

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

GARY MARCHESE, ESTHER  
WEINSTEIN and JOAN HOWARD  
Individually, and on Behalf of All Others  
Similarly Situated,

Plaintiffs,

vs.

CABLEVISION SYSTEMS  
CORPORATION and CSC HOLDINGS,  
LLC,

Defendants.

Civil Action No.  
10-2190(MCA)(MAH)

**DECLARATION OF CAMERON AZARI, ESQ., ON IMPLEMENTATION OF  
SETTLEMENT NOTICES AND 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 Systems Class Action and Claims Solutions (“ECA”).

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 300 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.

**EXPERIENCE RELEVANT TO THIS CASE**

5. Hilsoft has served as notice expert and has been recognized and appointed by courts to design and provide notice in many of the largest and most significant cases, including: *In Re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010*, MDL 2179 (E.D. La.) (One of the largest claim deadline notice campaigns ever implemented, for BP’s \$7.8 billion settlement claim deadline relating to the Deepwater Horizon oil spill. Hilsoft Notifications designed and implemented the claim deadline notice program, which resulted in a combined measurable paid print, television, radio and Internet notice effort that reached 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: Energy Future Holdings Corp., et. al. (Asbestos Claims Bar Date Notice)*, 14-10979 (CSS) (Bankr. D. Del.) (Large asbestos bar date notice effort, which included individual notice, national consumer publications, hundreds of local and national newspapers, Spanish newspapers, union labor publications, and digital media to reach the target audience); *In Re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010*, MDL 2179 (E.D. La.) (Dual landmark settlement notice programs to separate “Economic and Property Damages” and “Medical Benefits” settlement classes. Notice effort included over 7,900 television spots, over 5,200 radio spots, and over 5,400 print insertions and reached over 95% of Gulf Coast residents); *In Re: Checking Account Overdraft Litigation*, MDL 2036 (S.D. Fla.) (Multiple bank settlements between 2010-2016 involving direct mail and email

to millions of class members and publication in relevant local newspapers. Representative banks include, Fifth Third Bank, National City Bank, Bank of Oklahoma, Webster Bank, Harris Bank, M & I Bank, Community Bank, PNC Bank, Compass Bank, Commerce Bank, Citizens Bank, Great Western Bank, TD Bank, Bancorp, Whitney Bank, Associated Bank, and Susquehanna Bank); and *In re Department of Veterans Affairs (VA) Data Theft Litigation*, MDL 1796 (D.D.C.) (Notices appeared across the country in newspapers, consumer magazines, and specialty publications with a total circulation exceeding 76 million).

6. Courts have recognized our testimony as to 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. For example:

a) *Chimeno-Buzzi v. Hollister Co. and Abercrombie & Fitch Co.*, No. 14-23120 (S.D. Fla.), Judge Marcia G. Cooke on April 11, 2016:

*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.*

b) *Adkins v. Nestle Purina PetCare Company, et al.*, No. 12-cv-2871 (N.D. Ill.), Judge Robert W. Gettleman on June 23, 2015:

*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.*

c) *Gulbankian et al. v. MW Manufacturers, Inc.*, No. 1:10-cv-10392-RWZ

(D. Mass.), Judge Rya W. Zobel on December 29, 2014:

*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.*

d) *Rose v. Bank of America Corporation, and FIA Card Services, N.A.*, No.

5:11-CV-02390-EJD; 5:12-CV-04009-EJD (N.D. Cal.), Judge Edward J. Davila on August 29, 2014:

*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.*

e) *Wong et al. v. Alacer Corp.*, No. CGC-12-519221 (Cal. Super. Ct.), Judge

James A. Robertson, II on June 27, 2014:

*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.*

f) *Marolda v. Symantec Corporation*, No. 08-cv-05701 (N.D. Cal.), Judge

Edward M. Chen on April 5, 2013:

*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.*

g) *In Re: Zurn Pex Plumbing Products Liability Litigation*, No. 08-cv-01958

(D. Minn.), Judge Ann D. Montgomery on February 27, 2013:

