

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SYLVESTER OWINO and JONATHAN
GOMEZ, on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

CORECIVIC, INC.,

Defendant.

CORECIVIC, INC.,

Counter-Claimant,

vs.

SYLVESTER OWINO and JONATHAN
GOMEZ, on behalf of themselves and all
others similarly situated,

Counter-Defendants.

Case No. 3:17-CV-01112-JLS-NLS

CLASS ACTION

**[PROPOSED] ORDER APPROVING
PLAINTIFFS' CLASS NOTICE
PROGRAM**

Judge: Hon. Janis L. Sammartino
Magistrate: Hon. Nita L. Stormes

After consideration of Plaintiffs' Class Action Notice Program (the "Notice Plan") and proposed Long and Short Form Notices (the "Notices"), the Court finds that Plaintiffs' proposed notices and methods for disseminating notice to the class members are reasonably calculated to apprise the class members of the pendency of the action and satisfy constitutional due process requirements and Federal Rule of Civil Procedure 23(c)(2)(B).

IT IS FURTHER ORDERED:

1. The form and content of the Long Form Notice to be mailed to the class members shall be substantially in the form attached as **Attachment A** to this Order.

2. The form and content of the Short Form Notice to be published in print and digitally shall be substantially in the form attached as **Attachment B** to this Order.

3. Notice to the Class shall be made in accordance with the notice program set forth in the Declaration of Jeanne Finegan, attached as **Attachment C** to this Order.

4. Class members will have 60 days from the date notice is first published in their country of residence to opt-out of the Class.

5. Rule 23(c)(2) provides that for any class certified under Rule 23(b)(3), notice to absent class members must be "the best notice that is practicable under the circumstances" and may be accomplished "by one or more of the following: United States mail, electronic means, or other appropriate means." Fed. R. Civ. P. 23(c)(2).

6. The Court finds that the Notices satisfy the requirements of due process and Rule 23(c)(2)(B) because they clearly and concisely state in plain, easily understood language: (1) the nature of the action; (2) the definition of the classes certified; (3) the class claims, issues, or defenses; (4) that a class member may enter an appearance through an attorney if the member so desires; (5) that any class member that requests exclusion will be excluded from the class; (6) the time and manner for requesting exclusion; and (7) the binding effect of a class judgment on the class members. Fed. R. Civ. P. 23(c)(2).¹

¹ The Court also finds that the form of the Notices is consistent with the Federal Judicial Center's model notices. *Low v. Trump Univ., LLC*, 881 F.3d 1111, 1115 (9th Cir. 2018) (recognizing that class certification notice "conformed" to the class action notices developed by the Federal Judicial Center); *Johns v. Bayer Corp.*, No. 09-cv-1935 AJB (DHB), 2013 U.S. Dist. LEXIS 14933, at *6 (S.D. Cal. Feb. 1, 2013) (approved notice that

7. The Court finds that the Notice Plan set forth in the Declaration of Jeanne Finegan satisfies the requirements of due process and Rule 23(c)(2)(B). Where, as here, the names and addresses of all class members cannot be determined by reasonable efforts, notice by publication is sufficient to satisfy the requirements of due process and Rule 23. *Silber v. Mabon*, 18 F.3d 1449, 1451-53 (9th Cir. 1994) (holding that direct mailing to “identified class members,” in addition to notice by publication, was “best notice practicable” under the circumstances and sufficient to comply with Rule 23(c)(2)); *In re Valdez*, 289 F. App’x 204, 205 (9th Cir. 2008) (holding that publication by newspaper was sufficient); *Weeks v. Kellogg Co.*, No. CV 09-08102 (MMM) (RZx), 2011 U.S. Dist. LEXIS 155472, at *41 (C.D. Cal. Nov. 23, 2011) (holding that where the class “consists of persons with unknown addresses, notice by publication is reasonable”).

8. In addition to providing direct, written notice to class members where last known address information is known, the proposed means of dissemination will target the class members through a multi-faceted notice program that entails the use of television, radio, online banner and video ads, Internet search keywords, social media (including Facebook and Instagram), and press releases in the United States and internationally. The Court finds that this multi-faceted approach to class notice constitutes the best notice practicable under the circumstances. *See Silber*, 18 F.3d 1449 at 1451-53 (holding that direct mailing to known class members, in addition to publication in *Wall Street Journal* and *Los Angeles Times*, was “best notice practicable”); *Simpao v. Gov’t of Guam*, 369 F. App’x 837, 839 (9th Cir. 2010) (holding that “mail[ing] notice to the most reliable address and supplement[ing] it by publishing notice in multiple media outlets” was “best notice practicable under the circumstances”); *Spann v. J.C. Penney Corp.*, 314 F.R.D. 312, 330 (C.D. Cal. 2016) (holding that notice plan that included “Email Notices and Post-Card Notices” and “publication notices in English and Spanish in magazines, on certain internet networks, on Facebook, and in a press release” was adequate); *Manouchehri v. Styles for*

was “consistent with the Federal Judicial Center’s notices”).

1 *Less, Inc.*, No. 14CV2521 NLS, 2016 WL 3387473, at *8 (S.D. Cal. June 20, 2016)
2 (holding that notice plan that included “30-day social media campaign ... on websites
3 geared to reach the target audience” was sufficient); *Johns*, 2013 U.S. Dist. LEXIS 14933,
4 at *4-6 (holding that online publication through banner advertisements, and a dedicated
5 case website containing the class notices and relevant documents satisfied Rule 23 and due
6 process).

7 9. The Court also finds the Notice Plan’s tiered approach (*i.e.*, the weighted
8 delivery of the media described above toward countries, states and cities with the greatest
9 concentration of class members) reasonable and in compliance with the requirements of
10 due process and Rule 23. *See, e.g., Carr v. Tadin, Inc.*, No. 12-CV-3040 JLS JMA, 2014
11 WL 7499453, at *1 (S.D. Cal. May 2, 2014) (approving notice plan that included “notices
12 in the Hispanic newspapers of ‘the metropolitan areas with the largest Hispanic
13 populations’—Los Angeles, New York, Miami, Houston, and Chicago—as well as San
14 Diego and San Francisco”); *In re Mexico Money Transfer Litig. (W. Union & Valuta)*, 164
15 F. Supp. 2d 1002 (N.D. Ill. 2000) (holding that notice plan was adequate where it provided
16 for, among other things, newspaper and radio publication in 9 states, as well as printed
17 postings at various locations across all 50 states); *In re W. Union Money Transfer Litig.*,
18 No. CV-01-0335 (CPS), 2004 WL 3709932 (E.D.N.Y. Oct. 19, 2004) (approving of notice
19 plan that included posting notice at locations where “defendants’ retail agents in the United
20 States” operated).

