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September 30, 2019

VIA ECF

The Honorable Valerie E. Caproni
United States District Judge
United States District Court
Southern District of New York
40 Foley Square, Room 240
New York, NY 10007

**Re: *Merryman, et al. v. JPMorgan Chase Bank, N.A.*,
No. 1:15-cv-09188-VEC**

Dear Judge Caproni:

I write jointly on behalf of the parties in the above-captioned matter in response to the Court's July 10, 2019 Order ("Order") requesting certain information in advance of the Final Approval Hearing currently scheduled for October 15, 2019 at 4:00 p.m. Specifically, the Order requested: (1) the percentage of Non-Registered Holder Settlement Class Members that submitted timely and valid Claim Forms; (2) the number of unique claimants; (3) the number of hits on the settlement website from unique IP addresses; (4) the number of unique visitors of the website who downloaded the Claim Forms; (5) the number of Class Members that requested exclusion; and (6) the number of Class Members that submitted objections. While this letter is submitted jointly, the underlying information regarding notice and Settlement Class Member response has been obtained by Lead Counsel from the settlement administrators retained by Lead Counsel.

With respect to (1) of the Order, the parties notified the Court by letter dated September 16, 2019 (ECF No. 127) ("September 16 Letter") that they would be unable to provide the percentage of Non-Registered Holder Settlement Class Members that submitted timely and valid Claims Forms as the universe of actual class members cannot be determined in cases of this nature where a portion of the class holds their securities through broker/dealers. However, we can report that, as of September 27, 2019, the Court-authorized Claims Administrator, Kurtzman Carson Consultants LLC ("KCC"), has received a total of 433,561 claims from Non-Registered Holder Settlement Class Members.¹ Based on KCC's preliminary calculation of losses pursuant to the

¹ See Supplemental Declaration of Justin R. Hughes Regarding (A) Mailing of the Postcard Notice; (B) Outreach to Third-Party Filers; (C) Update on Telephone Hotline and Settlement Websites; (D) Report on Requests for Exclusion Received; and (E) Report on Claims Received to Date ("Hughes Declaration" or "Hughes Decl.") submitted herewith, at ¶ 14.

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Plan of Allocation (i.e., “Recognized Claims”) for Non-Registered Holder Settlement Class Members (which is based on the information provided in the claims submitted by Non-Registered Holder Settlement Class Members), the preliminary Recognized Claims for the 433,561 Non-Registered Holder Settlement Class Member claims are approaching 100% of the total Recognized Claims for Non-Registered Settlement Class Members reflected in the data provided by JPMorgan Chase Bank, N.A.’s transfer agent. As set forth in the Declaration submitted on behalf of KCC filed concurrently with this letter, KCC continues to review the accuracy of the claims submitted. The parties believe both the number of claims received from Non-Registered Settlement Class Members and the percentage of losses those claims represent reflect favorably on the success of the notice campaign as well as the Settlement.

With respect to (2) of the Order, there are currently a total of 1,136,129 unique claims for the Settlement - 433,561 Non-Registered Holder Settlement Class Members claims and 702,568 Registered Holder Settlement Class Members claims. Hughes Decl., ¶¶ 14-15.

With respect to (3) of the Order, Google Analytics – the web analytics service used to obtain information regarding website traffic – reports that, through September 27, 2019, the Settlement website, www.JPMADREFXSettlement.com, has been visited by a total of 42,677 unique users. Hughes Decl., ¶ 6.² Likewise, there has been substantial traffic to the general ADR FX website, www.ADRFXSettlement.com, with visits by a total of 95,159 unique users through the same date. *Id.*, ¶ 7. With respect to (4) of the Order, the “Notice and Claim Form” tab located on the homepage of the Settlement website was visited a total of 4,428 times. *Id.*, ¶ 6.³ These metrics provide additional support for the success of the notice campaign as they show that potential Settlement Class Members were visiting and interacting with the settlement websites in order to obtain additional information regarding the action and the Settlement.

