

Geoffrey Graber (SBN 211547)
 Andrew N. Friedman (*pro hac vice*)
 Karina G. Puttieva (SBN 317702)
 Madelyn Petersen (*pro hac vice*)
 Jenna Waldman (SBN 341491)
**COHEN MILSTEIN SELLERS & TOLL
 PLLC**
 1100 New York Ave. NW, 8th Floor
 Washington, DC 20005
 Telephone: (202) 408-4600
 Facsimile: (202) 408-4699
 ggraber@cohenmilstein.com
 afriedman@cohenmilstein.com
 kputtieva@cohenmilstein.com
 mpetersen@cohenmilstein.com
 jwaldman@cohenmilstein.com

Charles Reichmann (SBN 206699)
**LAW OFFICES OF CHARLES
 REICHMANN**
 16 Yale Circle
 Kensington, CA 94708-1015
 Telephone: (415) 373-8849
 charles.reichmann@gmail.com

Class Counsel

Eric Kafka (*pro hac vice*)
**COHEN MILSTEIN SELLERS &
 TOLL PLLC**
 88 Pine Street, 14th Floor,
 New York, NY 10005
 Telephone: (212) 838-7797
 Facsimile: (212) 838-7745
 ekafka@cohenmilstein.com

Theodore J. Leopold (*pro hac vice*)
 Leslie M. Kroeger (*pro hac vice*)
**COHEN MILSTEIN SELLERS &
 TOLL PLLC**
 11780 US Highway One, Ste. 500
 Palm Beach Gardens, FL 33408
 Telephone: (516) 515-1400
 Facsimile: (516) 515-1401
 lkroeger@cohenmilstein.com
 tleopold@cohenmilstein.com

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

DZ Reserve and Cain Maxwell (d/b/a Max
 Martialis), individually and on behalf of
 others similarly situated,

Plaintiffs,

v.

META PLATFORMS, INC.,

Defendant.

Case No. 3:18-cv-04978-JD

**PLAINTIFFS' UNOPPOSED MOTION
 FOR APPROVAL OF CLASS NOTICE
 PLAN**

Date: April 17, 2025
 Time: 10:00 am
 Court: Courtroom 11, 19th Floor
 Hon. James Donato

NOTICE OF MOTION

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that on April 17, 2025, at 10:00 a.m., or on such other date deemed appropriate by the Court, before the Honorable James Donato, United States District Judge, at the United States District Court, Northern District of California, San Francisco Division, 450 Golden Gate Avenue, Courtroom 11, 19th Floor, San Francisco, California 94102, plaintiffs DZ Reserve and Cain Maxwell (d/b/a Max Martialis) will move this Court for an order, pursuant to Federal Rule of Civil Procedure 23, approving the Class Notice Plan proposed herein (the “Notice Plan”). Plaintiffs provided a copy of this Motion to Defendant in advance of filing and Defendant does not oppose this Motion. This Motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities in Support Thereof, the Declarations of Geoffrey Graber and Eric Schachter and the [Proposed] Order filed herewith, all pleadings and papers filed herein, arguments of counsel, and any other matters properly before the Court.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On March 29, 2022, the Court granted plaintiffs’ motion for class certification and certified the following Class:

All United States residents (including natural persons and incorporated entities) who, from August 15, 2014, to the present (“Class Period”), paid for the placement of at least one advertisement on Facebook’s platforms, including the Facebook and Instagram platforms, which was purchased through Facebook’s Ads Manager or Power Editor.

Excluded from the class are: (1) advertisements purchased pursuant to agreements other than Facebook’s Terms of Service or Statement of Rights and Responsibilities; (2) advertisements purchased using only non-lookalike Custom Audiences as the targeting criteria; (3) advertisements purchased using Reach and Frequency buying; (4) advertisements purchased with the objectives of canvas app engagement, canvas app installs, offer claims, event responses, page likes, or external; and (5) advertisements for which Facebook provided a Potential Reach lower than 1000.

