

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

FATIMA BUTLER and JULIA SCHOLZ-
PINGER, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

WHITEPAGES, INC.,

Defendant.

Case No. 19-cv-04871

Hon. Gary S. Feinerman

**NOTICE OF ERRATA IN PLAINTIFFS' MOTION
FOR ATTORNEYS' FEES, EXPENSES, AND INCENTIVE AWARDS**

Plaintiffs' Fatima Butler and Julia Scholz-Pinger ("Plaintiffs"), by and through their undersigned counsel, hereby provide the Court notice of errata in Plaintiffs' Motion for Attorneys' Fees, Expenses, and Incentive Awards ("Motion for Fees") (dkt. 266) regarding the current claims rates.

1. Plaintiffs filed their Motion for Fees on August 10, 2022. In the motion, Plaintiffs reported that the then-current claims rates were 31.5% for the Illinois Settlement Class and 26.9% for the Ohio Settlement Class. (Dkt. 266 at 11 n. 2.) (*See* Declaration of Amy Lechner of Simpluris Inc. ("Lechner Decl."), attached hereto as Exhibit 1, at ¶¶ 6–8.)

2. The court-appointed Settlement Administrator, Simpluris, Inc., has since informed Class Counsel that those figures are incorrect due to an error in its automated claims reporting system. (Lechner Decl. at ¶¶ 11–12.)

3. As of August 23, 2022—i.e., the day before the August 24th Claims Deadline—the current claims rates are 15.23% for the Illinois Settlement Class and 10.06% for the Ohio Settlement Class. (*Id.* at ¶ 13.)

4. Plaintiffs will provide the Court the final claims rates in their forthcoming motion for final approval of the settlement, which is due September 7, 2022. (*See id.* ¶ 14.)

Respectfully submitted,

FATIMA BUTLER and **JULIA SCHOLZ-PINGER**, individually and on behalf of all others similarly situated,

Dated: August 31, 2022

By: /s/ J. Eli Wade-Scott
One of Plaintiffs' Attorneys

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EXHIBIT 1

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DECLARATION OF AMY LECHNER OF SIMPLURIS, INC.

Pursuant to 28 U.S.C. § 1746, I hereby declare and state as follows:

1. I am a Senior Project Manager at Simpluris, Inc. (“Simpluris”), the court-appointed Settlement Administrator in the above-captioned case, whose principal office is located at 3194-C Airport Loop Dr., Costa Mesa, CA 92626. I am over eighteen years of age and am authorized to make this declaration on behalf of Simpluris and myself. The following statements are based on my personal knowledge and information provided by other Simpluris employees working under my general supervision. This declaration is being filed to correct and explain the inaccurate claims rate Simpluris reported to Class Counsel and which Class Counsel included in Plaintiffs’ Motion for Attorneys’ Fees, Expenses, and Incentive Awards, filed on August 10, 2022. (Dkt. 266 at *11 n. 2.)

2. When submitting a Claim Form via the Settlement Website at www.whitepagesrightofpublicity.com, up until August 25, 2022, when the Claim Form portal was closed, users had two options to complete a Claim Form: they could either log in to the Claim Form portal using their unique “Class Member ID” located on their notice, along with their last name, or they could submit a claim without a Class Member ID. Users who submitted a

Claim Form with a Class Member ID are presumed to be Class Members, while users who submitted a Claim Form without a Class Member ID require further vetting by Simpluris to determine if they are a Class Member. The following image is a correct and accurate capture of the English-language landing page of the Claim Form portal on the Settlement Website while it was accepting Claim Forms:

Claim Form Selection

If you have a Class Member ID, use the form below.

[Yes I have a Class Member ID](#)

If you received a notice via mail, you have been assigned a Class Member ID. If you are having trouble locating your Class Member ID, you can also contact the Settlement Administrator [here](#) for your Class Member ID

[I DO NOT have a Class Member ID](#)

If you did not receive a notice via mail, or if you can't find your Notice, you may still submit a claim without a Class Member ID. You can also contact the Settlement Administrator for your Class Member ID before submitting your Claim. If you have a Class Member ID, do NOT use this form.