Finally, with respect to (5) and (6) of the Order, the parties are pleased to report that, following the extensive Court-approved notice program for the Settlement—including the mailing of over 728,000 Postcard Notices combined with the comprehensive multi-media notice campaign which included over 265 million validated online ad impressions and publications in various magazines, newspapers, and investment e-newsletters⁴—***not a single member of the Settlement***

² In the September 16 Letter, the parties notified the Court that they would be unable to provide the number of hits on the Settlement website from *unique IP addresses* because Google Analytics does not report IP addresses. The “unique user” stat provided is comparable. If a user leaves the Settlement website and comes back at a later time, Google Analytics will remember them, and this user’s second visit will not increase the number of users. The only caveat is that if a user visits the Settlement website, clears their cookies and then visits the settlement website again, they would be considered a new “user.” Hughes Decl., ¶ 6 n.5.

³ In the September 16 Letter, the parties notified the Court that they would be unable to report the number of unique visitors who downloaded the Claim Form as KCC did not apply a tracking function to this particular link at the outset of the administration.

⁴ See Supplemental Declaration of Jeanne C. Finegan, APR Concerning Implementation of Notice to Settlement Class Members Through Multi-Media Notice Program submitted herewith,

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Class has objected to any aspect of the Settlement, including the Plan of Allocation and Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of Litigation Expenses. Furthermore, out of the substantial number of potential Settlement Class Members that received notice of the Settlement, only 80 requests for exclusion from the Settlement Class have been received.⁵ In the aggregate, these exclusion requests calculate to ***less than \$50.00*** in losses under the Plan of Allocation. The reaction of the Settlement Class weighs strongly in favor of the fairness, adequacy, and reasonableness of the Settlement. *See In re Advanced Battery Techs., Inc. Sec. Litig.*, 298 F.R.D. 171, 176 (S.D.N.Y. 2014) (“The absence of . . . objections and minimal investors electing to opt out of the Settlement provides evidence of Class members’ approval of the terms of the Settlement.”).⁶

Respectfully submitted,

s/Sharan Nirmul
Sharan Nirmul

cc: All counsel (via ECF)

as well as the previously filed Declaration of Jeanne C. Finegan, APR Concerning Implementation of Notice to Settlement Class Members Through Multi-Media Notice Program (ECF No. 125-2).

⁵ The 80 exclusion requests represent approximately 0.01% of the more than 728,000 Postcard Notices mailed, and an even tinier percentage of the overall number of Settlement Class Members reached via the multi-media notice campaign. Of the 80 requests for exclusion received, 75 requests were submitted timely (*i.e.*, on or before the July 3, 2019 deadline) and 5 requests were submitted late (*i.e.*, after the July 3, 2019 deadline). Hughes Decl. ¶ 11.

⁶ *See also Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 119 (2d Cir. 2005) (finding that “the favorable reaction of the overwhelming majority of class members to the Settlement is perhaps the most significant factor in [the] Grinnell inquiry”); *In re Virtus Inv. Partners, Inc. Sec. Litig.*, 2018 WL 6333657, at *2 (S.D.N.Y. Dec. 4, 2018) (“the absence of objections by the class is extraordinarily positive and weighs in favor of settlement”) (citation omitted); *In re Facebook, Inc., IPO Sec. & Derivative Litig.*, 343 F. Supp. 3d 394, 410 (S.D.N.Y. 2018) (“That not one sophisticated institutional investor objected to the Proposed Settlement is indicia of its fairness.”).

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

BENJAMIN MICHAEL MERRYMAN, AMY
WHITAKER MERRYMAN TRUST, B
MERRYMAN AND A MERRYMAN 4TH
GENERATION REMAINDER TRUST AND
CHESTER COUNTY EMPLOYEES
RETIREMENT FUND, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

JPMORGAN CHASE BANK, N.A.,

Defendant.