21 10. Plaintiffs shall begin implementing the Notice Plan within 30 days of the date
22 of this Order. Plaintiffs shall complete class notice within 90 days of the date of this Order.
23 In the event that Plaintiffs seek to revise or modify the form of the Notice Plan approved
24 herein, Plaintiffs shall seek prior approval from the Court.

25 **IT IS SO ORDERED.**
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1 Dated: ___, 2020

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4 Hon. Nita L. Stormes
Unites States Magistrate Judge
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UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

**If you were detained at a CoreCivic, Inc. facility
(formerly Corrections Corporation of America)
in the United States, a lawsuit may affect your rights**

A court authorized this notice. This is not a solicitation from a lawyer.

YOUR INFORMATION WILL BE KEPT CONFIDENTIAL

NO ONE WILL RETALIATE AGAINST YOU FOR PARTICIPATING IN THIS LAWSUIT

- There is a class action lawsuit in the United States District Court for the Southern District of California that alleges that CoreCivic, Inc. (formerly called Corrections Corporation of America):
 - (1) Broke the law by coercing and forcing detainees to clean areas of the facility outside of their personal living area under threat of punishment, and
 - (2) Broke the law by not paying minimum wage, not providing wage statements, not paying earned compensation upon termination, and imposing unlawful terms and conditions of employment to detainees who were detained in a California facility and who participated in the Voluntary Work Program.
- CoreCivic denies the allegations in the lawsuit and denies that it did anything wrong.
- You are included in the lawsuit if you fall into any of these categories:
 - (1) You were detained at any CoreCivic facility in the United States any time between December 23, 2008 and the present and were coerced or forced to clean areas of the facility outside of your personal living area under threat of punishment.
 - (2) You were detained at any CoreCivic facility in California any time between January 1, 2006 and the present and were coerced or forced to clean areas of the facility outside of your personal living area under threat of punishment.
 - (3) You were detained at any CoreCivic facility in California any time between May 31, 2013 and the present and participated in the Voluntary Work Program.
- The lawsuit has not been decided yet. If the lawsuit is decided in favor of detainees, or there is a settlement, you may be eligible to receive money. See *Question 6* for more detail.

Your legal rights may be affected, and you have a choice to make now.

Read this Notice carefully.

YOUR LEGAL RIGHTS & OPTIONS IN THIS LAWSUIT	
DO NOTHING	Stay in this lawsuit. Bound by the outcome. Give up your right to sue on your own behalf.
ASK TO BE EXCLUDED	Get out of the lawsuit. Not bound by the outcome. Keep your right to sue on your own behalf. You must submit the attached Exclusion Request Form by Month 00, 2020.

WHAT IS IN THIS NOTICE

INFORMATION ABOUT THE LAWSUIT..... Page 3

1. Why are you receiving this Notice?
2. What is the lawsuit about?
3. Why is this a class action lawsuit?
4. What are the Plaintiffs asking for?
5. What does the Defendant say about this lawsuit?
6. Has the Court decided who is right?
7. Is there any money available now?

WHO IS INCLUDED IN THE LAWSUIT Page 4

8. Who is included in this lawsuit?
9. Who is not included in the lawsuit?
10. Do I need a lawyer?
11. How do I participate in the lawsuit?
12. What happens if I am a Class Member in the lawsuit?

EXCLUDE YOURSELF FROM THE LAWSUIT..... Page 6

13. Can I get out, or exclude myself from the lawsuit?
14. What happens if I exclude myself from the class action?
15. Can anyone retaliate against me for participating or excluding myself?

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16. How can I get more information?

EXCLUSION REQUEST FORM Page 8

INFORMATION ABOUT THE LAWSUIT

1. Why are you receiving this Notice?

You are receiving this notice because records indicate that you were detained in the custody of the U.S. Immigration and Customs Enforcement (“ICE”) at a facility operated by CoreCivic, Inc. (“CoreCivic”). CoreCivic was formerly known as Corrections Corporation of America.

Similarly situated detainees have filed a class action lawsuit against CoreCivic, and that lawsuit affects your right to sue and any recovery that you may be entitled to receive.

Your participation in this lawsuit will be kept confidential and no one can retaliate against you for your participation.

You have the choice as to whether you want to participate in this lawsuit. If you want to participate, you do not need to do anything right now. You will automatically be included and will receive more information in the future.

If you do not want to participate in the lawsuit, you must exclude yourself. See *Question 13* for instructions on how to exclude yourself.

2. What is this lawsuit about?

A lawsuit against CoreCivic has been certified as a class action in the U.S. District Court for the Southern District of California. The lawsuit is known as *Owino, et al. v. CoreCivic, Inc.*, No. 3:17-cv-1112-JLS-NLS.

This lawsuit alleges that CoreCivic violated the Federal Trafficking Victims Protection Act (“TVPA”) by coercing and forcing detainees to clean the facilities above and beyond personal housekeeping tasks listed in ICE’s Performance Based National Detention Standards under threat of punishment. Areas that detainees were coerced and forced to clean include common living and recreational areas, bathrooms, showers, the cafeteria, offices, and the kitchen, regardless of whether detainees were paid for their work.

For detainees in California, the lawsuit alleges that CoreCivic violated the California Trafficking Victims Protection Act (“CATVPA”), in addition to the TVPA.

For participants in the Voluntary Work Program in California, the lawsuit also alleges that CoreCivic violated California law by not paying detainees the minimum wage required under California law, by not providing wage statements, by not paying wages upon termination, and by imposing unlawful conditions of employment.

