

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

CAROL DEARING, On Behalf Of Herself
And All Others Similarly Situated,

Plaintiff,

v.

MAGELLAN HEALTH INC. AND
MAGELLAN RX MANAGEMENT,
LLC,

Defendants.

Case No.: CV2020-013648
(Assigned to the Honorable Connie Contes)
(Tier 3 Designation)

SUPPLEMENTAL DECLARATION OF CAMERON R. AZARI, ESQ. ON
IMPLEMENTATION AND ADEQUACY OF 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 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.

1 Hilsoft Notifications is a business unit of Epiq.¹

2 4. This declaration will provide updated settlement administration statistics regarding
3 the implementation of the Settlement Notice Plan (“Notice Plan”) and notices (the “Notice” or
4 “Notices”) for *Dearing v. Magellan Health Inc., et al.*, Case No. CV2020-013648 in the Superior
5 Court of the State of Arizona in and for the County of Maricopa. Previously, I executed my
6 *Declaration of Cameron R. Azari, Esq. on Notice Plan and Notices* on June 24, 2022, which
7 described the Notice Plan, detailed Hilsoft’s class action notice experience, and attached Hilsoft’s
8 *curriculum vitae*. Subsequently, on October 24, I then executed my *Declaration of Cameron R.*
9 *Azari Esq. on Implementation and Adequacy of Notice Plan* (“Implementation Declaration”),
10 which described the successful implementation of the Notice Plan and provided settlement
11 administration statistics. The facts in this declaration are based on my personal knowledge, as well as
12 information provided to me by my colleagues in the ordinary course of my business at Hilsoft and Epiq.

13 **NOTICE PLAN SUMMARY**

14 5. Arizona Rule of Civil Procedure, Rule 23 directs that notice must be “the best notice
15 that is practicable under the circumstances, including individual notice to all members who can be
16 identified through reasonable effort,” and that “the notice may be by one or more of the following:
17 United States mail, electronic means, or other appropriate means.”² The Notice Program here
18 satisfied these requirements.

19 6. As detailed in my Implementation Declaration, the Notice Plan individual notice
20 efforts reached approximately 93.6% of the identified Settlement Class. The reach was further
21 enhanced by a Settlement Website. In my experience, the reach of the Notice Plan was consistent
22 with other court-approved notice plans, was the best notice practicable under the circumstances of
23 this case, and satisfied the requirements of due process, including its “desire to actually inform”
24 requirement.³

25 _____
26 ¹ References to Epiq in this declaration include Hilsoft Notifications.

27 ² Ariz. R. Civ. P. 23(c)(2)(B).

28 ³ *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

1 **NOTICE PLAN IMPLEMENTATION**

2 ***Individual Notice – Direct Mail***

3 7. As I stated in my Implementation Declaration, on September 16, 2022, Epiq sent
4 268,583 Postcard Notices to all identified Settlement Class Members with an associated physical
5 address. The Postcard Notice was sent via USPS first-class mail. The Postcard Notice included a
6 detachable Address Updater Form.

7 8. The return address on the Postcard Notices is a post office box that Epiq maintains for
8 this case. The USPS automatically forwards Postcard Notices with an available forwarding address
9 order that has not expired (“Postal Forwards”). Postcard Notices returned as undeliverable are re-
10 mailed to any new address available through USPS information, (for example, to the address provided
11 by the USPS on returned mail pieces for which the automatic forwarding order has expired, but is
12 still within the time period in which the USPS returns the piece with the address indicated), and to
13 better addresses that may be found using a third-party lookup service. Upon successfully locating
14 better addresses, Postcard Notices were promptly remailed. As of November 17, 2022, Epiq has
15 remailed 20,665 Postcard Notices where a forwarding address was provided, or a better address was
16 identified using a third-party lookup service.

17 9. Additionally, a Long Form Notice and/or Claim Form were mailed to all persons who
18 requested one via the toll-free telephone number or by mail. As of November 17, 2022, 26 Long
19 Form Notices and 123 Claim Forms have been mailed as a result of such requests.

20 ***Notice Results***

21 10. As of November 17, 2022, a Postcard Notice was delivered to 251,613 of the 268,583
22 unique, identified Settlement Class Members. This means the individual notice efforts reached
23 approximately 93.6% of the identified Settlement Class Members.

24 ***Settlement Website***

25 11. The dedicated Settlement Website (www.MHDataSettlement.com) continues to be
26 _____
27 absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen
28 method may be defended on the ground that it is in itself reasonably certain to inform those affected . . .”).