Also excluded from the Class are Defendant, any entity in which Defendant has a controlling interest, and Defendant’s officers, directors, legal representatives, successors, subsidiaries, and assigns. Further excluded from the Class is any judge, justice, or judicial officer presiding over this matter and the members of their immediate families and judicial staff.

ECF Nos. 282, 388. On June 21, 2022 the Ninth Circuit granted Meta’s Rule 23(f) petition. ECF No. 438. On March 21, 2024, the Ninth Circuit affirmed this Court’s class certification order as to the damages class and vacated it as to the injunction class. *DZ Rsrv. v. Meta Platforms, Inc.*, 96 F.4th 1223, 1230 (9th Cir. 2024), cert. denied sub nom. *Meta Platforms, Inc v. DZ Rsrv.*, No. 24-384, 2025 WL 76451 (U.S. Jan. 13, 2025).

In light of the Court’s ruling on defendant’s motion for judgment on the pleadings, the Rule (b)(3) class period commences on August 15, 2015. *See* ECF No. 366. Based on representations made by Meta’s counsel, the Parties agree that the class period ends on October 27, 2021. Declaration of Geoffrey Graber In Support of Motion for Approval of Class Notice Plan (“Graber Decl.”) ¶ 6.

Trial is currently set for October 14, 2025. ECF No. 464. Plaintiffs now respectfully request that the Court, pursuant to Rule 23, approve the Notice Plan proposed herein. The proposed Notice

1 Plan consists of the following:

- 2 1. An electronic banner post on Facebook’s Ads Manager;
- 3 2. Jewel notification via Facebook’s Business Manager/Business Suite;
- 4 3. E-mail notification;
- 5 4. Publication notice;
- 6 5. A targeted online advertisement campaign; and
- 7 6. A dedicated case website.

8 The proposed Notice Plan satisfies the requirements of Rule 23 and due process. This
 9 Notice Plan takes to heart this Court’s admonition in another case involving alleged misconduct
 10 by Meta, that “the old methods of U.S. Mail and a print ad [a]re not going to cut it” in 2022. *See*
 11 *In re Facebook Biometric Info. Priv. Litig.*, 522 F. Supp. 3d 617, 624 (N.D. Cal. 2021), *appeal*
 12 *dismissed*, No. 21-15555, 2021 WL 2660668 (9th Cir. June 22, 2021), *and aff’d*, No. 21-15553,
 13 2022 WL 822923 (9th Cir. Mar. 17, 2022) (“*Facebook Biometric*”). The proposed Notice Plan
 14 mirrors this Court’s “best practices for online notice” and is tailored to reach as many Class
 15 members as possible. *See Facebook Biometric*, Case No. 15-cv-03747-JD, ECF No. 474 at 7.
 16 Specifically, the Notice Plan includes “direct email, Facebook’s ‘jewel’ ... notifications,
 17 publication in a leading ... newspaper, a dedicated [case] website, and an internet ad campaign on
 18 non-Facebook platforms.” *See Facebook Biometric*, 522 F. Supp. 3d at 624; Declaration of Eric
 19 Schachter Regarding Notice Administration (“Schachter Decl.”).

20 II. ARGUMENT

21 Rule 23 and due process require “the best notice that is practicable under the circumstances,
 22 including individual notice to all members who can be identified through reasonable effort.” Fed.
 23 R. Civ. P. 23(c)(2)(B); *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121, 1128-29 (9th Cir. 2017).
 24 The purpose of such notice is “to fulfill requirements of due process to which the class action
 25 procedure is of course subject.” Proposed Amendments to Rules of Civil Procedure for the United
 26 States District Courts, 39 F.R.D. 69, 107 (1966). Due process requires that notice is “‘reasonably
 27 calculated, under all the circumstances, to apprise interested parties of the pendency of the action
 28

1 and afford them an opportunity to present their objections.” *Eisen v. Carlisle & Jacquelin*, 417
 2 U.S. 156, 174 (1974).