*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 that is practicable under the circumstances” consistent with Rule 23(c)(2)(B).*

h) *In Re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of*

*Mexico, on April 20, 2010, MDL 2179 (E.D. La.), Judge Carl J. Barbier on January 11,*

2013:

*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 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.*

i) *In re: Heartland Payment Systems, Inc. Customer Data Security Breach*

*Litigation*, MDL 09-2046 (S.D. Tex.), Judge Lee Rosenthal on March 2, 2012:

*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 (internal quotation marks omitted).*

7. Numerous other court opinions and comments as to our testimony, and opinions on the adequacy of our notice efforts, are included in Hilsoft's curriculum vitae included as **Exhibit 1.**

8. In forming my 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, receiving 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 Hilsoft since 2008 and have overseen the detailed planning of virtually all of our court-approved notice programs since that time. Prior to assuming my current role with Hilsoft, I served in a similar role as Director of Epiq Legal Noticing (previously called Huntington Legal Advertising). Overall, I have over 16 years of experience in the design and implementation of legal notification and claims administration programs, having been personally involved in well over one hundred successful notice programs.

9. I have been directly and personally involved with the designing of the notice planning here, including the individual notice and the media audience data and determining the most effective mixture of media required to reach the greatest practicable number of Settlement Class members. In my experience, the reach and frequency of the Notice Plan (as defined herein in Paragraph 15), including both the individual notice and the media effort, as designed and implemented, met and exceeded due process requirements.

10. The facts in this declaration are based on what I personally know, information provided to me in the ordinary course of my business by my colleagues at Hilsoft and ECA who worked with me to implement the notice effort, and information provided to me regarding Cablevision's implementation of individual notice to Current Subscribers<sup>1</sup> and Former

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<sup>1</sup> Capitalized terms not defined herein shall be ascribed the same meaning as in the Class Action Settlement Agreement dated December 7, 2015 by and between Defendants Cablevision Systems Corporation and CSC Holdings, LLC (collectively "Cablevision") and Plaintiffs Gary Marchese, Esther Weinstein, and Joan Howard (collectively, "Plaintiffs") (the "Settlement Agreement").

Subscribers in accordance with the Settlement Agreement and the Order (as defined herein in Paragraph 12).

### **OVERVIEW**

11. In *Marchese v. Cablevision Systems Corporation and CSC Holdings, LLC*, Case No. 10-2190(MCA)(MAH) in the United States District Court for the District of New Jersey, my colleagues and I were asked to review the notices (or “Notice”) and design a notice program (“Notice Program” or “Notice Plan”) to inform Settlement Class members about their rights under the Settlement.

12. The Court approved the Notice Plan (including proposed forms of notice) as set forth in the Settlement Agreement and appointed ECA as the Claims Administrator in the Order Certifying a Settlement Class and Preliminarily Approving Class Action Settlement (“Order”), filed on March 9, 2016. The Court certified the following Settlement Class: “All persons in New Jersey, Connecticut, and New York who subscribed to Cablevision video services and paid a monthly fee to Cablevision to lease a Set-Top Box during the period April 30, 2004 to the date of this Order. Excluded from the class are (i) commercial, bulk, and municipal accounts; (ii) Cablevision, its officers, directors, affiliates and subsidiaries, and counsel; and (iii) any judicial official to whom this case is or may be assigned and any members of those judicial officials’ immediate families, law clerk and their immediate families, and counsel for Plaintiffs.”

13. After the Court’s preliminary approval of the Settlement, we began implementing the Notice Program. This declaration will detail the successful implementation of the Notice Program and document the completion of all of the notice activities. The declaration will also discuss the administration activity to date.



14. To date, the Notice Plan has been implemented as ordered by the Court, including dissemination of individual notice to known or potential Settlement Class members via postal mail and email, and publication of the Notice in local newspapers and on highly trafficked websites. An informational release, sponsored Internet search listings and the Settlement website provided additional notice exposures.

15. The measurable effort of the media portion of the Notice Plan alone is estimated to have reached approximately 84.8% of adults aged 18+ in the Hartford/New Haven Designated Market Area (“DMA”) an estimated average of 5.6 times each, and 84.7% of adults aged 18+ in the New York DMA an estimated average of 5.6 times each.<sup>2</sup> These two DMAs cover the territory in New York, New Jersey, and Connecticut in which Cablevision provided services during the relevant time period.

