

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

ERIC DE FORD, et al.,

Plaintiffs,

v.

JAMES KOUTOULAS, et al.,

Defendants.

Case No. 6:22-cv-652-PGB-DCI

**PLAINTIFFS' MOTION FOR APPROVAL OF THE PROPOSED CLASS
NOTICE PLAN**

Pursuant to this Court's Order on March 28, 2025 (the "Class Certification Order") (ECF No. 455), which granted Plaintiffs' Motion for Class Certification (ECF. No. 373), the Court appointed Class Representatives Eric De Ford, Sandra Bader, and Shawn Key (together, "Plaintiffs"), pursuant to Fed. R. Civ. P.23(c)(2)(B), respectfully submit this motion seeking Court approval of the Proposed Class Notice Plan ("Notice Plan") for informing the public, investors, and potential Class Members of this Action, as set forth in the Declaration of Aaron M. Zigler filed herewith.

The proposed Summary Notice and Notice, attached as Exhibits 1 and 2 respectively to the Declaration of Aaron M. Zigler in Support of Plaintiffs' Motion

for Court Approval of the Notice Plan (the “Zigler Declaration”), satisfy due process and Rule 23 of the Federal Rules of Civil Procedure. The Notice is written in plain language and features a question-and-answer format that clearly sets out the relevant information and answers most questions Class Members will have.

BACKGROUND

In the Class Certification Order, the Court certified the following class: “All persons who, between November 2, 2021, and March 15, 2022, purchased LGBCoin” (the “Class”). ECF No. 455 at 32. The Court excluded from the Class “Defendants; Defendants’ affiliates, agents, employees, officers, and directors; Plaintiffs’ counsel and Defendants’ counsel; and Judge Byron, his staff, and any member of his immediate family.” *Id.* at 4.

Notice of the pendency of this Action has not yet been provided to the Class. Further substantive motions, including any motions for summary judgment, are currently scheduled to be filed by August 25, 2025, and the final Pretrial Conference is scheduled for September 16, 2025. ECF No. 427.

ARGUMENT

Federal Rule of Civil Procedure 23(c)(2)(B) requires notice to potential members of a certified class action to inform them of the action and their rights in

connection thereto, including their right to request exclusion from the class. With the Class having been certified, it is necessary and appropriate to provide this notice now in advance of motions for summary judgment and trial.

Consistent with Rules 23(c)(2)(B) and 23(e)(1), the Notice objectively and neutrally apprises Class Members of: (i) the nature of the Action; (ii) the definition of the certified Class; (iii) the claims and issues; (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 Class Member who timely requests exclusion; (vi) the procedures and deadlines for requesting exclusion; and (vii) the binding effect of a class judgment on Class Members under Rule 23(c)(3).

Rule 23(c)(2)(B) requires the Court to direct to a class certified under Rule 23(b)(3) "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). It 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." *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950); *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 174 (1974) (same).

The Notice Plan, which is set forth below, readily meets these standards. The proposed method and schedule for providing notice to the Class are set forth in the Zigler Declaration, attached as Exhibit A. Plaintiffs propose notice to potential members of the Class (“Class Members”) through a “Summary Notice,” and a longer-form notice (“Notice”), which are attached to the Zigler Declaration as Exhibits 1 and 2, respectively.

If the Court approves the proposed Notice, Plaintiffs will retain Angeion Group, LLC (the “Administrator”) to serve as Notice Administrator to assist in disseminating the notices and processing requests for exclusion from the Class. Plaintiffs selected the Administrator after receiving proposals from four notice administration firms. The Administrator has provided notice administration for numerous securities and cryptocurrency class actions, including *Altimeo Asset Management v. Qihoo 360 Technology Co Ltd. et al* 1:19-cv-10067-PAE (S.D.N.Y., 2019); *LaFrano et al. v. loanDepot, Inc. et al.* 8:21-cv-01449-JLS-JDE (C.D. Cal., 2021); *In re: Mammoth Energy Services, Inc. Securities Litigation* 5:19-cv-00522 (W.D. Okla., 2019); *Gruber v. Gilbertson et al.* 1:16-cv-09727 (S.D.N.Y., 2016); *Pelletier v. Endo International PLC, et al.* 2:17-cv-05114 (E.D. Pa., 2017); *Kuhne v. Gossamer Bio, Inc.* 3:20-cv-00649 (S.D. Cal., 2020); *Peter D Arcy v. Sequential Brands Group, Inc. et al*

1:21-cv-07296 (S.D.N.Y., 2021); *Tornetta v. Maffei, et al.* 2019-0649 (Del. Ch., 2019); *Blackrock Mortgage Ventures LLC et al. v. PennyMac Financial Services Inc.* 2018-0917 (Del. Ch., 2018); *In re Tango, Inc. Stockholders Litigation* 2017-0650-JRS (Del. Ch., 2017); *Vandever v. American Renal Associates Holdings, Inc., et al.* 2:19-cv-09074 (D.N.J., 2019); *Wong v. Arlo Technologies Inc. et al.* 5:19-cv-00372 (N.D. Cal., 2019); *In re Bristow Group Inc. Securities Litigation* 4:19-cv-00509 (S.D. Tex., 2019); *In re Finisar Corporation Securities Litigation*, 5:11-cv-01252 (N.D. Cal., 2011); *Leidel et al. v. Project Investors, Inc. d/b/a Cryptsy* 9:16-cv-80060 (S.D. Fla., 2016); *Leidel v. Coinbase Inc. et al.*, No. 9:16-cv-81992 (S.D. Fla. 2016).