3 Notice plans are not expected to reach every class member (*see Silber v. Mabon*, 18 F.3d
 4 1449, 1453 (9th Cir. 1994)), and courts generally hold notice plans that reach a minimum of 70%
 5 of the class are adequate and comply with Rule 23 and due process. Judges’ Class Action Notice
 6 and Claims Process Checklist and Plain Language Guide, Federal Judicial Center (2010), at 3,
 7 <https://www.fjc.gov/sites/default/files/2012/NotCheck.pdf> (last visited March 13, 2025). This
 8 Notice Plan takes into account that the alleged fraudulent conduct in this case, “happened
 9 online”—specifically on Facebook’s Ads Manager interface— “and the class is composed entirely
 10 of online users.” *Facebook Biometric*, Case No. 15-cv-03747-JD, ECF No. 474 at 7. Meta expects
 11 that it possesses e-mail addresses for almost 75% of the class. Graber Decl. ¶ 5.¹ The e-mail notice
 12 alone (which is only one of three forms of direct notice) exceeds the 70% threshold for adequate
 13 notice. Thus, the Notice Plan’s “combination of direct email notices to Facebook users, jewel
 14 notifications . . . and the activation of the web page dedicated to the lawsuit and offering electronic
 15 opt-out for class members constitutes best practicable notice to individual class members under
 16 the circumstances of this case.” Case No. 15-cv-03747-JD, ECF No. 402 at 2.

17 **A. Direct Notice**

18 Plaintiffs’ proposed notice plan includes three forms of direct notice: (1) an electronic
 19 banner post on Facebook’s Ads Manager, (2) a jewel notification via Facebook’s Business
 20 Manager/Business Suite, and (3) an e-mail notification.

21 First, Meta will post an electronic banner on Class members’ Ads Manager (i.e., the
 22 interface through which Facebook advertisers can purchase and place advertisements on Facebook
 23 or Instagram). The Ads Manager banner will alert class members that they may be a class member
 24 in a lawsuit related to Potential Reach estimates, and include a button that, when pressed, will take
 25 class members to the case website. Schachter Decl. ¶ 9, Ex. 2. The banner notification will appear
 26 for both mobile and browser-based users.

27 _____
 28 ¹ The parties have been working cooperatively to ascertain the technological feasibility of the
 various forms of direct notice. Graber Decl. ¶ 4.

1 Second, Meta will also disseminate jewel notifications to Class members' Business
2 Manager and/or Business Suite accounts (i.e., a tool for businesses that use Facebook that
3 centralizes Facebook, Instagram, and messaging tools in one place). *Id.* The notification will direct
4 Class members to the case website containing more detailed information about this Action.

5 Third, using Facebook's database of email addresses for Class members, A.B. Data will
6 directly email the short-form notice to all identified Class members. *See* Schachter Decl. ¶¶ 8, 11-
7 12, Ex. 3. The short-form notice in the e-mail will include a link to the dedicated case website
8 created by A.B. Data. *Id.* ¶ 19.

9 Courts nationwide have adopted email notice as "an inexpensive and appropriate means of
10 delivering notice of an action to a class." *Palma v. Metropcs Wireless, Inc.*, 2014 WL 235478, at
11 *2 (M.D. Fla. Jan. 22, 2014); *see also, e.g., Smith v. Generations Healthcare Servs. LLC*, 2017
12 WL 2957741, at *6 (S.D. Ohio July 11, 2017) ("email notice 'appears to be in line with the current
13 nationwide trend'"). Email notice is well-suited to this case, given the online nature of Meta's
14 services. *See Browning v. Yahoo! Inc.*, 2006 WL 3826714, at *8 (N.D. Cal. Dec. 27, 2006)
15 (approving email notice because the class members' "allegations arise from their visits to
16 Defendants' Internet websites, demonstrating that [class members] are familiar and comfortable
17 with email and the Internet"); *In re LinkedIn User Privacy Litig.*, 309 F.R.D. 573, 586 (N.D. Cal.
18 2015) (approving notice plan which primarily called for direct notice by email to addresses used
19 by class members in connection with their accounts on defendant's website).

