

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

MARK SHAFFER, MARGARET MAULDIN,
CHARAFEDDINE ZAITOUN, and MARC
LESSIN, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

THE GEORGE WASHINGTON
UNIVERSITY and THE BOARD OF
TRUSTEES OF GEORGE WASHINGTON
UNIVERSITY,

Defendants.

No. 1:20-cv-01145-RJL

Hon. Richard J. Leon

**PLAINTIFFS' NOTICE OF FILING OF THE SUPPLEMENTAL DECLARATION OF
CAMERON R. AZARI, ESQ. REGARDING IMPLEMENTATION AND ADEQUACY
OF SETTLEMENT NOTICE PLAN AND NOTICES**

Plaintiffs, by and through their attorneys, hereby submits its Notice of Filing of the Supplemental Declaration of Cameron R. Azari, Esq. Regarding Implementation and Adequacy of Settlement Notice Plan and Notices, a copy of which accompanies this Notice.

Dated: March 19, 2024

Respectfully submitted,

/s/ Daniel J. Kurowski

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on March 19, 2024, a true and correct copy of the foregoing, together with all attachments thereto, was filed electronically via CM/ECF, which caused notice to be sent to all counsel of record.

/s/ Daniel J. Kurowski
Daniel J. Kurowski

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MARK SHAFFER, MARGARET MAULDIN,
CHARAFEDDINE ZAITOUN, and MARC
LESSIN, Individually and on Behalf of All
Others Similarly Situated,

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THE GEORGE WASHINGTON
UNIVERSITY and THE BOARD OF
TRUSTEES OF GEORGE WASHINGTON
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Defendants.

Civil No. 1:20-cv-01145-RJL

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

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 have served as an expert in hundreds of federal and state cases involving class action notice plans.
3. I am a 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.
4. 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

5. This declaration provides updated settlement administration statistics following the successful implementation of the Settlement Notice Plan (“Notice Plan”) and notices (the

“Notice” or “Notices”) for *Shaffer, et al. v. George Washington University, et al.*, Case No. 1:20-cv-01145, pending in the United States District Court for the District of Columbia. I previously executed my *Declaration of Cameron R. Azari, Esq. Regarding Settlement Notice Plan and Notices* on July 27, 2023, which described the Notice Plan, detailed Hilsoft’s class action notice experience, and attached Hilsoft’s *curriculum vitae*. See generally ECF No. 66-4. I also provided my educational and professional experience relating to class actions and my ability to render opinions on overall adequacy of notice plans. Subsequently, I executed my *Declaration of Cameron R. Azari, Esq. Regarding Implementation and Adequacy of Settlement Notice Plan and Notices* (“Implementation Declaration”) on February 26, 2024, which described the successful implementation of the Notice Plan and provided settlement administration statistics. See generally ECF No. 69-1.

NOTICE PLANNING METHODOLOGY

6. Federal Rule of Civil Procedure 23 directs that notice must be “the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort” and that “the notice may be by one or more of the following: United States mail, electronic means, or other appropriate means.”¹ The Notice Plan as implemented satisfied these requirements.

7. As detailed in my Implementation Declaration, the Notice Plan reached the greatest practicable number of Settlement Class Members with individual notice. The Notice Plan individual notice efforts reached approximately 98.9% of the identified Settlement Class. The reach was further enhanced by a Publication Notice in selected national newspapers, digital/internet notice and social media, internet sponsored search listings, an informational release, and a Settlement Website. In my experience, the reach of the Notice Plan was consistent with other court-approved notice plans, was the best notice practicable under the circumstances,

¹ Fed. R. Civ. P. 23(c)(2)(B).

and satisfied the requirements of due process, including its “desire to actually inform” requirement.²

CAFA NOTICE

8. As detailed in my Implementation Declaration, CAFA Notice—as required by the federal Class Action Fairness Act of 2005 (CAFA), 28 U.S.C. § 1715, was provided to 57 federal and state officials on August 10, 2023.

NOTICE PLAN

Individual Notice

9. As detailed in my Implementation Declaration, between December 18, 2023, and January 3, 2024, Epiq received two data files with 25,948 Settlement Class Member records, which included, where available, names, last known postal addresses, and email addresses. Epiq deduplicated and rolled-up the account records and loaded the unique, identified Settlement Class Member records into its database for this Settlement. These efforts resulted in 19,875 unique, identified Settlement Class Member records. As a result, Epiq sent 35,740 Email Notices (many of the identified Settlement Class Members included more than one valid email address) and 447 Short Form Notices to identified Settlement Class Members.

Individual Notice – Email

10. As detailed in my Implementation Declaration, commencing on January 2, 2024, Epiq sent 35,740 Email Notices to all identified Settlement Class Members for whom a valid email address was available (some Settlement Class Members had more than one email address).