Plaintiffs request the Court order Defendants to provide, or cause its transfer agent to provide, the names and addresses (and email addresses, when possible) of any potential Class Members to the Administrator. The Administrator will also use reasonable efforts to identify other Class Members who purchased or held securities for the beneficial interest of Class Members.

To satisfy these requirements, Plaintiffs propose that notice of the pendency of the Action be provided through a combination of the following methods: (i) the Summary Notice delivered by email or first-class mail to individual Class Members at their addresses as provided by Defendant or by cryptocurrency

exchanges that potential Class Members used to purchase LGBCoin tokens; (ii) the Summary Notice to be published in *PR Newswire*, as well as made available on the DTC Electronic Legal Notice system; and (iii) the longer-form Notice to be posted on a website to be established by the Administrator. Plaintiffs will also publish the Summary Notice on various cryptocurrency-related forums described below.

The proposed Notices provide all the information required by Rule 23(c)(2)(B), including (i) the nature of the Action; (ii) the definition of the Class; (iii) a summary of the Class's claims and issues; (iv) that a Class Member may enter an appearance through an attorney if they wish; (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 judgment on Class Members.

See Fed. R. Civ. P. 23(c)(2)(B).

Courts have routinely found that comparable methods of notice satisfy the requirements of Rule 23(c)(2)(B). *See, e.g., Rensel v. Contra*, 17-cv-24500-Scola (S.D. Fla. Nov. 29, 2021) (Dkt. # 329) (approving various methods of providing notice to potential crypto investors and potential class members); *Nolen v. Fairshare Vacation Owners Ass'n*, No. 6:20-CV-330-PGB-EJK, 2021 WL 6128184, at *4 (M.D. Fla. Oct. 15, 2021) (approving, with modification, short form notice and general notice

plan); *Williams v. New Penn Fin., LLC*, No. 3:17-cv-570-J-25JRK, 2019 WL 2526717, at *1 (M.D. Fla. May 8, 2019) (approving class action notice plan with postcard notice mailed to all class members).

In addition, Plaintiffs propose that requests for exclusion from the Class be made through the submission of a written request sent to the Administrator and postmarked no later than 60 calendar days after the Notice Date (the date mailing commences). No later than 15 business days following the deadline for requesting exclusion, the Administrator shall file a declaration with the Court describing its notification efforts and providing a list of all persons and entities who have requested exclusion from the Class. The costs of the notice process shall be borne by Plaintiffs, and not by Defendants.

Furthermore, the Proposed Notice satisfies due process. In determining whether a Rule 23(c)(2) notice satisfies due process, the relevant standard is “best practicable,” as opposed to whether 100% of all Class Members “actually receive” notice. *Juris v. Inamed Corp.*, 685 F.3d 1294, 1321 (11th Cir. 2012) (“The analysis for purposes of due process is on the notice plan itself, and actual receipt of notice by each individual class member is not required.”) (citation omitted); *see also Silber v. Mabon*, 18 F.3d 1449, 1454 (9th Cir. 1994) (finding that notice need not reach every

class member to constitute the best possible notice under the circumstances and to bind class members); 4 William B. Rubenstein *et al.*, NEWBERG ON CLASS ACTIONS § 11:53 (4th ed. 2011) (“Thus, due process does not require actual notice, but rather a good faith effort to provide actual notice. Courts have consistently recognized that due process does not require that every class member receive actual notice so long as the court reasonably selected a means likely to apprise interested parties”).

Here, the Notice Plan provides the best practicable method of providing actual notice to members of the Class, “including individual notice to all members who can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2). Plaintiffs believe that the vast majority of Class Members can be identified via investor information kept by relevant cryptocurrency exchanges and/or accessible to Defendant Koutoulas. Mailing notice to the investors identified in this manner will thus provide actual notice to the vast majority of Class Members. Directing Defendants to identify potential Class Members for the purpose of sending notice of class certification is clearly within the power vested in the Court under Rule 23(d). *See Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 355 (1978) (affirming that Rule 23(d) “authorizes a district court in appropriate circumstances to require a defendant's cooperation in identifying the class members to whom notice must be

sent"); *Nuwer v. FCA US LLC*, No. 20-60432-CIV, 2024 WL 149736, at *1 (S.D. Fla. Jan. 12, 2024) (same).

