIDENTS  
LITIGATION

Index No. 651023/2014  
Judge Hon. Melissa A. Crane

**DECLARATION OF LINDSEY MARQUEZ REGARDING  
IMPLEMENTATION OF NOTICE AND SETTLEMENT ADMINISTRATION**

I, Lindsey Marquez, hereby declare and state as follows:

1. I am a Project Manager employed by Epiq Class Action & Claims Solutions, Inc. (“Epiq”), the Settlement Administrator in the above-captioned case. I received my Master of Business Administration degree from Boise State University. I am familiar with the actions taken by Epiq with respect to the settlement administration in this case, as described below.

2. Epiq was appointed as the Administrator pursuant to the Court’s Preliminary Approval Order (the “Order”) dated November 13, 2019, and in accordance with the Gateway – Stipulation of Settlement dated October 30, 2019 (the “Agreement”).<sup>1</sup> I submit this Declaration in order to advise the Parties and the Court regarding the implementation of the Court-approved Class Notice Program, and to report on Epiq’s handling to date of the Settlement administration, in accordance with the Order and the Agreement.

3. Epiq was established in 1968 as a client services and data processing company. Epiq has administered bankruptcies since 1985 and settlements since 1993. Epiq has routinely developed and executed notice programs and administrations in a wide variety of mass action contexts including settlements of consumer, antitrust, products liability, and labor and employment class actions, settlements of mass tort litigation, Securities and Exchange Commission

<sup>1</sup> All capitalized terms not otherwise defined in this document shall have the same meanings ascribed to them in the Agreement.

enforcement actions, Federal Trade Commission disgorgement actions, insurance disputes, bankruptcies, and other major litigation. Epiq has administered more than 4,500 settlements, including some of the largest and most complex cases ever settled. Epiq's class action case administration services include administering notice requirements, designing direct-mail notices, implementing notice fulfillment services, coordinating with the United States Postal Service ("USPS"), developing and maintaining notice websites and dedicated telephone numbers with recorded information and/or live operators, processing exclusion requests, objections, claim forms and correspondence, maintaining class member databases, adjudicating claims, managing settlement funds, and calculating claim payments and distributions. As an experienced neutral third-party administrator working with settling parties, courts, and mass action participants, Epiq has handled hundreds of millions of notices, disseminated hundreds of millions of emails, handled millions of phone calls, processed tens of millions of claims, and distributed hundreds of billions in payments.

#### **OVERVIEW OF ADMINISTRATION**

4. Pursuant to the Agreement and Order, Epiq was appointed to provide the following administrative services for the benefit of Settlement Class Members, as defined in the Agreement:

- As appropriate, email a Summary Notice to Settlement Class Members;
- As appropriate, mail a Notice of Settlement and Proof of Claim Form ("Claim Package") to Settlement Class Members;
- Prepare 1,690 blank Claim Packages for Defenant to insert into current resident mailboxes;
- Publish a Notice of the Settlement once in *Downtown Express* in Manhattan NY;

- Establish and maintain an official website containing information regarding the proposed Settlement to Settlement Class Members;
- Establish and maintain an official toll-free number that Settlement Class Members may contact for additional information about the Settlement;
- Review and process Requests for Exclusion sent to or received by Epiq;
- Review and track objections sent to or received by Epiq;
- Receive, process, track, and report on Claim Forms sent to or received by Epiq;

#### **CLASS LIST DATA**

5. On February 22, 2019 and on November 22, 2019, Counsel for Defendant provided Epiq with four electronic data files containing the names and addresses of all potential Settlement Class Members.

6. Epiq loaded the data into a database for the administration of the Settlement. Epiq assigned unique identifiers to all the records it received in order to maintain the ability to track them throughout the Settlement administration process. Epiq combined the data and removed exact duplicate records, which resulted in 6,046 unique Settlement Class Member records (the “Class List”).

#### **NOTICE PLAN**

7. On December 18, 2019, pursuant to the Agreement, Epiq commenced the Notice Plan which included: (a) the Summary Notice to be formatted for electronic distribution by email to Settlement Class Members for whom an email address was included in the Class Data; (b) the Notice of Settlement and Proof of Claim Form to be mailed all potential Settlement Class Members

via U.S. First Class Mail; and (c) to supplement the individual notice efforts with a Publication Notice.

8. Epiq caused 3,829 Email Notices to be electronically disseminated to Settlement Class Members for whom an email address was provided in the Class Data. Each Email Notice was transmitted with a unique message identifier. Attached hereto as **Exhibit A** is the Email Notice.

