

1 Tina Wolfson, CA Bar No. 174806
twolfson@ahdootwolfson.com
2 Robert R. Ahdoot, CA Bar No. 172098
rahdoot@ahdootwolfson.com
3 Theodore Maya, CA Bar No. 223242
tmaya@ahdootwolfson.com
4 Bradley K. King, CA Bar No. 274399
bking@ahdootwolfson.com
5 AHDOOT & WOLFSON, PC
2600 West Olive Avenue, Suite 500
6 Burbank, California 91505
Tel: (310) 474-9111; Fax: (310) 474-8585

7
8 Cornelius P. Dukelow (admitted *pro hac vice*)
cdukelow@abingtonlaw.com
9 ABINGTON COLE + ELLERY
320 S. Boston Avenue, Suite 1130
Tulsa, Oklahoma 74103
10 Telephone & Facsimile: (918) 588-3400

11 Keith S. Dubanevich (admitted *pro hac vice*)
kdubanevich@stollberne.com
12 STOLL STOLL BERNE
LOKTING & SHLACHTER P.C.
13 209 SW Oak Street, Suite 500
Portland, Oregon 97204
14 Telephone: (503) 227-1600
Facsimile: (503) 227-6840

15 *Class Counsel*

16
17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**
19 **SOUTHERN DIVISION**
20

21
22 PHILIP ALVAREZ, RANDALL
23 BETTISON, MARC KELLEHER, and
24 DARLENE VAUGH individually and
on behalf of all others similarly situated,

25 Plaintiffs,

26 v.

27 SIRIUS XM RADIO INC.,

28 Defendant.

Case No. 2:18-cv-8605-JVS-SS

**SUPPLEMENTAL DECLARATION
OF CAMERON R. AZARI, ESQ. ON
SETTLEMENT NOTICE AND
ADMINISTRATION**

1 I, Cameron Azari, declare as follows:

2 1. My name is Cameron R. Azari, Esq. I have personal knowledge of the
3 matters set forth herein, and I believe them to be true and correct.

4 2. I am a nationally recognized expert in the field of legal notice, and I have
5 served as an expert in dozens of federal and state cases involving class action notice
6 plans.

7 3. I am the Director of Legal Notice for Hilsoft Notifications (“Hilsoft”), a
8 firm that specializes in designing, developing, analyzing and implementing, large-scale
9 legal notification plans. Hilsoft is a business unit of Epiq Class Action & Claims
10 Solutions, Inc. (“Epiq”).

11 4. This declaration will provide updated stats regarding the settlement
12 administration activity to date for the settlement in *Alvarez et al. v. Sirius XM Radio*
13 *Inc.*, Case No. 2:18-cv-8605 in the United States District Court for the Central District
14 of California, Southern Division. I previously executed my *Declaration of Cameron R.*
15 *Azari, Esq. on Settlement Notice Plan*, on June 5, 2020, in which I detailed Hilsoft’s
16 class action notice experience and attached Hilsoft’s *curriculum vitae* (I am informed
17 and believe that this document was filed in this matter as docket entry 68-5). I also
18 provided my educational and professional experience relating to class actions and my
19 ability to render opinions on overall adequacy of notice programs. Subsequently, I
20 executed my *Declaration of Cameron R. Azari, Esq. on Implementation and Adequacy*
21 *of Settlement Notice Plan*, (“*Implementation Declaration*”) on December 11, 2020, in
22 which I detailed the successful implementation of the Settlement Notice Plan and
23 provided settlement administration stats.

24 5. The facts in this declaration are based on what I personally know, as well
25 as information provided to me in the ordinary course of my business by my colleagues
26 from Hilsoft and Epiq, who worked with us to implement the notification effort.

NOTICE PLAN SUMMARY

6. As I stated in my Implementation Declaration, the Notice Plan as designed and implemented satisfied Rule 23, with Notice sent to Settlement Class Members who were reasonably identifiable from the defendant’s records (virtually all Settlement Class Members) via an Email Notice or a Postcard Notice mailed via United States Postal Service (“USPS”) first class mail. The individual notice effort was supplemented by a targeted media campaign, which included online media (Banner Notices), and a case website.

