

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RYAN RODRIGUEZ, REENA B.
FRAILICH, LOREDANA NESCI,
JENNIFER BRAZEAL and LISA GINTZ,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

vs.

WEST PUBLISHING CORPORATION, a
Minnesota Corporation dba BAR/BRI, and
KAPLAN, Inc., a Delaware Corporation.

Defendants.

AND CONSOLIDATED ACTION

Case No. CV 05-3222 R(MCx)

DECLARATION OF
THOMAS R. GLENN

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I, Thomas R. Glenn, declare as follows:

1. I am over 21 years of age and am not a party to the above-captioned action (the "Action"). I have personal knowledge of the facts set forth herein, and if called as a witness, could and would testify competently with regard to those facts.

2. I am Senior Vice President and the Chief Operating Officer of Complete Claim Solutions, LLC ("CCS."). I oversee the implementation of the Notice Programs and Settlement administration processes working closely with our service providers, our project managers and our Director of Quality Assurance to ensure accuracy, efficacy and timeliness of the administration processes and programs. I have more than 15 years of senior management experience in the litigation support services and information technology industries.

3. CCS was appointed as the Notice Administrator to assist in the process of providing notice to the members of the class in the pendency phase of this Action, and subsequently named the Claims Administrator in the Settlement phase.

4. I submit this Declaration in connection with the Plaintiffs-Appellees' Motion to Expedite Oral Argument.

5. Approximately 88,000 class members have filed claims in this Action. These claims represent over 124,000 BAR/BRI bar review courses. Under the terms of the Settlement, Authorized Claimants – those class members whose claims have been approved for payment by the Claims Administrator or the District Court – are entitled to their pro rata share of the \$49,000,000 Settlement Fund after deducting the approved costs, fees and expenses associated with the Action.

6. Barring unforeseen circumstances and assuming a resolution of the pending appeals, CCS can be in a position to commence with distribution of the Settlement Fund to Authorized Claimants by December 31, 2008.

7. Class Counsel has requested CCS to describe the potential consequences in the event the administration process is significantly delayed during the appeal of this Action. Based on my experience, a significant delay in distributing the Settlement Fund to the Authorized Claimants would have an impact on: (a) CCS's ability to locate all of the Authorized Claimants in order to forward their share of the Settlement Fund; and (b) the administration costs that will be incurred during the period of delay.

8. During the initial mailing phase of this administration, we received approximately 32,000 undeliverable Notice and Claim Forms. We were able to locate approximately 22,500 updated addresses (70%), leaving 9,500 potential

class members that did not receive a mailed notice. This 70% success/update rate is typical in consumer-type administrations.

9. Furthermore, according to the United States Census Bureau, approximately 25% of the U.S. population in the 20-39 age group moved in 2006-07¹. Given the nature of the class in this Action, the vast majority of Authorized Claimants fall into this category. Applying this percentage to the approximate 88,000 claims filed in this Settlement, we can assume that 22,000 class members that have filed a claim will move annually, and of that 22,000, we may only be able to locate 15,400 (70%) through updated addresses, resulting in a substantial number of claimants who will not receive a distribution check. The greater the length of time between the receipt of the claim and the actual distribution date, the greater the number of distribution checks that will fail to reach the claimants.

10. In addition to the loss of Authorized Claimants as time passes, substantial administration costs will be incurred, which, pursuant to the terms of the Settlement, will be deducted from the Settlement Fund.

11. In *In re Warfarin Sodium Antitrust Litigation* (the "*Warfarin Settlement*"), for which CCS acted as Claims Administrator, an appeal was filed that delayed the final distribution of settlement proceeds.

12. In the *Warfarin Settlement*, there were approximately 48,685 claimants, as opposed to the approximately 88,000 claims made in this Action.

13. Based on CCS' experience in the *Warfarin Settlement*, costs will accrue during the time between the settlement approval order and the date an affirmance would become final. Included in this amount are costs for such items as maintaining a P.O. Box, maintaining a toll-free number for claimants to call with questions, answering additional telephone calls, processing additional

¹ <http://www.census.gov/population/www/socdemo/migrate/cps2007.html>, table 1.

correspondence, including change-of-address forms and status requests, responding to e-mails, maintaining the www.barbri-classaction.com website, warehousing documents, calculation and payment of quarterly tax payments, and various administrative tasks.

14. In the *Warfarin* Settlement, the average distribution to claimants was \$91.55. During the 34-month delay while the appeal was pending, calls to CCS from *Warfarin* claimants averaged over 900 per month.

15. In contrast, in *In re Remeron End Payor Antitrust Litigation* (the “*Remeron* Settlement”), another case where CCS acted as Claims Administrator, the average distribution was \$123.42 in a settlement which generated over 75,000 claims. In the *Remeron* Settlement the delay in distribution was limited to 3 months. During that delay, calls to CCS from *Remeron* claimants averaged 461 per month.

16. The nearly 100% increase in average monthly calls to CCS between the *Warfarin* Settlement and *Remeron* Settlement was due, in large part, to the extended delay during the appellate process. The volume increase is particularly noteworthy given the fact that there were approximately 27,000 fewer claimants in the *Warfarin* Settlement as compared to the *Remeron* Settlement.

17. CCS expects that a significant delay in this Action will result in even greater communications from claimants than those generated from the prior settlement administrations. Presently, the average number of phone calls generated by claimants is 362 per month. However, over 50% want to speak to a live operator. In addition to phone calls, CCS receives in excess of 100 emails per month from claimants, each of which requires an individualized response.

18. As a result of the delay in the *Warfarin* Settlement due to appeals, additional costs (fees and out of pocket expenses) ran approximately \$5,000 to \$7,000 per month.

19. In this Action the costs are anticipated to be significantly higher than those incurred in the *Warfarin* Settlement, due to the additional 40,000 claimants, and the unusually high rate of telephone calls, emails, and other status checks by claimants. In addition, the cost of labor has increased since the *Warfarin* Settlement.

20. Since most claimants are attorneys, the complexity of the inquiries requires a far greater number of responses requiring elevation to senior-level Call Center staff and/or Project Management staff, resulting in higher chargeable rates.

21. Furthermore, the amount claimants are to receive from a settlement effects the number of inquiries made to the claims administrator. The higher the dollar value of the average distribution, the greater number of inquiries. Since the value of the average distribution in this Action will be several times that of the average distribution in either the *Warfarin* or *Remeron* Settlements, the volume of inquiries, and the attendant costs, will increase accordingly.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 3rd day of October, 2008, in Palm Beach Gardens, Florida.

A handwritten signature in black ink, appearing to read 'T. R. Glenn', written over a horizontal line.

Thomas R. Glenn