16. In my experience, the reach and frequency of the Notice Plan meets that of other court-approved notice programs, and has been designed to meet due process requirements.

17. Not reflected in the calculable reach and average frequency of exposures are additional efforts that were utilized such as mailed and emailed individual notice, an informational release, sponsored Internet search listings and a Settlement website. These aspects of the Notice Plan, and in particular the individual notice, are likely to have substantially increased the reach.

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<sup>2</sup> Reach is defined as the percentage of a class exposed to notice, net of any duplication among people who may have been exposed more than once. Notice exposure is defined as the opportunity to see a notice. The average frequency of notice exposure is the average number of times that those reached by a notice would be exposed to the notice.

18. All notice documents were designed to provide a clear, concise, plain-language statement of Class members' legal rights and options. The Notices alerted Class members that the content may affect them. No significant or required information was missing.

19. In my opinion, the Notice Program fairly and adequately covered and notified the Class without excluding any demographic group or geographic area.

20. In my opinion, 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.<sup>3</sup>

### **MEDIA NOTICE PLANNING METHODOLOGY**

21. The Notice Plan was designed to satisfy the "best notice practicable" standard pursuant to Rule 23 of the Federal Rules of Civil Procedure. Data sources and tools that are commonly employed by experts in this field were used to analyze the reach and frequency of the paid media portion of the Notice Program. In particular, GfK Mediamark Research & Intelligence, LLC ("MRI") data<sup>4</sup> provides statistically significant readership. These tools, along with demographic breakdowns indicating how many people use each media vehicle, as well as computer software that take the underlying data and factor out the duplication among audiences

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<sup>3</sup> "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).

<sup>4</sup> GfK Mediamark Research & Intelligence, LLC ("MRI") is a leading source of publication readership and product usage data for the communications industry. MRI offers comprehensive demographic, lifestyle, product usage and exposure to all forms of advertising media collected from a single sample. As the leading U.S. supplier of multimedia audience research, MRI provides information to magazines, television networks, radio stations, websites, and other media, leading national marketers, and over 450 advertising agencies—including 90 of the top 100 in the United States. MRI's national syndicated data is widely used by companies as the basis for the majority of the media and marketing plans that are written for advertised brands in the U.S.

of various media vehicles, allow us to determine the net (unduplicated) reach of a particular media schedule. We combine the results of this analysis to help determine notice plan sufficiency and effectiveness.

22. *Tools and data trusted by the communications industry and courts.* Virtually all of the nation’s largest advertising agency media departments utilize, scrutinize, and rely upon such independent, time-tested data and tools, including net reach and de-duplication analysis methodologies, to guide the billions of dollars of advertising placed each year, providing assurance that these figures are not overstated. These analyses and similar planning tools have become standard analytical tools for evaluations of notice programs, and have been regularly accepted by courts.

23. In fact, advertising and media planning firms around the world have long relied on audience data and techniques: AAM (formerly ABC data) has been a trusted source since 1914<sup>5</sup>; Nielsen<sup>6</sup> and Nielsen Audio<sup>7</sup> (formerly Arbitron Inc.) have been relied on since 1950; as well as

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<sup>5</sup> Established in 1914 as the Audit Bureau of Circulations (“ABC”), and rebranded as Alliance for Audited Media (“AAM”) in 2012, AAM is a non-profit cooperative formed by media, advertisers, and advertising agencies to audit the paid circulation statements of magazines and newspapers. AAM is the leading third party auditing organization in the U.S. It is the industry’s leading, neutral source for documentation on the actual distribution of newspapers, magazines, and other publications. Widely accepted throughout the industry, it certifies thousands of printed publications as well as emerging digital editions read via tablet subscriptions. Its publication audits are conducted in accordance with rules established by its Board of Directors. These rules govern not only how audits are conducted, but also how publishers report their circulation figures. AAM’s Board of Directors is comprised of representatives from the publishing and advertising communities.

