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Settlement Class

14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA
16 (SOUTHERN DIVISION)

17 TERRI N. WHITE, *et al.*,
18 Plaintiffs,
19 v.
20 EXPERIAN INFORMATION
21 SOLUTIONS, INC.,
22 Defendant.

Case No. 05-CV-1070 DOC (MLGx)
(Lead Case)

INTERIM REPORT

Date: May 24, 2010
Time: 8:30 a.m.
The Honorable David O. Carter

23 and Related Cases:

24 05-cv-01073-DOC (MLGx)
25 05-cv-7821-DOC (MLGx)
26 06-cv-0392-DOC (MLGx)
27 05-cv-1172-DOC (MLGx)
28 06-cv-5060-DOC (MLGx)

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1 Settling Plaintiffs Jose Hernandez, Bertram Robison, Kathryn Pike, and
2 Robert Randall hereby submit an Interim Report regarding the 23(b)(3) Settlement
3 (“Settlement”), pursuant to the Court’s January 11, 2010 Minute Order. The
4 Interim Report outlines the Settlement Administrator’s ongoing review of claims,
5 the “audit” of 1,000 actual damage award claims provided for by the Settlement,
6 and the status of the review for each type of claim.

7 **A. Settlement Claims Administration**

8 The Settlement Administrator has performed an initial review of timely
9 claims submitted as part of the Settlement.

10 From this initial review, the Settlement Administrator preliminarily
11 determined that some claimants did not meet the requirements to be considered for
12 an Actual Damage or Convenience Award. The reasons they do not meet the
13 requirements vary and include failure to provide a signature on the claim form,
14 failure to provide a date of alleged harm, or failure to postmark the claim form by
15 the deadline. The Settlement Administrator expects that the parties will instruct at a
16 later date that these claimants be notified that their claims have been rejected, but
17 no claims have been determined with finality to be invalid or denied.

18 The Settlement Administrator determined that 249,110 claimants chose a
19 Convenience Award or did not select an option. These claimants are entitled to
20 receive Convenience Awards, but it is anticipated that the number of people in this
21 category may increase significantly based on the apparent invalidity of many Actual
22 Damage Award claims, as set forth below.

23 There were 495,699 claimants who selected the Actual Damage Award
24 option. Some of these claimants will qualify for Actual Damage Awards, while
25 some claims appear to fail to conform to the claim requirements and may require
26 additional information or may have to be converted into Convenience Awards.
27 While the Settlement Administrator is continuing its review, it is clear that with
28 respect to many actual award claims there is information that is inconsistent with

1 the nature of the claim being made.

2 The settling parties are taking all necessary steps to properly validate claims
3 and distribute the Settlement Fund in a fair and efficient manner to those Class
4 members for whom it is reasonably likely that they have suffered an actual harm or
5 injury based on the claims made. However, an estimate of the final amounts of the
6 actual damage awards cannot be made at this time.

7 **B. Audit of 1,000 Actual Damage Award Claims**

8 In light of apparent discrepancies between some of the actual damage claims
9 filed and the initial data provided from the Defendants, the Settlement
10 Administrator has exercised its discretion, pursuant to the Settlement Agreement
11 and Release (“Agreement”), to require Defendants to produce the archived credit
12 files of 1,000 Actual Damage Award claimants to confirm the validity of such
13 claims. Agreement § 7.7(c)(ii). The Defendants have borne the cost of providing
14 such information from their archived files for this limited initial review. *Id.*
15 Depending upon the utility of the audit of the credit files of the 1,000 representative
16 claimants, the Settlement Administrator may request further information from the
17 Defendants with respect to all actual damage award claimants. Settlement
18 Agreement § 7.7(c)(ii). Alternatively, further information or documentation may be
19 requested from claimants who the Settlement Administrator concludes may not
20 have a valid claim.

21 With respect to the review of the 1,000 archived credit files from each
22 Defendant, the Settlement Administrator has obtained electronic access to the files
23 of two of the three Defendants at locations designated by Defendants. The
24 Settlement Administrator sent two separate teams to those locations to gather the
25 inquiry information necessary to conduct a review of those files according to the
26 different types of actual damage claims. The data was organized by year for all
27 claims. The third Defendant shipped copies of the credit files in hard copy form (as
28 they were unable to provide them to the Settlement Administrator in an electronic

1 format) to the Settlement Administrator at its business address in Seattle,
2 Washington. Those hard copy credit files were organized by year. The files for the
3 third Defendant contain more than 100,000 pages in hard copy.