CIVIL ACTION NO. 1:15-cv-09188-VEC

**SUPPLEMENTAL DECLARATION OF JUSTIN R. HUGHES REGARDING
(A) MAILING OF THE POSTCARD NOTICE; (B) OUTREACH TO THIRD-PARTY
FILERS; (C) UPDATE ON TELEPHONE HOTLINE AND SETTLEMENT WEBSITES;
(D) REPORT ON REQUESTS FOR EXCLUSION RECEIVED; AND
(E) REPORT ON CLAIMS RECEIVED TO DATE**

I, Justin R. Hughes, declare and state as follows:

1. I am a Vice President of Class Actions at Kurtzman Carson Consultants LLC (“KCC”). KCC is headquartered at 3301 Kerner Boulevard, San Rafael, California 94901. Pursuant to the Court’s July 18, 2018 Order Preliminarily Approving Settlement and Providing for Notice (ECF No. 104) (the “Preliminary Approval Order”), Lead Counsel was authorized to retain KCC as the Claims Administrator in connection with the proposed Settlement of the above-captioned Litigation.¹ I submit this declaration as a supplement to my previously filed declaration,

¹ All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement, dated June 12, 2018 (ECF No. 99) (the “Stipulation”).

the Declaration of Justin R. Hughes Regarding (A) Receipt of Registered Holder Data; (B) Mailing of the Postcard Notice; (C) Establishment of the Telephone Hotline; (D) Establishment of the Settlement Website; and (E) Report on Requests for Exclusion Received to Date, dated June 20, 2019 (ECF No. 125-1) (the “Initial Mailing Declaration”). I have personal knowledge of the matters stated herein and, if called upon, could and would testify thereto.

MAILING OF THE POSTCARD NOTICE

2. As reported in the Initial Mailing Declaration, as of June 19, 2019, KCC had mailed a total of 727,911² Postcard Notices to Registered Holder Settlement Class Members using the contact information provided by JPMorgan Chase Bank, N.A.’s transfer agent. This figure includes a total of 26,304 Postcard Notices that were initially returned as undeliverable by the United States Postal Service (“USPS”) and re-mailed based on updated addresses provided by the USPS or obtained through a third-party vendor to which KCC subscribes.³ Since the execution of the Initial Mailing Declaration, KCC has re-mailed an additional 392 Postcard Notices. As a result, as of September 27, 2019, KCC has mailed a total of 728,303 Postcard Notices.

OUTREACH TO THIRD-PARTY FILERS

3. KCC maintains a proprietary database with the names and email addresses of the largest and most common third-party filers⁴ (the “Third-Party Filer Email Database”). Due to

² While the Initial Mailing Declaration accurately stated that there were 701,607 Postcard Notices mailed to Registered Holder Settlement Class Members and another 26,304 Postcard Notices re-mailed based on updated addresses provided by the USPS or through a third-party vendor, it inaccurately added those two numbers and stated the total Postcard Notices mailed was 729,911. The actual total Postcard Notices mailed at that time was 727,911.

³ A total of 37,135 Postcard Notices mailed to Registered Holder Settlement Class Members have been returned as undeliverable and not re-mailed because updated addresses were not provided by the USPS or otherwise located through a third-party vendor.

⁴ “Third-party filers” are companies and/or financial institutions that file claims on behalf of clients who employ them to handle such filings on their behalf in actions of this nature.

the particularly unique Settlement Class definition and the information necessary to make a claim for this Settlement, on May 9, 2019, KCC, in coordination with Lead Counsel, sent an email to the 662 email addresses contained in KCC's Third-Party Filer Email Database. The email encouraged third-party filers to begin working on their claim submissions, and also provided general information such as the claim submission deadline and links to the Settlement websites, *i.e.*, the website for this Settlement, www.JPMorganADRFXSettlement.com ("the Settlement Website"), as well as the ADR FX website, www.ADRFXSettlement.com, which provides general information for this Settlement and the settlements obtained in the analogous ADR FX cases, *In Re: BNYM ADR FX Litig.*, No. 16-CV-00212-JPO-JLC (S.D.N.Y.) and *Merryman et al. v. Citigroup, Inc. et al.*, No. 1:15-cv-09185-CM-KNF (S.D.N.Y.).

UPDATE ON TELEPHONE HOTLINE AND SETTLEMENT WEBSITES

4. KCC continues to maintain the toll-free telephone hotline (1-866-637-9457) for Settlement Class Members to call and obtain information about the Settlement. Through September 27, 2019, KCC has received a total of 12,417 calls to the toll-free telephone hotline, of which 5,764 calls were handled by a live operator during regular business hours.