3. What is a class action lawsuit?

In a class action lawsuit, one or more people called “Class Representatives” (in this case Sylvester Owino and/or Jonathan Gomez) sue on behalf of other people (you) who have similar claims. The

people together are a “Class” or “Class Members.” The people who sued—and all the Class Members like them—are called the Plaintiffs. The company they sued (in this case CoreCivic) is called the Defendant. One court resolves the claims for all Class Members.

4. What are the Plaintiffs asking for?

The Plaintiffs are asking for money damages and restitution allowed under California and Federal law, as well as attorney’s fees and costs incurred in connection with the lawsuit.

5. What does the Defendant say about this lawsuit?

CoreCivic denies that it did anything wrong, and contends that it did not coerce or force detainees to clean areas of the facility outside of their personal living area under threat of punishment and did not violate Federal or California law.

CoreCivic also denies that it violated California law with respect to participants in the Voluntary Work Program in its California facilities.

6. Has the Court decided who is right?

No. By establishing the Class and issuing this Notice, the Court is not suggesting that the Plaintiffs will win or lose this case. The Plaintiffs must prove their claims at a trial.

7. Is there any money available now?

No. There is no guarantee that money or benefits ever will be awarded. If any money or benefits are awarded, you will be notified about next steps.

WHO IS INCLUDED IN THE LAWSUIT

8. Who is included in this lawsuit?

You are included in this lawsuit IF you were a detainee in the custody of ICE and fall into one of these 3 categories:

- (1) You were detained at any CoreCivic facility in the United States any time between December 23, 2008 and the present, AND you were forced or coerced to clean areas of the facility outside of your personal living area under threat of punishment. You are included even if you got paid for this work.
- (2) You were detained at the one of these CoreCivic facilities in California:
 1. Otay Mesa Detention Center in Otay Mesa, California
 2. San Diego Correctional Facility in Otay Mesa, California
 3. California City Correctional Facility in California City, California

Any time between January 1, 2006 and the present, AND you were forced or coerced to clean areas of the facility outside of your personal living area under threat of punishment. You are included even if you got paid for this work.

- (3) You were detained at any CoreCivic facility in California listed above any time between May 31, 2013 and the present, AND you participated in the Voluntary Work Program.

9. Who is not included in the lawsuit?

If you were NOT detained at a CoreCivic facility in the United States during the time periods in *Question 8* above, you are NOT included in this lawsuit.

If you did NOT clean areas of the facility outside of your personal living area under threat of punishment and you were NOT a participant in the Voluntary Work Program in California, you are NOT included in this lawsuit.

10. Do I have a lawyer representing me?

Yes. The Court has approved Sylvester Owino and Jonathan Gomez to serve as the Class Representatives. The Court also decided that the law firms Foley & Lardner LLP, and the Law Office of Robert L. Teel, are qualified to represent all Class Members. Together the law firms are called "Class Counsel." They are experienced in handling similar cases. You will not be responsible to pay for costs or fees for Class Counsel.

More information about these law firms, their practices, and their lawyers' experience is available at <https://www.foley.com> and <https://universaljustice.org>.

You may also enter an appearance through your own attorney, but at your own expense.

11. How do I participate in the lawsuit?

If you would like to be a Class Member in this class action lawsuit, you do not need to do anything. Doing nothing means you will automatically be part of the Class. The Class Representatives and Class Counsel will represent your interests in the lawsuit. If any decisions are made or money or benefits awarded, you will be notified on what you need to do next.

12. What happens if I am a Class Member in the lawsuit?

As a Class Member in this class action, you will have to follow and comply with any court decision in the case, whether favorable or unfavorable. You will be bound by any settlement or judgment entered in this lawsuit, including any damages award. Any damages award may be reduced to pay the costs and fees of Class Counsel.

If you elect to remain as a Class Member, you will also lose any right to pursue similar claims for this time period on your own behalf, and you will not be able to file another lawsuit raising similar claims.

If you choose to be included in the class, CoreCivic is not permitted to retaliate against you in any way because of your participation in this case.

EXCLUDE YOURSELF FROM THE LAWSUIT

13. Can I exclude myself from the Lawsuit?

Yes. If you do not want to be included in this lawsuit, you can ask to be excluded. If you exclude yourself, you will not be part of any settlement or judgment in the lawsuit. You will retain your right to pursue similar claims for this time period on your own behalf.

To exclude yourself, you must submit an Exclusion Request Form, which is attached at the end of this notice. Your Exclusion Request Form must be submitted or postmarked no later than **[60 days from the date of mailing]**.

The Exclusion Request Form is attached at the end of this Notice. It is also available at **www.websiteURL.com**. You can also prepare your own exclusion request, but your request must be in writing.

Your Exclusion Request Form must be sent to the Notice Administrator by:

(1) Mail:

CoreCivic Litigation

PO Box 0000

City, ST 00000

(2) Email: **[insert email]**

(3) Fax: **000-000-0000**

Exclusion requests must be submitted or postmarked no later than **Month 00, 2020**.

14. What happens if I exclude myself from the class action?

If you exclude yourself from the lawsuit, you will not be bound by any decision, judgment or settlement in the case and will not receive any owed wages or damages if Plaintiffs prove their claims. You also keep your rights to sue CoreCivic on your own.

15. Can anyone retaliate against me for participating or excluding myself?

No. NO ONE is permitted to retaliate against you in any way if you participate in or exclude yourself from this class action lawsuit. Your personal information will be kept confidential.

ADDITIONAL INFORMATION

16. How can I get more information?

You can get more information about the class action lawsuit on the website at **www.websiteURL.com**. Important information about the lawsuit including the Court's Order Certifying the Class, the Complaint that the Plaintiffs submitted, the Defendant's Answer to the Complaint and Counterclaims, as well as an Exclusion Request Form are all available on the website

You may also speak to one of the lawyers by calling [telephone].

You can also write to: Owino v. CoreCivic, Inc. Class Action, [address].

You may also contact the Notice Administrator at: [insert website and email and phone number]

You may also seek the advice of your own attorney if you desire.

DO NOT CONTACT THE COURT FOR INFORMATION

EXCLUSION REQUEST FORM

Please carefully read the attached Notice of Class Action before filling out this form.

DO NOT FILL OUT THE FORM IF YOU WANT TO REMAIN PART OF THE CASE

If you want to **exclude** yourself from the Class, please sign and date this form and send it to Class Counsel on or before **[60 days from the date of mailing]**.

