

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. **CV 13-1170-DMG (Ex)** Date July 23, 2020

Title ***Jenny Brown v. DIRECTV, LLC*** Page 1 of 3

Present: The Honorable **DOLLY M. GEE, UNITED STATES DISTRICT JUDGE**

KANE TIEN

Deputy Clerk

NOT REPORTED

Court Reporter

Attorneys Present for Plaintiff(s)
None Present

Attorneys Present for Defendant(s)
None Present

Proceedings: IN CHAMBERS—ORDER RE JOINT MOTION TO APPROVE CLASS NOTICE MATERIALS [312]

The parties in this action have jointly submitted their proposed class notice plan and notice materials. Joint Motion [Doc. # 312]. They represent that they have met and conferred extensively with each other to determine how to deliver the best notice practicable to the class members in this case. *See id.* at 5. After reviewing the parties' submissions, the Court agrees.

Federal Rule of Civil Procedure 23 requires that “the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). Rule 23 does not require perfectly effective notice, but rather only “the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.” *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121, 1128- 29 (9th Cir. 2017) (internal quotations omitted). The Federal Rules now recognize that litigants may provide proper notice through “electronic means,” such as email. Fed. R. Civ. P. 23(c)(2)(B). No matter the form of the notice, however, the notice must “clearly and concisely” convey to class members the following information:

- (i) the nature of the action;
- (ii) the definition of the class certified;
- (iii) the class claims, issues, or defenses;
- (iv) that a class member may enter an appearance through an attorney if the member so desires;
- (v) that the court will exclude from the class any member who requests exclusion;
- (vi) the time and manner for requesting exclusion; and
- (vii) the binding effect of a class judgment on members under Rule 23(c)(3).

Id.

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The Court concludes that the parties' joint notice plan and materials satisfy these requirements. The parties indicate that, by using call data that DIRECTV produced, they have settled upon a set of call codes and search terms that will identify between 1.4 and 3.8 million unique telephone numbers whose owners may be members of the class. Joint Mot. at 7. While DIRECTV and certain debt collectors that it employed maintain that further caller data remains inaccessible, the parties have reached an agreement to proceed only on the basis of the obtainable call data. *Id.* at 7-8. The parties propose that, after the Court approves the plan, the class administrator, Angeion, will perform "reverse look-ups" of each of the phone numbers described above. This process will yield a "list of names and email addresses for potential class members." *Id.* at 8. DIRECTV will cross reference the list of names against its customer database and remove any email addresses owned by individuals who are or were DIRECTV customers. Angeion will then send an email with class notice language to each remaining email address. *See* Email Notice [Doc. # 312-2]. Angeion will also keep track of any emails that are returned as "non-deliverable" and send a postcard to the physical address associated with those email addresses. *See* Postcard Notice [Doc. # 312-3]; Joint Mot. at 9.

As a secondary notice method, Angeion will also create a website that will contain a long-form notice document and "all other relevant case filings," along with a "vehicle for individuals who have received notice to opt out of the class." Joint Mot. at 9; Long-Form Notice [Doc. # 312-1]. Angeion will publicize this website through a campaign that it expects to include nearly seven million impressions in traditional media and nearly three million impressions in social media. *Id.* at 13. Based on its experience in similar cases, Angeion predicts that this publicity campaign will reach over 70% of potential class members who may not receive email or mail notice. *See* Angeion Proposal [Doc. # 312-4]. DIRECTV has agreed to pay for notice costs up to \$350,000. Joint Mot. at 8.

Given the nature and size of the class, the fact that the class has no geographical limitations, and the sheer number of calls at issue, the Court determines that these methods constitute the best and most reasonable form of notice under the circumstances.

The content of the notice documents is also adequate. The long-form, email, and postcard notice materials all convey to class members the nature of the action, class definition, and issues in the case. They also state that individuals may opt out of the class, describe how to do so, explain the consequences of making such a decision, and notify class members that they may hire their own attorney.¹ *See* Long Form Notice, Email Notice, Postcard Notice. The parties Joint Motion

¹ While the postcard document does not contain all of this information on its face, it clearly directs recipients to the class action website, where the long-form notice document will be available.

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to Approve Class Notice is therefore **GRANTED**. The parties shall accomplish class notice using the materials attached to the Joint Motion and according to the notice plan set forth therein.

IT IS SO ORDERED.