

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MEGAN TAYLOR, individually and on behalf
of all others similarly situated,

Plaintiffs,

vs.

SHUTTERFLY, INC., and DOES 1-50,

Defendants.

CASE NO. 5:18-cv-00266-BLF

**DECLARATION OF STEVEN WEISBROT
RE: NOTICE AND ADMINISTRATION**

I, **STEVEN WEISBROT**, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct to the best of my knowledge:

1. I am the President and Chief Executive Officer at the class action notice and claims administration firm Angeion Group, LLC (“Angeion”). I am fully familiar with the facts contained herein based upon my personal knowledge.

2. My credentials were reported to this Court in my prior declaration that was filed in support of the Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (Dkt. No. 94-2) (“Original Declaration”).

3. Angeion was retained by the Parties and appointed by this Court to serve as Settlement Administrator and to, among other tasks, provide notice of the proposed Class Action Settlement to the Settlement Class (the “Notice Program”) and perform other duties as specified in the Class Action

1 Settlement Agreement and the Court's Order Granting Motion for Preliminary Approval of Class Action
2 Settlement (Dkt. No. 99) (the "Preliminary Approval Order").

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4 4. Angeion has administered class action settlements involving millions of class members. A
5 representative list of the settlements administered by Angeion is available at
6 <https://www.angeiongroup.com/cases.php>. Through the administration of the settlements referenced
7 above, Angeion has received, processed, and secured data from defendants and other sources. Angeion
8 has analyzed settlement class member data including performing deduplication, National Change of
9 Address Searches (NCOA) and skip traces. Angeion has successfully implemented noticing campaigns
10 involving direct mail notice, email notice, text noticing, printed media, and digital media for millions of
11 potential class members. Further, Angeion has analyzed and reported on class member data obtained
12 through claim forms submitted via mail and through online claims filing, class member correspondence,
13 objections to the settlement, exclusion requests and other means. Angeion is experienced in the application
14 of complex claim calculations and, where applicable, tax withholding and reporting, as required by
15 federal, state, and local taxing authorities, as well as in reviewing settlement agreements and court orders.

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18 5. Angeion is not related to or affiliated with the Plaintiffs, Plaintiff's Counsel, Defendants
19 or Counsel for Defendants.

20 6. The purpose of this declaration is to provide the Court with a summary of the work Angeion
21 performed related to the Notice Program as outlined in my Original Declaration and to provide a summary
22 of the claims filing statistics to date.

23 CAFA NOTICE

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25 7. On March 15, 2021, pursuant to 28 U.S.C. §1715, Angeion caused Notice of this
26 Settlement and related materials ("CAFA Notice") to be sent to the Attorneys General of all states and
27 territories, as well as the Attorney General of the United States. A copy of the CAFA Notice is attached
28 hereto as **Exhibit A**.

8. No state officials have responded to the CAFA Notice or provided any comments to Angeion regarding the Settlement.

CLASS DATA

9. The Settlement Class is defined as: All United States residents who, in the United States, during the class period, either (i) purchased a Shutterfly General Spend Groupon from June 1, 2015, to April 30, 2018, that was never redeemed; and/or (ii) redeemed a Shutterfly General Spend Groupon that was purchased during that period.

10. On or about March 17, 2021, Angeion received from Counsel for the Defendant, a file containing 108,851 records of transactional data, including promotion codes, promotional values, shipping revenue, names, mailing addresses, email addresses, and redemption statuses. Angeion identified 2,474 records without a valid email address. On or about August 27, 2021, Angeion caused a reverse email address append search to be performed to locate updated email addresses using the names, and/or contact information of records without a valid email address. After removing duplicative records, consolidating transactional records, and validation of email addresses, Angeion determined that there were 98,131 unique names with an email address and/or mailing address¹ and 24 with name only (no email address or mailing address). Of those, 96,177 unique names had a valid email address, 1,051 had a mailing address (and no valid email address), and 903 had no valid email address and no mailing address.

¹ 65,479 had one or more promotional codes that were redeemed (“Redeemer Settlement Class Members”); 30,420 had one or more promotional codes that were not redeemed (“Non-Redeemer Settlement Class Members”); and 2,232 had one or more promotional codes that were redeemed *and* one or more promotional codes that were not redeemed (“Both Settlement Class Members”)

DIRECT NOTICE VIA EMAIL AND POSTCARDS

11. On September 10, 2021, Angeion caused E-Mail Notice to be sent to the 96,177 Settlement Class Members² with valid email addresses. The Redeemer E-mail Notice, Non-Redeemer E-Mail Notice, and Both E-Mail Notice are attached hereto as **Exhibit B**, **Exhibit C**, and **Exhibit D**, respectively.

12. On September 11, 2021, Angeion caused Postcard Notice to be mailed to the 1,051 Settlement Class Members³ who did not have a valid email address but had a mailing address. Prior to mailing, the mailing list was processed through the USPS National Change of Address database to identify updated addresses for individuals who have moved within the last four years and who filed a change of address card with the USPS. The Redeemer Postcard Notice and Both Postcard Notice are attached hereto as **Exhibit E** and **Exhibit F**, respectively.

13. Of the total 96,177 E-mail Notices sent to the Settlement Class Members, 1,276 bounced back after more than one attempt and could not be delivered. Of these, 708 had a mailing address.

14. On September 23, 2021, Angeion caused the Postcard Notice to be mailed to 708 Settlement Class Members⁴ whose email was returned as undeliverable.

15. Notices that were returned by the USPS as undeliverable with a forwarding address were re-mailed to that forwarding address. Notices that were returned by the USPS without a forwarding address were subjected to an address verification search (“skip trace”) in an attempt to locate an updated address. As a result of the above-described efforts, of the 17 Postcard Notices returned as undeliverable by the USPS, nine (9) were re-mailed to updated addresses.