Your Exclusion Request Form must be sent to the Notice Administrator by mail, email, fax, or other delivery method on or before **[60 days from the date of mailing]**, to:

Mail:

CoreCivic Litigation

PO Box 0000

City, ST 00000

Email: **[insert email]**

Fax: **000-000-0000**

I want to be **excluded** from the class that has been certified in the case of *Owino, et al. v. CoreCivic, Inc., No. 3:17-cv-1112-JLS-NLS*, U.S. District Court for the Southern District of California.

PRINT NAME:

SIGNATURE:

ADDRESS:

PHONE:

EMAIL:

DATED:

Were you detained at a CoreCivic, Inc. facility in the United States?

A class action lawsuit may affect your rights.

What is this lawsuit about?

This lawsuit alleges that CoreCivic, Inc. ("CoreCivic"), formerly called Corrections Corporation of America, (1) coerced and forced detainees in its facilities to clean areas of the facilities outside of their personal living area under threat of punishment, and (2) did not pay minimum wage, did not provide wage statements, did not pay earned compensation upon termination, and imposed unlawful terms and conditions of employment to detainees who were detained in a California facility and who participated in the Voluntary Work Program.

Who is included?

You are included in this lawsuit if you were detained at a CoreCivic facility while in the custody of the U.S. Immigration and Customs Enforcement ("ICE") and fall into any of these 3 categories:

- (1) You were detained at any CoreCivic facility in the United States any time between December 23, 2008 and the present, **AND** you cleaned areas of the facility outside of your personal living area under threat of punishment. You are included even if you got paid for this work.
- (2) You were detained at one of these CoreCivic facilities in California: Otay Mesa Detention Center in Otay Mesa, CA, the San Diego Correctional Facility in Otay Mesa, CA, or the California City Correctional Facility in California City, CA any time between January 1, 2006 and the present, **AND** you cleaned areas of the facility outside of your personal living area under threat of punishment. You are included even if you got paid for this work.
- (3) You were detained at any CoreCivic facility in California listed above any time between May 31, 2013 and the present, **AND** you participated in the Voluntary Work Program.

You are not included if you were NOT forced to clean areas of the facility outside of your personal living area under threat of punishment and you were NOT a participant in the Voluntary Work Program in California during the time periods listed above.

What are your Options?

You have choices to make now.

- (1) **Do nothing**. If you do nothing, you will automatically be included in the lawsuit and you give up your right to sue about the claims in this lawsuit. If you stay in the lawsuit, you can hire your own attorney at your expense, but you don't have to. Your participation in this lawsuit will be kept confidential and CoreCivic cannot retaliate against you for your participation. You will be part of any settlement or judgment in the lawsuit.

- (2) **Ask to be excluded**. If you **do not** want to be included in this lawsuit, you must submit an Exclusion Request Form by **Month 00, 2020**. You can get an Exclusion Request Form online at **[www.insertwebsite.com]**, by calling **000-000-0000**, or writing to the administrator. If you get out of the lawsuit, you will not be part of any settlement or judgment in the lawsuit. You keep your right to sue on your own behalf and are not bound by the outcome of the lawsuit.

This is only a summary. For more information visit **[www.insertwebsite.com]**, call **000-000-0000** or write to CoreCivic Litigation, **Address, City, ST 00000**.

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JONATHAN GOMEZ, and the Proposed Class(es)

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SYLVESTER OWINO and JONATHAN
GOMEZ, on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

CORECIVIC, INC.,

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CORECIVIC, INC.,

Counter-Claimant,

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SYLVESTER OWINO and JONATHAN
GOMEZ, on behalf of themselves and all
others similarly situated,

Counter-Defendants.

Case No. 3:17-CV-01112-JLS-NLS

CLASS ACTION

**DECLARATION OF JEANNE C.
FINEGAN REGARDING NOTICE
PLAN**

Judge: Hon. Janis L. Sammartino
Magistrate: Hon. Nita L. Stormes

I, Jeanne C. Finegan, declare as follows:

INTRODUCTION

1. I am President and Chief Media Officer of HF Media, LLC, Inc., a division of Heffler Claims Group LLC (collectively, “Heffler”). This Declaration is based on my personal knowledge, as well as information provided to me by my associates and staff, including information reasonably relied on in the fields of advertising media and communications.

2. Plaintiffs have engaged Heffler to develop and implement a proposed legal Notice Program.

3. This Notice Program will seek to provide actual notice to known Class Members where last known address information is available based on data produced by CoreCivic, Inc. (“CoreCivic”), both in the United States and internationally.

4. Based on the data produced by CoreCivic, the availability of last known address information is limited and, where present, may be unreliable. Therefore, the outreach effort, necessarily, will be supplemented using a tiered, outreach program, which targets the top countries representing the vast majority of the Class Members’ countries of origin. Based on key findings from over 1 million rows of data produced by CoreCivic regarding the Class Members, over 87% of the Class Members come from eight countries: Mexico, Guatemala, Honduras, El Salvador, Cuba, India, Nicaragua and Ecuador:

Top Countries	Count	Percent
MEXICO	441,956	42.15%
GUATEMALA	152,841	14.58%
HONDURAS	130,469	12.44%
EL SALVADOR	123,635	11.79%
INDIA	18,256	1.74%
CUBA ¹	17,978	1.71%
ECUADOR	14,728	1.40%
NICARAGUA	13,276	1.27%
		87.08%

¹ We have been informed that because of the current political environment and applicable laws/regulations, Heffler cannot buy advertising or provide any kind of paid media notification in Cuba.

5. Accordingly, the media outreach will be tiered with the greatest media weight focusing on those countries representing the largest population of Class Members. A tiered approach to Notice has been approved by courts in other international notice programs, including *Air Cargo Shipping Servs. Antitrust Litig.*, No. 1:06-MD-01775-CBA-VVP (E.D.N.Y.); *Dover, et al. v. British Airways PLC*, No. 1:12-CV-05567 (E.D.N.Y.); *In re Mexico Money Transfer Litig. (W. Union & Valuta)*, 164 F. Supp. 2d 1002 (N.D. Ill. 2000); *In re W. Union Money Transfer Litig.*, No. CV-01-0335 (CPS), 2004 WL 3709932 (E.D.N.Y. Oct. 19, 2004); and *In re Royal Ahold N.V. Sec. & ERISA Litig.*, 437 F. Supp. 2d 467 (D. Md. 2006); among others.