5. KCC also continues to maintain the Settlement Website, www.JPMorganADRFXSettlement.com, to assist Settlement Class Members. On June 21, 2019, KCC posted to this website copies of the papers filed in support of Lead Counsel's motion for final approval of the Settlement and Plan of Allocation and Lead Counsel's motion for an award of attorneys' fees and Litigation Expenses. In addition, KCC updated the Settlement Website, in multiple places, to notify Settlement Class Members of the changes to the date and time of the Final Approval Hearing.

6. Through September 27, 2019, the Settlement Website has been visited by 42,677 unique users.⁵ Further, the “Notice and Claim Form” tab located on the homepage of the Settlement Website has been visited a total of 4,428 times.

7. In addition, KCC currently maintains the general ADR FX website, www.ADRFXSettlement.com, which serves as a general landing page for this Settlement as well as the settlements obtained in the related ADR FX cases. Through September 27, 2019, the ADR FX website has been visited by 95,159 unique users.

8. KCC will continue operating, maintaining and, as appropriate, updating the Settlement websites and toll-free telephone hotline with relevant case information and court documents until the conclusion of the administration.

REPORT ON REQUESTS FOR EXCLUSION RECEIVED

9. The Postcard Notice, long-form Notice, Summary Notice and Settlement Website informed Settlement Class Members that requests for exclusion from the Settlement Class were to be received no later than July 3, 2019. The Notice provided that requests for exclusion were to be mailed to *JPMorgan ADR FX Settlement, c/o KCC Class Action Services, EXCLUSIONS, 3301 Kerner Boulevard, San Rafael, CA 94901* and also set forth the information that was required to be included in each request.

10. As reported in the Initial Mailing Declaration, as of June 19, 2019, KCC had received 51 requests for exclusion from the Settlement Class. Since the execution of the Initial Mailing Declaration, KCC has received an additional 29 requests for exclusion – of which 24

⁵ If a user leaves the Settlement Website and comes back at a later time, Google Analytics, the web analytics service KCC uses to obtain information regarding website traffic, will remember them, and this user’s second visit will not increase the number of users. The only caveat is that if a user visits the Settlement Website, clears their cookies and then visits the Settlement Website again, they would be considered a new “user.”

requests for exclusion were timely (*i.e.*, received on or before the July 3, 2019 deadline) and 5 requests for exclusion were late (*i.e.*, received after the July 3, 2019 deadline).

11. In total, as of September 27, 2019, KCC has received a total of 80 requests for exclusion from the Settlement Class – 75 timely requests and 5 late requests. All 80 requests for exclusion were received from Registered Holder Settlement Class Members. Attached hereto as Exhibit A is a list of all requests for exclusion received.

12. In the aggregate, these 80 requests for exclusion represent a total of \$41.11 in losses calculated pursuant to the Plan of Allocation set forth in the Notice (*i.e.*, “Recognized Claims”). Specifically, the 75 timely requests for exclusion represent \$39.75 in Recognized Claims and the 5 late requests for exclusion represent \$1.36 in Recognized Claims.

REPORT ON CLAIMS RECEIVED TO DATE

13. As set forth in the Postcard Notice and long-form Notice, Registered Holder Settlement Class Members (*i.e.*, Settlement Class Members who hold (or held) their eligible securities directly and are listed on the records of JPM’s transfer agent) did not have to take any action in order to be potentially eligible to receive a payment from the Settlement. Notice to Registered Holder Settlement Class Members informed them that KCC would calculate their losses and Recognized Claim amounts using the holding and cash distribution information provided by JPM’s transfer agent. In total, there are a total of 702,568 Registered Holder Settlement Class Members Claims.⁶ 53 of these Claims have been supplemented with additional information provided to KCC by Registered Holder Settlement Class Members.

⁶ The discrepancy between the number of Registered Holder Settlement Class Member Claims and Postcard Notices initially mailed reflects that the contact information provided by JPM’s transfer agent for 961 of the Registered Holder Settlement Class Members was incomplete and these records were removed from the mailing. *See* Initial Mailing Declaration ¶ 6 n.3.