11. If the receiving email server could not deliver the message, a “bounce code” was returned along with the unique message identifier. For any Email Notice for which a bounce code was received indicating that the message was undeliverable for reasons such as an inactive or disabled account, the recipient’s mailbox was full, technical autoreplies, etc., at least two

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 . . .”).

additional attempts were made to deliver the Notice by email. After completion of the Email Notice efforts, 1,915 emails were not deliverable.

Individual Notice – Direct Mail

12. As detailed in my Implementation Declaration, on January 9, 2024, Epiq sent 447 Short Form Notices via United States Postal Service (“USPS”) first-class mail to all identified Settlement Class Members with an associated physical address for whom the Email Notice was undeliverable after multiple attempts.

13. The return address on the Short Form Notices is a post office box that Epiq maintains for this case. The USPS automatically forwarded Short Form Notices with an available forwarding address order that has not expired (“Postal Forwards”). Short Form Notices returned as undeliverable were 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 had expired, but was still within the time period in which the USPS returns the piece with the address indicated), or to better addresses that were found using a third-party address lookup service. Upon successfully locating better addresses, Short Form Notices were promptly re-mailed. As of March 19, 2024, Epiq re-mailed 28 Short Form Notices.

14. Additionally, a Claim Package (Long Form Notice, Election Form, and Payor Payment Form) was mailed to all persons who requested one via the toll-free telephone number or other means. As of March 19, 2024, Epiq mailed 68 Claim Packages as a result of such requests.

Notice Results

15. As of March 19, 2024, an Email Notice and/or Short Form Notice was delivered to 19,659 of the 19,875 unique, identified Settlement Class Members. This means the individual notice efforts reached approximately 98.9% of the identified Settlement Class Members.

Media Plan Summary

16. As detailed in my Implementation Declaration, the Media Plan included various forms of notice including Publication Notice in selected national newspapers, digital/internet notice and social media, internet sponsored search listings, and an informational release.

Publication Notice

17. As detailed in my Implementation Declaration, to supplement the individual notice efforts, a Publication Notice appeared in a weekday, national edition of *New York Times* and *The Washington Post*, as an approximate 1/8 page ad unit. The selected publications include some of the largest circulating newspapers in the U.S. The selected business publications have a combined circulation of more than 437,000.

<i>Publication</i>	<i>Run Date</i>	<i>Page #</i>	<i>Circulation</i>
<i>New York Times, National</i>	1/9/2024	B3	297,097
<i>The Washington Post</i>	1/9/2024	A3	140,837
TOTAL			437,934

Internet Digital Notice Campaign

18. As detailed in my Implementation Declaration, the Notice Plan included targeted Digital Notice advertising on the *Google Display Network*. The Digital Notices linked directly to the Settlement Website, thereby allowing visitors easy access to relevant information and documents. Consistent with common practice, the Digital Notices used language from the Long Form Notice headline, which allowed users to identify themselves as potential Settlement Class Members. The Notice Plan also included advertising on social media, which consisted of internet Digital Notices on *Facebook* in multiple sizes.

19. All Digital Notices appeared on desktop, mobile, and tablet devices and were distributed to the selected targeted audiences. Digital Notices were also targeted (remarketed) to people who clicked on a Digital Notice.

20. More details regarding the target audiences and specific ad sizes of the Digital Notices are included as follows.

<i>Network/Property</i>	<i>Target</i>	<i>Ad Sizes</i>	<i>Delivered Impressions</i>
<i>Google Display Network</i>	Custom Affinity & Intent: ³ George Washington University	728x90, 300x250, 300x600, 970x250	10,568,143
<i>Google Display Network</i>	Custom Affinity: George Washington University Student/ Alumni	728x90, 300x250, 300x600, 970x250	5,436,920
<i>Facebook</i>	Interest: George Washington University	Newsfeed & Right-Hand Column	9,288,682
<i>Facebook</i>	Interest: George Washington University Law School	Newsfeed & Right-Hand Column	2,997,870
<i>Facebook</i>	Interest: George Washington University Medicine	Newsfeed & Right-Hand Column	2,923,341
Total			31,214,956

21. Combined, more than 31.2 million impressions were generated by the Digital Notices, which were displayed nationwide.⁴ The internet advertising campaign ran from January 9, 2024, through February 5, 2024. Clicking on the Digital Notices linked the readers to the Settlement Website, where the reader could easily obtain detailed information about the case.

Sponsored Search Listings

22. As detailed in my Implementation Declaration, sponsored search listings were acquired on the three most highly-visited internet search engines: *Google*, *Yahoo!* and *Bing*. The sponsored search listings were displayed nationwide. All sponsored search listings linked directly to the Settlement Website. The sponsored search listings began on January 9, 2024, and ran through March 9, 2024. The sponsored listings were displayed 34,682 times, which resulted in 2,351 clicks that displayed the Settlement Website.

