

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

<p>Village Bank, on behalf of itself and all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>Caribou Coffee Company, Inc., Bruegger's Enterprises, Inc., Einstein & Noah Corp., and Einstein Noah Restaurant Group, Inc.,</p> <p style="text-align: center;">Defendants.</p>	<p>Civil No. 19-cv-1640 (JNE/HB)</p> <p style="text-align: center;">DECLARATION OF KARI SCHMIDT IN SUPPORT OF PLAINTIFF'S UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT</p>
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I, Kari Schmidt, declare:

1. I am over 21 years of age and am not a party to this action. This declaration is based on my personal knowledge and information provided to me by the staff of Analytics Consulting LLC ("Analytics") in the regular course of business. If called as a witness, I could and would testify competently to the facts stated herein.

2. I am a Project Manager at Analytics Consulting LLC ("Analytics").¹ My company is one of the leading providers of class and collective action notice and claims management programs in the nation. It is my understanding that Analytics' class action consulting practice, including the design and implementation of legal notice campaigns, is the oldest in the country. I am responsible for Analytics' consulting services, including the

¹ In October 2013, Analytics Consulting LLC acquired Analytics, Incorporated. "Analytics" includes the prior legal entity.

implementation of the Notice Plan in this case. Analytics has overseen court-ordered class and collective notice programs in more than 1,000 matters.

3. Pursuant to its Preliminary Approval Order filed July 24, 2020 (Dkt. No. 51), Analytics was appointed by the Court to serve as Settlement Administrator with authority to administer the Notice Plan, Claims Administration, and all other duties of the Settlement Administrator as set forth in the Settlement Agreement.² This Declaration is submitted in support of the Settlement in order to provide the Court and the Parties with information regarding the Court-approved Notice Plan, the mailing of Notice in compliance with the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. §1715(b) (“CAFA Notice”), and Claims Administration in accordance with the Settlement Agreement.

4. In compliance with CAFA, CAFA Notice relating to the above-captioned case was timely served and sent to all appropriate state and federal authorities on May 26, 2020 and a supplemental Notice on August 27, 2020. Copies of the CAFA Notices sent are attached as Exhibit A.

5. Analytics was responsible for providing Notice to Settlement Class Members. Pursuant to the Preliminary Approval Order, the Notice was to be mailed by United States Postal Service (“USPS”) first class mail to the last known address of each Settlement Class Member identified through records obtained by Settlement Class Counsel through discovery of third parties. The identity of and last known mailing address for each Settlement Class Member was available to Analytics because of the composition of the Settlement Class and the third-party discovery obtained by Settlement Class Counsel.

² All terms not otherwise defined herein shall have the same meanings as set forth in the Settlement Agreement and Release dated May 14, 2020.

6. Analytics received files from third parties containing names and addresses of Financial Institutions determined to be members of the Settlement Class through third-party discovery that was conducted during the litigation. The data was consolidated, de-duplicated, and uploaded into a single database. It was then updated using the National Change of Address (“NCOA”) database maintained by the USPS³, certified by the Coding Accuracy Support System (“CASS”)⁴, and verified through Delivery Point Validation (“DPV”)⁵. This resulted in mailable address records for 3,802 Settlement Class Members.

7. Analytics and Settlement Class Counsel prepared the Notice and Claim, and Analytics caused them to be printed, personalized with the name and address of each Settlement Class member, posted for pre-paid first-class mail, and delivered on August 21, 2020 to the USPS for mailing. Copies of the Notice and Claim Form sent are attached hereto as Exhibit B.

8. A total of 3,802 notices were initially mailed and after locating and updating addresses for returned Notices (the period for which the USPS automatically forwards the Notice had expired), Analytics re-mailed the Notices to Settlement Class Members at their updated addresses. As of October 29, 2020, 186 Notices remain undeliverable. Analytics estimates that Notice was successfully mailed to over 95% of Class Members.

³ The NOCA database contains records of all permanent change of address submissions received by the USPS for the last four years.

⁴ CASS is a certification system used by the USPS to ensure the accuracy of the ZIP + 4 coding system.

⁵ Records that are ZIP + 4 coded are then sent through DPV to verify the address and identify Commercial Mail Receiving Agencies. DPV verifies the accuracy of addresses and reports specific errors with incorrect addresses.

9. In addition to mailed Notice, Notice was published in the form of the Short Form Notice approved by the Court in its Preliminary Approval Order. Short Form Notice appeared in the ABA Banking Journal Digital Edition on August 31, 2020. The published notice ran for 30 consecutive days, ending on September 30, 2020. A copy of the Short Form Notice is attached as Exhibit C.

10. Analytics established and is maintaining a dedicated toll-free telephone number (1-888-905-2994) as a resource for Settlement Class Members seeking information about the Settlement or assistance in submitting claims. Automated messages were and continue to be available to Settlement Class Members 24-hours a day, 7-days a week, with live call center representatives (agents) available during standard business hours. The toll-free telephone number became operational on August 21, 2020. As of the date of this Declaration, Analytics has received a total of 12 telephone calls and two Settlement Class Members requested to speak with a customer service representative for assistance, all of whom have been responded to in a timely manner.

11. Prior to the mailing of Notice, Analytics consulted with counsel for the Parties to develop an informational website (“Website”) to provide information to Settlement Class Members regarding the Litigation and Settlement. The Website address was cited in all published Notice materials as www.caribouissuingbanksettlement.com. The Website became live on August 21, 2020. By visiting the Website, Class Members could view and download key information and documents about the Settlement and submit Claim Forms electronically. As of the date of this Declaration, the Website has received 3,667 page views from 2,319 unique users.

12. A dedicated email address was listed on the Website as: info@CaribouIssuingBankSettlement.com. As of the date of this Declaration, Settlement Class Members submitted nine questions via email, all of which were promptly responded to and resolved.

13. The Notice Plan approved by the Court provided for a follow-up reminder mailing to be sent to Settlement Class Members that have not made a claim. The follow-up reminder was mailed on October 28, 2020.

14. The Settlement Agreement provides that Settlement Class Members could request to opt-out from the Settlement by October 22, 2020. As of that date, and the date of this Declaration, Analytics has received a total of one timely request to opt-out, which is attached as Exhibit D.

15. The Settlement Agreement provides that Settlement Class Members could file an objection to the Settlement by October 22, 2020. As of that date, and the date of this Declaration, Analytics has received no objections from any Class Member.

16. The Settlement Agreement provides that Settlement Class Members may submit a completed Claim Form via the Website or by mail in order to seek a monetary settlement payment by December 22, 2020. As of October 29, 2020, Analytics has received 346 completed Claims Forms by Financial Institutions claiming a total of 299,393 Alerted on Payment Cards. Based on the total number of Alerted on Payment Cards contemplated by the Settlement, this represents a current claims rate of 11.1%, which in Analytics' experience is an excellent response rate.

17. The current claims filing rate of over 11% of eligible accounts exceeds normal claim response rates for class action settlements.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 30th day of October, 2020 in Chanhassen, Minnesota.

/s/ Kari Schmidt
Kari Schmidt
Project Manager
Analytics Consulting LLC