

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 2:23-cv-14337-KMM

MICHAEL SHUTLER individually and on
behalf of others similarly situated,

Plaintiff,

v.

CITIZENS DISABILITY LLC,

Defendant.

_____ /

ORDER

THIS CAUSE came before the Court upon Plaintiff Michael Shutler’s (“Plaintiff”) Motion to Disseminate Class Notice. (“Mot.”) (ECF No. 110). Defendant Citizens Disability LLC’s (“Defendant”) filed a Response in opposition. (“Resp.”) (ECF No. 112). Plaintiff filed a Reply. (“Reply”) (ECF No. 113). The Motion is now ripe for review.

I. BACKGROUND

On September 9, 2024, this Court certified the following class:

All people in the United States (1) who answered one or more prerecorded calls from Citizens, (2) made from the Pipes.ai calling platform, (3) between 11/8/2019 to 10/25/2023, (4) and at the time of the call Citizens’ only lead source for the person called was GrantsAssistanceForYou.com.

(ECF No. 88 at 18). On September 24, 2024, this Court entered a Scheduling Order requiring Plaintiff and Defendant to comply with the deadlines therein. (ECF No. 105). Plaintiff filed his Motion to Disseminate Class Notice in accordance with this Court’s Scheduling Order. *Id.*

II. LEGAL STANDARD

“[B]ecause class judgments bind absentees with respect to their individual claims for relief[,]” absent class members ““must be afforded notice, an opportunity to be heard, and a right

to opt out of the class.” *Viking River Cruises, Inc. v. Moriana*, 596 U.S. 639, 654–55 (2022) (citing *Cooper v. Federal Reserve Bank of Richmond*, 467 U.S. 867, 874 (1984)) (quotations omitted). Under Federal Rule of Civil Procedure 23 (“Rule 23”), notice to the class can be accomplished by “one or more of the following: United States mail, electronic means, or other appropriate means.” Rule 23(c)(2)(B). Moreover, “the notice must clearly and concisely state in plain, easily understood language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members[.]” *Id.* “Courts have consistently recognized that, even in Rule 23(b)(3) class actions, due process does not require that class members actually receive notice.” *Juris v. Inamed Corp.*, 685 F.3d 1294, 1321 (11th Cir. 2012). Rather, class notice under Rule 23 must provide the “best practicable” notice under the circumstances. *See id.* (quoting *Silber v. Mabon*, 18 F.3d 1449, 1453–54 (9th Cir.1994)).

III. DISCUSSION

Plaintiff has proposed a multipart notice plan to “ensure that the notice reaches as many Class members as reasonably possible” along with a signed Declaration from Cameron Azari, a “nationally recognized expert in the field of legal notice.” Mot. at 3; (ECF No. 110–1 at 2). Plaintiff’s multipart notice plan proposes the following actions:

1. “Direct email notice in the form of the Short-Form Notice to Class members;
2. [D]irect postcard notice in the form of the Short-Form Notice via First Class mail to any Class member whose email is returned as undeliverable;
3. [C]reation of the Case Website containing the Long-Form Notice, key case documents, as well as additional information about the litigation, Class member options, and

information about how to contact Epiq or Class Counsel;

4. [A] toll-free telephone number managed by Epiq dedicated to this case.”

Mot. at 2. Plaintiff requests that this court (1) approve the proposed notice plan, (2) authorize electronic notice for class members with a “facially valid email address,” (3) authorize Postcard notice “all Class members for whom there is no facially valid email address, or the email is returned as undeliverable, and (4) authorizing the creation of the Case Website that contains the Long-Form Notice.” Mot. at 8.

Defense counsel raises several concerns regarding Plaintiff’s proposed notice schedule. *See generally* Resp. First, Defendant argues that the class definition is incorrect and confusing on Plaintiff’s proposed Short-Form Notice. Resp. at 4. Plaintiff’s proposed Short-Form notice provides:

You are a class member if you are a person in the United States who answered one or more prerecorded calls between November 8, 2019, and October 25, 2023, from Citizens Disability, and at the time of a call, Citizens Disability’s only lead source for the person called was GrantsAssistanceForYou.Com (or its subdomains)

(ECF No. 110–2 at 2). Defendant proposes the following modification:

If you filled out a form on GrantsAssistanceForYou.com and answered one or more prerecorded calls from Citizens Disability, LLC, between November 8, 2019, and October 25, 2023, then a class action lawsuit may affect your rights.

Resp. at 6. This Court agrees with Defendant’s argument that the inclusion of the term “lead source” is unnecessarily confusing. Thus, Plaintiff shall adopt Defendant’s proposed class definition for the Short-Form Notice and replace the second bullet of Plaintiff’s proposed Long-Form Notice with Defendant’s proposed definition.

Defendant also argues that Plaintiff’s Proposed Short Notice does not adequately inform

Class Members of their right to opt-out. Resp. at 6–7. The Court disagrees. Plaintiff’s Short-Form Notice adequately informs individuals of their right to opt-out and clearly instructs them on how to do so. (ECF No. 110–2 at 3). Finally, Defendant argues that Plaintiff’s proposed opt-out procedure, physical mail, is “unduly restrictive.” Resp. at 7. The Court disagrees. A uniform opt-out procedure will help Class Counsel keep accurate records of individuals that wish to opt-out. Moreover, the Court does not find that the proposed opt-out method burdensome, it merely requires individuals that wish to opt-out to send a written request to be excluded including their name, address, telephone number, and signature. (ECF No. 110-3 at 6).

IV. CONCLUSION

UPON CONSIDERATION of the Motion, the pertinent portions of the record, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED that Plaintiff’s Motion to Disseminate Class Notice (ECF No. 110) is GRANTED. It is further, ORDERED AND ADJUDGED that:

1. As discussed above, Plaintiff’s Short-Form and Long-Form Notice shall be updated in accordance with Defendant’s proposed definition.
2. Plaintiff shall send notice to all potential class members in accordance with Plaintiff’s Motion (ECF No. 110) and this Order within ten days.
3. Class members shall have 45 days from date the notice is sent to mail an opt-out request to Class Counsel. All opt-out requests that are postmarked within 45 days of notice shall be accepted by Class Counsel.
4. Promptly after completion of Notice, Class Counsel shall file a sworn statement attesting to compliance with the above instructions.
5. The Notice to be provided to potential class members as set forth above is found to be the best means of providing notice practicable under the circumstances and, when

completed, shall constitute due and sufficient notice of class certification persons entitled to participate in the Class.

DONE AND ORDERED in Chambers at Miami, Florida, this *4th* day of November 2024.

K. M. Moore

K. MICHAEL MOORE

UNITED STATES DISTRICT JUDGE

c: All counsel of record