1 available 24 hours per day, 7 days a week. Relevant documents are posted on the Settlement Website.
2 The Settlement Website also provides the ability for Settlement Class Members to file an online
3 Claim Form. In addition, the Settlement Website includes relevant dates, answers to frequently asked
4 questions (“FAQs”), instructions for how Settlement Class Members may opt-out (request exclusion)
5 from or object to the Settlement, contact information for the Claims Administrator, and how to obtain
6 other case-related information. As of November 17, 2022, there have been 5,180 unique visitor
7 sessions to the Settlement Website and 22,897 website pages presented.

8 ***Toll-Free Number and Other Contact Information***

9 12. The toll-free telephone number (1-800-320-5709) continues to allow callers to hear an
10 introductory message and also have the option to learn more about the Settlement in the form of
11 recorded answers to FAQs, and to request that a Long Form Notice and/or Claim Form be mailed to
12 them. This automated phone system continues to be available 24 hours per day, 7 days per week. As
13 of November 17, 2022, there have been 1,016 calls to the toll-free phone number representing 3,064
14 minutes of use.

15 13. The postal mailing address established for the Settlement continues to be available,
16 providing Settlement Class Members with the opportunity to request additional information or ask
17 questions.

18 ***Requests for Exclusion and Objections***

19 14. The deadline to request exclusions from the Settlement or to object to the Settlement
20 was November 15, 2022. As of November 17, 2022, Epiq has received five requests for exclusion.
21 As standard practice, Epiq continues conducting a complete review all the requests for exclusion
22 received. There is a likelihood that after detailed review and input from counsel, the total number of
23 requests for exclusion may change due to incomplete/invalid requests. Since the deadline to request
24 exclusion has just passed, it is possible that Epiq may receive additionally timely postmarked requests
25 for exclusion. If so, I will provide a supplemental Declaration to the Court. The Request for
26 Exclusion Report is included as **Attachment 1**. As of November 17, 2022, I am not aware of any
27 objections to the Settlement.

1 *Claim Submission & Distribution Options*

2 15. The Notices provided a detailed summary of the relevant information about the
3 Settlement, including the Settlement Website address and how Settlement Class Members can file a
4 Claim Form online or by mail. With any method of filing a Claim Form, Settlement Class Members
5 were given the option of receiving a digital or a traditional paper check.

6 16. The deadline for Settlement Class Members to file a claim is December 15, 2022. As
7 of November 17, 2022, Epiq has received 940 Claim Forms (855 online and 85 paper). Epiq
8 anticipates that additional claims will be received from Settlement Class Members until the claim
9 filing deadline has passed. As standard practice, Epiq is in the process of conducting a complete
10 review and audit of all claims received. There is a likelihood that after detailed review, the total
11 number of Claim Forms received will change due to duplicate and denied Claim Forms, though Epiq
12 does not anticipate this change to be substantial.

13 **CONCLUSION**

14 17. In class action notice planning, execution, and analysis, we are guided by due process
15 considerations under the United States Constitution, by state and local rules and statutes, and further
16 by case law pertaining to notice. This framework directs that the notice plan be designed to reach the
17 best practicable number of potential class members under the circumstances and, in a settlement class
18 action notice situation such as this, that the notice or notice plan itself not limit knowledge of the
19 availability of benefits—nor the ability to exercise other options—to class members in any way. All
20 of these requirements were met in this case.

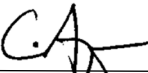
21 18. The Notice Plan included an extensive individual notice effort to the identified
22 Settlement Class Members. The individual notice efforts of the Notice Plan alone reached
23 approximately 93.6% of the Settlement Class. The individual notice efforts were supplemented with
24 a dedicated Settlement Website. The FJC’s Judges’ Class Action Notice and Claims Process
25 Checklist and Plain Language Guide states that “the lynchpin in an objective determination of the
26 adequacy of a proposed notice effort is whether all the notice efforts together will reach a high
27

1 percentage of the Settlement Class. It is reasonable to reach between 70–95%.”⁴ Even in a state
2 court setting as we are in here (especially one like Arizona with a rule similar to the Federal Rule),
3 the FJC’s notice checklist provides good guidance on reach. Here, the Notice Plan we have developed
4 and implemented achieved a reach toward the high end of that standard.

5 19. The Notice Plan in this case provided the best notice practicable under the
6 circumstances, conformed to all aspects of Arizona Rule of Civil Procedure 23 regarding notice,
7 comported with the guidance for effective notice articulated in the Manual for Complex Litigation,
8 Fourth and applicable FJC materials, and exceeded the requirements of due process, including its
9 “desire to actually inform” requirement.

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

12 I declare under penalty of perjury that the foregoing is true and correct. Executed November
13 21, 2022.

14
15 
16 _____
17 Cameron R. Azari, Esq.

18
19
20
21
22
23
24
25
26
27 ⁴ FED. JUDICIAL CTR., JUDGES’ CLASS ACTION NOTICE AND CLAIMS PROCESS CHECKLIST AND PLAIN LANGUAGE GUIDE
28 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).