

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Kevin Moitoso, Tim Lewis, Mary Lee Torline, and Sheryl Arndt, individually and as representatives of a class of similarly situated persons, and on behalf of the Fidelity Retirement Savings Plan,

Plaintiffs,

v.

FMR LLC, the FMR LLC Funded Benefits Investment Committee, the FMR LLC Retirement Committee, Fidelity Management & Research Company, FMR Co., Inc., and Fidelity Investments Institutional Operations Company, Inc.,

Defendants.

Case No. 1:18-cv-12122-WGY

DECLARATION OF JEFFREY MITCHELL IN SUPPORT OF PLAINTIFFS’ MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

I, Jeffrey Mitchell, pursuant to 28 U.S.C. § 1746, state as follows:

1. I am currently a Project Manager for Analytics Consulting, LLC (hereinafter “Analytics”), located at 18675 Lake Drive East, Chanhassen, Minnesota, 55317. Analytics provides consulting services to the design and administration of class action and mass tort litigation settlements and notice programs. The settlements Analytics has managed over the past twenty-five years range in size from fewer than 100 class members to more than 40 million, including some of the largest and most complex notice and claims administration programs in history.

2. Analytics’ clients include corporations, law firms (both plaintiff and defense), the Department of Justice, the Securities and Exchange Commission, and the Federal Trade Commission, which since 1998 has retained Analytics to administer and provide expert advice regarding notice and claims processing in their settlements/distribution of funds.

3. In my capacity as Project Manager, I count among my duties responsibility for matters relating to the settlement administration for the above-captioned litigation.

4. Analytics has been engaged in this matter to provide settlement administration services, including (among other things) the mailing of the Court-approved Notices of Settlement and CAFA notice, the establishment and maintenance of a Settlement Website and telephone call center facility, and the distribution of Settlement benefits to Class Members (following final approval).¹

5. The Court approved Analytics as the Settlement Administrator in this matter in its Order on Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"). *ECF No. 250* ¶ 7.

CAFA Notice

6. On July 10, 2020, Analytics served CAFA Notice to the 52 Attorneys General identified by Defendants as proper recipients, as well as the Acting Attorney General of the United States, pursuant to 28 U.S.C. §1715.

Notice of Settlement

7. On or about July 28, 2020, Analytics received Class Member data from defense counsel in this action. The data included files containing records of participant names and addresses belonging to Class Members.

8. Analytics then cross-referenced the Class Member addresses with the United States Postal Service National Change of Address database. The Class list was updated with any new addresses that were identified.

¹ Unless otherwise noted, all capitalized terms referenced herein have the meaning ascribed to them in the Parties' Settlement Agreement (*ECF No. 243-01*).

9. Pursuant to Paragraph 3.2 of the Settlement Agreement, after updating the relevant addresses, Analytics mailed the Court-approved Notices to 41,281 Class Members, consisting of 20,624 Participant Class Members and 20,657 Former Participant Class Members. A copy of each of the Notices is attached hereto as **Exhibits 1 and 2**, respectively. These Notices were mailed on August 13, 2020, in accordance with the Preliminary Approval Order, by first-class mail, postage prepaid.

10. A Court-approved Former Participant Claim Form was included with each Notice for Former Participant Class Members. A copy of the Former Participant Class Member Claim Form that was sent to each Former Participant Class Member is attached hereto as **Exhibit 3**.

11. Through the date of this Declaration, 566 Notices to Class Members were returned to Analytics by the U.S. Postal Service with a forwarding address. In each case, Analytics updated the Class list with the forwarding address and re-mailed the Notice (and Former Participant Class Member Claim Form, if applicable) to the updated address.

12. Through the date of this Declaration, 2,661 Notices to Class Members were returned to Analytics by the U.S. Postal Service without a forwarding address. In each case, Analytics conducted a skip trace in attempt to ascertain a valid address for the affected Class Members. As a result of these efforts, 2,051 new addresses were identified for Class Members. Analytics subsequently updated the Class list with these new addresses and re-mailed the applicable Notice (and for Former Participants Class Members, a Former Participant Class Member Claim Form) to each of those addresses. Of those, 199 Notices have been returned as undeliverable by the Post Office as of the date of this Declaration.

13. In total, out of 41,281 Notices, only 809 (~1.96%) were ultimately undeliverable, despite Analytics' efforts to verify address information in advance of mailing and to update address information and re-mail the Notices if they were initially returned.

Settlement Website and Telephone Information Line

14. From August 13, 2020 to the present, Analytics also has maintained a Settlement Website relating to this action, as provided by Paragraph 3.3 of the Settlement. The internet address for this Settlement Website is www.fidelityplansettlement.com. Among other things, the Settlement Website includes: (1) a "Frequently Asked Questions" page containing a clear summary of essential case information; (2) a "Home" page and "Important Dates" page, each containing clear notice of applicable deadlines; (3) an "Important Case Documents" page, which includes case and settlement documents for download (including the Participant Notice, Former Participant Notice, Former Participant Claim Form, and the Settlement Agreement); and (4) email, phone, and U.S. mail contact information for Analytics.


15. Analytics also created and maintained a toll-free telephone support line as a resource for Class Members seeking information about the Settlement. The toll-free telephone line employs an interactive voice response system ("IVR system") to answer calls and provides callers the option of speaking with a live operator if they prefer. The toll-free number for the telephone support line is 1-844-954-1984. This telephone number was referenced in the Notices that were sent to Class Members and also appears on the Settlement Website.

Response to Class Notice

16. As of the date of this Declaration, Analytics has received no objections to the settlement from any Class Member. I have been informed by Class Counsel that they have received one objection to the Settlement.

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

Dated: December 29, 2020

DocuSigned by:

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Jeffrey Mitchell