14. In addition to the 702,568 Registered Holder Settlement Class Members Claims, as of September 27, 2019, KCC has received a total of 433,561 Claims from Non-Registered Holder Settlement Class Members (*i.e.*, Settlement Class Members who hold (or held) their eligible securities through a bank, broker or other nominee and are not listed on the records of JPM’s transfer agent). KCC received Claims from Non-Registered Holder Settlement Class Members via regular mail, online submissions and electronically filed claims. The below chart shows the Claims received from Non-Registered Holder Settlement Class Members by their method of submission.

| <u>Submission Type</u> | <u>Count</u> |
|------------------------|----------------------|
| Paper | 1,842 |
| Web/Electronic | 431,719 ⁷ |
| Total | 433,561 |

15. Accordingly, as of September 27, 2019, KCC has received a total of 1,136,129 Claims from Settlement Class Members. As the claim submission deadline was a postmark date of September 19, 2019, KCC anticipates the receipt of additional Claims after this submission.

16. As KCC is currently in the process of reviewing and analyzing the Claims received for this Settlement, the information provided regarding Recognized Claims is preliminary and subject to further review, analysis and quality control and is intended only for informational

⁷ KCC has also received approximately 1,050,000 “placeholder” electronic Claim submissions from third-party filers. These Claims were submitted without *any* holding or cash distribution information. Our understanding is that the filer’s intention is to provide the corresponding holding and cash distribution information for these Claim submissions at a later date, which, if provided, will increase the Claim count provided above. In addition, a facially erroneous Claim (*i.e.*, a Claim with excessive and unverified holding and cash distribution information) has not been included in the Claim count and loss totals contained in this Declaration. KCC will continue to examine these Claims in the normal course of this administration.

purposes at this time. Further, some of the Claims received contain deficiencies (such as inadequate or no supporting documentation) which will be addressed during the normal course of this administration. Additionally, Claims that do not meet the submission requirement may be rejected.⁸

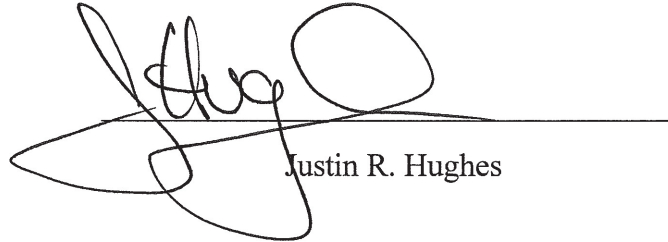
17. The current preliminary total Recognized Claims, calculated pursuant to the Plan of Allocation set forth in the Notice, for the 1,136,129 Claims received by KCC as of September 27, 2019 is \$54,383,710.36. Of these total preliminary Recognized Claims, \$323,900.56 is for Registered Holder Settlement Class Member Claims and \$54,059,809.80 is for Non-Registered Holder Settlement Class Member Claims. These figures do not reflect the results of the anticipated cure/rejection process, quality assurance, fraud review and the submission (and ultimate acceptance) of late Claims.

18. Finally, on September 24, 2019, KCC, by way of Lead Counsel, received two separate letters addressed to the Court. ECF No. 130. Using the address information contained in the letters, KCC mailed the requested copies of the Notice and Claim Form to the potential Settlement Class Members. A cover letter was also included which provided contact information for an employee of KCC who is available for any questions regarding the proposed Settlement as well as to assist these potential Settlement Class Members in completing a Claim Form.

⁸ Prior to rejecting a Claim, in whole or in part, KCC will communicate with the claimant in writing, to give the claimant the chance to remedy any curable deficiency in their Claim.

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

Executed in San Rafael, California on September 30, 2019.