20 Furthermore, where, as here, the defendant's website is essential to its relationship with the
21 Class members or the allegations in the case, courts frequently endorse similar common-sense
22 approaches to electronic notice. *See, e.g., Lane v. Facebook, Inc.*, 696 F.3d 811, 818 (9th Cir.
23 2012) (where the "settlement class consisted of all Facebook members who had visited the website
24 of a Beacon participant," affirming the approval of a notice plan that required Facebook to post
25 notice in the "Updates" section of members' personal Facebook accounts); *G. F. v. Contra Costa*
26 *Cty.*, 2015 WL 7571789, at *7 (N.D. Cal. Nov. 25, 2015) (finally approving class action settlement
27 where defendants "posted the Notice and proposed Agreement in prominent places on their
28 respective websites"); *Mark v. Gawker Media LLC*, 2015 WL 2330079, at *1 (S.D.N.Y. Mar. 5,

2015) (explaining that “use of social media notice” should “mirror the more traditional forms of notice” and “contain private, personalized notifications sent to potential plaintiffs whose identities were known and would may not be reachable by other means”). Courts have also found notifications on Facebook to be a feasible and customary substitute to individual postal mailings even where class members are not known Facebook members, but their demographic “is particularly likely to maintain a social networking presence.” *Woods v. Vector Mktg. Corp.*, 2015 WL 1198593, at *4-*5 (N.D. Cal. Mar. 16, 2015); *see also In re Pool Prods. Distrib. Mkt. Antitrust Litig.*, 310 F.R.D. 300, 317-18 (E.D. La. 2015) (concluding that posting notice to Google and Facebook in the relevant region adequately made up for the lack of individual notice); Brian Walters, “Best Notice Practicable” in the Twenty-First Century, 2003 UCLA J.L. & TECH. 4, 1, 7-16 (arguing that the Internet, not newspapers, provides the “best notice practicable”). This Court has endorsed this type of online notice in *In Re Facebook Biometric Information Privacy Litigation*, noting that “the alleged violations happened online, and the class is composed entirely of online users.” Case No. 15-cv-03747-JD, ECF No. 474 at 7. This Court also found that using notification on Facebook’s platform “fit the reality of our online lives” and will “maximize[] outreach to class members by leveraging Facebook’s direct access to users....” *See Facebook Biometric*, 522 F. Supp. 3d 617, 624, 622 (N.D. Cal. 2021).

Meta is particularly well-suited to notify Class members directly: Class member advertisers all are or were Facebook users, and their allegations stem from purchasing advertisements from Facebook using Facebook’s Ads Manager. The alleged misrepresentation at-issue in this litigation was displayed on Facebook’s Ads Manager interface. And, as this Court noted in *Facebook Biometric*, “It is safe to say that if any defendant can provide notice likely to reach online users, it is Facebook.” Case No. 15-cv-03747-JD, ECF No. 474 at 7. As this Court previously observed, a combination of jewel notification and a posting on Facebook’s website reliably notified over 9 million class members involved in the *Facebook Biometric* settlement. *See* 522 F. Supp. 3d 617, 625 (N.D. Cal. 2021). Thus, giving notice to the Class members via Facebook’s Ads Manager and Business Manager is an especially effective method for ensuring actual notice in this case.

B. The Supplemental Notice Plan

In addition to the direct notice, Plaintiffs' proposed notice plan includes three forms of supplemental notice: (1) publication notice, (2) a targeted online advertisement campaign, and (3) a dedicated case website.

A.B. Data has designed the supplemental publication notice and targeted online advertisement campaign. Schachter Decl. ¶¶ 13-15. Notice will be published in Wall Street Journal and Advertising Age (or other appropriate publications). *Id.* ¶ 13. The supplemental campaign will also include a digitally optimized press release published on PR Newswire's US1 and Hispanic Newslines, as well as A.B. Data's and PR Newswire's X pages. *Id.* ¶ 14. Finally, A.B. Data will also run banner advertisements on the social media platform LinkedIn. *Id.* ¶ 15, Ex. 5.