6. This Declaration will describe and detail the proposed Notice Program and address why it is consistent with other best practicable court-approved notice programs, the requirements of Federal Rule of Civil Procedure 23(c)(2)(B), and the Federal Judicial Center guidelines² for Best Practicable Due Process Notice.

QUALIFICATIONS

7. I previously set out detailed information concerning my credentials and qualifications in this case for the Court and provided my Curriculum Vitae in connection with Plaintiffs' July 14, 2020 submission to the Court. In summary, my credentials that qualify me to provide an expert opinion regarding notice in this matter include more than 30 years of communications and advertising experience. I have also planned and implemented over 1,000 high-profile, complex legal notice communication programs. I have extensive experience providing notice to international classes spanning more than 170 countries and over 40 languages. I am the only Notice Expert accredited in Public Relations (APR) by the Universal Accreditation Board, a program administered by the Public Relations Society of America. Further, I have provided testimony before Congress on issues of notice. I have lectured, published and been cited extensively on various aspects of legal noticing, product recall and crisis communications and have served the Consumer

² *Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide*, Federal Judicial Center (2010), <https://www.fjc.gov/sites/default/files/2012/NotCheck.pdf>.

Product Safety Commission (CPSC) as an expert to determine ways in which the CPSC can increase the effectiveness of its product recall campaigns. More recently, I was extensively involved as a contributing author for “*Guidelines and Best Practices Implementing 2018 Amendments to Rule 23 Class Action Settlement Provisions*,” published by Duke University School of Law. I am also a member of the Board of Directors for the Alliance for Audited Media.

8. I have served as an expert, with day-to-day operational responsibilities, directly responsible for the design and implementation of class action notice programs, some of which are the largest and most complex programs ever implemented in both the United States and in Canada. My work includes a wide range of class actions and regulatory and consumer matters that include product liability, construction defect, antitrust, asbestos, medical, pharmaceutical, human rights, civil rights, telecommunications, media, environmental, securities, banking, insurance and bankruptcy.

9. Additionally, I have been at the forefront of modern notice, including plain language as noted in a RAND study,³ and importantly, I was the first Notice Expert to integrate digital media and social media into court-approved legal notice programs.

SUMMARY OF NOTICE PROGRAM

10. This Notice Program is designed to inform potential Class Members of the certification of this class and their rights and obligations. The members of the three certified classes fall within three categories:

(1) Individuals who were detained at any CoreCivic facility in the United States any time between December 23, 2008 and the present, **AND** were coerced or forced to clean areas of the facility outside of their personal living area under threat of punishment.

(2) Individuals who were detained at one of these CoreCivic facilities in California: Otay Mesa Detention Center in Otay Mesa, CA, the San Diego Correctional Facility in Otay Mesa, CA, or the California City Correctional Facility in California City, CA any time between January 1, 2006 and the

³ Deborah R. Hensler et al., *Class Action Dilemmas: Pursuing Public Goals for Private Gain* (2000).

present, **AND** were coerced or forced to clean areas of the facility outside of their personal living area under threat of punishment.

(3) Individuals who were detained at any CoreCivic facility in California listed above any time between May 31, 2013 and the present, **AND** participated in the Voluntary Work Program.

NOTICE PLAN METHODOLOGY

11. To appropriately design and target the media outreach component of the notice plan, Heffler is guided by well-established principles of communication and utilizes best-in class nationally syndicated media research data relevant to individuals residing in the United States and Mexico. In the United States, media use across the Hispanic/Latino population is tracked by GfK Mediamark Research and Intelligence, LLC (“MRI”),⁴ comScore,⁵ Nielsen,⁶ and Ad Age’s Hispanic Fact Pack.⁷ In Mexico and Central America, Heffler relied on comScore Latin America, among other sources, to provide media consumption habits and audience delivery verification for the potential Class Members.

12. The data resources on which this Notice Program relies are used by advertising agencies nationwide as the basis to select the most appropriate media to reach specific target audiences. These research reports are instrumental in our selection of media channels and outlets for determining the estimated net audience reached through this

⁴ GfK MRI’s *Survey of the American Consumer*® is the industry standard for magazine audience ratings in the U.S. and is used in the majority of media and marketing agencies in the country. MRI provides comprehensive reports on demographic, lifestyle, product usage and media exposure.

⁵ comScore is a global Internet information provider on which leading companies and advertising agencies rely for consumer behavior insight and Internet usage data. comScore maintains a proprietary database of more than 2 million consumers who have given comScore permission to monitor their browsing and transaction behavior, including online and offline purchasing. This data includes and fuses first-party (website data), second-party (data shared by websites for marketing purposes) and third-party data, tied to offline purchasing behavior.

⁶ The Nielsen Corporation measures and monitors television and radio audiences and media delivery. The company measures programming and advertising across all distribution points, including, among others, network television and radio. Nielsen’s ratings are used by advertisers and networks to shape the buying and selling of advertising. *See generally* The Nielsen Company (US), LLC, <https://www.nielsen.com> (last visited Aug. 27, 2020).

⁷ Ad Age’s Hispanic Fact Pack offers statistics on U.S. Hispanic marketing, media, and demographics, among other information.

1 Notice Plan. Specifically, this research identifies which media channels are favored by the
2 target audience (*i.e.*, the potential Class Members) by considering browsing behaviors on
3 the Internet, social media channels that are used, which magazines Class Members are
4 reading, and which television programs people are watching.

5 13. While traditional media⁸ is typically purchased based on both demographic
6 (*i.e.*, age, gender, ethnicity, income, education) and psychographic (*i.e.*, lifestyle, product
7 and brand preference, media usage, and media definition) characteristics, online media,
8 including Internet and mobile, may be purchased through more granular target audience
9 characteristics. As a result, Heffler will apply the most sophisticated and modern media
10 relevant approach to audience targeting.