<sup>6</sup> Nielsen ratings are the audience measurement systems developed by the Nielsen Company to determine the audience size and composition of television programming in the United States. Since first debuting in 1950, Nielsen’s methodology has become the primary source of audience measurement information in the television industry around the world, including “time-shifted” viewing via television recording devices.

<sup>7</sup> Nielsen Audio (formerly Arbitron Inc., which was acquired by the Nielsen Company and re-branded Nielsen Audio), is an international media and marketing research firm providing radio media data to companies in the media industry, including radio, television, online and out-of-home; the mobile industry as well as advertising agencies and advertisers around the world.

more recently, comScore.<sup>8</sup> Today, 90-100% of media directors use reach and frequency planning;<sup>9</sup> all of the leading advertising and communications textbooks cite the need to use reach and frequency planning;<sup>10</sup> and at least 15,000 media professionals in 85 different countries use media planning software.<sup>11</sup>

### CAFA NOTICE

24. As described in the attached *Declaration of Stephanie J. Fiereck, Esq. on Implementation of CAFA Notice*, dated January 6, 2016 (“*Fiereck Declaration*”), on December 18, 2015, within the 10-day period required by the federal Class Action Fairness Act of 2005 (CAFA), 28 U.S.C. § 1715, ECA sent a CAFA notice packet (or “CAFA Notice”) to 57 federal and state officials. The CAFA Notice was mailed by certified mail to 56 officials, including the Attorneys General of each of the 50 states, the District of Columbia and the U.S. Territory officials. The CAFA Notice was also sent by United Parcel Service (“UPS”) to the Attorney General of the United States. The *Fiereck Declaration* is included as **Exhibit 2**.

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<sup>8</sup> comScore, Inc. is a global leader in measuring the digital world and a preferred source of digital marketing intelligence. In an independent survey of 800 of the most influential publishers, advertising agencies and advertisers conducted by William Blair & Company in January 2009, comScore was rated the “most preferred online audience measurement service” by 50% of respondents, a full 25 points ahead of its nearest competitor.

<sup>9</sup> See generally Peter B. Turk, *Effective Frequency Report: Its Use And Evaluation By Major Agency Media Department Executives*, 28 J. ADVERTISING RES. 56 (1988); Peggy J. Kreshel et al., *How Leading Advertising Agencies Perceive Effective Reach and Frequency*, 14 J. ADVERTISING 32 (1985).

<sup>10</sup> Textbook sources that have identified the need for reach and frequency for years include: JACK S. SISSORS & JIM SURMANEK, *ADVERTISING MEDIA PLANNING*, 57-72 (2d ed. 1982); KENT M. LANCASTER & HELEN E. KATZ, *STRATEGIC MEDIA PLANNING* 120-156 (1989); DONALD W. JUGENHEIMER & PETER B. TURK, *ADVERTISING MEDIA* 123-126 (1980); JACK Z. SISSORS & LINCOLN BUMBA, *ADVERTISING MEDIA PLANNING*, 93-122 (4th ed. 1993); JIM SURMANEK, *INTRODUCTION TO ADVERTISING MEDIA: RESEARCH, PLANNING, AND BUYING* 106-187 (1993).

<sup>11</sup> For example, Telmar is the world's leading supplier of media planning software and support services. Over 15,000 media professionals in 85 countries use Telmar systems for media and marketing planning tools including reach and frequency planning functions. Established in 1968, Telmar was the first company to provide media planning systems on a syndicated basis.

### **NOTICE PLAN**

25. As described in more detail below, the Notice Program consisted of both individual notice and a media program. The individual notice effort is summarized below and described in more detail in the *Declaration of Kristine McCarthy* (“*McCarthy Declaration*”), dated August 16, 2016, included as **Exhibit 3**. The media effort, which was undertaken by Hilsoft and ECA personnel at my direction, is described in detail below.

#### ***Individual Notice – Mail & Email***

26. The individual notice effort included both mailed and emailed notices to Current Subscribers and to Former Subscribers for whom Cablevision has email information.