² 64,455 were sent to Redeemer Settlement Class Members (the “Redeemer E-Mail Notice”); 29,521 were sent to Non-Redeemer Settlement Class Members (the “Non-Redeemer E-Mail Notice”); and 2,201 were sent to Both Settlement Class Members (the “Both E-Mail Notice”).

³ 1,020 were sent to Redeemer Settlement Class Members (the “Redeemer Postcard Notice”); and 31 were sent to Both Settlement Class Members (the “Both Postcard Notice”).

⁴ 701 were Redeemer Postcard Notice sent to Redeemer Settlement Class Members; and seven (7) were Both Postcard Notice sent to Both Settlement Class Members.

17. On November 3, 2021, Angeion sent a second email reminder notice to 64,709 Settlement Class Members⁶ who did not file a claim.

18. On September 10, 2021, Angeion activated a case-specific website, **www.shutterflypromosettlement.com** (the “Settlement Website”). The Settlement Website provided both summary and detailed information about the Settlement, including the information in and a link to the Long Form Notice (attached hereto as **Exhibit G**), important dates and deadlines, a “Frequently Asked Questions” page, and a page with links to relevant Court documents, including the Amended Settlement Agreement, the Original Settlement Agreement, Plaintiffs’ Motion for Approval of Class Settlement (and declarations in support), Plaintiff’s Supplemental Filing in Support of Motion for Approval of Class Settlement, the Court’s Preliminary Approval Order, a Claim Form, and an Opt-Out Form. The Settlement Website allowed Settlement Class Members to file a claim directly on the website or download and print the Claim Form to be completed and mailed via the USPS. The Settlement Website also allowed Settlement Class Members to file an opt-out form directly on the website or download and print the Opt-Out Form to be completed and mailed via the USPS. This Settlement Website was designed to be user-friendly and made it easy for Settlement Class Members to find information about the case. The Settlement Website also included a “Contact Us” page whereby Settlement Class Members could send an email with any additional questions to a dedicated email address, info@shutterflypromosettlement.com. As of the

⁶ 62,543 were sent to Redeemer Settlement Class Members; and 2,166 were sent to Both Settlement Class Members.

1 date of the claim filing deadline, November 9, 2021, the Settlement Website received 8,158 website visits
 2 by 6,512 unique users totaling 14,505 page views.

3 **TOLL-FREE HOTLINE**

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 5 19. On September 10, 2021, Angeion caused a toll-free number, 1-833-411-1404, to be
 6 activated. The toll-free hotline utilizes an interactive voice response (“IVR”) system to provide Settlement
 7 Class Members with responses to frequently asked questions and provide essential information regarding
 8 the Settlement. This hotline is accessible 24 hours a day, 7 days a week. As of the November 9, 2021,
 9 Angeion has received 20 calls.

10 **REQUESTS FOR EXCLUSIONS AND OBJECTIONS**

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 12 20. The deadline to submit a request for exclusion from the Settlement or to object to the
 13 Settlement Agreement was November 9, 2021. Angeion has not received any objections to the Settlement
 14 from Settlement Class Members. Angeion received three (3) requests for exclusion. A list of the Notice
 15 ID’s related to the individuals who submitted a request for exclusion is attached hereto as **Exhibit H**.

16 **CLAIM FORMS**

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 18 21. The deadline for Settlement Class Members to submit a Claim Form was November 9,
 19 2021, Angeion received 2,444 timely Claim Form submissions, including 2,436 online submissions and
 20 eight (8) submissions by mail. Angeion reviewed the 2,444 timely Claim Form submissions and identified
 21 a total of 2,425 initially approved Claim Form submissions. These Settlement Class Members will receive
 22 cash refunds totaling \$39,740.02. In addition to the 2,425 Settlement Class Members that submitted valid
 23 Claim Forms for a cash refund, 63,098 additional Redeemer Settlement Class Members will automatically
 24 receive promotional codes worth a total of \$815,730.00 and free shipping codes without the necessity of
 25 filing a Claim Form. An additional 30,420 Non-Redeemer Settlement Class Members will automatically
 26 receive promotional codes worth a total of \$1,656,165.50 and free shipping code without the necessity of
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 28

1 filing a Claim Form. There are also 2,183 Both Settlement Class Members that will automatically receive
 2 promotional codes worth a total of \$163,323.00 and free shipping codes without the necessity of filing a
 3 Claim Form. Pursuant to the Settlement Agreement, after Final Approval is granted, Angeion will send
 4 the Benefits Notice via Email to the Settlement Class Members entitled to the automatic benefits described
 5 herein. A copy of the Benefits Notice is attached hereto as **Exhibit I**.

7 CONCLUSION

8 22. It is my opinion that the Notice Program described herein met the requirements of Rule 23
 9 and due process requirements, provided the best notice that was practicable under the circumstances, and
 10 incorporated best practices to alert and engage the participation of the Settlement Class Members in the
 11 proposed Settlement. The number of delivered Email Notices and Postcard Notices, the number of visits
 12 to the Settlement Website and the number of Claim Form submissions confirm the success of the Notice
 13 Program.

14 23. To date, Angeion has incurred \$26,753.45 in costs to administer the Settlement. Angeion
 15 estimates that it will incur approximately \$48,246.55 in additional costs to administer the Settlement
 16 through conclusion.

17 24. Angeion will file a Post-Distribution Accounting, pursuant to the Procedural Guidelines
 18 for Class Action Settlements for the Northern District of California, within 21 days after the distribution
 19 of the settlement funds and payment of attorneys' fees.

20 I hereby declare under penalty of perjury that the foregoing is true and correct.

21 Dated: November 18, 2021

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 STEVEN WEISBROT