11 14. Based on these tools, Heffler is able to measure and report to the Court the
12 percentage of the target Class that will be reached by the Notice Program and how many
13 times the target audience will have the opportunity to see the message. In advertising, this
14 is commonly referred to as a “Reach and Frequency” analysis, where “Reach” refers to the
15 estimated percentage of the unduplicated audience exposed to the campaign, and
16 “Frequency” refers to how many times, on average, the target audience had the opportunity
17 to see the message. The calculations are used by advertising and communications firms
18 worldwide and have become a critical element to help provide the basis for determining
19 adequacy of notice in class actions.

20 **NOTICE PROGRAM SUMMARY**

21 15. The objective of the Notice Program is to successfully reach (through
22 objective quantifiable validation measures described in Paragraph 13 above) and inform
23 the potential Class Members of their rights and obligations. The notice procedures being
24 implemented include direct, written notice (in the form of the Long Form Notice approved
25 by the Court) to all known potential Class Members via first class physical mail at their
26 last known addresses.

27
28 ⁸ Traditional media is a reference to pre-Internet media: magazine, newspaper, terrestrial
radio, and broadcast and cable television.

16. As written notice may not reach all potential Class Members, the Notice Program will supplement direct notice using various forms of media targeted to potential Class Members. The supplemental Notice Program will be tiered to weight the media where the greatest number of potential Class Members are found based on statistical and demographic research studies and available data.

17. Tier 1 includes the United States and Mexico. Mexico alone represents the country of origin for over 42% of undocumented immigrants to the United States. The Supplemental Notice Plan being implemented in the United States and Mexico utilizes the following paid media channels to reach unknown potential Class Members for which direct notice may not be available:

Tier 1 – United States

Direct Mail				
Television	Cable Television	Telemundo	:60-second commercials	Spanish
Radio	National Radio	Univision	:60-second commercials	Spanish
	Local Markets	Local Terrestrial	:60-second commercials	Spanish
Online	Display , Search, Video -YouTube	Pulpo	Banner and Video Ads	Spanish
Social Media	Facebook and Instagram		Newsfeed Ads	Spanish
Press Release	USA 1			English/Spanish
Response Hubs	Informational Website Toll-free line			

Tier 1 – Mexico

Direct Mail				
Television	Network Television	Televisa	:60-second commercials	Spanish
Online	Display , Search	Pulpo	Banner and Video Ads	Spanish
Social Media	Facebook and Instagram		Newsfeed Ads	Spanish
Press Release	Latin America Network			Spanish
Response Hubs	Informational Website Toll-free line			

Tier 2 – All Other Countries

Direct Mail				
Press Release	Latin America Network India			English Spanish

U.S. TARGET AUDIENCE DEMOGRAPHICS AND POPULATION

CONCENTRATIONS

18. Our assumptions are derived from a number of research reports and data sources, including the Department of Homeland Security, Office of Immigration Statistics:

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Population Estimates: Illegal Alien Population Residing in The United States,⁹ U.S. Immigration and Customs Enforcement Fiscal Year 2019 Enforcement and Removal Operations Report,¹⁰ and MigrationPolicy.org: Unauthorized Immigrant Population Profiles.¹¹ Our assumptions are also guided by the over 1 million rows of data produced by CoreCivic detailing the last known address, country of origin and demographic information for the potential Class Members. The data was then sorted to determine the total migrant counts for each country. Based on this analysis, Mexico, Guatemala, Honduras and El Salvador make up the country of origin for over 80% of the potential Class Members. India, Cuba, Ecuador and Nicaragua increase that count by another 7%.

19. The data also reveals key demographic information, such as race and ethnic considerations. Over 94% of the potential Class Members are Hispanic (91% identify their ethnicity as Central American and Latino). Of the total detainee population, 76% are male and 24% are female. While the age categories range from 18-54 years of age, 83% of the potential Class Members are between 25-54 years of age.

20. Further, research reports and data sources indicate that 84% of undocumented immigrants residing in the United States are age 18-54. Of this population, 53% are male and 47% are female.¹² Consistent with this data, the demographic data produced by CoreCivic indicates that 85.3% of the potential Class Members self-report as Hispanic. MigrationPolicy.Org reports that 41% of the undocumented immigrant population is found

⁹ Bryan Baker, *Population Estimates: Illegal Alien Population Residing in the United States: January 2015*, United States Department of Homeland Security (December 2018), https://www.dhs.gov/sites/default/files/publications/18_1214_PLCY_pops-est-report.pdf

¹⁰ U.S. Immigration and Customs Enforcement Fiscal Year 2019 Enforcement and Removal Operations Report, U.S. Immigrations and Customs Enforcement, at 9, fig. 15 (2019), <https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf>.

¹¹ *Unauthorized Immigrant Population Profiles*, Migration Policy Institute, <https://www.migrationpolicy.org/programs/us-immigration-policy-program-data-hub/unauthorized-immigrant-population-profiles> (last visited Aug. 27, 2020).

¹² Baker, *supra* note 9.

1 in California and Texas.¹³

2 U.S. MEDIA CHOICE RATIONALE

3 21. The media channel selection is based on syndicated research data from MRI.
 4 This data provides insight into media consumption habits of various populations. For
 5 individuals who identify as Hispanic with a birthplace outside of the United States, the data
 6 shows strong broadcast (television and radio) use along with heavy use of online and social
 7 media:

- 8 • **Television:** 90.4% have watched TV in the past 7 days.
- 9 • **Radio:** 84% have listened to radio in the past 7 days.
- 10 • **Digital Media: Search, Display & Social**
 - 11 ○ 72.3% have used the Internet in the past 30 days
 - 70.8% have used their smartphone to access the Internet in the past 30 days
 - 67.3% have used social media

12 DIRECT NOTICE

13 22. Heffler will perform an extensive analysis and cleansing of the Class Member
 14 data to identify records with possible mailing addresses in the United States and other
 15 countries. At this time, Heffler is unable to determine the number of records with
 16 potentially valid mailing addresses.

17 23. Once the records with mailing addresses are identified, Heffler will run the
 18 United States addresses through the United States Postal Service's (USPS) National
 19 Change of Address database to obtain current mailing addresses for Class Members who
 20 may have filed a change of address with the USPS in the last four years. Heffler will then
 21 integrate the updated addresses within the Class Member data set for mailing. Heffler will
 22 then send, by First-Class mail, the Long Form Notice approved by the Court to the United
 23 States addresses and to the addresses in countries outside of the United States. The final
 24 results of this analysis will be reported to the Court upon completion of the Notice Program.