27. With the assistance of third parties, Cablevision provided individual notice via bill inserts to Current Subscribers who receive paper bills. *See McCarthy Declaration* at ¶¶ 3-10. Each of these Current Subscribers received the Current Subscriber Claim Form and Paper Bill Notice with their monthly bills. It is my understanding that Cablevision mailed these bill inserts to 1,970,454 Current Subscribers with their bills by May 23, 2016. *See Proof of Mailing Affidavits from DST Output West LLC, dated May 25, 2016, included as Exhibit 4; see also McCarthy Declaration* at ¶¶ 3-10. The Paper Bill Notice and Current Subscriber Claim Form are included as Exhibits A and B to the *McCarthy Declaration*.

28. Current Subscribers who receive their bills via email, as well as Current Subscribers who use ACH payment or automatic bill pay, also received email notices. According to the *McCarthy Declaration*, on May 16, 2016, Cablevision emailed (via a third party) the Current Subscriber Claim Form and Electronic Notice to 251,651 Current Subscribers who receive their

bills via email and 239,393 Current Subscribers who use ACH payment or automatic bill pay. *McCarthy Declaration* at ¶¶ 13-14.

29. Former Subscribers for whom Cablevision has email information also received email notices. According to the *McCarthy Declaration*, on May 16, 2016, Cablevision emailed (via a third party) the Former Subscriber Claim Form and Electronic Notice to 703,947 Former Subscribers for whom Cablevision has email information. *McCarthy Declaration* at ¶ 12.

30. It is my understanding that, in total, 1,194,991 notices were emailed to Current and Former Subscribers. The Email Notices provided to Former Subscribers and Current Subscribers are included as Exhibits C and D to the *McCarthy Declaration*.

31. Additionally, a Notice Package (containing a notice and Current Subscriber Claim Form for Current Subscribers, or a notice and Former Subscriber Claim Form for Former Subscribers) was mailed to all persons who requested one via the toll-free phone number. As of September 2, 2016, 3,786 Notice Packages were mailed to Current Subscribers and 582 Notice Packages were mailed to Former Subscribers as a result of such requests. These numbers are inclusive of remails.

#### ***Local Newspaper Notice***

32. To supplement the individual notice efforts, the Publication Notice appeared once in a weekday edition and once in a Sunday edition or twice in a weekday edition (when a Sunday edition was not available) in each of 27 selected local newspapers in the areas where Cablevision provided service during the Class Period. The Publication Notice appeared as an approximate 1/8 page to 1/4 page ad unit depending upon the format of the newspaper. The selected newspapers are:

<i>Newspaper</i>	<i>Distribution</i>	<i># of Insertions</i>	<i>On-sale Date</i>	<i>On-sale Date</i>
Asbury Park Press	Neptune, NJ	1x Daily & 1x Sun.	5/4/16	5/8/16
Bayonne Community News	Bayonne, NJ	2x Weekly	5/4/16	5/11/16
Bergen Record/Herald News Combo	Little Falls, NJ	1x Daily & 1x Sun.	5/4/16	5/8/16
Bridgewater Courier News	Bridgewater, NJ	1x Daily & 1x Sun.	5/4/16	5/8/16
Bronx Times Reporter/Bronx Times	Bronx, NY	2x Weekly	5/6/16	5/13/16
Brooklyn Paper	Brooklyn, NY	2x Weekly	5/6/16	5/13/16
Chester Chronicle/ Warwick Advertiser/Photo News Combo	Chester, NY	2x Weekly	5/6/16	5/13/16
Clifton Journal	West Paterson, NJ	2x Weekly	5/6/16	5/13/16
Connecticut Post	Bridgeport, CT	1x Daily & 1x Sun.	5/4/16	5/8/16
Freehold News Transcript	Freehold, NJ	2x Weekly	5/4/16	5/11/16
Hartford Courant	Hartford, CT	1x Daily & 1x Sun.	5/4/16	5/8/16
Jersey Journal	Secaucus, NJ	2x Daily	5/6/16	5/10/16
Middletown Times Herald-Record	Middletown, NY	1x Daily & 1x Sun.	5/4/16	5/8/16
Morristown Daily Record	Parsippany, NJ	1x Daily & 1x Sun.	5/4/16	5/8/16
Neighbor News	Rockaway, NJ	2x Weekly	5/4/16	5/11/16
New York Daily News	New York, NY	1x Daily & 1x Sun.	5/4/16	5/8/16
New York Post	New York, NY	1x Daily & 1x Sun.	5/4/16	5/8/16
New York Times	New York, NY	1x Daily & 1x Sun.	5/4/16	5/8/16
Newark Star-Ledger	Newark, NJ	1x Daily & 1x Sun.	5/4/16	5/8/16
Newsday	Long Island, NY	1x Daily & 1x Sun.	5/4/16	5/8/16
North Shore Today	Syosset, NY	2x Weekly	5/4/16	5/11/16
Poughkeepsie Journal	Poughkeepsie, NY	1x Daily & 1x Sun.	5/4/16	5/8/16
Queens Chronicle	Queens, NY	2x Weekly	5/5/16	5/12/16
South Bay's Neighbor - South Bay Shore Edition	Lindenhurst, NY	2x Weekly	5/4/16	5/11/16
Stamford Advocate	Stamford, CT	1x Daily & 1x Sun.	5/4/16	5/8/16
Waterbury Republican-American	Waterbury, CT	1x Daily & 1x Sun.	5/4/16	5/8/16
White Plains Journal News	White Plains, NY	1x Daily & 1x Sun.	5/4/16	5/8/16

