

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Adam Steele, Brittany Montrois, and)	
Joseph Henchman on behalf of)	
themselves and all others similarly)	
situated,)	
<i>Plaintiffs,</i>)	Civil Action No.: 1:14-cv-01523-RCL
)	
v.)	
)	
United States of America,)	
<i>Defendant.</i>)	
_____)	

**UNOPPOSED MOTION FOR APPROVAL OF
PLAN OF SUPPLEMENTAL CLASS NOTICE**

In accordance with the Court’s July 10, 2017 Final Judgment and Permanent Injunction (ECF No. 82) and the Court’s July 10, 2017 Scheduling Order (ECF No. 83), the plaintiffs Adam Steele, Brittany Montrois, and Joseph Henchman, on behalf of themselves and the class, hereby submit the following plan of supplemental class notice (“Plan”). The plaintiffs request that the Court approve the following Plan and the attached forms of notice. The parties have conferred, and the United States does not oppose this motion.

Background

On August 8, 2016, this Court certified a class that included “[a]ll individuals and entities who have paid an initial and/or renewal fee for a PTIN, excluding Allen Buckley, Allen Buckley LLC, and Christopher Rizek.” ECF No. 63.

On September 9, 2016, this Court approved the plaintiffs’ plan for class notice and set a December 7, 2016 exclusion deadline. See ECF No. 68. As described in the plaintiffs’ Status Report Regarding Notice to the Class, 1,222,165 potential class members received notice by e-mail, and a postcard was mailed by U.S. mail to 150,351 potential class members. ECF No. 77.

Further, in accordance with the Court's September 9, 2016 Order, a website, www.ptinclassaction.com, was established providing potential class members with the long-form notice, key filings in the action, answers to frequently asked questions, contact information for the claims administrator and class counsel, and a toll-free automated hotline for class-member inquiries. *Id.*

On July 10, 2017, this Court entered final judgment in favor of the plaintiffs and the class. ECF No. 82. Citing Federal Rule of Civil Procedure 23(c)(2)(B), which provides that the Court must "direct to class members the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort," this Court ordered that the "plaintiffs provide notice and an opportunity for exclusion to any class members who have paid initial PTIN fees after August 20, 2016, and did not receive notice of pendency of this action and did not have an opportunity to exclude themselves before December 7, 2016." *Id.*

As was done before the plaintiffs filed their previous motion for approval of class notice, the parties discussed the feasibility of identifying additional class members and the steps necessary to do so. Because the IRS continued to keep records of past and current PTIN holders and their contact information, identifying those individuals and entities who have paid fees for the issuance of a PTIN since August 20, 2016, was straightforward, and the United States agreed to produce to the plaintiffs the names, e-mail addresses, and postal addresses of class members who obtained initial PTINs and paid a PTIN fee between August 20, 2016 and July 10, 2017 ("Supplemental Notice Group"). There are no other records necessary to identify the members of the Supplemental Notice Group, comprised of approximately 77,659 individuals.

Finally, KCC LLC (“KCC”), which previously disseminated notice to potential class members, remains the claims administrator, and will execute this Plan. KCC has executed more than 100 notice programs in the United States and Canada, and has served as claims administrator for a wide variety of cases, including ones involving federal and state governments.

Proposed Plan

1. The plaintiffs, through KCC, will continue to maintain the website (www.ptinclassaction.com) in accordance with this Court’s September 9, 2016 Order. In addition to the documents listed in paragraph 4 of the September 9, 2016 Order, the website will include the Supplemental Long-Form Notice, attached hereto as Exhibit 1; the Memorandum and Opinion on the Motions for Summary Judgment (ECF No. 78); the Order on the Motions for Summary Judgment (ECF No. 79); and the Final Judgment and Permanent Injunction (ECF No. 82).

2. Within thirty days of the entry of an Order approving this Plan, the plaintiffs, through KCC, will send via e-mail a notice of this class action lawsuit, in the form attached hereto as Exhibit 2 (“Supplemental E-mail Notice”), to all members of the Supplemental Notice Group. The Supplemental E-mail Notice will direct members of the Supplemental Notice Group to the website that was established by KCC pursuant to this Court’s September 9, 2016 Order.

3. Within forty-five days of the entry of an Order approving this Plan, the plaintiffs, through KCC, will send via U.S. mail a postcard notice of class action lawsuit, in the form attached hereto as Exhibit 3 (“Supplemental Postcard Notice”), to all members of the Supplemental Notice Group (1) without an e-mail address or (2) for whom e-mail delivery was unsuccessful. The Supplemental Postcard Notice will direct members of the Supplemental

Notice Group to the website that was established by KCC pursuant to this Court's September 9, 2016 Order.

4. The plaintiffs, through KCC, will continue to make available to potential class members a toll-free automated hotline to handle any inquiries from potential class members.

5. The opt-out period will expire on January 2, 2018.

6. Pursuant to Federal Rule of Civil Procedure 23(c)(2)(B), this Plan, which supplements the notice plan approved by the Court in its September 9, 2016 Order, sets forth the best notice that is practicable under the circumstances, including individual notice to all members of the class who can be identified through reasonable effort. This Plan and the exhibits hereto comply with the requirements of Federal Rule of Civil Procedure 23(c)(2)(B)(i)-(vii) and satisfy due process.

Dated: September 20, 2017

Respectfully submitted,

/s/ William H. Narwold
MOTLEY RICE LLC

William H. Narwold
bnarwold@motleyrice.com
DC Bar No. 502352
One Corporate Center
20 Church Street, 17th Floor
Hartford, CT 06103
Telephone: (860) 882-1676
Facsimile: (860) 882-1682

Nathan D. Finch
nfinch@motleyrice.com
Elizabeth Smith
esmith@motleyrice.com
401 9th Street NW, Suite 1001
Washington, DC 20004
Telephone: (202) 232-5504

Facsimile: (202) 232-5513

GUPTA WESSLER PLLC

Deepak Gupta, Esq.
deepak@guptawessler.com
Jonathan E. Taylor
jon@guptawessler.com
1900 L Street NW
Washington, DC 20036
Telephone: (202) 888-1741
Facsimile: (202) 888-7792

CAPLIN & DRYSDALE, CHARTERED

Christopher S. Rizek, Esq.
crizek@capdale.com
One Thomas Circle, NW, Suite 1100
Washington, DC 20005
Telephone: (202) 862-8852
Facsimile: (202) 429-3301

LAW OFFICE OF ALLEN BUCKLEY LLC

Allen Buckley
ab@allenbuckleylaw.com
2802 Paces Ferry Road, Suite 100-C
Atlanta, GA 30339
Telephone: (404) 610-1936
Facsimile: (770) 319-0110

*Attorneys for Plaintiffs Adam Steele, Brittany
Montrois, Joseph Henchman, and the Class*

CERTIFICATE OF SERVICE

I, William H. Narwold, declare that I am over the age of eighteen (18) and not a party to the entitled action. I am a member of the law firm MOTLEY RICE LLC, and my office is located at 20 Church Street, 17th Floor, Hartford, CT 06103.

On September 20, 2017, I caused to be filed the following in the above-captioned case:

Unopposed Motion for Approval of Plan of Supplemental Class Notice

with the Clerk of Court using the Official Court Electronic Document Filing System, which served copies on all interested parties registered for electronic filing.

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

Dated: September 20, 2017

Respectfully submitted,

/s/ William H. Narwold

William H. Narwold
MOTLEY RICE LLC