Justin R. Hughes

Exhibit A

Timely Exclusion Requests

1. Dian M. & Louis C. Acruman II
Texarkana, TX
2. Edward S. & Margaret V. Ames TR
Ames Family Trust B 12/15/1995
Lafayette, CO
3. Robert E. & Diane S. Anderson
Pella, IA
4. Clarice D. Black TR
UA Clarice D. Black Trust 1/27/1997
New Orleans, LA
5. Lahoma J. Blankenship, Estate of
Columbus, OH
6. John W. Butler
White Post, VA
7. William H. Cantrell
Moodus, CT
8. Severino Centritto
Toronto, ON Canada
9. Catholic Ladies Relief Society No. 1
Sacramento, CA
10. Stacy Touchstone Chatham
Saucier, MS
11. Norbert & Loretta Chmielarczyk TR
UA 4/27/2011
The Norbert & Loretta Chmielarczyk
Living Trust
Warren, MI
12. E. Juanita Clark
Live Oak, FL
13. Winifred G. & Louis F. Clements TR
UA Winifred G. Clements Trust
11/20/1987
Louisville, KY
14. William J. Connelly
Dumont, NJ
15. Patricia C. & William D. Cook
Shokan, NY
16. Beverly Jean Cooper
Waller, TX
17. Judy H. & James A. Curtis
Briggsdale, CO
18. James A. Davenport
Midlothian, VA
19. Elizabeth M. Derco, Estate of
New Brunswick, NJ
20. Carlos J. & Mary P. Dobbins
Beckley, WV
21. Susan L. East
Pasadena, TX
22. Janet Edwards
Skoghall, Sweden
23. Carole B. Embry
Atlanta, GA

24. John & Judith Fischer
Medford, NY
25. Erin Colleen Flanagan
East Dennis, MA
26. James A. Flanagan
East Dennis, MA
27. Zelda Geller
Manasquan, NJ
28. Bruce J. & Joyce F. Genrich
Marinette, WI
29. Edward J. & Mary L. Hadnagy
Jim Thorpe, PA
30. Cecil E. & Pattie H. Hearn
Henderson, TN
31. Colette E. Hensley
Cosby, TN
32. Theodore R. Hoch
Bellville, TX
33. Damon Isaacson
Tacoma, WA
34. Constance L. & Richard A. Johnson
Port Republic, NJ
35. Dorothy Jongens
Steenbergen, Netherlands
36. Neil Kandel
Livermore, CA
37. Nerses N. Kazanjian
Middletown, NJ
38. Nancy L. Knode
Harrisburg, PA
39. Paul S. Kring
Pointblank, TX
40. Ingeborg Kuhaneck
Tonawanda, NY
41. Cynthia J. & Jayne T. Lehr
Tequesta, FL
42. Roy L. Lemieux
Newmarket, NH
43. Mildred G. Lightfoot & Sharon Lee
Bohlken TR UA 7/18/2002
Mildred G. Lightfoot Revocable Living
Trust
Harrisonville, MO
44. Larry G. Littrel
Atlanta, GA
45. Carol Sidney Low
Vestavia Hills, AL
46. Marvin R. Mael, Estate of
Beloit, WI
47. Maureen E. McCafferty
Trenton, NJ
48. Karen McGovern
Cedar Grove, NJ
49. Martha R. & Robert F. McKnight
South Fulton, TN
50. Maria Morganto
Ocoee, FL

51. Elizabeth M. Nowak & Judith Diane Forsythe TR UA
Elizabeth M. Nowak Living Trust
10/31/2000
North Canton, OH
52. Mary F. Olsen, Estate of
Vancouver, WA
53. Brian R. & Catherine N. Pabst
Baldwin, MD
54. Mary McPartland
Rockwall, TX
55. James F. Phillips Jr.
Smackover, AR
56. Jim Phillips
Smackover, AR
57. Catherine Poon
San Rafael, CA
58. Cheryl A. Quinn
Evelyn May Quinn Revocable Living Trust 10/15/2008
Las Vegas, NV
59. James P. & Ivy L. Rhodes TR
UA Rhodes Revocable Living Trust
4/06/1994
Lincoln, CA
60. Olive Chamberlain Riggs, Estate of
Newton, NJ
61. Virginia A. Salmon
Bloomfield, NJ
62. Joyce Samra
Paddington NSW, Australia
63. Joan Y. Scott
Hudson, FL
64. John Skowronek
Phoenix, AZ
65. Smackover Resources
James F. Phillips, Jr.
Smackover, AR
66. Herbert J. & Carol J. Smith
Fort Collins, CO
67. Doris C. Strebel
Ballston Spa, NY
68. Linda Sweet
North Chesterfield, VA
69. John J. Tulko
Parlin, NJ
70. Clifford L. & Anna R. Umbarger
El Dorado, KS
71. James W. & Ruth E. Wainwright TR
UA Wainwright Trust 08/27/1990
St. Louis, MO
72. John Charles Watson
Parkersburg, WV
73. Margaret S. & Harry T. Wenker
Lock Haven, PA
74. Daniel W. & Heide I. Woytanis
Etters, PA
75. Edward J. & Deborah K. Zielinski
Romulus, MI