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33. The 27 selected newspapers have a combined circulation of approximately 3,670,527. The Publication Notice is included as **Exhibit 5**. Representative copies of some of the publication insertions are included as **Exhibit 6**. All tear sheets are available upon request.

*Settlement Website*

34. On April 22, 2016, a neutral, informational Settlement website ([www.CableBoxSettlement.com](http://www.CableBoxSettlement.com)) was established to enable potential Settlement Class members to obtain additional information and documents, including the Long Form Notice and Publication Notice (both in English and Spanish), Settlement Agreement, Current Subscriber Claim Form, Former Subscriber Claim Form, Complaint, and answers to frequently asked questions. Copies of the Long Form Notice in both English and Spanish, as included on the Settlement website, are included as **Exhibit 7**.

35. The Settlement website address was prominently displayed in all printed notice documents. The banner notices, as described in Paragraphs 37-40 below, linked directly to the Settlement website.

36. As of September 2, 2016, there have been 194,965 sessions to the Settlement website and over 1,246,688 website pages displayed to visitors of the website.

*Local Newspaper Internet Banner Notices*

37. Banner notices measuring 300 x 250 pixels and 728 x 90 pixels were placed on the following 16 corresponding local newspaper websites for those newspapers with a news website (that permitted legal notice ads).



Websites	URL
AmNew York	amny.com
Asbury Park Press	app.com
Bayonne Community News	hudsonreporter.com
Bergen Record/Herald News Combo	northjersey.com
Parsippany Life	
Hawthorne Gazette	
Bridgewater Courier News	mycentraljersey.com
Connecticut Post	ctpost.com
Jersey Journal	nj.com
Newark Star-Ledger	
Middletown Times Herald-Record	recordonline.com
Morristown Daily Record	dailyrecord.com
New York Daily News	nydailynews.com
New York Post	nypost.com
New York Times	nytimes.com
Newsday	newsday.com
Stamford Advocate	stamfordadvocate.com
Waterbury Republican-American	rep-am.com
White Plains Journal News	lohud.com

38. Combined, approximately 164,000 impressions were generated by the local newspaper banner notices, which appeared on a rotating basis over a 30-day period from April 25, 2016 to May 25, 2016. Clicking on the banner notice linked viewers to the Settlement website, where they could obtain detailed information about the Settlement.

***Additional Internet Banner Notices***

39. Internet banner notices measuring 728 x 90 pixels and 300 x 250 pixels were placed on the online network Yahoo! Ad Network. Banner notices measuring 254 x 133 pixels were placed on Facebook. Internet banner notices were geo-targeted to New York, New Jersey and Connecticut to remain consistent with the focused geographic notice effort.

