

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ZHARIA CHARLES, individually and on behalf
all others similarly situated,

Plaintiff,

v.

COLOR FACTORY, LLC,

Defendant.

Civil Action No.: 1:24-cv-00322-JSR

**DECLARATION OF SUSANNA WEBB REGARDING
IMPLEMENTATION OF NOTICE AND CLAIMS ADMINISTRATION**

I, Susanna Webb, hereby declare and state as follows:

1. I am a Project Manager employed by Epiq Class Action & Claims Solutions, Inc. (“Epiq”). I have 5 years of experience handling all aspects of settlement administrations. The statements of fact in this declaration are based on my personal knowledge and information provided to me by my colleagues in the ordinary course of business, and if called on to do so, I could and would testify competently thereto.

2. Epiq was appointed the Settlement Administrator pursuant to the Court’s *Order Granting Preliminary Approval Of Class Action Settlement Agreement, Certifying Settlement Class, Appointing Class Representative, Appointing Class Counsel, And Approving Notice Plan* (ECF 38, the “Order”) dated July 10, 2024, and in accordance with the *Settlement Agreement* dated June 28, 2024 (ECF 36-1, the “Agreement”).¹ I submit this Declaration in order to advise the Parties and the Court regarding the implementation of the Court-approved class Notice Plan and to report

¹ All capitalized terms not otherwise defined in this document shall have the same meanings ascribed to them in the Agreement.

on Epiq's handling to date of the Settlement Administration, in accordance with the Order and the Agreement.

3. Epiq was established in 1968 as a client services and data processing company. Epiq has administered bankruptcies since 1985 and settlements since 1993. Epiq has routinely developed and executed notice programs and administrations in a wide variety of mass action contexts including settlements of consumer, antitrust, products liability, and labor and employment class actions, settlements of mass tort litigation, Securities and Exchange Commission enforcement actions, Federal Trade Commission disgorgement actions, insurance disputes, bankruptcies, and other major litigation. Epiq has administered more than 4,500 settlements, including some of the largest and most complex cases ever settled. Epiq's class action case administration services include administering notice requirements, designing direct-mail notices, implementing notice fulfillment services, coordinating with the United States Postal Service ("USPS"), developing and maintaining notice websites and dedicated telephone numbers with recorded information and/or live operators, processing exclusion requests, objections, claim forms and correspondence, maintaining class member databases, adjudicating claims, managing settlement funds, and calculating claim payments and distributions. As an experienced neutral third-party administrator working with settling parties, courts, and mass action participants, Epiq has handled hundreds of millions of notices, disseminated hundreds of millions of emails, handled millions of phone calls, processed tens of millions of claims, and distributed hundreds of billions in payments.

OVERVIEW OF ADMINISTRATION

4. Pursuant to the Agreement and Order, Epiq was appointed to provide, and did provide, the following administrative services for the benefit of Settlement Class Members, as they are defined in the Agreement:

- Send CAFA Notice to the appropriate Federal and State government officials;
- As appropriate, email a Notice to Settlement Class Members;
- Establish and maintain an official Settlement Website containing information about the Color Factory Ticket Fee Settlement;
- Establish and maintain an official toll-free number that Settlement Class Members may contact for additional information about the Settlement;
- Review and process opt-outs sent to or received by Epiq;
- Review and track objections sent to or received by Epiq;
- Receive, process, track, and report on Claim Forms sent to or received by Epiq.

CLASS ACTION FAIRNESS ACT NOTICE

5. As described in the attached July 8, 2024 *Declaration Of Kyle S. Bingham On Implementation Of CAFA Notice* (“CAFA Declaration”), on July 8, 2024, Epiq sent a CAFA notice packet (or “CAFA Notice”) to 57 federal and state officials as required by the Class Action Fairness Act of 2005 (CAFA), 28 U.S.C. § 1715. The CAFA Notice was mailed by Priority mail to 54 officials, which included the Attorneys General of 48 states, the District of Columbia, and the United States’ Territories. As per the direction of the Office of the Nevada and Connecticut Attorneys General, the Notice was sent to the Nevada and Connecticut Attorneys General electronically via email. Epiq also sent the CAFA Notice to the Attorney General of the United States by United Parcel Service. The CAFA Declaration is included as **Exhibit A**.