3. If a user clicked “Yes I have a Class Member ID”, they were routed to a Claim Login form where they were required to input their unique Class Member ID and last name before they could fill out their Claim Form. If the Class Member ID and last name matched Simpluris’ records, the user was directed to an online Claim Form that had their name and address information pre-populated. The following image is a true and correct capture of the English-language Claim Login form:

Claim Login

Class Member ID

Last Name

LOGIN

4. As part of Simpluris’ duties as Settlement Administrator in this case, since July 1, 2022, Simpluris has provided Class Counsel a weekly report every Friday detailing the number

of claims submitted, broken down by the method of submission. Each weekly report includes the following methods of submission:

Claim Form - Illinois Settlement Class :
Valid
Pending

Claim Form - Mailed Illinois
Valid
Pending

Claim Form - Ohio Settlement Class :
Valid
Pending

Claim Form - Mailed Ohio
Valid
Pending

Claim Form - Unknown Settlement Class
Valid
Pending

5. Upon a request from Class Counsel, I explained that these categories have the following meanings:

- a. “Claim Form – Illinois Settlement Class” means the number of Claim Forms submitted online with a Class Member ID by an Illinois Settlement Class Member,
- b. “Claim Form – Mailed Illinois” means the number of paper Claim Forms submitted with a Class Member ID by an Illinois Settlement Class Member,
- c. “Claim Form – Ohio Settlement Class” means the number of Claim Forms submitted online with a Class Member ID by an Ohio Settlement Class Member,
- d. “Claim Form – Mailed Ohio” means the number of paper Claim Forms submitted with a Class Member ID by an Ohio Settlement Class Member,
- e. “Claim Form – Unknown Settlement Class” means the number of Claim Forms submitted online without a Class Member ID.

6. On August 5, 2022, Simpluris provided Class Counsel a weekly claims report with the following figures:

Claim Form - Illinois Settlement Class	Total
Valid	9,074
Pending	1
Claim Form - Mailed Illinois	808
Valid	803
Pending	5
Claim Form - Ohio Settlement Class	7,489
Valid	7,489
Pending	0
Claim Form - Mailed Ohio	491
Valid	488
Pending	3
Claim Form - Unknown Settlement Class	2,438
Valid	2,438
Pending	0

7. Excluding claims filed without a Class Member ID (i.e., those filed by the “Unknown Settlement Class”), these figures represented claims rates of 31.53% for the Illinois Settlement Class and 26.86% for the Ohio Settlement Class.¹

8. On August 10, 2022, Class Counsel asked me to reconfirm that my explanation of the above categories in paragraph 5 was accurate, and I confirmed. Later that day, Class Counsel filed Plaintiffs’ Motion for Attorneys’ Fees, Expenses, and Incentive Awards, reporting that the then-current claims rates were 31.5% for the Illinois Settlement Class and 26.9% for the Ohio Settlement Class. (Dkt. 266 at *11 n. 2.)

9. On August 12, 2022, Simpluris sent a Class Counsel another weekly claims report with the following figures:

¹ Those claims rates were calculated using the class sizes originally provided by Defendant: 31,346 for the Illinois Settlement Class and 29,711. After deduplication, Simpluris determined that the Illinois Settlement Class includes 29,279 unique individuals and the Ohio Settlement Class includes 27,802 unique individuals.

	Total
Claim Form - Illinois Settlement Class	12,609
Valid	12,608
Pending	1
Claim Form - Mailed Illinois	836
Valid	830
Pending	6
Claim Form - Ohio Settlement Class	17,947
Valid	17,947
Pending	0
Claim Form - Mailed Ohio	510
Valid	504
Pending	6
Claim Form - Unknown Settlement Class	3,448
Valid	3,448
Pending	0

10. Excluding claims filed by the Unknown Settlement Class, these figures represented claims rates of 45.92% for the Illinois Settlement Class and 66.38% for the Ohio Settlement Class. These claims rates use the deduplicated class sizes.

11. On August 17, 2022, Class Counsel informed me that the claims numbers reported on August 12th were much higher than expected for this type of case and asked me to perform additional quality control to ensure that the number of reported claims filed with a Class Member ID was accurate.

12. Simpluris performed an investigation, and on August 23, 2022, I notified Class Counsel that Simpluris' automated claims reporting system mistakenly reported approximately 9,066 Unknown Claims as Illinois claims filed online with a Class Member ID and mistakenly reported approximately 15,726 Unknown Claims as Ohio claims filed online with a Class Member ID. This was an error in automation logic that produced inconsistent results that inaccurately identified Unknown Claims filed by individuals with Illinois and Ohio addresses as Class Members.

13. On August 23, 2022, I informed Class Counsel that the correct claims rates as of August 23rd were 15.23% for the Illinois Settlement Class and 10.06% for the Ohio Settlement Class.

14. Simpluris is still in the process of reviewing Unknown Claims, of which over 57,000 have been received, and paper Claim Forms, and will provide Class Counsel with a declaration detailing claims numbers on September 6, 2022. However, it is likely Simpluris will continue to receive some timely paper Claim Forms after that date.

15. This case experienced a drastic increase in the number of Unknown Claims filed online since mid-July, which I believe corresponds to the settlement being posted, without permission, on two websites that promote filing claims in class action settlements.

* * *

I declare under penalty of the perjury that the foregoing is true and correct. Executed on August 30, 2022, at Philadelphia, Pennsylvania.



AMY LECHNER