

**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,)
Plaintiffs,)
)
v.)
)
United States of America,)
Defendant.)
_____)

Civil Action No.: 1:14-cv-01523-RCL

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

In accordance with the parties’ November 13, 2020 Stipulation Regarding Post-2019 PTIN Fees (ECF No. 144) and the Court’s December 4, 2020 Order (ECF No. 146), 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.” *See* 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. On July 10, 2017, 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.” *See* ECF No. 82.

On January 5, 2018, this Court approved the plaintiffs’ plan of supplemental class notice for all individuals who obtained PTINs between August 20, 2016 and July 10, 2017. *See* ECF No. 97. The opt-out period expired on April 13, 2018. *Id.*

On November 13, 2020, the plaintiffs and defendant filed a stipulation with the Court regarding Post-2019 PTIN fees. *See* ECF No. 144. The parties agreed that this litigation included claims of all individuals who obtained their PTINs after July 10, 2017 and “are not members of the existing class because they first received a PTIN after the date supplemental notice was provided to the class.” *See* ECF No. 144 at ¶ 5. The United States agreed to provide plaintiffs with a list of these individuals for each Fiscal Year commencing in Fiscal Year 2020. *Id.*

On December 4, 2020, this Court granted in part the plaintiffs’ motion to file a second amended complaint challenging the amount of fees charged by the IRS for the period 2020 and thereafter. *See* ECF No. 145 at 7. The United States agreed to allow plaintiffs to add the claim challenging the fees collected in and after 2020. *See* ECF No. 140 at 1. The amended complaint was filed on December 11, 2020. *See* ECF No. 148.

The United States continues to collect records of past and current PTIN holders and their contact information. Pursuant to the parties’ November 13, 2020 stipulation, the United States produced a list of individuals who paid a PTIN fee for the first time on or after August 17, 2020 (“Supplemental Notice Group”). The IRS did not charge PTIN fees between July 10, 2017 and August 17, 2020. The Supplemental Notice Group consists of approximately 289,716 individuals. The list contains contact information such as names, e-mail addresses, postal

addresses, and phone numbers. There are no other records necessary to identify the members of the Supplemental Notice Group.

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 and January 5, 2018 Order, the website will include the Supplemental Long-Form Notice, attached hereto as Exhibit 1; Judgment and Mandate (ECF No. 98); Motion to Amend Complaint (ECF No. 133); Joint Stipulation Regarding Motion to Amend Complaint (ECF No. 139); the Stipulation Regarding Post-2019 PTIN Fees (ECF No. 144); the Memorandum of Opinion (ECF No. 145); Order (ECF No. 146); the Second Amended Class Action Complaint (ECF No. 148); and the Answer to Second Amended Class Action Complaint (ECF No. 155).

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 June 3, 2022.

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 and January 5, 2018 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: February 23, 2022

Respectfully submitted,

/s/ William H. Narwold

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Additional Class Counsel for Plaintiffs

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 February 23, 2022, 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: February 23, 2022

Respectfully submitted,

/s/ William H. Narwold

William H. Narwold
MOTLEY RICE LLC