

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

SCOTT AND RHONDA BURNETT, RYAN)
HENDRICKSON, JEROD BREIT, SCOTT)
TRUPIANO, AND JEREMY KEEL, on behalf)
of themselves and all others similarly situated,)

Plaintiffs,)

v.)

Case No. 19-CV-00332-SRB

THE NATIONAL ASSOCIATION OF)
REALTORS, REALOGY HOLDINGS CORP.,)
HOMESERVICES OF AMERICA, INC., BHH)
AFFILIATES, LLC, HSF AFFILIATES, LLC,)
RE/MAX LLC, and KELLER WILLIAMS)
REALTY, INC.,)

Defendants.)

ORDER

Before the Court is the parties' Joint Motion for Approval of Class Notice Plan.

(Doc. #834.) On April 22, 2022, the Court certified three classes under Federal Rule of Civil Procedure 23(b)(3). (Doc. #741.) In that Order, the Court required the parties to determine a proposed notice to potential class members in accordance with Rule 23(c)(2)(B). The parties now "request the Court adopt the language of the Notices . . . and order the Notice Plan to proceed" as outlined in the instant motion. (Doc. #834, p. 2.)

Rule 23(c)(2)(B) states:

For any class certified under Rule 23(b)(3) . . . the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. . . . 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 under Rule 23(c)(3).

The parties attach to their proposed Notice Plan a postcard notice (Doc. #834-1) and a long form notice (Doc. #834-2). Upon review of the Notice Plan and Notice forms, the Court finds that the proposed class notice complies with the requirements of Rule 23(c)(2)(B).

Accordingly, the parties' Joint Motion for Approval of Class Notice Plan (Doc. #834) is GRANTED. The Court hereby approves the following Notice Plan:

1. After performing various change of address searches, the Notice Administrator will report whether direct mailing will provide sufficient reach of the class. If so, Plaintiffs will mail, and/or email where available, the Notice attached as Doc. #834-1 (postcard notice) to the Classes. Additionally, the Notice Administrator will create a website which contains the long form notice, Doc. #834-2, as well as relevant pleadings from the case. The Notice Administrator will also initiate a toll-free hotline for answering questions via telephone and email.
2. Plaintiffs' data consultants shall continue to work diligently with Defendants' class list contact information to provide the most usable lists to the Notice Administrator. The Notice Administrator will then run skip tracing and other search methods to determine the reach of direct notice
3. Direct mailing and/or emailing of notice is preferable if reliable contact information is available for the class. Thus, the Parties agree that the Notice Administrator will report back to the Parties on or before August 19, 2022 on the sufficiency of mail and email notice. If mail and email are sufficient, Notice will be mailed on September 2, 2022. If mail and email notice is not sufficient in the opinion of the Notice Administrator, the parties will submit any disputes over notice by publication on or before August 26, 2022.
4. Regardless of the type of notice, the Notice Administrator will host a website containing substantially the information set out in Doc. #834-1 and Doc. #834-2, as well as other relevant pleadings from the case. It will not create new substantive content.

IT IS SO ORDERED.

/s/ Stephen R. Bough
STEPHEN R. BOUGH
UNITED STATES DISTRICT JUDGE

Dated: July 11, 2022