Late Exclusion Requests

1. James E. & Carolyn S. Kruger
Spokane, WA
2. Kenneth W. & Charlotte L. Ikenberry
Lawrence, KS
3. Alice B. Montagnoli
Mullica Hill, NJ
4. Diane R. Duitsman
Forreston, IL
5. Linda A. Rogers
Albuquerque, NM

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

BENJAMIN MICHAEL MERRYMAN, AMY
WHITAKER MERRYMAN TRUST, B
MERRYMAN AND A MERRYMAN 4TH
GENERATION REMAINDER TRUST AND
CHESTER COUNTY EMPLOYEES
RETIREMENT FUND, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

JPMORGAN CHASE BANK, N.A.,

Defendant.

Civil Action No. 1:15-cv-09188-VEC

**SUPPLEMENTAL DECLARATION OF JEANNE C. FINEGAN, APR CONCERNING
IMPLEMENTATION OF NOTICE TO SETTLEMENT CLASS MEMBERS
THROUGH MULTI-MEDIA NOTICE PROGRAM**

INTRODUCTION

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

2. Pursuant to the Order Approving Modifications to Notice Plan and Schedule for Approval of Settlement dated March 25, 2019 (ECF No. 118) (“Notice Modification Order”), the Court authorized Lead Counsel to retain my firm, HF Media, to supervise and administer the multi-media notice program in connection with the proposed Settlement of the above-captioned action (“Multi-

Media Notice Program”).¹

3. I submit this Declaration as a supplement to my previously filed Declaration dated June 20, 2019 (ECF No. 125-2) (“Initial Multi-Media Notice Declaration”) in order to provide the Court and the parties to the Litigation a final report regarding the successful implementation of the Multi-Media Notice Program, *i.e.*, the portion of the Court-approved notice program for the Settlement conducted via print, online and social media, as well as the overall reach as it relates specifically to the Multi-Media Notice Program.

4. As detailed in the Initial Multi-Media Notice Declaration, the Multi-Media Notice Campaign, which supplemented direct mailed notice to Registered Holder Settlement Class Members, included the following components in accordance with the Court’s Preliminary Approval Order and Notice Modification Order:

- Publication of a short form notice (the “Publication Notice” or “Summary Notice”) in seven (7) general circulation consumer magazines;
- Publication of the Publication Notice two (2) times in three (3) nationally circulated newspapers;
- Banner ads in specialty investment e-newsletters;
- Online and cross-device display banner advertising specifically targeted to potential Settlement Class Members over a 78-day period resulting in a total of over 265 million validated online impressions, consisting of:
 - a. Ads served directly to potential Settlement Class Members with known addresses via cutting-edge WIFI/IP address matching technology;²
 - b. Online banner ads appearing on a custom whitelist of approximately 4,000 pre-vetted websites, including:

¹ All capitalized terms used herein and not otherwise defined have the meanings set forth in the Notice Modification Order.

² As set forth in the Initial Multi-Media Notice Declaration at ¶¶ 36-38, HF Media served banner ads via WIFI/IP address targeting to a potential Settlement Class Member list consisting of unique address records provided to KCC by nominees in response to the nominee outreach conducted by KCC early in the notice program. A total of 2,856,595 addresses were contained in the records. The WIFI/IP address targeting was done by mapping those physical addresses to the WIFI/IP address(es) in use at that physical location. If a target location’s WIFI/IP address was available, that was considered a “match.” Through these efforts, we matched 2,171,339 of the 2,856,595 physical addresses received from nominees to WIFI/IP addresses. The same list of physical addresses also was uploaded into Facebook’s custom audience tool, allowing us to directly target and serve ads to a Facebook user when they have a Facebook or Instagram account where their address is publicly available.

