

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

MILDRED BALDWIN, RONALD STRUCKHOFF,
STEPHEN BLATT, AND MICHAEL SERATI, on
behalf of themselves and others similarly situated,

Plaintiffs,

vs.

HEARINGPRO, INC. and MIRACLE-EAR, INC.

Defendants

vs.

LAS DAVIS ENTERPRISES, INC.;
HEARINGPRO,INC and TIFFANY DAVIS

Third-Party Defendants.

Case No. 20-cv-1502 (JRT/HB)

DECLARATION OF ERIC SCHACHTER
RE: NOTICE PROCEDURES AND STATUS OF CLAIMS

I, Eric Schachter, declare as follows:

1. I am a Vice President of A.B. Data, Ltd.’s Class Action Administration Company (“A.B. Data”), whose Corporate Office is located in Milwaukee, Wisconsin. A.B. Data was appointed as the Settlement Administrator in this matter and is not a party to this action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

CAFA Notification

2. In compliance with the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715, A.B. Data compiled a CD-ROM containing the following documents: Class Action Complaint, Settlement Agreement, and Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement, which accompanied a cover letter (collectively, the “CAFA Notice Packet”). A copy of the cover letter is attached hereto as Exhibit A.

3. On April 1, 2022, A.B. Data caused sixty (60) CAFA Notice Packets to be mailed via either UPS or Priority Mail from the U.S. Post Office in Milwaukee, Wisconsin to the persons listed in Exhibit B, *i.e.*, the U.S. Attorney General, the Attorneys General of each of the 50 States and the District of Columbia, the Attorneys General of the recognized U.S. Territories, and the Federal Trade Commission.

Class List

4. On May 12, 2022, A.B. Data received an electronic data file from Counsel containing 15,242,155 phone numbers and, for some but not all of the records, the names and mailing addresses of potential Settlement Class Members associated with those phone numbers (the “Class List”).

5. Upon receipt of the Class List, A.B. Data electronically processed the data to identify duplicate and/or incomplete mailing addresses. A.B. Data also used credit-bureau and/or other public-source databases to identify email addresses for potential Settlement Class Members on the Class List. A.B. Data then processed the names and mailing addresses through the National Change of Address Database (“NCOA”) to update any address changes on file with the United States Postal Service (“USPS”). This process resulted in the identification of 2,354,515 unique phone numbers, of which 2,059,169 had an associated mailing and/or email address (“Mailing List”).

Initial Notice

6. Beginning on May 31, 2022, A.B. Data caused the Email Notice to be sent to 1,533,943 email addresses contained on the Mailing List. For every email not successfully delivered, a Postcard Notice was then mailed to those Settlement Class Members verified having a mailing address. A true and correct copy of the Email Notice is attached hereto as Exhibit C.

7. Beginning on June 14, 2022, A.B. Data caused the Postcard Notice to be printed and mailed. Postcard Notices were mailed to 1,684,248 records on the Mailing List. These 1,684,248 records included those records where an email was not successfully delivered. A true and correct copy of the Postcard Notice is attached hereto as Exhibit D.

Notice Results

8. Throughout the notice period, for all Postcard Notices returned by the USPS

as undeliverable as addressed, A.B. Data utilized credit-bureau and/or other public-source databases to find an updated mailing address and have the Postcard Notice remailed. As of the date of this declaration, a total of 143,655 Settlement Class Members were mailed a Postcard Notice that was undeliverable as addressed with no valid alternative mailing address available.

9. For each of the 2,354,515 unique phone numbers on the Class List, as described above, A.B. Data emailed or mailed a notice using either contact information on the Class List or last known contact information ascertained through credit bureau and other public-source databases. Altogether, individual notice was successfully sent by email and/or mail to 1,915,514 Settlement Class Members accounting for approximately 81% of the unique phone numbers on the Class List.

Case Website

10. On May 27, 2022, A.B. Data established a website, www.hearingaidtcpsettlement.com, dedicated to this matter to provide information to the Settlement Class Members and to answer frequently asked questions. The website URL was set forth in all Notice formats (Email, Postcard and Long-Form Notice) and Claim Form. Visitors to the website can submit claims online and download copies of the Notice, the Claim Form, and other case-related documents, including the Settlement Agreement, Amended Complaint, and Preliminary Approval Order. On June 28, 2022, A.B. Data added Plaintiff's Motion for Approval of Class Counsel's fees, Litigation Expenses, and Class Representative Service Awards. To date, the website has received 12,329 visits. The website also listed a toll-free telephone number Settlement Class Members could use to contact A.B. Data.

Toll-Free Telephone Number

11. On or around May 27, 2022, A.B. Data established a toll-free telephone number dedicated to answering telephone inquiries from Settlement Class Members. To date, A.B. Data has received and/or returned a total of 1,922 calls.

Claim Forms

12. The deadline for Settlement Class Members to file claims in this matter was August 1, 2022. To date, A.B. Data has received 46,973 claims. Of the 46,973 claims, the

preliminary number of claims eligible for payment is 35,279. A.B. Data continues to undertake programmatic and manual audits, and quality assurance reviews to identify duplicate and invalid claims.

Requests for Exclusion from Class

13. The deadline for Settlement Class Members to request to be excluded from the Settlement Class was August 1, 2022. To date, A.B. Data has received 19 requests for exclusion.

Objections to the Settlement

14. The deadline for Settlement Class Members to object to the Settlement was August 1, 2022. To date, A.B. Data has not received any objections and is not aware of any pending objections.

Preliminary Settlement Award Calculations

15. A.B. Data has preliminarily calculated the Settlement Class Member payment amounts. These calculations are based on the assumptions that the gross Settlement amount is \$8,000,000, and from that amount, deductions are made for (a) attorneys' fees and litigation expenses (\$2,731,666.67); (b) class representative service award (\$15,000); and (d) administration costs (\$1,250,000). The remaining amount (\$4,003,333.33); (the "Net Settlement Fund") will be distributed on a *pro rata* basis to Settlement Class Members with Approved Claims. Each Settlement Class Member who submits an Approved Claim shall be entitled to receive an amount equal to the Settlement Class Recovery divided by the total number of Approved Claims, which is estimated to be \$113.48 per claim. Should the Court-awarded fees or costs differ than those shown above, or if the list of Settlement Class Members approved for payment and/or their class data changes, the estimated award allocation calculations will change accordingly.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 23rd day of August 2022.



Eric Schachter