DATA TRANSFER

6. On July 18, 2024, Counsel for Defendant provided Epiq with an electronic file containing Class Member records. The file contained 104,783 rows of data with names, email addresses, and Out-of-Pocket Fees paid by each Settlement Class Member (“Class List”).

7. Epiq loaded the information provided by Counsel for Defendant into a database created for the purpose of administration of the proposed Settlement. Epiq assigned unique identifiers to all the records it received in order to maintain the ability to track them throughout the Settlement administration process. Epiq combined the files and rolled up exact duplicate records, which resulted in a unique count of 99,720 Settlement Class Member records.

DISSEMINATION OF INDIVIDUAL CLASS NOTICE VIA EMAIL

8. Pursuant to Section 1.37 of the Agreement and Section 14 of the Order, Epiq was to cause the Court-approved Notice to be sent via Email to Settlement Class Members for whom an email address was included in the Class List. Attached hereto as **Exhibit B** is a template of the Court-approved Notice via Email that Epiq electronically disseminated to Settlement Class Members for whom an email address was provided in the Class List.

9. The Notice, which was formatted for distribution using imbedded html text, provided Settlement Class Members with a link to the Settlement website. The Notice was formatted with easy-to-read text without graphics, tables, images, and other elements that would increase the likelihood that the message could be blocked by Internet Service Providers and/or SPAM filters. Epiq also followed standard email protocols, including utilizing “unsubscribe” links and Epiq’s contact information in the Notice.

10. Epiq sent the Notice to the 98,853 potentially valid email addresses on August 7, 2024. Each Notice was transmitted with a unique message identifier. If the receiving e-mail server

could not deliver the message, a “bounce code” was returned along with the unique message identifier.

11. For all Class Members with potentially valid email addresses in the Class List, Epiq closely monitored all deliverability attempts of the Notice throughout the Notice campaign. A total of 96,856 Notices were delivered. Of the 1,997 Notices that could not be delivered, 996 of them were undeliverable because the email address no longer existed, the email account was closed, or the email address had a bad domain name or address error (collectively, "Hard Bouncebacks"). The remaining 1,001 Notices could not be delivered due to an inactive or disabled account, the recipient's mailbox was full, technical auto-replies, or the recipient server was busy or unable to deliver (collectively, "Soft Bouncebacks"). Ultimately, Epiq was able to deliver direct Notice to 97.97% of the email addresses provided in the Class List.

12. As of October 22, 2024, Epiq has emailed Notice to 96,856 Settlement Class Members, with Notice to 1,997 unique Settlement Class Members currently known to be undeliverable, which is a 97.97% deliverable rate to 97.13% of the Class.

SETTLEMENT WEBSITE

13. Pursuant to Section 4.1(d) of the Agreement, on July 22, 2024, Epiq launched a website, www.colorfactoryticketfeesettlement.com, that Settlement Class Members could visit to obtain additional information about the proposed Settlement, as well as important documents, including the Long Form Notice, Claim Form, Settlement Agreement, Preliminary Approval Order, Fee Petition, and any other relevant information that the parties agree to provide or that the Court may require (“Website”). The Website contains a summary of options available to Settlement Class Members, deadlines to act, and provides answers to frequently asked questions. Settlement Class Members are also able to file a Claim Form via the website, or download a paper

Claim Form, which they could then file by mail or email. References to the Website were prominently displayed in Notice, Long Form Notice, and Claim Form.

14. As of October 22, 2024, the Website has been visited by 3,713 unique visitors and 8,533 website pages have been viewed. Epiq has maintained and will continue to maintain and update the Website throughout the administration of the proposed Settlement.

TOLL-FREE INFORMATION LINE

15. Pursuant to the Notice Plan, on August 6, 2024, Epiq established and is maintaining a toll-free interactive Voice Response Unit (“VRU”), 1-888-495-4585, to provide information and accommodate inquiries from Settlement Class Members. Callers hear an introductory message and then are provided with scripted information about the Settlement in the form of recorded answers to frequently asked questions. The toll-free number was included in the Notice sent to Settlement Class Members and the automated telephone system is available 24 hours per day, 7 days per week.

16. As of October 22, 2024, the toll-free number has received 11 calls representing 14 total minutes. Epiq has and will continue to maintain and update the VRU throughout the Settlement administration process.