7. As I stated in my Implementation Declaration, the Notice Plan’s individual notice efforts reached approximately 98.3% of the Settlement Class. In my experience, the reach of the Notice Plan is consistent with other court-approved notice programs, and was designed and implemented to meet due process requirements. In my opinion, providing notice via individual notice to reach the Settlement Class satisfied the requirements of due process, including its “desire to actually inform” requirement.¹

ADMINISTRATIVE STATISTICS TO DATE

Case Website, Toll-free Telephone Number, and Postal Mailing Address

8. The case website (www.LifetimeSiriusXMSettlement.com) continues to be available 24 hours per day, 7 days per week. Settlement Class Members are able to obtain detailed information about the case and review key documents. Inactive “Lifetime Subscription” subscribers had the option to file a claim on the case website up until the Claims Deadline of January 12, 2021. As of January 19, 2021, there have been 137,538 unique visitors to the website and 582,638 website pages presented.

9. The toll-free telephone number (855-917-3525) established to allow

¹ “But when notice is a person’s due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950).

1 Settlement Class Members to call for additional information, listen to answers to FAQs,
2 and request that a Long-Form Notice and Claim Form be mailed to them continues to be
3 available 24 hours per day, 7 days per week. As of January 19, 2021, the toll-free
4 telephone number has handled 13,951 calls representing 46,049 minutes of use.

5 10. The post office box and email address for correspondence regarding the
6 settlement continue to be available to allow Settlement Class Members to contact the
7 Settlement Administrator by mail and/or email with any specific requests or questions.
8 As of January 19, 2021, 293 pieces of correspondence and 7,024 emails have been received.

9 ***Requests for Exclusion and Objections***

10 11. The deadline to request exclusion from the settlement or to object to the
11 settlement was November 30, 2020. As I stated in my Implementation Declaration,
12 Epiq had received 37 unique requests for exclusion from the settlement, as of the date
13 of my Implementation Declaration. As of January 19, 2021, Epiq has received one
14 additional timely, valid request for exclusion from the settlement (it is not uncommon
15 to receive timely postmarked exclusion requests for many days after the filing deadline,
16 especially this year with USPS mail handling and delivery delays). A copy of the
17 updated Requests for Exclusion Report for the 38 total unique requests for exclusion
18 is included as **Attachment 1**.

19 12. As of January 19, 2021, I am not aware of any additional objections filed
20 beyond the five objections to the settlement I referenced in my Implementation
21 Declaration.

22 ***Claim Stimulation Reminder Notice***

23 13. In an effort to ensure the highest reasonable participation rate, on
24 December 30, 2020, at the direction of counsel, Epiq sent 60,980 Email Reminder
25 Notices. An Email Reminder Notice was sent to all Settlement Class Members with
26 Inactive Lifetime Subscriptions, with a valid, deliverable email address, who had not
27 submitted a Claim Form prior to December 30, 2020. The Email Reminder Notice
28 reminded such Settlement Class Members that should they wish to submit a Claim

1 Form, they needed to do so by the January 12, 2021, Claim Deadline. A copy of the
2 Reminder Email Notice is included as **Attachment 2**.

3 ***Status of Claims Processing***

4 14. The Claim Deadline was January 12, 2021. As of January 19, 2021, Epiq
5 has received 12,029 Claim Forms (10,039 online and 1,990 paper). Since the Claim
6 Deadline just passed, these numbers are preliminary, however, approximately 72% of
7 Claimants choose to reactivate their subscription, while the remainder selected the cash
8 payment. In our experience, it is not uncommon to receive timely postmarked Claim
9 Forms up to 10 business days after the filing deadline, especially this year with USPS
10 mail handling and delivery delays. This is particularly true when a claim stimulation
11 reminder notice is sent; like the notice that was sent for this case.