- i. 43 Business Journal websites;
 - ii. A custom whitelist of approximately 140 investment websites;
 - iii. A custom whitelist of approximately 350 local market and top-tier news websites; and
 - iv. *The Wall Street Journal's* web site;
- c. Search words and terms on Google AdWords;
 - d. Social media ads through Facebook, Instagram and LinkedIn;
 - e. Transmittal of the Publication Notice in the form of a press release over *PR Newswire's* US1 Newslines with additional targeting to finance influencers;
 - f. An informational Settlement Website on which the long-form Notice and other important Court documents are posted;
 - g. A general ADR FX settlement website developed to serve as a landing page for the online banner ads; and
 - h. A toll-free information line where Settlement Class Members can call 24/7 for more information about the Settlement, including important dates and deadlines, and to request to speak to a live operator during regular business hours.³

5. In compliance with the Court's Notice Modification Order, the Multi-Media Notice Program commenced on April 4, 2019 and was completed on June 21, 2019.

6. At the time of the submission of my Initial Multi-Media Notice Declaration, one magazine title, *Travel + Leisure*, containing the Summary Notice had yet to publish. In compliance with the Court's Notice Modification Order, the Summary Notice was published in *Travel + Leisure* on June 21, 2019.

7. As detailed in the Initial Multi-Media Notice Declaration, the Settlement Website, maintained by KCC, was (and continues to be) an important component of the notice program for the Settlement as it allows Settlement Class Members to get information about the Settlement,

³ The Settlement Website, ADR FX website and toll-free information line were developed and are currently maintained by the Court-authorized Claims Administrator, Kurtzman Carson Consultants LLC ("KCC").

obtain a copy of the detailed long-form Notice, and/or submit a Claim Form (in the case of Non-Registered Holder Settlement Class Members) or review their holding and distribution information provided by JPM's transfer agent via the Claim Portal (in the case of Registered Holder Settlement Class Members).

8. The Settlement Website address, www.jpmorganadrfxsettlement.com, was prominently displayed in the Publication Notices, as well as the Postcard Notices mailed to Registered Holder Settlement Class Members. I am informed by KCC that the Settlement Website was optimized for mobile visitors so that information loads on their mobile device quickly. All digital media utilized in the media outreach provided information for visitors to self-identify as potential Settlement Class Members, allowing them to "click" on the banner and link directly to the "landing page" website, www.ADRFXSettlement.com, with a further link to the Settlement Website. The final web traffic statistics and IVR statistics are found in the declaration of KCC Vice President, Justin R. Hughes, paragraphs 4 through 8, dated September 30, 2019.

CONCLUSION

9. As set forth in my Initial Multi-Media Notice Declaration, the Multi-Media Notice Program was a success. Evidence of this notice program's success is found in the visitor traffic to the websites and to the call center. In my opinion, the robust outreach efforts described above and in my previous Declaration reflect a particularly appropriate, highly targeted and contemporary way to employ notice to the Settlement Class in this matter, and in particular, the Non-Registered Holder Settlement Class Members who did not receive direct mailed notice. Importantly, these outreach efforts are consistent with the flexibility of notice provided in Rule 23.

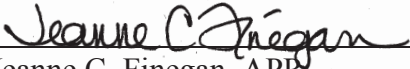
10. As a result of the Multi-Media Notice Program detailed above, an estimated 85-94 percent of targeted Settlement Class Members were reached, on average, 6-11 times. In my experience, this is an excellent result and exceeds my original "reach" projections.⁴

11. Moreover, in my opinion, the efforts used in this Multi-Media Notice Program were of the highest modern communication standards, embraced by FRCP Rule 23, and were reasonably

⁴ At the outset of my engagement, and as set forth in my Declaration previously filed with the Court on January 31, 2019 (ECF No. 115-2), I estimated that: (1) 91% of stock owners over 35 with a household income ("HHI") of \$150k+ would be reached, on average, 6 times; (2) 87% of stock owners over the age of 35 with a HHI of \$100k+ would be reached, on average, 4.2 times; and (3) 83% of stock owners, regardless of age or income, would be reached, on average, 4 times.

calculated to provide notice that is not only consistent, but exceeds best practicable court approved notice programs in similar matters which are consistent with the Federal Judicial Center's guidelines concerning appropriate reach.

12. I declare under the penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct. Executed on September 30, 2019.



Jeanne C. Finegan, APR