EMAIL INBOX

17. Pursuant to the Notice Plan, Epiq established and maintains an email inbox, info@colorfactoryticketfeesettlement.com, for Class Members to submit requests for Notices, submit Claim Forms, and ask questions regarding the Settlement. As of October 22, 2024, Epiq has received and responded to a total of 53 incoming emails. Epiq will continue to maintain this inbox throughout the Settlement administration.

REQUESTS FOR EXCLUSION

18. Pursuant to 4.5 of the Settlement Agreement and section 16 of the Order, Settlement Class Members who wished to be excluded from the Settlement were required to submit a request for exclusion on the Settlement Website or a written Requests for Exclusion to Epiq postmarked on or before September 13, 2024. As of October 22, 2024, Epiq has received one timely and potentially valid opt-out. A report listing the timely request received to date is attached hereto as **Exhibit C**.

OBJECTIONS RECEIVED

19. Pursuant to section 4.2 of the Agreement and section 23 of the Order, Settlement Class Members who wished to object to the Settlement were required to submit written objections to the Court's CM/ECF system, Counsel for the Defendant, and Class Counsel, such that they were received on or before the objection deadline of September 13, 2024. As of October 22, 2024, Epiq is aware of or has received zero (0) timely written objections to the Settlement.

CLAIMS RECEIVED

20. Pursuant to section 1.6 of the Agreement and section 15 of the Order, Settlement Class Members who wished to be eligible to receive a distribution from the Available Settlement Fund were required to submit a completed Claim Form to the Settlement Administrator online or via U.S. Mail, so that it was postmarked no later than December 23, 2024. As of October 22, 2024, Epiq has received 1,395 Claim Forms for 1,395 unique Class Members.^[2] Pursuant to the Section 4.1(c) of the Agreement, Epiq will send reminder notices via email both thirty (30) days and seven (7) days prior to the Claims Deadline.

² As Epiq is still receiving, reviewing, and processing claims, the claims information provided herein is subject to further analysis for eligibility and quality control, and is, therefore, preliminary at this time.

I declare under the laws of the United States and the State of New York that the foregoing is true and correct to the best of my knowledge, and that this declaration was executed on October 22, 2024.



Susanna Webb
Project Manager
Epiq Class Action & Claims Solutions, Inc. (“Epiq”)

EXHIBIT A

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

ZHARIA CHARLES, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

COLOR FACTORY, LLC,

Defendant.

Civil Action No. 1:24-cv-00322-JSR

DECLARATION OF KYLE S. BINGHAM ON IMPLEMENTATION OF CAFA NOTICE

I, KYLE S. BINGHAM, hereby declare and state as follows:

1. My name is KYLE S. BINGHAM. I am over the age of 25 and I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.

2. I am the Director of Legal Noticing for Epiq Class Action & Claims Solutions, Inc. (“Epiq”), a firm that specializes in designing, developing, analyzing and implementing large-scale, unbiased, legal notification plans. I have overseen and handled Class Action Fairness Act (“CAFA”) notice mailings for more than 400 class action settlements.

3. Epiq is a firm with more than 25 years of experience in claims processing and settlement administration. Epiq’s class action case administration services include coordination of all notice requirements, design of direct-mail notices, establishment of fulfillment services, receipt and processing of opt-outs, coordination with the United States Postal Service (“USPS”), claims database management, claim adjudication, funds management and distribution services.

4. The facts in this Declaration are based on what I personally know, as well as information provided to me in the ordinary course of my business by my colleagues at Epiq.

CAFA NOTICE IMPLEMENTATION

5. At the direction of counsel for Defendant Color Factory, LLC, 57 federal and state officials (the Attorney General of the United States and the Attorneys General of each of the 50 states, the District of Columbia, and the United States Territories) were identified to receive CAFA notice.

6. Epiq maintains a list of these federal and state officials with contact information for the purpose of providing CAFA notice. Prior to mailing, the names and addresses selected from Epiq's list were verified, then run through the Coding Accuracy Support System ("CASS") maintained by the United States Postal Service ("USPS").¹

7. On July 8, 2024, Epiq sent 57 CAFA Notice Packages ("Notice"). The Notice was mailed via USPS Priority Mail to 54 officials (the Attorneys General of 48 states, the District of Columbia, and the United States Territories). As per the direction of the Office of the Nevada and Connecticut Attorneys General, the Notice was sent to the Nevada and Connecticut Attorneys General electronically via email. The Notice was also sent via United Parcel Service ("UPS") to the Attorney General of the United States. The CAFA Notice Service List (USPS Priority Mail, Email, and UPS) is included as **Attachment 1**.