³ Custom Affinity Audiences allow Digital Notices to be targeted to specific website content, here meaning websites, blogs, etc. that include George Washington University. Custom Intent Audiences allow Digital Notices to be targeted to specific individuals who have searched and/or researched these specific topics., here meaning for information on George Washington University.

⁴ The third-party ad management platform, ClickCease, will be used to audit Digital Notice ad placements. This type of platform tracks all Digital Notice ad clicks to provide real-time ad monitoring, fraud traffic analysis, blocks clicks from fraudulent sources, and quarantines dangerous IP addresses. This helps reduce wasted, fraudulent or otherwise invalid traffic (e.g., ads being seen by ‘bots’ or non-humans, ads not being viewable, etc.).

Informational Release

23. As detailed in my Implementation Declaration, on January 9, 2024, a party-neutral Informational Release was issued nationwide over *PR Newswire* to approximately 5,000 general media (print and broadcast) outlets, including local and national newspapers, magazines, national wire services, television and radio broadcast media across the United States as well as approximately 4,500 websites, online databases, internet networks, and social networking media.

Settlement Website

24. The Settlement Website (www.GWSettlement.com) continues to be available 24 hours per day, 7 days per week. Relevant documents, including the Class Action Settlement Agreement, Long Form Notice, Election Form, Payor Payment Form, and Complaint, among other documents are posted on the Settlement Website. In addition, the Settlement Website includes 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 Settlement Administrator, and how to obtain other case-related information. As of March 19, 2024, there have been 11,213 unique visitor sessions to the Settlement Website, and 20,150 web pages have been presented.

Toll-Free Telephone Number and Other Contact Information

25. The toll-free telephone number (1-888-302-6048) established for the Settlement continues to allow callers to hear an introductory message and also have the option to learn more about the Settlement in the form of recorded answers to FAQs, and to request that a Claim Package (Long Form Notice, Election Form, and Payor Payment Form) be mailed to them. The automated telephone system continues to be available 24 hours per day, 7 days per week. As of March 19, 2024, there have been 234 calls to the toll-free telephone number representing 634 minutes of use.

26. A postal mailing address continues to be available to allow Settlement Class Members to contact the Settlement Administrator to request additional information or ask questions.

Requests for Exclusion and Objections

27. The deadline to request exclusion (opt-out) from the Settlement or to object to the Settlement was March 11, 2024. As of March 19, 2024, Epiq has received one request for exclusion (whether timely or not). The Exclusion Report is included as **Attachment 1**. As of March 19, 2024, I am aware of two objections to the Settlement, which are not regarding notice or settlement administration.

Distribution Options

28. As detailed in my Implementation Declaration, Students in the Settlement Class who do not request exclusion from the Settlement will receive a payment automatically if the Settlement is approved. Settlement Class Members could choose to file an Election Form online or by mail prior to the claim filing deadline to update their address, and/or elect to receive a digital payment (with multiple options) instead of a traditional paper check. Students and Payors in the Settlement Class also have the option to jointly submit a Claim Form and direct the Settlement Administrator to pay the Cash Award to the Payor instead of the Student. In the event the Settlement Class Members did not exercise any of these options, Students in the Settlement Class will receive their payment via a physical check sent by USPS first class mail to their last known address.

CONCLUSION

29. 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 plan 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 plan itself not limit knowledge of the availability of benefits—nor the ability to exercise other options—to settlement class members in any way. All of these requirements were met in this case.

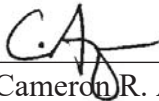
30. The Notice Plan included an extensive individual notice effort to the identified Settlement Class Members. With the address updating protocols that were used, the Notice Plan

individual notice efforts reached approximately 98.9% of the identified Settlement Class Members. The reach was further enhanced by a Publication Notice in selected national newspapers, digital/internet notice and social media, internet sponsored search listings, an informational release, and 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%.”⁵ Here, the Notice Plan we have developed and implemented achieved a reach at the high end of that standard.

31. The Notice Plan provided the best notice practicable under the circumstances, conformed to all aspects of Federal Rule of Civil Procedure, Rule 23 regarding notice, comported with the guidance for effective notice articulated in the Manual for Complex Litigation, Fourth and applicable FJC materials, and satisfied the requirements of due process, including its “desire to actually inform” requirement.

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

33. I declare under penalty of perjury that the foregoing is true and correct. Executed March 19, 2024.



Cameron R. Azari, Esq.

⁵ 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>.

Attachment 1



Exclusion Report

Shaffer v. George Washington University

Number	First Name	Middle Name	Last Name
1	ZANIYA		LEWIS