4 First, the Settlement Administrator is reviewing the Employment claims.
5 After determining which claimants had an employment inquiry “flag” in the initial
6 data from Defendants, the Administrator is looking at the original inquiry data or
7 the files of the Defendants in which the claimants had a flag. If there is a “hit”
8 (meaning the inquiry was within the time period specified in the Agreement), the
9 Settlement Administrator will look at the date of the employment inquiry to
10 confirm that it occurred after the bankruptcy discharge date. If so, the “hit” is
11 confirmed and the claim is valid. For the claimants who did not get a “hit” with the
12 first Defendant that displayed an employment inquiry flag in their files, the
13 Settlement Administrator is looking to see whether they had employment inquiry
14 flags in the credit files of the second Defendant. Again, the dates of any additional
15 “hits” are compared to the dates of bankruptcy discharge to confirm the
16 employment inquiries occurred after the bankruptcy. Finally, the Settlement
17 Administrator is checking all of the remaining unvalidated employment claims
18 against the credit files of the third Defendant. If there are any “hits” after the
19 bankruptcy discharge date, those claims are validated.

20 There were 422 of the 1,000 claimants who claimed a denial of employment.
21 The Administrator is currently finalizing the review of those claims now, but
22 preliminary results indicate that there are a substantial number of employment
23 claims that are not validated by the review of the archived credit files. The ultimate
24 findings as to those and the other categories of actual damage claims will inform
25 the next steps the parties to the Settlement will propose to the Court.

26 For claims related to mortgage/housing and other credit, the Settlement
27 Administrator first reviewed the archive data provided by the Defendants with the
28 class lists to determine for each claimant whether there was a qualifying tradeline

1 and a hard inquiry. The Settlement Administrator looked for qualifying tradelines
2 and a hard inquiry in the archive files going backward and forward at least one, if
3 not two, years.¹ The Settlement Administrator is then examining the archived
4 individual credit files maintained by each Defendant to determine whether the
5 inquiry in question from their claim form fell within the relevant time period under
6 the agreement. The Settlement Administrator is looking at the seven months before
7 and after each claimed mortgage inquiry to be inclusive of all possible claims,
8 including ones that may fall just before or after the date of the archived credit file
9 within the requisite months.

10 The Settlement Administrator is currently in the process of reviewing the
11 claims of mortgage or housing denials or harm from the 1,000 actual damage
12 claims for the audit. The coding for the mortgage or housing claims is much more
13 complicated than the employment inquiries. The Settlement Administrator is first
14 looking at the Defendants' files to see whether there is a qualifying tradeline and
15 hard inquiry for each claimant. The Administrator is then confirming coding from
16 the Defendants' credit files that could indicate a mortgage or rental inquiry and will
17 match those codes with the individual credit files for the claimants. If there is a
18 "hit," the Settlement Administrator will then check the date given on the claim form
19 to see if the inquiry falls within the time period required by the Settlement. The
20 Settlement Administrator is looking at the seven months before and after each
21 claimed mortgage inquiry to be inclusive of all possible claims, including ones that
22 may fall just before or after the date of the archived credit file within the month.
23 The Settlement Administrator will look at the inquiries in all three Defendants'
24 credit files to see if they can validate the claim.

25 For any claimants whose employment or mortgage claims could not be
26 validated or who only claimed they had been harmed with respect to a credit card,

27 ¹ Each Defendant provided one archive in each year, and the months of the archives
28 provided were staggered to include as much information as possible from all three
Defendants.

1 auto loan, or other credit applied for, the Settlement Administrator will examine
2 their claims to see if they match credit inquiry codes in the credit files of the
3 Defendants. Again, the Settlement Administrator is working with Defendants to
4 understand the industry codes that would correspond with a credit inquiry.

5 **C. Actual Damage Award Claimants and Next Steps**

6 The audit of the 1,000 claims is ongoing. The preliminary indications are
7 that the audit will demonstrate that a substantial number of the actual damage
8 claims are questionable and clearly or potentially invalid. Once the review is
9 complete, which Garden City estimates will occur by the end of April 2010, the
10 Settling Plaintiffs will provide a complete report and ask the Court for approval of a
11 process for going forward – but they will make a final determination of what other
12 steps, if any, they believe should be implemented only after the audit is complete.

13 **Conclusion**

14 The parties and Settlement Administrator are taking all necessary steps to
15 properly validate claims but the process is an extremely time-intensive one. The
16 Settlement Administrator is constantly consulting with the parties in an effort to
17 have the information required to validate all claims. At this time, the parties cannot
18 make a definite determination but they may decide it is necessary to allow certain
19 claimants to submit further documentation to help evaluate their claims. The
20 parties will update the Court before the proposed May 24, 2010 status conference
21 upon the completion of the 1,000 claim audit, but in no event later than May 7,
22 2010.

1 Dated: March 26, 2010

Respectfully submitted,

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