8. The materials sent to the federal and state officials included a Cover Letter, which provided notice of the proposed Settlement of the above-captioned case. The Cover Letter is included as **Attachment 2**.

9. The cover letter was accompanied by a CD, which included the following:

a. **Per 28 U.S.C. § 1715(b)(1) – Complaint and Any Amended Complaints:**

- Class Action Complaint (filed January 16, 2024).

¹ CASS improves the accuracy of carrier route, 5-digit ZIP®, ZIP + 4® and delivery point codes that appear on mail pieces. The USPS makes this system available to mailing firms who want to improve the accuracy of postal codes, i.e., 5-digit ZIP®, ZIP + 4®, delivery point (DPCs), and carrier route codes that appear on mail pieces.

b. **Per 28 U.S.C. § 1715(b)(3) – Notification to Class Members:**

- Claim Form (*Exhibit A to the Class Action Settlement Agreement*);
- Email Notice (*Exhibit B to the Class Action Settlement Agreement*); and
- Long Form Notice (*Exhibit C to the Settlement Agreement*).

c. **Per 28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** The following documents were included:

- Notice of Unopposed Motion for Preliminary Approval of Class Action Settlement;
- Memorandum of Law in Support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement;
- Declaration of Philip L. Fraietta in Support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement;
 - Class Action Settlement Agreement (*Exhibit 1 to the Declaration of Philip L. Fraietta*);
 - Stipulation Regarding Undertaking Re: Attorneys' Fees, Costs, and Expenses (*Exhibit D to the Class Action Settlement Agreement*);
 - Bursor & Fisher P.A. Firm Resume (*Exhibit 2 to the Declaration of Phillip L. Fraietta*); and
- [Proposed] Order Granting Preliminary Approval of Class Action Settlement Agreement, Certifying Settlement Class, Appointing Class Representative, Appointing Class Counsel, and Approving Notice Plan.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 8, 2024.