9. The Email Notice was formatted for distribution using imbedded html text, provided Class Members with a link to the Settlement website. The Email Notice was formatted with easy to read text without graphics, tables, images and other elements that would increase the likelihood that the message could be blocked by Internet Service Providers and/or SPAM filters. Epiq also followed standard email protocols, including utilizing “unsubscribe” links and Epiq’s contact information in the Email Notice. If the receiving e-mail server could not deliver the message, a “bounce code” was returned along with the unique message identifier.

10. As of January 10, 2020, a total of 3,620 Email Notices were delivered and 209 Email Notices could not be delivered.

11. Epiq caused 4,093 Claim Packages to mail via First Class USPS Mail to potential Settlement Class Members on the Class List with a valid mailing address. Attached hereto as **Exhibit B** is the Claim Package.

12. As of January 10, 2020, a total of 54 Claim Packages could not be delivered.

13. In addition, three (3) Claim Packages have been mailed via First Class USPS Mail to all persons who submitted a request for one via the toll-free number.

14. Prior to mailing the Claim Package, all mailing addresses were checked against the National Change of Address (“NCOA”) database maintained by the United States Postal Service

(“USPS”).<sup>2</sup> In addition, the addresses were certified via the Coding Accuracy Support System (“CASS”) to ensure the quality of the zip code, and verified through Delivery Point Validation (“DPV”) to verify the accuracy of the addresses. To the extent that any Class Member had filed a USPS change of address request, and the address was certified and verified, the current address listed in the NCOA database was used in connection with the Notice mailing.

15. Epiq established a dedicated post office box to mail the Claim Packages from, to receive undeliverable Claim Packages and to allow Settlement Class Members to contact the Claims Administrator or submit documents by mail.

16. To supplement the abovementioned individual notice efforts, a Publication Notice appeared once on December 26, 2019, in the *Downtown Express* in Manhattan, NY, as an approximate quarter page ad unit. The newspaper has a circulation of approximately 22,000. A copy of the Publication Notice is as it appeared in the *Downtown Express* is included as **Exhibit C**.

### **SETTLEMENT WEBSITE**

17. On December 18, 2019, Epiq launched a website, [www.GatewayPlazaSettlement.com](http://www.GatewayPlazaSettlement.com), that potential Settlement Class Members could visit to obtain additional information about the proposed Settlement, as well as important documents, including the Summary Notice, Proof of Claim Form, Notice of Settlement, Motion for Preliminary Approval of Settlement, Stipulation of Settlement, Proposed Judgement and Order of Dismissal and Preliminary Order of Approval. The website also contains a summary of options available to Settlement Class Members, deadlines to act, and provides answers to frequently asked questions.

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<sup>2</sup> The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported move based on a comparison with the person’s name and last known address.

Settlement Class Members are also able to file a Claim via the website, or download a paper Claim Form, which they could then file by mail. References to the website were prominently displayed in all notice documents.

18. As of January 10, 2020, the website has been visited by 778 unique visitors and 2,917 website pages have been presented.

#### **TOLL-FREE INFORMATION LINE**

19. December 18, 2019, Epiq established, and continues to maintain, a toll-free interactive Voice Response Unit (“VRU”), telephone number, to provide information and accommodate inquiries from Settlement Class Members. Callers hear an introductory message and then are provided with scripted information about the Settlement in the form of recorded answers to frequently asked questions. Callers also have the options of requesting a Claim Package by mail, leaving a voicemail for a call center representative to call them back, or speaking to a live operator during normal business hours. The toll-free number was included in the Claim Package sent to Settlement Class Members and the automated telephone system is available 24 hours per day, 7 days per week.

20. As of January 10, 2020, the toll-free number has received 55 calls representing 342 total minutes, and call center representatives have handled 27 inbound calls representing 257 minutes of use.

#### **REQUESTS FOR EXCLUSION**

21. Settlement Class Members who wished to be excluded from the Settlement were required to mail a written Request for Exclusion to Epiq received on or before January 31, 2020. As of January 10, 2020, Epiq has received no Requests for Exclusion.

**CLAIMS RECEIVED**

22. Settlement Class Members who wished to make a claim were required to submit a completed Proof of Claim Form to the Claims Administrator online and/or via U.S. Mail, so that it was submitted no later than April 16, 2020. As of January 10, 2020, Epiq has received 521 Claim Forms.<sup>3</sup>

I declare under penalty of perjury under the laws of the United States and the State of Oregon that the foregoing is true and correct and that this declaration was executed on January 10, 2020, in Beaverton, Oregon.

/s/ Lindsey Marquez \_\_\_\_\_  
Lindsey Marquez  
Project Manager  
Epiq Class Action & Claims Solutions, Inc. (“Epiq”)

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<sup>3</sup> As Epiq is still receiving, reviewing, and processing timely and late claims, the claims information provided herein is subject to further analysis for eligibility and quality control, and is, therefore, preliminary at this time.