Plaintiffs' counsel will also provide notice via a traditional, national newswire service. Plaintiffs' counsel will likewise post notice on their law firm website, as well as websites and forums frequented by cryptocurrency traders in order to provide notice to any members of the Class who do not receive actual notice through mailing. This Notice Plan is comprehensive and thus easily satisfies "the broad reasonableness standards imposed by due process." *Juris*, 685 F.3d at 1319 (affirming notice plan that directed mailing of individual notices along with the publication of notice).

THE PROPOSED CLASS NOTICE PLAN

The Administrator will provide the Notice to all potential members of the Class identified via the means described above by mail or electronic mail. Where there is not an email address associated with a particular identified LGBCoin transaction by potential a Class Member, or the notice email is returned as undeliverable, the Administrator will distribute the Notice by regular mail when possible.

Plaintiffs will also provide the Notice to potential members of the Class via publication through a wire service, firm website, and websites and forums for cryptocurrency trading. Specifically, within twenty (20) calendar days after the entry of the Order approving of the Proposed Class Notice Plan, Co-Class Counsel, Zigler Law Group (“ZLG”), shall:

- cause the Summary Notice to be published on a national wire service. The Summary Notice, in turn, will direct readers to the full Notice;
- post the full Notice on its website, <http://www.ziglerlawgroup.com> and the website of Co-Class Counsel Scott+Scott, Attorneys at Law LLP at <https://scott-scott.com/>; and
- cause a link to the Summary Notice to be further posted on www.reddit.com/r/LGBCoin.¹

Additionally, to the extent that there are other specific websites, direct messaging, and/or social media platforms/channels that are accessible to Defendant but not Plaintiffs (e.g. private LGBCoin groups or invite only groups),

¹ Reddit is a multi-forum website that has millions of active users per month. On this platform there are pages or “subreddits” dedicated to various topics for discussion, including cryptocurrency. The subreddit reddit.com/r/LGBCoin has over 1,500 members and is dedicated to the purchase, sale, and news surrounding the LGB Coin tokens. Thus, publication on this subreddit is likely to reach potential Class members.

Defendants shall cause a link to the Summary Notice to be further posted on such platforms, including, but not limited to, Telegram and Discord, as well as any official LGB Coin websites under Defendants' control, specifically including each of the following:;

- cause a link to the Summary Notice to be further posted on the LGBCoin Telegram Channel (<https://t.me/LetsGo>);²
- cause a link to the Summary Notice to be further posted on the LGBCoin Discord Channel (<https://discord.gg/LetsGoBrandon>);³
- cause a link to the Summary Notice to be further posted on the LGB Coin website at www.letsgobrandon.com; and

² Telegram is a direct messaging service and social media platform that has hundreds of millions of active monthly users. On this platform there are public and private “groups” that are dedicated to various topics for discussion, including cryptocurrency. In particular, there is a private Telegram group, controlled and/or operated by Defendant Koutoulas, that regularly discusses news about LGB Coin. In fact, Defendant Koutoulas appears to regularly communicate with potential Class Members directly through this private Telegram group. *See* Dep. Of James Koutoulas (Doc. No. 444-2) at 86:8-87:17. Publication on this Telegram group is highly likely to reach potential Class Members.

³ Discord is a direct messaging service and social media platform that has two hundred million active monthly users. On this platform there are public and private “channels” that are dedicated to various topics for discussion, including cryptocurrency. In particular, there is a private Discord channel, controlled and/or operated by Defendant Koutoulas, that regularly discusses news about LGB Coin. In fact, Defendant Koutoulas appears to regularly communicate with potential Class Members directly through this private Discord channel. *See* Dep. Of James Koutoulas (Doc. No. 444-2) at 86:8-87:17. Publication on this Discord group is highly likely to reach potential Class Members.

- make no statement contrary to the provisions of the Class Notice regarding this case or the subject matter thereof to any Class Member⁴.

Accordingly, these methods of notice satisfy the requirements of Rule 23 and due process. *See Mullane*, 339 U.S. 306, 317; *Juris*, 685 F.3d at 1319

CONCLUSION

Plaintiffs respectfully request that the Court approve of providing notice to the Class of this certified class action as set forth in the Declaration of Aaron M. Zigler.

Dated: April 11, 2025

Respectfully submitted,

s/ Aaron M. Zigler

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⁴ See, e.g., *Gulf Oil Co. v. Bernard*, 452 U.S. 89, 100, fn. 12 (1981) (noting that “unapproved communications to class members that misrepresent the status or effect of the pending action also have an obvious potential for confusion and/or adversely affecting the administration of justice.”)

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LOCAL RULE 3.01(g) CERTIFICATION

Pursuant to Local Rule 3.01(g) Plaintiffs' counsel conferred via email with Defendants' counsel on April 9, 2025 and April 10, 2025, to discuss the resolution of this motion. Defendants oppose this motion in its entirety.

CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2025, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

s/ Aaron M. Zigler
Aaron M. Zigler