KYLE S. BINGHAM

Attachment 1

CAFA Notice Service List

USPS Priority Mail

Appropriate Official	FullName	Address1	Address2	City	State	Zip
Office of the Attorney General	Treg Taylor	1031 W 4th Ave	Suite 200	Anchorage	AK	99501
Office of the Attorney General	Steve Marshall	501 Washington Ave		Montgomery	AL	36104
Office of the Attorney General	Tim Griffin	323 Center St	Suite 200	Little Rock	AR	72201
Office of the Attorney General	Kris Mayes	2005 N Central Ave		Phoenix	AZ	85004
Office of the Attorney General	CAFA Coordinator	Consumer Protection Section	455 Golden Gate Ave Suite 11000	San Francisco	CA	94102
Office of the Attorney General	Phil Weiser	Ralph L Carr Colorado Judicial Center	1300 Broadway Fl 10	Denver	CO	80203
Office of the Attorney General	Brian Schwalb	400 6th St NW		Washington	DC	20001
Office of the Attorney General	Kathy Jennings	Carvel State Bldg	820 N French St	Wilmington	DE	19801
Office of the Attorney General	Ashley Moody	State of Florida	The Capitol PL-01	Tallahassee	FL	32399
Office of the Attorney General	Chris Carr	40 Capitol Square SW		Atlanta	GA	30334
Department of the Attorney General	Anne E Lopez	425 Queen St		Honolulu	HI	96813
Iowa Attorney General	Brenna Bird	Hoover State Office Building	1305 E Walnut St	Des Moines	IA	50319
Office of the Attorney General	Raul Labrador	700 W Jefferson St Ste 210	PO Box 83720	Boise	ID	83720
Office of the Attorney General	Kwame Raoul	100 W Randolph St		Chicago	IL	60601
Office of the Indiana Attorney General	Todd Rokita	Indiana Government Center South	302 W Washington St Rm 5	Indianapolis	IN	46204
Office of the Attorney General	Kris Kobach	120 SW 10th Ave 2nd Fl		Topeka	KS	66612
Office of the Attorney General	Russell Coleman	700 Capitol Ave Suite 118		Frankfort	KY	40601
Office of the Attorney General	Liz Murrill	PO Box 94005		Baton Rouge	LA	70804
Office of the Attorney General	Andrea Campbell	1 Ashburton Pl 20th Fl		Boston	MA	02108
Office of the Attorney General	Anthony G Brown	200 St Paul Pl		Baltimore	MD	21202
Office of the Attorney General	Aaron Frey	6 State House Station		Augusta	ME	04333
Department of Attorney General	Dana Nessel	PO BOX 30212		Lansing	MI	48909
Office of the Attorney General	Keith Ellison	445 Minnesota St Ste 1400		St Paul	MN	55101
Missouri Attorney General's Office	Andrew Bailey	207 West High Street	PO Box 899	Jefferson City	MO	65102
Mississippi Attorney General	Lynn Fitch	PO Box 220		Jackson	MS	39205
Office of the Attorney General	Austin Knudsen	215 N Sanders 3rd Fl	PO Box 201401	Helena	MT	59620
Attorney General's Office	Josh Stein	9001 Mail Service Ctr		Raleigh	NC	27699
Office of the Attorney General	Drew H Wrigley	600 E Boulevard Ave Dept 125		Bismarck	ND	58505
Nebraska Attorney General	Mike Hilgers	2115 State Capitol	PO Box 98920	Lincoln	NE	68509
Office of the Attorney General	John Formella	NH Department of Justice	33 Capitol St	Concord	NH	03301
Office of the Attorney General	Matthew J Platkin	25 Market Street	PO Box 080	Trenton	NJ	08625
Office of the Attorney General	Raul Torrez	408 Galisteo St	Villagra Bldg	Santa Fe	NM	87501
Office of the Attorney General	CAFA Coordinator	28 Liberty Street 15th Floor		New York	NY	10005
Office of the Attorney General	Dave Yost	30 E Broad St Fl 14		Columbus	OH	43215
Office of the Attorney General	Gentner Drummond	313 NE 21st St		Oklahoma City	OK	73105
Office of the Attorney General	Ellen F Rosenblum	Oregon Department of Justice	1162 Court St NE	Salem	OR	97301
Office of the Attorney General	Michelle A Henry	16th Fl Strawberry Square		Harrisburg	PA	17120
Office of the Attorney General	Peter F Neronha	150 S Main St		Providence	RI	02903
Office of the Attorney General	Alan Wilson	PO Box 11549		Columbia	SC	29211
Office of the Attorney General	Marty Jackley	1302 E Hwy 14 Ste 1		Pierre	SD	57501
Office of the Attorney General	Jonathan Skrmetti	PO Box 20207		Nashville	TN	37202
Office of the Attorney General	Ken Paxton	PO Box 12548		Austin	TX	78711
Office of the Attorney General	Sean D Reyes	PO Box 142320		Salt Lake City	UT	84114
Office of the Attorney General	Jason S Miyares	202 N 9th St		Richmond	VA	23219
Office of the Attorney General	Charity R Clark	109 State St		Montpelier	VT	05609
Office of the Attorney General	Bob Ferguson	800 5th Ave Ste 2000		Seattle	WA	98104
Office of the Attorney General	Josh Kaul	PO Box 7857		Madison	WI	53707
Office of the Attorney General	Patrick Morrissey	State Capitol Complex Bldg 1 Room E 26	1900 Kanawha Blvd E	Charleston	WV	25305
Office of the Attorney General	Bridget Hill	109 State Capital		Cheyenne	WY	82002
Department of Legal Affairs	Fainu'ulei Falefatu Ala'ilima-Utu	American Samoa Gov't Exec Ofc Bldg Utulei	Territory of American Samoa	Pago Pago	AS	96799
Attorney General Office of Guam	Douglas Moylan	Administrative Division	590 S Marine Corps Dr Ste 901	Tamuning	GU	96913
Office of the Attorney General	Edward Manibusan	Administration Bldg	PO Box 10007	Saipan	MP	96950
PR Department of Justice	Domingo Emanuelli Hernández	PO Box 9020192		San Juan	PR	00902
Department of Justice	Ian S.A Clement	3438 Kronprindsens Gade Ste 2	GERS BLDG	St Thomas	VI	00802

Email

Appropriate Official	Contact Format	State
Office of the Attorney General for Connecticut	All documents sent to CT AG at their dedicated CAFA email inbox.	CT
Office of the Attorney General for Nevada	All documents sent to NV AG at their dedicated CAFA email inbox.	NV

UPS

Appropriate Official	FullName	Address1	Address2	City	State
US Department of Justice	Merrick B. Garland	950 Pennsylvania Ave NW		Washington	DC