25 NETWORK BROADCAST TELEVISION

26 24. The Notice Plan contemplates :60-second commercials that will air on
 27
 28

¹³ *Unauthorized Immigrant Population Profiles*, *supra* note 11.

Telemundo, a Spanish Language Broadcast station. An estimated total of approximately 153 network television commercials are planned to air. The specific programs selected are based on research provided by Nielsen for their reach among the target audiences described above.

ONLINE NOTICE

25. The online noticing efforts will feature banner ads in Spanish using a variety of creative styles to appeal to people of different demographics. Moreover, online display ads will be shown across multiple devices including desktop, tablet, and mobile devices. Multiple layers of ad fraud detection are used to reduce the risk of appearing on spoofed, fake, or offensive websites with counterfeit ad fraud inventory and fake audience profiles. The Notice Program will target Hispanics/Latinos age 18-54 with weighted delivery to States with the highest percent of undocumented immigrants. While the population of undocumented immigrants can be found throughout the United States, the population of undocumented immigrants is largely concentrated into several states as the chart below demonstrates. Accordingly, Heffler will place a heavy focus on these States using geotargeted online and social media. Additionally, Heffler will retarget users who visit the website with additional notice reminders to take action.

**National and State Estimates of the Undocumented
Immigrant Population, 2016**

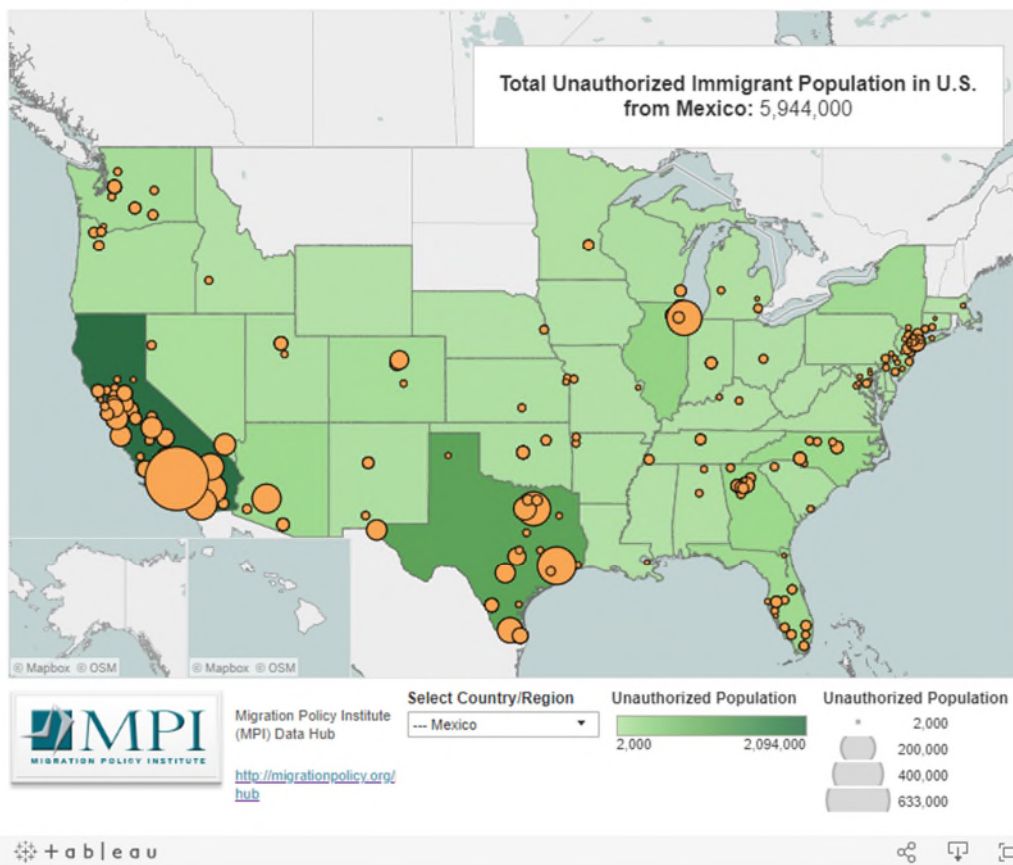
State	Total Unauthorized Population	Percent	% Mexico and Central America Origin
United States	11,300,000	100%	
California	3,059,000	27%	81%
Texas	1,597,000	14%	84%
New York	940,000	8%	31%
Florida	656,000	6%	51%
New Jersey	526,000	5%	39%
Illinois	487,000	4%	67%
Georgia	351,000	3%	76%

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Unauthorized Immigrant Populations by Country and Region of Birth, Top State and County of Residence, 2012-2016



Graphic Source URL: *Unauthorized Immigrant Populations by Country and Region, Top States and Counties of Residence, 2012-16*, Migration Policy Institute, <https://www.migrationpolicy.org/programs/data-hub/charts/unauthorized-immigrant-populations-country-and-region-top-state-and-county> (last visited Aug. 27, 2020).

SOCIAL MEDIA: FACEBOOK AND INSTAGRAM

26. Heffler will target Hispanic/Latino adults age 18 to 54 in Spanish on the social media networks Facebook and Instagram with weighted delivery to States with higher populations of undocumented immigrants.

INTERNET SEARCH TERMS

27. This Notice Plan will employ Google keyword search terms. When users search for target phrases and keywords identified for this Notice Plan on Google, ads will appear on the search result pages. Representative key terms will include, but are not limited to, ICE class action, ICE litigation, ICE detention facilities, immigration enforcement, CoreCivic class action, CoreCivic litigation, CoreCivic detention facilities, and

1 immigration class action.

2 28. The online ads will provide information for visitors to self-identify as
3 potential Class Members, where they may “click” on the banner and then link directly to a
4 website containing information about the lawsuit and how to opt-out of the Class.