12 **CONCLUSION**

13 15. In class action notice planning, execution, and analysis, we are guided by
14 due process considerations under the United States Constitution and by case law
15 pertaining to the recognized notice standards under Rule 23. This framework directs
16 that the notice plan be optimized to reach the class and, in a settlement class action
17 notice situation such as this, that the notice or notice plan itself not limit knowledge of
18 the availability of benefits—nor the ability to exercise other options—to class members
19 in any way. All of these requirements were met in this case.

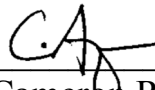
20 16. As I stated in my Implementation Declaration, the Notice Plan as designed
21 and implemented included individual, direct email and/or mailed notice to all
22 Settlement Class Members who could be identified with reasonable effort. With the
23 address updating protocols that were employed individual notice reached
24 approximately 98.3% of the identified Settlement Class. The Banner Notices and the
25 case website also expanded the reach of the notice further. In 2010, the Federal Judicial
26 Center issued a Judges’ Class Action Notice and Claims Process Checklist and Plain
27 Language Guide. This Guide states that, “the lynchpin in an objective determination
28 of the adequacy of a proposed notice effort is whether all the notice efforts together

1 will reach a high percentage of the class. It is reasonable to reach between 70–95%.”
2 Here, we developed and implemented a Notice Plan that readily achieved a reach at the
3 higher end of that standard.

4 17. The Notice Plan provided for the best notice practicable under the
5 circumstances of this case, conformed to all aspects of the Rule 23, and comported with
6 the guidance for effective notice set out in the Manual for Complex Litigation, Fourth.

7 18. The Notice Plan schedule afforded sufficient time to provide full and
8 proper notice to Settlement Class Members before the opt-out and objection deadlines.

9 I declare under penalty of perjury that the foregoing is true and correct. Executed
10 on January 22, 2021, at Beaverton, Oregon.

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12 
13 _____
14 Cameron R. Azari
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Attachment 1



Alvarez v. Sirius XM Radio Inc.

Case No. 2:18-cv-8605-JVS-SS

Opt Out List

Opt Out	Name
1	ARTHUR SKALETSKY
2	JEFFREY L GARDNER
3	JIMMY CLEMONS
4	RICHARD KATZMAN
5	ALEXANDER ROHE
6	DEBORAH ROBERSON
7	LU ANN JOHNSON
8	JAMES BURTON
9	EDWARD COSTLEY
10	CAROL MOTE
11	ROBERT DUFFUS
12	ALLAN RODAK
13	VERA M ELDEN
14	ANN MCCLELLAND
15	STEVEN LOVERDE
16	JOSHUA HUDSON
17	JOYCE MERKIN
18	CHARLES LOEWEN
19	ROBERT BASS
20	JOHN VLOCK
21	JIM SWILER
22	CAROLYN MEYER
23	FRANCES PHILIP
24	C JIM HICKS
25	JIMMY FLOURNOY
26	YVONNE PASSEY
27	JOHN SCHMIDT
28	THOMAS PADEGIMAS
29	JOSEPH URSONE
30	JOE SCHOENHERR
31	FRANK QUAGLIARIELLO
32	EMANUEL GONZALES
33	ROY E ROGERS
34	WAYNE R TAYLOR
35	BELINDA KERSCHNER
36	ANDREA VASALI
37	DONNA BEECH
38	RICHARD GROSS

Attachment 2

From: noreply_lifetimesiriusxmsett
Sent: Monday, December 28, 2020 12:04 PM
To:
Subject: Legal Notice of Class Action Settlement

Follow Up Flag: Follow up
Flag Status: Completed

CAUTION: This email originated from outside of Epiq. Do not click links or open attachments unless you recognize the sender and know the content is safe.