Attachment 2

CAFA NOTICE ADMINISTRATOR

HILSOFT NOTIFICATIONS
10300 SW Allen Blvd
Beaverton, OR 97005
P 503-350-5800
DL-CAFA@epiqglobal.com

July 8, 2024

VIA UPS OR USPS PRIORITY MAIL

Class Action Fairness Act – Notice to Federal and State Officials

Dear Federal and State Officials:

Pursuant to the Class Action Fairness Act of 2005 (“CAFA”), codified at 28 U.S.C. § 1715, please find enclosed information from Defendant Color Factory, LLC relating to the proposed settlement of a class action lawsuit.

- **Case:** *Charles v. Color Factory*, Civil Action No. 1:24-cv-00322-JSR.
- **Court:** United States District Court for Southern District of New York.
- **Defendant:** Color Factory, LLC.
- **Documents Enclosed:** In accordance with the requirements of 28 U.S.C. § 1715, please find copies of the following documents associated with this action on the enclosed CD:
 1. **Per 28 U.S.C. § 1715(b)(1) – Complaint and Any Amended Complaints:**
 - Class Action Complaint (filed January 16, 2024).
 2. **Per 28 U.S.C. § 1715(b)(2) – Notice of Any Scheduled Judicial Hearing:** The Court has scheduled a preliminary approval hearing on July 9, 2024, at 3:00 pm.
 3. **Per 28 U.S.C. § 1715(b)(3) – Notification to Class Members:**
 - Claim Form (*Exhibit A to the Class Action Settlement Agreement*);
 - Email Notice (*Exhibit B to the Class Action Settlement Agreement*); and
 - Long Form Notice (*Exhibit C to the Settlement Agreement*).
 4. **Per 28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** The following documents are included:
 - Notice of Unopposed Motion for Preliminary Approval of Class Action Settlement;
 - Memorandum of Law in Support of Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement;
 - Declaration of Philip L. Fraietta in Support of Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement;

CAFA NOTICE ADMINISTRATOR

HILSOFT NOTIFICATIONS
10300 SW Allen Blvd
Beaverton, OR 97005
P 503-350-5800
DL-CAFA@epiqglobal.com

- Class Action Settlement Agreement (*Exhibit 1 to the Declaration of Phillip L. Fraietta*);
 - Stipulation Regarding Undertaking Re: Attorneys' Fees, Costs, and Expenses (*Exhibit D to the Class Action Settlement Agreement*);
 - Bursor & Fisher P.A. Firm Resume (*Exhibit 2 to the Declaration of Phillip L. Fraietta*); and
 - [Proposed] Order Granting Preliminary Approval of Class Action Settlement Agreement, Certifying Settlement Class, Appointing Class Representative, Appointing Class Counsel, and Approving Notice Plan.
5. **Per 28 U.S.C. § 1715(b)(5) – Any Settlement or Other Agreements:** There are no other Settlements or Agreements between the parties.
 6. **Per 28 U.S.C. § 1715(b)(6) – Final Judgment or Notice of Dismissal:** To date, the Court has not issued a final order, judgment or dismissal in the above-referenced action.
 7. **Per 28 U.S.C. § 1715(b)(7) – Estimate of Class Members:** At this time, the defendant does not know and cannot feasibly determine the names of the class members residing in each state, and therefore cannot feasibly estimate the proportionate share of the claims of such members to the entire settlement pursuant to 28 U.S.C. §1715(b)(7)(A) and (B).

The Settlement class includes individuals who: purchased electronic tickets and paid a fee to gain entrance to Defendant's Place of Entertainment (Color Factory NYC) from Defendant's Website from August 29, 2022, and through and including January 23, 2024.

Given the popularity of this location as a tourist destination, it is estimated that class members are disbursed throughout the United States.
 8. **28 U.S.C. § 1715(b)(8) – Judicial Opinions Related to the Settlement:** To date, the Court has not issued a final order or judgment in the above-referenced action.

If you have questions or concerns about this notice or the enclosed materials, please contact this office.

Sincerely,

CAFA Notice Administrator

Enclosures

EXHIBIT B

[Click here](#) to view this message in a browser window.