In addition, each of the various forms of notice will direct Class members to a case-specific website, which will be created and maintained by A.B. Data. *Id.* ¶ 19. The case website will contain (among other things), a summary of the case, the long-form notice, functionality for Class members to submit a request for exclusion online, all relevant documents, important dates, and any pertinent updates concerning the case. *Id.*; see, e.g., *Tadepalli v. Uber Techs., Inc.*, 2016 WL 1622881, at *3 (N.D. Cal. Apr. 25, 2016) (email notice and a case-specific website); *Evans v. Linden Rsch., Inc.*, 2013 WL 5781284, at *5 (N.D. Cal. Oct. 25, 2013) (email notice, thirty-day publication to Facebook website, and case-specific website); *Fraser v. Asus Comput. Int'l*, 2013 WL 621929, at *3 (N.D. Cal. Feb. 19, 2013) (publication notice to defendant's website and Facebook page and a "push" notification directly to the [class members'] TF201 devices through an electronic notification system"). A.B. Data will also set up a toll-free number through which Class members can access additional settlement information, request notice packets and obtain contact information for Class Counsel and A.B. Data. Schachter Decl. ¶ 18.

If the names and addresses of Class members cannot be determined by reasonable efforts, notice by publication is sufficient to satisfy the requirements of Rule 23 and due process. *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 317-18 (1950); see also *Briseno*, 844 F.3d at 1129 ("Courts have routinely held that notice by publication in a periodical, on a website, or even at an appropriate physical location is sufficient to satisfy due process."). Here, Meta expects that it

1 possesses e-mail addresses for almost 75% of the class, and two other forms of direct notice will
 2 be provided on Facebook's Ads Manager and Business Manager and/or Business Suite. Under
 3 these circumstances, Plaintiffs' supplemental notice plan is more than sufficient for the small
 4 percentage of Class members who cannot be contacted through any of the three forms of direct
 5 notice.

C. The Proposed Form and Content of the Notices Are Easy to Read and Understand, and Thus Comport with Rule 23 and Due Process

7 Plaintiffs' proposed notice plan includes the text for (1) a proposed long-form notice that
 8 will be posted on the dedicated case website, *see* Ex. 4 to Schachter Decl.; (2) a short-form notice
 9 that will be disseminated to Class members via e-mail notice, *see* Ex. 3 to Schachter Decl.; and
 10 (3) a proposed in-application notice that will be disseminated through a banner on Facebook's Ads
 11 Manager and a jewel notification on Facebook's Business Manager/Suite, *see* Ex. 2 to Schachter
 12 Decl.

13 The text of these forms of notice also satisfies Rule 23 and due process with respect to their
 14 content. Rule 23(c)(2)(B) requires that class notice include the following:

[C]learly 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).

20 Due process requires that class members "be provided with an opportunity to remove
 21 [themselves] from the class by executing and returning an 'opt out' or 'request for exclusion' form
 22 to the court." *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 812 (1985). Each of the notices in
 23 the Notice Plan satisfy these requirements. *See* Schachter Decl., Exs. 2-4. They adequately
 24 describe this action, identify the Class and its specific definition and provide instructions on how
 25 to request exclusion in clear, easy-to-read language that is understandable to the average Class
 26 member. Moreover, the email (short-form) and proposed long-form notice are based upon the
 27 question-and-answer format suggested by the Federal Judicial Center, and are modeled after this
 28

