

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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|--------------------------------|---|---------------------------|
| |) | Case No. 07-0201 SC |
| |) | |
| JEFF POKORNY, LARRY BLENN, and |) | ORDER RE: VERIFICATION OF |
| KENNETH BUSIERE, on behalf of |) | <u>CERTAIN BSM CLAIMS</u> |
| themselves and those similarly |) | |
| situated, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | |
| |) | |
| QUIXTAR, INC., et al., |) | |
| |) | |
| Defendants. |) | |
| |) | |
| |) | |

On April 9, Plaintiffs submitted a status report on the settlement in the above-captioned matter. ECF No. 274 ("Report"). Plaintiffs also requested that the Court approve the printing and mailing of a notice requesting signed, itemized declarations from the new group of 32,153 Business Support Materials ("BSM") claimants. See id. at 2-3. This Order concerns the latter request.

Per an earlier order from the Court regarding the distribution of excess, ECF No. 246, these new BSM claimants (along with others) were permitted via mailed notice to file new claims with expanded

1 eligibility and lesser proof requirements. The new notice did not
2 require the new BSM claimants to file supporting documentation but
3 did provide that Rust Consulting, the Claims Administrator in this
4 matter, could request additional information from the claimants.
5 ECF No. 241-5 at 2, 6. There are 3,200 claimants who, in response
6 to this most recent notice, have filed requests for claims over
7 \$5,000 and might therefore be eligible for cash payments of over
8 \$1,000 per the terms of the settlement. Report at 3. Class
9 counsel now proposes that these 3,200 claimants be mailed requests
10 for signed, itemized declarations in support of their claims, at
11 the cost of "about \$16,000." Id. Counsel accordingly requests
12 that the Court approve the proposed letter and form declaration, as
13 well as the costs of printing and mailing these documents. Id.

14 Having duly considered the Report and class counsel's
15 proposal, the Court APPROVES AND ADOPTS class counsel's proposed
16 letter and form declaration. The Claims Administrator is DIRECTED
17 to send the proposed letter and form declaration to all claimants
18 responding to the January 2013 notice who have not already
19 submitted supporting documentation and who have filed claims over
20 \$5,000 in BSM losses ("Section III claims"). However, class
21 counsel is directed to reduce the amount of fees it requests in
22 this action by \$16,000 -- the cost of the notices' printing and
23 mailing. That amount is not to be paid as an expense from the
24 settlement cash fund. While it is a necessary cost, these new
25 declarations could have been considered, planned, and included
26 earlier, without additional cost to the class members.

27 Separately, the Court awaits class counsel's updates on the
28 status of the back-ordered or unavailable Quixtar items for

1 claimants from the product fund, on the status of the objectors'
2 appeal to the Ninth Circuit, and on class counsel's ongoing
3 negotiations on the Claims Administrator's fee reductions. Class
4 counsel should submit this information to the Court as it becomes
5 available.

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7 IT IS SO ORDERED.

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9 Dated: April 17, 2013



10 UNITED STATES DISTRICT JUDGE
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