

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

PATRICK REYNOLDS, DANIEL LEWIS,
LUCIA MARANO, KRISTEN FRANCE,
ABBEY ABRECHT, and JAHIDAH DIAAB,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

MARYMOUNT MANHATTAN COLLEGE,

Defendant.

) Case No. 1:22-CV-06846-LGS

) CLASS ACTION

) **DECLARATION OF**
) **SCOTT M. FENWICK OF KROLL**
) **SETTLEMENT ADMINISTRATION LLC**
) **IN CONNECTION WITH FINAL**
) **APPROVAL OF SETTLEMENT**

) Date: September 6, 2023

) Time: 3:40 PM ET

) Dept: Courtroom 1106

) The Hon. Lorna G. Schofield

I, Scott M. Fenwick, declare as follows:

INTRODUCTION

1. I am a Senior Director of Kroll Settlement Administration LLC (“Kroll”),¹ the Settlement Administrator appointed in the above-captioned case, whose principal office is located at 2000 Market Street, Suite 2700, Philadelphia, Pennsylvania 19103. I am over 21 years of age and am authorized to make this declaration on behalf of Kroll and myself. The following statements are based on my personal knowledge and information provided by other experienced Kroll employees working under my general supervision. This declaration is being filed in connection with final approval of Settlement.

2. Kroll has extensive experience in class action matters, having provided services in class action settlements involving antitrust, securities fraud, labor and employment, consumer, and government enforcement matters. Kroll has provided notification and/or claims administration services in more than 3,000 cases.

BACKGROUND

3. Kroll was appointed as the Settlement Administrator to provide notification and claims administration services in connection with that certain Settlement Agreement and Release (the “Settlement Agreement”) entered into in connection with the above-captioned case. Kroll’s duties in connection with the Settlement have and will include: (a) preparing and sending notices in connection with the Class Action Fairness Act; (b) receiving and analyzing the Settlement Class List from MMC’s Counsel; (c) creating a Settlement Website with online Claim filing capabilities; (d) establishing a toll-free number; (e) establishing a post office box for the receipt of mail; (f) preparing and sending the Short Form Notice via first-class mail; (g) establishing an email address to receive Settlement Class Member inquiries; (h) receiving and processing mail from the United States Postal Service (“USPS”) with forwarding addresses; (i) receiving and processing undeliverable mail, without a forwarding address, from the USPS; (j) receiving and processing

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Settlement Agreement (as defined below).

Claim Forms; (k) receiving and processing Requests for Exclusion and objections; and (l) such other tasks as counsel for the Parties or the Court request Kroll to perform.

NOTICE PROGRAM

The CAFA Mailing

4. As noted above, on behalf of the Defendant, Kroll provided notice of the proposed Settlement pursuant to the Class Action Fairness Act, 28 U.S.C. §1715(b). At MMC Counsel's direction, on March 17, 2023, Kroll sent the CAFA Notice, a true and correct copy of which is attached hereto as **Exhibit A**, via first-class certified mail, to (a) the Attorney General of the United States and (b) fifty-seven (57) state Attorneys General identified in the service list for the CAFA Notice, attached hereto as **Exhibit B**. The CAFA Notice directed the Attorneys General to the website www.CAFANotice.com, a site that contains all the documents relating to the Settlement referenced in the CAFA Notice.

Data and Case Setup

5. On May 31, 2023, Kroll received one (1) data file from MMC's Counsel. The file contained 191,581 names and physical addresses for Settlement Class Members. Kroll undertook several steps to reconcile the list and compile the eventual Settlement Class List for the mailing of the Short Form Notice. Kroll did not identify any duplicates or incomplete addresses. In total, Kroll identified 191,581 Settlement Class Members with physical mailing addresses. Additionally, in an effort to ensure that Short Form Notices would be deliverable to Settlement Class Members, Kroll ran the Settlement Class List through the USPS's National Change of Address ("NCOA") database and updated the Settlement Class List with address changes received from the NCOA.

6. On June 16, 2023, Kroll created a dedicated Settlement Website entitled www.marymountsettlement.com. The Settlement Website "went live" on June 16, 2023 and contains frequently asked questions, Settlement documents (including the Settlement Agreement, the Preliminary Approval Order, the operative Class Action Complaint, the Long Form Notice in English and Spanish, and the Claim Form), and provides Settlement Class Members with the opportunity to file a Claim Form online. The Settlement Website also includes a toll-free telephone

number, e-mail address, and mailing address through which Settlement Class Members may contact the Settlement Administrator directly.

7. On May 3, 2023, Kroll established a toll-free number, 833-747-6767, for Settlement Class Members to call and obtain additional information regarding the Settlement through an Interactive Voice Response (“IVR”) system and/or by being connected to a live operator. As of August 4, 2023, the IVR system has received 737 calls, and 168 callers have been connected to live operators.