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Charles v. Color Factory, LLC, Civil Action No. 1:24-cv-00322-JSR
(United States District Court for the Southern District of New York)

Our Records Indicate You Purchased Electronic Tickets to Color Factory NYC between August 29, 2022 and January 23, 2024 and Paid a Fee In Connection With Such Purchase, and May Be Entitled to a Payment From a Class Action Settlement.

A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.

\$\$VariableData1\$\$

This notice is to inform you that a settlement has been reached in a class action lawsuit claiming that Defendant, Color Factory, LLC (“Defendant”), failed to properly disclose a fee for electronic tickets to its Color Factory NYC prior to those tickets being selected for purchase, in alleged violation of New York Arts and Cultural Affairs Law (“ACAL”) § 25.07(4). Defendant denies that it violated any law, but has agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.

Am I a Class Member? Our records indicate you purchased electronic tickets to Color Factory NYC between August 29, 2022 and January 23, 2024 and paid a fee in connection with such purchase.

What Does The Settlement Provide? A Settlement Fund of \$714,705.68 has been established to pay the Settlement Class, together with notice and administration expenses, approved attorneys’ fees and costs, and a service award to the Class Representative.¹ Additionally, as part of the Settlement Agreement, Defendant acknowledges that it has changed the purchase flow for tickets on its website to display the “Taxes & Fees” that was the subject of this litigation when the ticket is first selected for purchase and will agree to comply with New York Arts & Cultural Affairs Law § 25.07(4).

How Do I Get a Payment? To receive a *pro rata* share of the Settlement Fund, which will be based on the total amount of fees you paid, you **must** submit a timely and complete Claim Form **no later than December 23, 2024**. You can file a claim by clicking [here](#). Your payment will be issued by PayPal, Venmo, Zelle, or check, at your election. Claim Forms must be submitted online by 11:59 p.m. EST on December 23, 2024 or postmarked and mailed by December 23, 2024.

What are My Other Options? You may exclude yourself from the Settlement Class by sending a letter to the Settlement Administrator no later than **September 13, 2024**. If you exclude yourself, you cannot get a settlement payment, but you keep any rights you may have to sue the Defendant over the legal issues in the lawsuit. You and/or your lawyer have the right to appear before the Court and/or object to the proposed settlement. Your written objection must be filed no later than September 13, 2024. Specific instructions about how to object to, or exclude yourself from, the Settlement are available at www.colorfactoryticketfeesettlement.com. If you file a claim or do nothing, and the Court approves the Settlement Agreement, you will be bound by all of the Court’s orders and judgments. In addition, your claims relating to the alleged collection and retention by Defendant of fees in connection with electronic ticket sales from August 29, 2022 through and including January 23, 2024 will be released.

Who Represents Me? The Court has appointed lawyers Philip L. Fraietta and Stefan Bogdanovich of Bursor & Fisher, P.A. to represent the class. These attorneys are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

When Will the Court Consider the Proposed Settlement? The Court will hold the Final Approval Hearing at 4:00 p.m. on November 6, 2024 in Courtroom 14B at the Daniel Patrick

Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007. At that hearing, the Court will: hear any objections concerning the fairness of the settlement; determine the fairness of the settlement; decide whether to approve Class Counsel's request for attorneys' fees and costs; and decide whether to award Class Representative Zharia Charles \$5,000 from the Settlement Fund for her service in helping to bring and settle this case. Defendant has agreed that Class Counsel may be paid reasonable attorneys' fees from the Settlement Fund in an amount to be determined by the Court. Class Counsel will seek no more than one-third of the Settlement Fund, but the Court may award less than this amount.

How Do I Get More Information? For more information, including the full Notice and Settlement Agreement, go to www.colorfactoryticketfeesettlement.com, contact the Settlement Administrator at 1-888-495-4585 or Color Factory NYC Ticket Fee Settlement, c/o Epiq Class Action & Claims Solutions, Inc., P.O. Box 2790, Portland, OR 97208-2790, or call Class Counsel at 1-646-837-7150.

¹ Unless otherwise defined herein, all capitalized terms shall have the meaning set forth in the Settlement Agreement which can be viewed at www.colorfactoryticketfeesettlement.com.

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Copyright © 2024 {{Account.COMPANY}}
Our address is {{Account.BIZ_ADDRESS}}

If you do not wish to receive future email, [click here](#).
(You can also send your request to **Customer Care** at the street address above.)

EXHIBIT C

Opt-Out Report

Doc ID	First Name	Middle Name	Last Name
230000001	Anastasia		Cajigal