5 **NATIONAL RADIO**

6 29. Network radio is highly useful for reaching potential Class Members in the
7 United States. According to MRI, 84% of Hispanics born outside the United States have
8 listened to radio in the past 7 days. Radio can provide nationwide reach across various
9 listening formats to appropriately reach target audience subgroups across age, gender,
10 ethnicity and cultural affiliation. Heffler will use Univision Radio, which is the top
11 Hispanic radio network, carried in 74 markets through 226 stations. Approximately 22,600
12 commercials will air across the network.

13 **LOCAL RADIO IN TOP DESIGNATED MARKET AREAS (DMAS)**

14 30. A more granular analysis of the geographical distribution on undocumented
15 immigrants in the United States shows the top Designated Market Areas (“DMAs”) and
16 cities in the United States with the largest populations of undocumented immigrants. To
17 increase outreach in these markets, Heffler will use local market radio in the following
18 DMAs:

DMA	Undocumented Population	% of Total
United States	11,300,000	100%
Los Angeles, CA	1,607,000	14.2%
San Francisco, CA	501,000	4.4%
Houston, TX	494,000	4.4%
Chicago, IL	436,000	3.9%
Dallas, TX	386,000	3.4%

24 **MEXICO**

25 31. Based on the analysis of demographic data produced by CoreCivic pertaining
26 to Mexican detainees, 90% are male and 10% are female. Further, 89% are 25-54 years of
27 age. Therefore, our primary target in Mexico is men 25 to 54 years of age.

28 32. Utilizing in-country media research from comScore and Nielsen, we see that

the media consumption habits in Mexico are similar to the United States. As a result, Heffler will apply a similar media strategy. 93% of Mexicans report owning at least one television set,¹⁴ and 69% of Mexicans are active social media users, with 99% of these users accessing social media via mobile phones.¹⁵

MEXICO TELEVISION

33. Televisa is the largest media company in the Spanish-speaking world, and an important cable operator in Mexico, where the majority of households have at least one television set. The Notice Plan contemplates 15-25 TV spots using :60-second Spanish language commercials. The TV schedule will air over a three (3) week time period using a variety of dayparts.¹⁶

MEXICO ONLINE, SOCIAL MEDIA AND SEARCH NOTICE

34. Within Mexico, Heffler will adopt the same digital media strategy as in the United States with weighted delivery to Mexican states with higher populations of undocumented immigrants to the United States. Ads will appear across multiple devices, including desktop, tablet, and mobile devices using display, social media through Facebook and Instagram, and on Google Search. The charts below summarize the Mexican state of origin for undocumented immigrants from Mexico in the United States:

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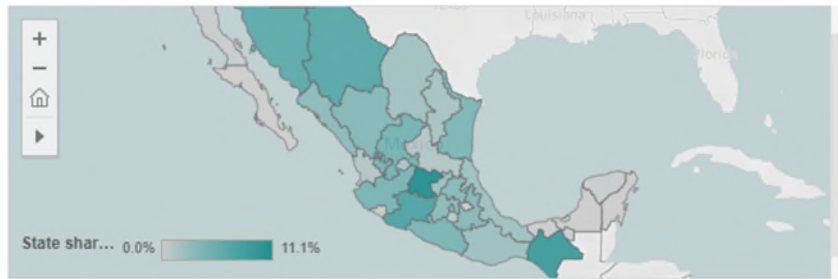
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¹⁴ *Television*, Media Landscapes, <https://medialandscapes.org/country/mexico/media/television> (last visited Aug. 27, 2020).

¹⁵ Source: Hootsuite Digital 2020 Global Digital Yearbook

¹⁶ A “daypart” is a term traditionally used when buying television but is also used for radio. It is a block of time that divides the day into segments for purchase, scheduling, and delivery. The dayparting method is often used to tailor content to specific audiences throughout the day, *e.g.*, early morning is 5 a.m. to 9 a.m.; daytime is 9 a.m. to 4 p.m.; early fringe is 4 p.m. to 6 p.m.; evening news is 6 p.m. to 7 p.m.; prime time is 8 p.m. to 10 p.m. and late is 11:30 p.m. to 2 a.m.

Number and Share of Mexican Migrants to the United States by Mexican State of Residence, 2004-2015



Number of Mexican Migrants to the United States, 2004-2015

[Graphic Source URL: *Origins of Mexican Migrants to the United States by Mexican State of Residence, Number, and Share, 2004-2015*, Migration Policy Institute, <https://www.migrationpolicy.org/programs/data-hub/charts/origins-mexican-migrants-united-states-mexican-state-residence-number-and?width=900&height=850&iframe=true>

Number and Share of Mexican Migrants to the United States by Mexican State of Residence, 2004-2015 Data Chart.

Mexican State	Total by State 2004-2015*****	% of Total
Guanajuato	742,100	12.1%
Chiapas	620,600	10.1%
Michoacán	586,300	9.6%
Jalisco	440,300	7.2%
Oaxaca	353,400	5.8%
Veracruz	328,600	5.4%
Sonora	259,300	4.2%
Sinaloa	253,800	4.1%
Mexico	251,490	4.1%
Guerrero	249,000	4.1%

TIER 2 – ALL OTHER COUNTRIES


35. Tier 2 countries will be noticed through a general press release to PR Newswire's Full Latin America newswire (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela, Puerto Rico and Dominican Republic) and PR Newswire's India newswire. PR Newswire delivers to thousands of print and broadcast newsrooms worldwide, as well as websites, databases and online services including featured placement in news sections of leading portals.

CONCLUSION

36. The robust outreach efforts employed reflect a particularly appropriate, highly targeted, efficient, and modern way to provide notice to known and unknown Class

1 Members. The notice procedures are broad and multi-faceted and are designed to reach an
2 estimated 70 percent of Hispanic adults eighteen (18) to fifty-four (54) years with an
3 average frequency of over two (2) times in the United States. The Notice Plan is estimated
4 to also reach 70 percent of men twenty-five (25) to fifty-four (54) years with an average
5 frequency of two (2) times in Mexico. The notice plan as described is reasonably calculated
6 to provide notice that is consistent with best practicable court approved notice programs
7 in similar matters which are consistent with the Federal Judicial Center's guidelines
8 concerning appropriate reach.

9 I declare under penalty of perjury, under the laws of the United States of America,
10 that the foregoing is true and correct. Executed on August 28, 2020 in Tigard, Oregon.

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12 

13 Jeanne C. Finegan
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