

IN DISTRICT COURT, COUNTY OF CASS, STATE OF NORTH DAKOTA

MARY LOU FALLIS and KYLA
DELORME, on behalf of themselves and
all others similarly situated,

Plaintiffs,

vs.

GATE CITY BANK,

Defendant.

Civil No. 09-2019-CV-04007

**SUPPLEMENTAL DECLARATION OF
CAMERON R. AZARI, ESQ. ON
IMPLEMENTATION OF NOTICE
PROGRAM**

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. This Declaration will provide updated settlement administration statistics for the implementation of the Settlement Notice Program (“Notice Program”) for *Mary Lou Fallis and Kyla Delorme v. Gate City Bank*, Civil No. 09-2019-CV-04007 in the District Court, County of Cass for the State of North Dakota. I previously executed my *Declaration of Cameron R. Azari, Esq. on Implementation of Notice Program* on July 22, 2022, (the “Implementation Declaration”), which described the Notice Program, detailed Hilsoft’s class action notice experience, and attached

¹ References to Epiq in this Declaration include Hilsoft Notifications.

Hilsoft's *curriculum vitae*. I also provided my educational and professional experience relating to class actions and my ability to render opinions on overall adequacy of notice programs. Additionally, it described the successful implementation of the Notice Program and provided settlement administration statistics.

5. 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.

NOTICE PROGRAM SUMMARY

6. Rule 23 of the North Dakota Rules of Civil Procedure specifies that, "each class member, not a representative party, whose potential monetary recovery or liability is estimated to exceed \$100 must be given personal notice, mailed notice, or notice via third-party commercial carrier if the person's identity and whereabouts can be ascertained by the exercise of reasonable diligence." The Notice Program satisfied these requirements.

7. This Notice Program reached the greatest practicable number of Settlement Class members. The Notice Program individual notice efforts reached approximately 97.1% of the identified Settlement Class members that were sent Notice. The reach was further enhanced by the Settlement Website. In my experience, this reach of the Notice Program 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 PROGRAM IMPLEMENTATION

Individual Notice - Email

8. As stated in my Implementation Declaration, on June 13, 2022, Epiq sent the Email Notice to the 55,712 Settlement Class member records with an associated email address. Industry

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 . . .").

standard best practices were followed for the Email Notice efforts. After completion of the Email Notice efforts, 10,285 emails remained undeliverable.

Individual Notice - Direct Mail

9. As stated in my Implementation Declaration, Epiq sent the Postcard Notice to the 4,787 Settlement Class member records with just an associated physical address. Subsequently, on June 14, 2022, a Postcard Notice was sent to the 10,285 Settlement Class member records for whom an Email Notice was undeliverable.

10. Postcard Notices returned as undeliverable were re-mailed to any new address available through United States Postal Service “USPS” information, or to better addresses that were found using a third-party lookup service. As of August 17, 2022, upon successfully locating better addresses, 2,589 Postcard Notices were promptly remailed or forwarded by the USPS.

Notice Results

11. As of August 17, 2022, notice remains undeliverable for just 1,727 Settlement Class member of the 60,515 Settlement Class members, meaning the notice was successfully delivered to 97.1% of the Settlement Classes.

Settlement Website, Toll-Free Informational Number, and Post Office Box

12. The dedicated Settlement Website established for the Settlement (www.GateCityFeeLitigation.com) continues to be available 24 hours per day, 7 days per week. The Settlement Website enables Settlement Class members to review information about the Settlement, including the Long Form Notice, Settlement Agreement, Preliminary Approval Order, Amended Complaint, and other relevant documents. As of August 17, 2022, there have been 3,096 unique visitor sessions to the Settlement Website and 4,635 Settlement Website pages presented.

13. The toll-free telephone number (855-604-1682) that was established for the Settlement continues to allow Settlement Class members to call and listen to answers to frequently asked questions, and request that a Long Form Notice be mailed to them. The automated phone system is available 24 hours per day, 7 days per week. The toll-free informational number has

been operational since June 13, 2022. As of August 17, 2022, there have been 376 calls to the toll-free informational number. As of August 17, 2022, Epiq has mailed sixteen Long Form Notices as a result of requests from the toll-free telephone number.

14. Epiq established a post office box (P.O. Box 5820, Portland, OR 97228-5820) for receipt of undeliverable mail, exclusion requests, and other communications. Mail received at the post office box continues to be collected and processed daily.

Requests for Exclusion and Objections

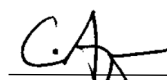
15. Pursuant to the Preliminary Approval Order, requests from Settlement Class members to opt-out from the Settlement are required to be mailed to the Settlement Administrator, postmarked no later than August 8, 2022. As of August 17, 2022, Epiq has not received or been made aware of any requests for exclusion.

16. Pursuant to the Preliminary Approval Order, objections must be mailed to the Clerk of the Court, Class Counsel, Gate City Banks's counsel, and the Settlement Administrator no later than August 8, 2022. As of August 17, 2022, Epiq has not received or been made aware of any objections.

CONCLUSION

17. The Notice Program provided the best notice practicable under the circumstances, conformed to all aspects of Rule 23 of the North Dakota Rules of Civil Procedure regarding notice, comported with the guidance for effective notice articulated in the Manual for Complex Litigation, Fourth and applicable Federal Judicial Center materials, and exceeded the requirements of due process, including its "desire to actually inform" requirement.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Executed in Beaverton, OR this 19th day of August 2022.



Cameron R. Azari, Esq.

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DELORME, on behalf of themselves and
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CERTIFICATE OF SERVICE

[1] I hereby certify that on August 29, 2022, the following document:

**SUPPLEMENTAL DECLARATION OF CAMERON R. AZARI, ESQ.
ON IMPLEMENTATION OF NOTICE PROGRAM**

was filed electronically through the Odyssey system and the Odyssey system will send notice of service upon the following:

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Dated: August 29, 2022.

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