UNIQUE ID: [REDACTED]

REMINDER NOTICE:

YOU RECEIVED THIS NOTICE BECAUSE OUR RECORDS SHOW YOU CURRENTLY HOLD ONE OR MORE INACTIVE LIFETIME SUBSCRIPTIONS THROUGH SIRIUS XM RADIO INC., AND HAVE NOT YET FILED A CLAIM FOR ANY OF YOUR INACTIVE SUBSCRIPTIONS.

THE DEADLINE TO FILE YOUR CLAIM IS JANUARY 12, 2021.

Alvarez v. Sirius XM Radio Inc., Case No. 2:18-cv-08605-JVS-SS

If You Purchased A Subscription From Sirius XM That Was Marketed Or Sold As A “Lifetime Plan” Or “Lifetime Subscription” This Class Action Settlement May Affect Your Rights.

A federal court has authorized this Notice. This is not a solicitation from a lawyer.

A Settlement has been proposed in a class action lawsuit against Sirius XM Radio Inc. (“Sirius XM”), arising out of Sirius XM’s marketing and sale of “Lifetime Plans,” or “Lifetime Subscriptions,” to its satellite radio service. The Plaintiffs alleged that Sirius XM breached its subscription agreement by refusing to honor paid subscriptions which were sold as a “Lifetime Plan” or a “Lifetime Subscription.” Sirius XM denies any claim of wrongdoing, and asserts that Lifetime Subscriptions were limited to the life of the radio originally used for the subscription (not for the life of the subscriber) and that the Subscriptions were subject to a limited number of radio transfers, subject to a per-transfer \$75 fee. The Court has not decided who is right.

Who is included? Sirius XM’s records show you are likely a Class Member. The Class includes those who purchased a paid subscription from Sirius XM that was marketed as a “Lifetime Plan” or “Lifetime Subscription” (together, “Lifetime Subscriptions”).

What does the Settlement provide? Your Settlement benefits depend on whether you hold an “active” or “inactive” Lifetime Subscription as of June 5, 2020. You have an active Lifetime Subscription if your radio is still authorized to receive satellite radio service pursuant to the Lifetime Subscription purchased by you. Check your radio to see if it is receiving service under such a Subscription that you purchased. Or, to check whether your Subscription is active or inactive, visit and use the account lookup tool on the homepage of the Settlement Website (www.LifetimeSiriusXMSettlement.com). If you have an active Lifetime Subscription, you

can transfer it to another radio capable of receiving Sirius XM's satellite radio service for an unlimited number of times at a cost of \$35 per transfer. If you have an inactive Lifetime Subscription, you can (i) reactivate your Subscription to another radio capable of receiving Sirius XM's satellite radio service for an unlimited number of times at a cost of \$35 per transfer, or (ii) receive a payment of \$100 in cash and have the Lifetime Subscription be forever cancelled. For more information, please see the Detailed Notice available at the Settlement Website.

How To Get Benefits. If you hold an active Lifetime Subscription, you automatically qualify to receive the benefits provided by the Settlement assuming the Settlement is approved by the Court. If you hold an inactive Lifetime Subscription, you must submit a Claim Form, which you can file online by **January 12, 2021** at www.LifetimeSiriusXMSettlement.com. You can also print a Claim Form from the website or request one by calling the toll-free number and submit it by mail to be received no later than **January 12, 2021**.

If you hold multiple Lifetime Subscriptions, you may separately claim the benefits applicable to each of your Lifetime Subscriptions. If you hold more than one Inactive Lifetime Subscription, you must submit a separate Claim Form for each Inactive Lifetime Subscription that you hold.

The Court will hold a Hearing on **January 25, 2021** at 1:30 PM to consider whether to approve the Settlement, including attorneys' fees and expenses and service payments. You may appear at the hearing, subject to the Court's process and rules, by yourself or through an attorney hired by you, but you don't have to. For more information, call the toll-free number below or visit the website.

www.LifetimeSiriusXMSettlement.com

1-855-917-3525

To unsubscribe from this list, please click on the following link: [Unsubscribe](#)