8. On May 3, 2023, Kroll designated a post office box with the mailing address *Marymount Manhattan College Data Incident c/o Kroll Settlement Administration*, PO Box 5324, New York, NY 10150-5324, in order to receive Requests for Exclusion, Claim Forms, objections, and correspondence from Settlement Class Members.

9. On May 3, 2023, Kroll established an email address, *info@marymountsettlement.com*, to receive and reply to email inquiries from Settlement Class Members pertaining to the Settlement.

The Notice Program

10. On June 16, 2023, Kroll caused 191,581 Short Form Notices to be mailed via first-class mail. A true and correct copy of the Short Form Notice, along with the Long Form Notice, the Spanish Long Form Notice, and Claim Form are attached hereto as **Exhibits C, D, E, and F**, respectively.

NOTICE PROGRAM REACH

11. As of August 4, 2023, 894 Short Form Notices were returned by the USPS with a forwarding address. The 894 Short Form Notices were automatically re-mailed to the updated addresses provided by the USPS.

12. As of August 4, 2023, 23,169 Short Form Notices were returned by the USPS as undeliverable as addressed, without a forwarding address. Kroll ran 23,117 undeliverable records through an advanced address search. The advanced address search produced 20,395 updated addresses. Kroll has re-mailed Short Form Notices to the 20,395 updated addresses obtained from

the advanced address search. Of these 20,395 Short Form Notices re-mailed, 1,514 were returned as undeliverable. Kroll continues to run advance address searches on the remaining 52 returned Short Form Notices and any further Short Form Notices returned by the USPS as undeliverable as addressed, without a forwarding address.

13. Based on the foregoing, following all Short Form Notice re-mailings, Kroll has reason to believe that Short Form Notices likely reached 187,293 of the 191,581 persons to whom a Short Form Notice was mailed, which equates to a reach rate of the direct mail notice of approximately 97.76%. This reach rate is consistent with other court-approved, best-practicable notice programs and Federal Judicial Center Guidelines, which state that a notice plan that reaches² over 70% of targeted class members is considered a high percentage and the “norm” of a notice campaign.³ The table below provides an overview of dissemination results for the direct notice program.

Direct Notice Program Dissemination & Reach		
Description	Volume of Settlement Class Members	Percentage of Settlement Class Members
Settlement Class Members	191,581	100.0%
Initial Short Form Notice Mailing		
(+) Short Form Notices Mailed (Initial Campaign)	191,581	100%
(-) Total Short Form Notices returned as undeliverable	(23,169)	12.09%
(+) Total Short Form Notices Re-mailed	20,395	10.64%
(-) Total Undeliverable (Re-Mailed) Short Form Notices	(1,514)	0.79%
Direct Notice Program Reach		
(=) Received Direct Notice	187,293	97.76%

² FED. JUD. CTR., *Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide* (2010), available at <https://www.fjc.gov/sites/default/files/2012/NotCheck.pdf>. The guide suggests that the minimum threshold for adequate notice is 70%.

³ Barbara Rothstein and Thomas Willging, *Federal Judicial Center Managing Class Action Litigation: A Pocket Guide for Judges*, at 27 (3d Ed. 2010).

CLAIM ACTIVITY

14. As of August 4, 2023, Kroll has received 129 Claim Forms through the mail and 3,128 Claim Forms filed electronically through the Settlement Website. Kroll is still in the process of reviewing and validating Claim Forms.

15. To prevent Claim Forms from being filed by individuals outside the Settlement Class and to curtail fraud, Settlement Class Members were provided a unique “Class Member ID” on their respective Short Form Notices. The Class Member ID is required for Settlement Class Members to file a Claim Form online.

EXCLUSIONS AND OBJECTIONS

16. The Opt-Out Deadline and Objection Deadline is August 15, 2023.

17. Kroll has received twenty-six (26) timely Requests for Exclusion and no objections to the Settlement. A list of the Requests for Exclusion received is attached hereto as **Exhibit G**.

18. As of August 4, 2023, Kroll has billed \$111,212.05 for Notice and Administrative Expenses in the administration of this matter. True and correct copies of the invoices generated to date are attached hereto as **Exhibit H**. Kroll estimates that it will bill an additional \$76,000 in Notice and Administrative Expenses to complete the administration of this Settlement. The current estimate is subject to change depending on factors such as the number of Claims remaining to be reviewed, number of Claims filed, and/or any Settlement administration scope change not currently under consideration.

CERTIFICATION

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge and that this Declaration was executed on August 4, 2023, in Inver Grove Heights, Minnesota.



SCOTT M. FENWICK