1 Court's approved pre-trial notices in *Facebook Biometric*. See Case No. 15-cv-03747-JD, ECF No.
2 402-1.

3 The form of plaintiffs' proposed notices, which provide Class members with a 60 day opt-
4 out period, which is based on and consistent with the Federal Judicial Center's notices, satisfies
5 the requirements of Rule 23 and due process. See Fed. R. Civ. P. 23(b)(3) advisory committee note
6 on 2003 amendments ("The Federal Judicial Center has created illustrative clear-notice forms that
7 provide a helpful starting point for actions similar to those described in the forms."); *Johns v.*
8 *Bayer Corp.*, 2013 WL 435201, at *2 (S.D. Cal. Feb. 1, 2013) (finding that "the form and
9 information contained within the notice is based on and consistent with the Federal Judicial
10 Center's notices, and satisfy the requirements of Rule 23 and due process"); *In re Wal-Mart Stores,*
11 *Inc. Wage & Hour Litig.*, 2008 WL 1990806, at *7 (N.D. Cal. May 5, 2008) ("The inclusion of
12 plaintiffs' concise yet informative statement concerning Class Counsel's experience is consistent
13 with Rule 23's notice requirements. Indeed, plaintiffs' proposed language on Class Counsel's
14 experience is identical to the language employed in the Federal Judicial Center's 'Illustrative'
15 Form of Class Action Notice for Employment Discrimination cases."); *Flanagan v. Allstate Ins.*
16 *Co.*, 2007 WL 3085903, at *1 (N.D. Ill. Oct. 18, 2007) ("We begin by adopting, generally,
17 defendant's template, since it is taken directly from the Federal Justice Center's archive of sample
18 Notice forms.").

19 Finally, Plaintiffs' proposed notice plan includes deadlines for the notice to be
20 disseminated as soon as practical. Within 14 days of the entry of the order, or by April 28, 2025,
21 whichever occurs later, the notice administrator will create the case website. Schachter Decl. ¶ 19.
22 Also, within 14 days of the entry of the order, or by April 28, 2025, whichever occurs later,
23 Defendant shall produce the email addresses to the notice administrator. Defendant shall also direct
24 notice to class members with active accounts via Facebook Business Manager and Business Suite,
25 and Facebook Ads Manager; provided, however, that such notice shall not be provided until the
26 case website has been created, but no later than 7 days after the case website has been created.
27 Within 30 days of its receipt of the Defendant's email list, the notice administrator will commence
28 dissemination of the email notice, publication notice, and the targeted online advertising campaign

(the “Notice Date”). Schachter Decl. ¶ 7. Class members will have 60 days after the Notice Date to submit Requests for Exclusion, and Plaintiffs Class Counsel will file all Exclusion Requests with the Court within 90 days of the Notice Date (i.e., within 30 calendar days following the deadline for Exclusion Requests).

III. CONCLUSION

For the reasons stated herein, Plaintiffs respectfully request that the Court approve the Notice Plan.

Dated: March 13, 2025

Respectfully Submitted,

By /s/ Geoffrey Graber

Geoffrey Graber (SBN 211547)

Andrew N. Friedman (*pro hac vice*)

Karina G. Puttieva (SBN 317702)

Madelyn Petersen (*pro hac vice*)

Jenna Waldman (SBN 341491)

COHEN MILSTEIN SELLERS & TOLL PLLC

1100 New York Ave. NW, Ste 800

Washington, DC 20005

Telephone: (202) 408-4600

afriedman@cohenmilstein.com

ggrabber@cohenmilstein.com

kputtieva@cohenmilstein.com

mpetersen@cohenmilstein.com

jwaldman@cohenmilstein.com

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COHEN MILSTEIN SELLERS & TOLL PLLC

88 Pine Street, 14th Floor,

New York, NY 10005

Telephone: (212) 838-7797

Facsimile: (212) 838-7745

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COHEN MILSTEIN SELLERS & TOLL PLLC

11780 US Highway One

Suite 500

Palm Beach Gardens, FL 33408

Telephone: (516) 515-1400

Facsimile: (516) 515-1401

lkroeger@cohenmilstein.com

tleopold@cohenmilstein.com

1
2 Charles Reichmann (SBN 206699)
3 **LAW OFFICES OF CHARLES REICHMANN**
4 16 Yale Circle
5 Kensington, CA 94708-1015
6 Telephone: (415) 373-8849
7 charles.reichmann@gmail.com

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Class Counsel

SIGNATURE ATTESTATION

I am the ECF User whose identification and password are being used to file the foregoing
Plaintiffs' Unopposed Motion for Approval of Class Notice Plan.

Dated: March 13, 2025

/s/ Karina Puttieva

Karina Puttieva