40. Combined, approximately 74.1 million adult impressions were generated by the Internet banner notices, which ran from April 25, 2016 to May 25, 2016. Clicking on the banner

notice linked the reader to the Settlement website, where they could obtain information about the Settlement. Examples of the internet banner notices are included as **Exhibit 8**.

### *Internet Sponsored Search Listings*

41. To facilitate locating the Settlement website, sponsored search listings were acquired on the three most highly visited Internet search engines: *Google*, *Yahoo!* and *Bing*. Sponsored search listings were geo-targeted to New York, New Jersey and Connecticut to remain consistent with the focused geographic notice effort. When search engine visitors searched common keyword combinations such as “Cablevision Settlement,” “Cablevision TV Settlement,” or “Cablevision Cable Settlement,” among others, the sponsored search listing was generally displayed at the top of the page prior to the search results or in the upper right hand column.

42. The sponsored listings appeared from April 26, 2016 through June 14, 2016. They were displayed 15,972 times, which resulted in 8,628 clicks that displayed the Settlement website. A complete list of the sponsored search keyword combinations is included as **Exhibit 9**. Examples of the sponsored search listing as displayed on each search engine are included as **Exhibit 10**.

### *Information Release*

43. To build additional reach and extend exposures, on April 25, 2016, a party-neutral informational release was issued to more than 1,500 print and broadcast entities throughout the Northeast region of the United States (Connecticut, Delaware, District of Columbia, Maryland, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island,

Vermont, and West Virginia). The release was also sent to over 4,400 websites nationally as part of the regional press release.

44. The informational release served a valuable role by providing additional notice exposures beyond that which was provided by the paid media. A copy of the informational release as it was distributed is included as **Exhibit 11**.

***Toll-free Telephone Number and Postal Mailing Address***

45. On April 22, 2016, a toll-free phone number (1-888-760-4871) was established allowing Class members to call and request a Claim Form be mailed to them. The toll-free number also provides Class members with access to recorded information that includes answers to frequently asked questions and directs them to the Settlement website, or allows them to speak to a live operator. This automated phone system is available 24 hours per day, 7 days per week. As of September 2, 2016, the toll-free number has handled 27,507 calls representing 134,094 minutes of use, and live operators have handled 12,236 incoming calls (representing more than 66,138 minutes of use) and 3,243 outgoing calls (representing more than 6,761 minutes of use).

46. The toll-free phone number and Settlement website will remain operable until the expiration of the Time Period to Accept Payment as described in Section 8.4.6 of the Settlement Agreement. The Claims Administrator will continue to be available to answer questions during that time as well.

47. A post office box was established allowing Class members to contact the Claims Administrator by mail with any specific requests or questions.

***More than Adequate Time and Opportunity to React to Notices***

48. The individual and media portions of the Notice Plan were substantially completed on May 25, 2016. This allowed more than adequate time for Class members to see the Notice and respond accordingly before the August 24, 2016 opt-out deadline and objection deadline. With 91 days from the substantial completion of the Notice Plan until the opt-out and objection deadline, and 110 days from the substantial completion of the Notice Plan until the September 12, 2016 Final Approval Hearing, Class members were allotted adequate time to act on their rights.

***Exclusions and Objections***

49. As of September 2, 2016, ECA has received a total of 24 requests for exclusion from the Settlement Class. Of these, all were deemed complete and timely. The list of all 24 complete and timely requests for exclusion received is included as **Exhibit 12**. I am aware of no objections to the Settlement regarding notice at the time of this declaration.

***Claim Filing***

50. Class members have until September 23, 2016 to submit timely claims. As of September 2, 2016, ECA has received a total of 177,142 claims, 160,968 of which are from Current Subscribers and 16,174 of which are from Former Subscribers. Thousands of Current Subscribers who have submitted claims have selected each of the four available benefit options: a one-time bill credit, an additional free Set-Top Box, free Multi-Room DVR service, and access to certain premium channels for a limited time. ECA will provide to the parties a complete report on all claims filed once the September 23, 2016 deadline passes.

