

MEMO ENDORSED

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September 12, 2024

Via ECF

Hon. Andrew L. Carter, Jr.
United States District Court
Southern District of New York
United States Courthouse
40 Foley Square, Room 435
New York, NY 10007

USDC SDNY
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Re: *Joint Request to Modify the Deadlines for: (i) Claims, Opt-Outs, and Objections; and (ii) Responses to Objections*
Winston v. Peacock TV LLC, Case No. 1:23-cv-08191-ALC

Dear Judge Carter:

I represent Plaintiff Holly Winston and the Settlement Class in this matter. Pursuant to the Court's Individual Practices, I write together with Defendant Peacock TV LLC ("Defendant") (collectively, the "Parties") to request that the Court: (i) continue the deadline for the submissions of claims, opt-outs, and objections from October 13, 2024 to November 13, 2024, and (ii) continue the deadline for the Parties' responses to any objections from October 31, 2024 to November 18, 2024. If this request were to be granted, the final approval hearing may still proceed on November 21, 2024 as scheduled. No other deadlines will be impacted.

Good cause exists for this request. On August 1, 2024, the Court granted Plaintiff's Motion for Preliminary Approval of Class Action Settlement (the "Order"). *See* Dkt. 28. In the Order, the Court appointed Epiq Class Action & Claims Solutions, Inc. ("Epiq") to be the notice and claims administrator. *See id.* at 5. The Court also set the following relevant deadlines: (i) the settlement website to be launched on August 11, 2024; (ii) Defendant to send the class list to Epiq on August 15, 2024 for direct notice via email; (iii) Plaintiff's fee petition to be filed on September 20, 2024; (iv) class members' claims, opt-outs, and objections to be submitted by October 13, 2024; (v) Plaintiff's motion for final approval to be filed by October 31, 2024; (vi) the Parties' responses to any objections to be filed by October 31, 2024; and (vii) the final approval hearing to be held on November 21, 2024.

On Friday, September 6, 2024, Epiq notified counsel that it discovered a deliverability issue with its email notices. Namely, Epiq discovered that emails sent to a Gmail domain (*i.e.*, gmail.com addresses) had relatively high "soft bounces," indicating that Gmail's filters had incorrectly flagged the notice email to Gmail users as "spam" or a potential threat, as a "false positive." (This issue solely affects Gmail accounts only, not other email providers such as Yahoo, Hotmail, AOL, etc.)

On Monday, September 9, 2024, the Parties convened a call with Epiq. During the call, Epiq represented that it had contacted Google for support, but the issue was not immediately resolved. Additionally, when the issue is eventually resolved, it will be necessary for Epiq to re-send notice to impacted Gmail addresses. Unfortunately, since the deadline for claims, opt-outs, and objections is coming up on October 13, 2024, the Parties are concerned that these Gmail users will have a tight turnaround to review the notice and submit their claims, opt-outs, or objections prior to the deadline.

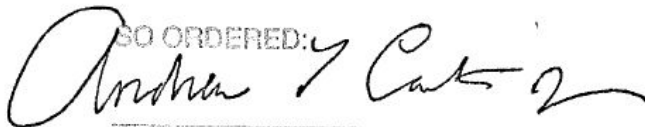
Accordingly, with the Court's leave, the Parties request that the deadline for claims, opt-outs, and objections be extended one month, from October 13, 2024 to November 13, 2024. Then, in the event that any objections are received, the Parties can respond no later than November 18, 2024. As such, the final approval hearing can still proceed as planned on November 21, 2024. No other dates need to be changed.

If granted, this relief will permit Epiq to work through its issues with Gmail deliverability, and will permit all class members to have ample time to review the settlement and submit their claims, opt-outs, and objections. Further, in the interests of fairness, the Parties intend to use this time to send a fresh notice to *all* class members (i.e., non-Gmail addresses as well) setting forth the new deadline for claims, opt-outs, and objections. Granting the Parties' request will allow Epiq to resolve this technical issue and will permit all class members to receive the same, consistent information and have the same time to respond.

Very truly yours,



Neal J. Deckant



HON. ANDREW L. CARTER, JR.
UNITED STATES DISTRICT JUDGE

September 12, 2024
New York, New York