*Cost of Notice and Administration*

51. The costs of administering this complex settlement and publication program have been substantial. Through August 31, 2016, ECA's settlement administration fees and costs totaled over \$600,000, and the cost of the publication portion of the notice program was approximately \$200,000. We expect that settlement administration costs after the claims deadline will continue to be substantial, likely exceeding \$20,000 per month until the distribution of benefits when ECA must issue and mail check payments to Former Subscribers (via United States First Class Mail) that submitted valid claim forms.

52. Former Subscribers will have one hundred and twenty (120) days from the date of the distribution to deposit their checks. During the Time Period to Accept Payment, ECA will maintain a level of service currently available to both Former Subscribers and Current Subscribers to address distribution-based questions and provide those post-distribution activities described in the Settlement Agreement.

53. Based on class member activity to date, including the total claims forms received, the cost to distribute benefits and continue class member support during the Time Period to Accept Payment may total between approximately \$273,000 and \$368,000. This estimate is subject to change based on actual class member activity incurred and does not account for the labor and out-of-pocket costs incurred by Cablevision in connection with the individual notice program summarized in the McCarthy Declaration.

**PERFORMANCE OF THE NOTICE PROGRAM**

*Reach & Frequency*

54. Using standard advertising media industry methodologies to calculate the overlap inherent in exposures to measured local newspaper publication and Internet banner ads, we arrive at a measurable reach for the media portion of the Notice Plan of approximately 84.8% of adults aged 18+ in the Hartford/New Haven DMA an estimated average of 5.6 times each, and 84.7% of adults aged 18+ in the New York DMA an estimated average of 5.6 times each. The more than 3 million notices sent directly to Class members via mail or email, along with banner ads, sponsored Internet search listings, the Settlement website, and the informational release substantially extended this reach.

55. Many courts have accepted and understood that a 75 or 80 percent reach is more than adequate. In 2010, the Federal Judicial Center issued a Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide. This 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 class. It is reasonable to reach between 70–95%."<sup>12</sup> Here, we were able to develop and implement a Notice Plan that reached well within this range (approximately 84.7% even without any consideration of the individual notice effort) that was broad in scope and was designed to reach the greatest practicable number of Class members.

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<sup>12</sup> FED. JUDICIAL CTR, JUDGES' CLASS ACTION NOTICE AND CLAIMS PROCESS CHECKLIST AND PLAIN LANGUAGE GUIDE 3 (2010), available at [http://www.fjc.gov/public/pdf.nsf/lookup/NotCheck.pdf/\\$file/NotCheck.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/NotCheck.pdf/$file/NotCheck.pdf).

## CONCLUSION

56. In class action notice planning, execution, and analysis, we are guided by due process considerations under the United States Constitution, by federal and local rules and statutes, and further by case law pertaining to notice. This framework directs that the notice program be designed to reach the greatest practicable number of potential Class members and, in a settlement class action notice situation such as this, that the notice or notice program 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 were met in this case.

57. Our notice effort followed the guidance for how to satisfy due process obligations that a notice expert gleans from the United States Supreme Court’s seminal decisions: a) to endeavor to actually inform the class,<sup>13</sup> and b) to demonstrate that notice is reasonably calculated to do so.<sup>14</sup>

58. The Notice Program provided the best notice practicable under the circumstances of this case, conformed to all aspects of Federal Rule of Civil Procedure 23, comported with the guidance for effective notice articulated in the Manual for Complex Litigation 4th, and conformed to the Settlement Agreement and the Order.

59. As reported above, the media portion of the Notice Plan effectively reached approximately 84.8% of adults aged 18+ in the Hartford/New Haven DMA and 84.7% of adults aged 18+ in the New York DMA. The reach was likely substantially increased by the more than

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<sup>13</sup> “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.” *Mullane v. Central Hanover Trust*, 339 U.S. 306, 315 (1950).

<sup>14</sup> “[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, 174 (1974) (citing *Mullane*, 339 U.S. at 314).

3 million notices sent directly to Class members. The Notice Plan delivered “noticeable” Notices to capture Class members’ attention, and provided them with information necessary to understand their rights and options.

60. The Notice Plan schedule afforded enough time to provide full and proper notice to Class members before any opt-out and objection deadlines.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 7, 2016.



Cameron R. Azari, Esq.

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